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GOVERNMENT NOTICE

NATIONAL TREASURY

No. R. **2026**

REGULATIONS IN TERMS OF CURRENCY AND EXCHANGES ACT, 1933: CAPITAL FLOW MANAGEMENT REGULATIONS

The Minister of Finance has, in terms of section 9(1) of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), made the Capital Flow Management Regulations set out in the Schedule.

SCHEDULE

Definitions

1. (1) In these Regulations, unless the context otherwise indicates—

"Act" means the Currency and Exchanges Act, 1933 (Act No. 9 of 1933);

"affected person" means a deceased estate, or a juristic person, foundation, unincorporated association of persons, trust or partnership operating or vested in the Republic—

(a) of which 75% or more of the capital, assets, or earnings may be used for payment to, or for the benefit of, any person who is not resident in the Republic; or

(b) of which 75% or more of the securities, voting rights, capital, assets or earnings, are directly or indirectly vested in, or controlled by or on behalf of any person who is not resident in the Republic;

"authorised dealer" means—

(a) in respect of any transaction involving gold, a person authorised by the National Treasury to deal in gold; or

(b) in respect of any transaction involving foreign exchange, a person authorised by the National Treasury to deal in foreign exchange;

"**authorised person"** means any person authorised in writing either individually or as a member of a class of persons by the National Treasury to exercise any power or to perform any function or duty conferred on or imposed upon the National Treasury in terms of any provision of the Act or these Regulations;

"authorised crypto asset service provider" means a crypto asset service provider as defined in item 22 of schedule 1 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) and who is authorised by the National Treasury to facilitate transactions deemed as import and/or or and export of capital, directly or indirectly, utilising crypto assets as a medium of exchange.

"capital" includes, without derogating from the generality of that term, any intellectual property right, whether registered or unregistered, and anything with a monetary value, or which can be

converted to money or disposed of for monetary consideration, including crypto assets, excluding immovable property;

"crypto asset" means a digital representation of value that—

(a) is not issued by a central bank, but is capable of being traded, transferred or stored electronically by natural and legal persons for the purpose of payment, investment and other forms of utility;

(b) applies cryptographic techniques; and

(c) uses distributed ledger technology;

"currency" means banknotes and coins in actual use or circulation as a medium of exchange in the country of issue thereof, and includes any bill of exchange, letter of credit, money order, postal order, promissory note, traveller's cheque or any other instrument for the payment of currency, but does not include crypto assets;

"**customs declaration"** means a bill of entry as defined in section 1 of the Customs and Excise Act, 1964 (Act No. 91 of 1964);

"determined threshold" means a value or amount determined by the Minister of Finance;

"enforcement officer" means—

(a) any officer, as defined in section 1 of the of Customs and Excise Act, 1964 (Act No. 91 of 1964);

(b) any immigration officer, as defined in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002);

(c) any member, as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995);

(d) any officer as defined in section 1 of the Border Management Authority Act, 2020 (Act No. 2 of 2020); or

(e) any person authorised in writing by the National Treasury to act as an enforcement officer;

"export of goods or capital" includes, without derogating from the generality of that term, the cession of, the creation of a hypothec or other form of security over, or the assignment or transfer of any capital or any right to capital to or in favour of a person who is not resident in the Republic;

"financial assistance" includes—

(a) the lending of currency or crypto assets;

(b) the granting of credit;

(c) the acquisition of securities;

(d) the conclusion of an instalment sale agreement or lease;

(e) the financing of sales or securities;

(f) discounting;

(g) factoring;

(h) the guaranteeing of acceptance credits;

(i) the guaranteeing of acceptance of any obligation;

(j) a suretyship; and

(k) a buy-back and a lease-back, but excluding—

(i) the granting of credit by a seller in respect of any commercial transaction directly involving the passing of ownership of the goods from the seller to the purchaser; and

(ii) the granting of credit solely in respect of the payment for services rendered;

"foreign currency" means any currency which is not a legal tender in the Republic and—

(a) includes—

(i) any bill of exchange;

(ii) letter of credit;

(iii) money order;

(iv) postal order;

(v) promissory note;

(vi) traveller's cheque; or

(viii) any other instrument for the payment of currency in a currency unit which is not legal tender in the Republic;

(b) excludes the currencies of the Kingdom of Lesotho, the Republic of Namibia and the Kingdom of Eswatini; and

(c) excludes crypto assets;

"gold" means gold in any form, except in regulations 2 and 7 in which "gold" means any gold other than wrought gold;

"goods" means any property, and includes the security, and every right or interest in the property;

"immovable property" means land and every right or interest in land or minerals which is registrable in any office in the Republic intended for the registration of title to land or the right to mine the land;

"import of goods or capital" includes, without derogating from the generality of that term, the cession of, the creation of a hypothec or other form of security over, or the assignment or transfer of any capital or any right to capital, from a person who is not resident in the Republic to or in favour of a person resident in the Republic;

"money" includes—

(a) currency;

(b) any bill of exchange or negotiable instrument;

(c) the credit balance in any bank or similar account or credit card account; and

(d) any other medium of exchange or means of payment;

"National Treasury" means an officer in the National Treasury who has been authorised by the Minister of Finance to deal with such a matter;

"owner" means the person in whom the right of ownership of property vests, and includes in respect of any security, any person who has—

(a) the right to dispose of or transfer a security;

(b) custody of a security;

(c) the right to receive, whether directly or on behalf of any other person, dividends or interest on a security; or

(d) any other interest in a security;

"person" includes a—

(a) natural person;

(b) juristic person;

(c) deceased estate;

(d) foundation;

(e) unincorporated association of persons;

(f) trust; or

(g) partnership;

"prescribe" means prescribed by the National Treasury by notice in the *Gazette*;

"Promotion of Administrative Justice Act" means the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);

"property" includes movable and immovable property wherever situated, and includes any right or interest in movable and immovable property, securities, and incorporeal rights with a realisable value;

"security" means an instrument that evidences a right in the assets of, or an indebtedness of, a company or a person, being an instrument that is—

(a) capable of being transferred or ceded; and

(b) capable of being used as an investment but does not include—

(i) a share in a share block company as defined in the Share Blocks Control Act, 1980 (Act No. 59 of 1980);

(ii) a credit agreement; or

(iii) a share in the South African Reserve Bank referred to in section 21 of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989); and

"transfer" the act of transferring legal ownership or beneficial ownership, or assigning, delivering, transmitting, or moving property, or control over the property, from one person, entity, or jurisdiction to another person, entity, or jurisdiction, and involves any mechanism that enables such a transfer in possession or control, regardless of the technology, process, or method used and includes transfer by way of loan or security, and for the purposes of these Regulations a person shall be deemed to transfer securities from the Republic elsewhere if he transfers securities from a register in the Republic to a register outside the Republic.

(2) In these Regulations, a word denoting the singular includes the plural and a word denoting the plural includes the singular, and a word denoting the masculine, feminine or neuter includes the other two genders where appropriate.

Restriction on purchase, sale and loan of foreign currency or gold

2. (1) No person, other than an authorised dealer, may buy or borrow any foreign currency or any gold from, or sell or lend any foreign currency or any gold, in an amount or with a value in excess of a determined threshold, to any person other than an authorised dealer, subject to the provisions of subregulation (3) and regulation 23(6).

(2) No person, other than an authorised dealer may, except with the permission of National Treasury or an authorised person, and in accordance with those conditions that the National Treasury or the authorised person may impose, buy or borrow any foreign currency or any gold from, or sell or lend any foreign currency or any gold, in an amount or with a value in excess of a determined threshold, to any person other than an authorised dealer, subject to the provisions of subregulation (3).

(3) *(a)* An authorised dealer may only engage in those actions in which the authorised dealer has expressly been authorised to perform in terms of the appointment as an authorised dealer;

(b) an authorised dealer may not buy, sell, borrow, lend, receive or deliver any foreign currency or gold, except for those purposes or on those conditions that the National Treasury or an authorised person may determine; and

(c) the National Treasury may, in its discretion, in writing prohibit all authorised dealers or any one or more authorised dealers—

(i) from buying, selling, borrowing, lending, receiving or delivering, from any specified person, fund or foreign government any foreign currency or gold; or

(ii) from buying, selling, borrowing, lending, receiving or delivering any foreign currency, or gold for any specified purpose, except for those purposes or on conditions that the National Treasury may determine.

(4) Every person other than an authorised dealer intending to buy, sell, borrow, or lend foreign currency or gold must apply to an authorised dealer, and must furnish the information and submit

those prescribed documents that the authorised dealer may require for the purpose of ensuring compliance with any conditions determined under subregulation (2).

(5) A person other than an authorised dealer may not—

(a) use foreign currency or gold acquired from an authorised dealer for any purpose other than the purpose stated in their application for which that foreign currency or gold was acquired; or

(b) do anything to cause the use of foreign currency or gold for any purpose other than the purpose stated in their application for which the foreign currency or gold was required.

(6) *(a)* If a person has, as a result of an application made in terms of subregulation (4), obtained from an authorised dealer any foreign currency or gold and no longer requires all or any part of that foreign currency or gold for the purpose stated in their application, that person must immediately offer for sale to the National Treasury or an authorised dealer that foreign currency or gold; and

(b) The foreign currency or gold referred to in paragraph *(a)* may be repurchased in South African Rand at the price at which it was sold to that person, at the prevailing exchange rate of the foreign currency gold to the South African Rand, or at another price that the National Treasury or the authorised dealer may determine.

Restriction on purchase, sale and loan of crypto assets

3. (1) No person, other than an authorised crypto asset service provider, may buy, sell, borrow, or lend any crypto assets from, in an amount or with a value in excess of a determined threshold, to any person other than an authorised crypto asset service provider, subject to the provisions of subregulation (3) and regulation 23(6).

(2) No person, other than an authorised crypto asset service provider may, except with the permission of the National Treasury or an authorised person, and in accordance with those conditions that the National Treasury or the authorised person may impose, buy, sell, borrow, or lend any crypto assets, in an amount or with a value in excess of a determined threshold, to any person other than an authorised crypto asset service provider, subject to the provisions of subregulation (3).

(3) *(a)* An authorised crypto asset service provider may only engage in those actions in which the authorised crypto asset service provider has expressly been authorised to perform in terms of the appointment as an authorised crypto asset service provider;

(b) an authorised crypto asset service provider may not buy, sell, borrow, lend, receive or deliver any crypto asset, except for those purposes or on those conditions that the National Treasury may determine; and

(c) the National Treasury may, in its discretion, in writing prohibit all authorised crypto asset service providers or any one or more authorised crypto asset service provider—

(i) from buying, selling, borrowing, lending, receiving or delivering, from any specified person, fund or foreign government any crypto asset; or

(ii) from buying, selling, borrowing, lending, receiving or delivering any crypto asset for any specified purpose, except for those purposes or on conditions that the National Treasury may determine.

(4) Every person other than an authorised crypto asset service provider intending to buy, sell, borrow, or lend crypto assets must apply to an authorised crypto asset service provider, and must furnish the information and submit those documents that the authorised crypto asset service provider may require for the purpose of ensuring compliance with any conditions determined under subregulation (2).

(5) A person other than an authorised crypto asset service provider may not—

(a) use crypto assets acquired from an authorised crypto asset service provider for any purpose other than the purpose stated in their application for which those crypto assets were acquired; or

(b) do anything to cause the use of crypto assets for any purpose other than the purpose stated in their application for which the crypto assets were required.

(6) *(a)* If a person has, as a result of an application made in terms of subregulation (4), obtained from an authorised crypto asset service provider any crypto assets and no longer requires all or any part of that crypto assets for the purpose stated in their application, that person must immediately offer for sale to the National Treasury or an authorised crypto asset service provider those crypto assets; and

(b) the crypto assets referred to in paragraph *(a)* may be repurchased in South African Rand at the price at which it was sold to that person or at another price that the National Treasury or the authorised crypto service provider may determine.

Restriction on export of currency, crypto assets, gold, and securities

4. (1) Subject to regulation 23(7), a person may not, except with the permission of the National Treasury or an authorised person, and in accordance with those conditions that the National Treasury or authorised person may impose—

(a) take, send out or remove currency, crypto assets, gold or securities from the Republic;

(b) transfer any securities to a person outside of the Republic;

(c) send, consign, give or deliver currency, crypto assets, gold or securities to any person for the purpose of removing the currency, crypto assets, gold or securities from the Republic;

(d) make payment to, or in favour of, or on behalf of a person resident outside of the Republic, or place any amount, either in currency, crypto assets, gold or securities, to the credit of a person outside of the Republic;

(e) draw or negotiate any bill of exchange or promissory note, transfer security, or acknowledge any debt so that a right (whether actual or contingent) on the part of such person or any other person to receive a payment in the Republic is created or transferred as consideration-

(i) for the receiving by such person or any other person of a payment or the acquisition by such person or any other person of property, outside the Republic; or

(ii) for a right (whether actual or contingent) on the part of such person or any other person to receive a payment or acquire property outside the Republic;

or make or receive any payment as such consideration;

(f) provide financial assistance to any person resident in the Republic on the security, guarantee or undertaking furnished, directly or indirectly, by any person—

(i) who is resident outside of the Republic, or

(ii) who is an affected person;

(g) provide any financial assistance to any person in the Republic, who—

(i) is not resident in the Republic; or

(ii) is an affected person; or

(h) bring, send, import, or consign, any South African currency into the Republic.

(2) Every person who is about to leave the Republic, and every person at any port or other place recognised as a place of departure from the Republic, or any person who is present on a vessel within the territorial waters of the Republic and which has departed from a port in the Republic, who is requested by an enforcement officer must—

(a) declare whether or not they possess or have control over any currency, crypto assets, gold or securities intended to be removed from the Republic;

(b) produce any currency, crypto assets, gold or securities in their possession or under their control; and

(c) produce to the enforcement officer any document evidencing an exemption or permission which the person claims to have to remove currency, crypto assets, gold or securities or control thereover from the Republic;

(3) An enforcement officer may search any person or any article in that person's possession or under their control for the purpose of ascertaining whether the person possesses or has control of any currency, crypto assets, gold and securities—

(a) if that person has denied the possession or control of any foreign currency, crypto assets, gold or security; and

(b) if the enforcement officer suspects, on reasonable grounds, that the person is in possession or control of any currency, crypto assets, gold or securities; and

(4) A person may not be searched by a person of a different gender; and if there is no enforcement officer of the same gender available, the enforcement officer may authorise any person of the same gender as the person to be searched, to perform the search.

(5) An enforcement officer may seize any currency, crypto assets, gold or securities found in the possession or under the control of any person, if the enforcement officer on reasonable grounds suspects that the currency, crypto assets, gold or securities are to be removed from the Republic in contravention of these Regulations.

(6) An enforcement officer may—

(a) examine or search any goods consigned, letters or parcels sent from the Republic to a destination outside the Republic for the purpose of ascertaining whether those goods consigned, letters or parcels contain any currency, crypto assets, gold or securities; and

(b) may seize any currency, gold or securities found upon an examination or search, if the enforcement officer on reasonable grounds suspects that the currency, gold or securities found are intended to be removed from the Republic in contravention of these Regulations.

(7) *(a)* Subject to paragraph *(b)*, currency, crypto assets, gold or securities seized under subregulation (3) or (4) shall be forfeited to the state for the benefit of the National Revenue Fund; and

(b) the National Treasury or an authorised person may, in its or the authorised person's discretion, direct that any currency, crypto assets, gold or securities that have been seized be refunded or returned, in whole or in part, to the person from whom they were taken, or to the person who was entitled to have the custody, possession or control of that currency, gold, crypto assets or securities at the time when that currency, crypto assets, gold or securities was seized.

(8) Before taking any decision in terms of subregulation (5), the National Treasury or an authorised person must—

(a) comply with the provisions of section 3 of the Promotion of Administrative Justice Act, 2000; and

(b) when taking any decision in terms of subregulation (5), consider all relevant facts and circumstances brought to the National Treasury or the authorised person's attention, including any hardship which may be suffered by a person pursuant to a forfeiture in terms of subregulation (5).

Restrictions on import of currency

5. (1) (a) Every person who is about to enter the Republic and every person in any port or other place recognised as a place of arrival in the Republic and has in their possession or under their control any currency, crypto assets, gold or securities must declare in writing in a prescribed manner their control or possession of the currency, crypto assets, gold or securities to an enforcement officer at a recognised place of entry into the Republic; or

(b) Every person who is about to enter the Republic and every person in any port or other place recognised as a place of arrival in the Republic, who is requested by an enforcement officer must—

(i) declare whether or not they have any currency, crypto assets, gold, and securities in their possession or under their control;

(ii) produce any currency, crypto assets, gold, and securities which they have in their possession or under their control; and

(iii) produce any documents evidencing an exemption or permission granted to the person to import or bring any currency, crypto assets, gold, and securities into the Republic;

(c) an enforcement officer may search any person or articles in that person's possession or under their control for the purpose of ascertaining whether the person possesses any currency, crypto assets, gold, and securities —

(i) if that person has denied being in possession or control of currency, crypto assets, gold, and securities; and

(ii) if the enforcement officer suspects, on reasonable grounds, that the person has in their possession or under their control any currency, crypto assets, gold, and securities; and

(d) (i) a person may not be searched by an enforcement officer of a different gender; and

(ii) If there is no enforcement officer of the same gender available, the enforcement officer may authorise any person of the same gender as the person to be searched, to perform the search.

(2) An enforcement officer may seize any currency, crypto assets, gold, and securities found in the possession of any person mentioned in this regulation if the enforcement officer is satisfied on reasonable grounds that the currency, crypto assets, gold, and securities has been brought into the Republic in contravention of this regulation.

(3 An enforcement officer may—

(a) examine or search any goods consigned, letters or parcels sent to the Republic from a place outside of the Republic, for the purpose of ascertaining whether those goods consigned, letters or parcels contain any currency, crypto assets, gold, and securities; and

(b) seize any currency, crypto assets, gold, and securities found during the examination or search, if the enforcement officer on reasonable grounds suspects that the currency, crypto assets, gold, and securities has been sent or consigned to the Republic in contravention of the provisions of these Regulations.

(4) Subject to paragraph *(b)*, all currency, crypto assets, gold, and securities seized under subregulations (2) and (3) must be forfeited for the benefit of the National Revenue Fund.

(5) The National Treasury or an authorised person may, in its or the authorised person's discretion, direct that any currency, crypto assets, gold, and securities that has been seized, be refunded or returned, in whole or in part, to the person from whom the currency, crypto assets, gold, and securities was taken, or was entitled to have the custody, possession or control of the currency, crypto assets, gold, and securities at the time when the currency, crypto assets, gold, and securities was seized.

(6) Before taking any decision in terms of subregulation (4), the National Treasury or an authorised person must—

(a) comply with the provisions of section 3 of the Promotion of Administrative Justice Act, 2000; and

(b) when taking any decision in terms of subregulation (4), consider all relevant facts and circumstances brought to its or the authorised person's attention, including any hardship which may be suffered by a person pursuant to a forfeiture in terms of subregulation (4).

Controlled accounts

6. (1) For the purposes of this regulation—

"controlled account" means an account opened with an authorised dealer or the Corporation for Public Deposits, established in terms of section 2 of the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984), for the purposes specified in this regulation, pursuant to a directive given by the National Treasury or an authorised person.

(2) Where a person who is resident in the Republic is under a legal obligation to make payment or transfer property of value to a person who is resident outside of the Republic, but that person is precluded from making the payment or transfer of property as a result of restrictions imposed by these Regulations, the National Treasury or an authorised person may, in writing, direct the person obliged to make the payment, to make payment to a controlled account or transfer the property in a manner prescribed by the National Treasury.

(3) *(a)* The National Treasury or an authorised person may direct that any amount due to a person or any property which is to be transferred to any person, hereinafter referred to as "the creditor", be paid into a controlled account or transferred as prescribed by the National Treasury;

(b) the National Treasury or an authorised person may issue a directive that an amount to be paid into a controlled account or that any property be transferred as prescribed by the National Treasury if the National Treasury or authorised person is satisfied that—

(i) there are reasonable grounds to suspect that the creditor has contravened any provision of these Regulations; and

(ii) there are amounts due and payable or there is property transferrable to the creditor;

(c) if the National Treasury or an authorised person issues a directive that any amount due to a creditor must be paid into a controlled account or that property be transferred as prescribed by the National Treasury, the National Treasury or the authorised person must give notice to the persons affected by the directive;

(d) any person who is indebted to a creditor and has been given notice of a directive as described in paragraph *(c)* must—

(i) pay the money into the controlled account or transfer the property within seven days of receiving notice of the order or as soon as the debt becomes due; or

(ii) if the debtor is under no legal obligation to make payment or transfer property until called upon by the creditor to do so, notify the National Treasury or the authorised person concerned in writing of the amount due or the nature and value of the property owing to the creditor and the terms and conditions of payment or transfer; and

(iii) pay any amount referred to in paragraph (ii) into the controlled account or transfer the property upon being called upon to do so by the National Treasury or an authorised person; and

(e) any person who holds money or property on behalf of a creditor and who receives notice of the directive must pay the money into the controlled account or transfer the property within seven days after receiving notice of the directive.

(4) The payment of an amount into a controlled account or transfer of property in terms of this regulation constitutes a valid discharge of the debt to the creditor.

(5) *(a)* If a person is obligated to make payment to a creditor in a currency which is not legal tender in the Republic, the amount of that payment must be converted into South African Rand at the ruling price or exchange rate in the market; and

(*b*) if there is no ruling price or exchange rate, the amount must be converted at a rate determined by the National Treasury or an authorised person.

(6) Subject to regulation 23(6), a person who has notice of a directive granted in terms of this regulation may not, except with the permission of the National Treasury or an authorised person—

(a) engage in any transaction in respect of any property or assets belonging to, or controlled by, a creditor;

(b) extinguish any debt that would otherwise have accrued to the creditor;

(c) do anything to evade payment of an amount due to a creditor into a controlled account or the transfer of property; or

(d) deal with any sum credited to a controlled account or property transferred, otherwise than in accordance with the instructions of the National Treasury or an authorised person.

(7) Any money standing to the credit of a controlled account or property transferred must be dealt with in accordance with instructions given by the National Treasury or an authorised person.

(8) Any person affected by a directive made in terms of this regulation must, within 72 hours, inform the person who made the directive of the intention to approach a competent court for appropriate relief.

Acquisition of gold by National Treasury

7. (1) Subject to any exemption which may be granted by the National Treasury or an authorised person, every person resident in the Republic who becomes entitled to sell or to procure the sale of any gold, excluding gold coins, jewellery or artistic works, with a value in excess of the determined threshold must, within 30 days after becoming so entitled, offer the gold or cause the gold to be offered, for sale to the National Treasury or an authorised person.

(2) The National Treasury or the authorised person may, within 30 days after receipt of the offer, purchase the gold at the price that the National Treasury or the authorised person may fix, being a price which is not less than the market value of the gold on the day of purchase.

Acquisition of foreign currency or crypto assets by National Treasury

8. (1) Any personin the Republic who has under their control, obtains possession of, or becomes entitled to sell, procure the sale of, or transfer, any foreign currency or crypto assets in an amount or with a value in excess of the determined threshold must, within 30 days or a longer period that may be prescribed from the date of any of the afore-mentioned events, make a declaration in writing,

in the form and manner prescribed by the National Treasury, of the foreign currency or crypto assets to the National Treasury or an authorised person.

(2) Every person in the Republic who obtains possession of, or becomes entitled, as a result of any credit or any balance in any account at any bank outside the Republic, to receive payment of any amount in foreign currency or crypto assets with a value or in an amount in excess of the determined threshold must within 30 days after becoming so entitled, make a declaration in writing, in the form and manner prescribed by the National Treasury, of the right to the National Treasury or an authorised person.

(3) *(a)* The National Treasury, authorised dealer or authorised crypto asset service provider, may purchase the foreign currency or crypto assets referred to in subregulation (1) or the right to receive payment of foreign currency or crypto assets referred to in subregulation (2);

(b) A person referred to in subregulation (1) or (2) must sell the foreign currency or crypto assets, or the right to payment of foreign currency or crypto assets at the price referred to in paragraph *(b)*; and

(c) The price payable for the purchase of the foreign currency or crypto assets or the right to payment of foreign currency or crypto assets must be paid in South African Rand, and the price for the—

(i) foreign currency or crypto assets may not be less than the market value of the foreign currency or crypto assets on the day of purchase, subject to the ruling exchange rate of the foreign currency or price of the crypto assets to the South African Rand on the day of purchase; and

(ii) right to receive payment of foreign currency or crypto assets referred to in subregulation (2) must be a fair value of the right at the date of purchase, subject to the ruling exchange rate of the foreign currency or crypto assets to the South African Rand on the date of the purchase.

(4) Any person who is required to sell foreign currency or crypto assets or has the right to receive payment of foreign currency or crypto assets referred to in subregulation (2) must do everything reasonably necessary to transfer the foreign currency or crypto assets or the right to receive payment of foreign currency or crypto assets to the National Treasury, an authorised dealer or authorised crypto asset service provider.

(5) Subject to regulation 21(6), a person who is entitled to receive a payment in a foreign currency or crypto assets may not, except with the permission of the National Treasury or an authorised person, and in accordance with those conditions that may be imposed by the National Treasury or an authorised person, do or refrain from doing anything to—

(a) delay the receipt of the payment or transfer of the crypto asset;

(b) stop the payment or transfer of the right to the crypto asset in whole or in part; and

(c) frustrate the happening of a contingency on which the entitlement to receive the payment or the right to the crypto asset is dependent.

Limitation of optional ports of destination

9. (1) No person may, except with permission granted by the Treasury and in accordance with such conditions as the Treasury may impose, consign any goods to any destination other than that specified in the Declaration in regard to Foreign Exchange Proceeds of Exports prescribed in terms of sub-regulation 2 of Regulation 13, unless the other destination is in the same monetary area, or give or accept instructions after the despatch of the goods for the diversion thereof to any other destination unless such other destination is in the same monetary area.

(2) If in any criminal proceedings under this regulation it is proved that goods have been diverted to a country other than that designated as the destination of such goods on the prescribed documents submitted to and accepted by the Republic authorities to cover the outward consignment of such goods, then it shall be presumed, until the contrary is proved, that the goods were consigned to and received in such other country and not the country designated on such documents.

Declaration of foreign assets or crypto assets

10. (1) *(a)* Every person in the Republic must, within 30 days or such period that may be prescribed, after obtaining control, or possession or becoming entitled to sell, procure the sale of, or transfer, any foreign asset or crypto asset, make a declaration in writing, in the form and manner prescribed to the National Treasury or to an authorised person; and

(b) The declaration must state—

(i) when the foreign asset or crypto asset was acquired;

(ii) how the foreign asset or crypto asset was acquired;

(iii) where the foreign asset or crypto asset is held; and

(iv) whether the foreign asset or crypto asset is held as cover for or in respect of any foreign liability.

(2) Any foreign asset or crypto asset in respect of which a declaration has been made in terms of subregulation (1) may not be sold, transferred or otherwise disposed of without the permission of the National Treasury or an authorised person and in accordance with those conditions that the National Treasury or authorised person may impose.

(3) Any foreign asset or crypto asset in respect of which a declaration has been made in terms of subregulation (1) may only be sold, transferred or otherwise disposed of in accordance with those conditions that the National Treasury or authorised person may impose.

(4) For the purposes of this regulation, any person who has at any time since the date of publication of this regulation been in the Republic must be deemed, until the contrary is proved by the person, to have been resident in the Republic.

Power to prescribe currencies in respect of certain transactions

11. (1) The National Treasury may from time to time prescribe by notice in the *Gazette*, the currencies or the manner in which payment may be made in connection with imports or

exports or other transactions involving payments between persons in the Republic and persons outside the Republic.

(2) A person may not, except with the permission of the National Treasury, and in accordance with those conditions the National Treasury may impose, make or receive payment otherwise than in the currencies or in the prescribed manner.

(3) A notice issued under subregulation (1) may relate to payments—

(a) in connection with the import or export of any commodity specified in the notice—

(i) to or from all countries;

(ii) to or from all countries except any country specified in the notice; or

(iii) to or from any country so specified; or

(b) in connection with any particular transaction.

Export of goods and capital from Republic

12. (1) For the purposes of subregulation (2), **"value"** means—

(a) for the purposes of any duty imposed by the Customs and Excise Act, 1964 (Act No. 91 of 1964) the value as defined in section 72;

(b) for the purposes of a duty imposed by the Customs Duty Act, 2014 (Act No. 30 of 2014) means a customs valuation of goods determined in terms of sections 116, 117, 118*(a)* and *(b)* or 131, as applicable; and

(c) for the purposes of an authorised dealer, the price of the goods free on board at the place of dispatch from the Republic, or the amount of the full proceeds of the goods exported, whichever is the greater.

(2) Subject to any exemption which may be granted by the National Treasury or an authorised person, a person may not export goods from the Republic unless—

(a) the relevant customs declaration in respect of those goods has been duly completed and signed by the consignor or a person duly authorised by the consignor;

(b) the consignor has made a declaration in the prescribed form to an authorised dealer; or

(c) the declaration, duly signed by the consignor and attested to by the authorised dealer accompanies the customs declaration in respect of the goods.

(3) The National Treasury may direct that a customs declaration must be completed in respect of any goods, irrespective of the value of those goods.

(4) Subject to regulation 21(6), a person may not, except with permission granted by National Treasury or an authorised person and in accordance with those conditions which the National Treasury or authorised person may impose—

(a) export from the Republic during any period of twelve months a total quantity of goods with an aggregate value in excess of the determined threshold, if—

(i) no payment for the goods has been or is to be received in the Republic from a person outside the Republic;

(ii) the goods are exported at a price which is less than the value of the goods; or

(iii) the period within which payment for the goods is to be made exceeds six months from the date of shipment from the Republic;

(b) remove from the Republic goods, including personal apparel, household effects and jewellery with a value in excess of the determined threshold;

(c) enter into any transaction whereby capital or any right to capital is directly or indirectly exported from the Republic; or

(d) purchase, acquire, transfer, or dispose of or in favour of a person who is not resident in the Republic, or the right to any crypto assets which can be redeemed or disposed of for monetary consideration at any place outside the Republic.

(5) Subregulations (2), (3), (4) and (5) of regulation 4 or 5 apply, with the necessary changes, to goods referred to in subregulation (4)*(b)*.

Assignment to National Treasury of right to exported goods

13. (1) If a person exported goods from the Republic for the purpose of the sale of the goods, and that person failed to sell those goods within six months from the date of shipment of those goods, that person must notify the National Treasury or an authorised dealer within 14 days from the date of expiry of the six month period that those goods have not been sold.

(2) If a person exported goods from the Republic and failed to repatriate the proceeds of the sale of the goods to the Republic within six months of the date of shipment of the goods, that person must notify the National Treasury or an authorised dealer within 14 days after the expiry of the six-month period from the date of shipment that the proceeds have not been repatriated.

(3) The National Treasury or an authorised person may direct the person referred to in subregulation (1) or (2), in writing, to cede to the National Treasury or to the authorised person the right to the unsold goods or to the proceeds of the sale of the goods, for compensation in an amount not less than the amount realised by the National Treasury or the authorised person, after deduction of the cost of realisation, from the realisation of the goods or the proceeds of the sale of the goods pursuant to the cession.

(4) Any dispute in respect of the amount of compensation payable must be determined by a competent court.

(5) A person may not export goods on conditions which would preclude compliance with or which would preclude them from giving effect to a direction issued in terms of subregulation (3).

(6) Subregulation (1) does not apply to the person who obtained prior permission from the National Treasury or an authorised person to export goods without the sale of the goods.

Goods purchased outside the Republic

14. (1) If a person resident in the Republic has purchased goods for an amount or with a value in excess of the determined threshold in any country outside the Republic and paid for or

made a payment or transferred property in consideration for such goods, but the goods have not been consigned to the Republic within four months from the date on which the payment or transfer of value was made, the person must, within 14 days from the date of expiry of a prescribed period by the National Treasury or an authorised person, report in writing to the National Treasury or to an authorised dealer that the goods have not been consigned to the Republic and failure to do so shall constitute sufficient proof that the goods have not been consigned to the Republic.

(2) A person resident in the Republic who has purchased goods for an amount or with a value in excess of the determined threshold in any country outside the Republic and paid for or made a payment or transferred property in consideration for such goods shall submit documentation to an authorised dealer in the manner and within a period prescribed by the National Treasury, confirming the arrival of goods in respect of which the payment was made or the property was transferred.

(3) If the goods referred to in subregulation (1) have not been consigned to the Republic within four months from the date of payment, the National Treasury or an authorised person may direct the purchaser of the goods, in writing, to cede the right to those goods to the National Treasury or to an authorised person, for compensation must be paid in an amount that must not be less than the amount realised by the National Treasury or the authorised person, after deduction of the cost of realisation, from the disposal of the goods pursuant to the cession.

(4) Any dispute concerning the amount of compensation must be determined by a competent court.

(5) A person may not purchase goods in a foreign country on conditions which would preclude them from giving effect to or complying with a direction contemplated in subregulation (3).

(6) If in any administrative or legal proceedings a person fails, at the request of the National Treasury or an authorised person, to produce a customs declaration in respect of goods contemplated in this regulation, that failure shall constitute sufficient proof that the goods have not been consigned to the Republic.

(7) Any person who purchased a means of transport, including a ship, seagoing vessel, aircraft, motor vehicle, tractor or trailer, outside the Republic may not, after that means of transport has been consigned and brought to the Republic, permit that means of transport to leave the Republic for the purposes of the conveyance of any person or goods for reward outside the Republic except with the permission of the National Treasury or an authorised person and in accordance with those conditions that the National Treasury or the authorised person may impose.

Restrictions on dealings in securities belonging to non-residents

15. (1) For the purposes of this regulation—

(a) **"controlled security"** means any security as defined in regulation 1—

(i) that is registered in the name of a non-resident;

(ii) that is owned by a non-resident;

(iii) in which a non-resident has an interest;

(iv) that was acquired from a non-resident; or

(v) that was acquired outside the Republic by any person irrespective of that person's place of residence;

(b) **"non-resident"** means a person resident outside the Republic; and

(c) **"nominee"** means a person through whose agency all or any of the rights of the owner of a security are exercised.

(2) Subject to regulation 23(6), a person may not—

(a) acquire or dispose of in any way any controlled security;

(b) act as a nominee for a non-resident in respect of any dealings in securities;

(c) appoint a non-resident as a nominee in respect of any dealings in securities;

(d) make any entry in a securities register involving the transfer of a security into or out of the name of a non-resident;

(e) change an address of a non-resident in any securities register except a change to an address in the same monetary area as that currently recorded in the securities register;

(f) do anything to cause an address in the Republic to be entered into a securities register knowing that the purchaser or owner of the security is a non-resident or that a non-resident has an interest in the security; or

(g) transfer a security owned by a non-resident or in which a non-resident has an interest from a foreign securities register or from a section of a foreign securities register to a South African securities register or section of a South African securities register;

except with the permission granted by the National Treasury or an authorised person and in accordance with the conditions that the National Treasury or the authorised person may impose.

(3) *(a)* Any person who holds, possesses or has in their custody any controlled security must submit the security to an authorised dealer within 30 days from the date of which they became the holder, possessor or custodian of such security;

(b) the security submitted in terms of paragraph *(a)* must be accompanied by a list containing the following particulars—

(i) full name and country of residence of the owner or person interested in the securities, together with a signed declaration by the holder, possessor or custodian that to the best of their knowledge, the owner or interested person is actually resident in the country stated;

(ii) the name of the company or person which issued the security;

(iii) the total number of securities held; and

(iv) the full name and residential address of the person who holds or is in possession of the securities or who has the security in their custody; and

(c) the National Treasury or an authorised person may direct authorised dealers to affix their stamp and any endorsement that the National Treasury or an authorised person may determine on

any security submitted in terms of subregulation (1) for the purpose of facilitating the identification of controlled securities.

Prohibition of dealings in bearer securities and bearer options

16. (1) For the purposes of this regulation—

(a) **"bearer securities"** and **"bearer options"** mean securities and options on which the name of the holder or person entitled to the securities or options is not specified;

(b) **"bearer securities"** and **"bearer options"** include securities and options issued inside or outside of the Republic; and

(c) **"option"** means the right to subscribe for, or take up, the whole or any part of an issue of capital or securities.

(2) Subject to regulation 23(6) and (8), a person may not—

(a) acquire, deal in, dispose of, any bearer security or bearer option;

(b) pay any dividend or interest coupon issued in respect of any bearer security irrespective of whether the dividend or interest coupon became payable before or becomes payable after the commencement of this regulation; and

(c) issue any bearer option or extend the currency period of any existing bearer option;

without an exemption granted by the National Treasury or an authorised person or except with the permission of the National Treasury or an authorised person and in accordance with those conditions that the National Treasury or the authorised person may impose.

Control of issue of capital and securities

17. (1) For the purposes of this regulation—

(a) **"issue of capital"** includes—

(i) the raising of capital in the Republic by the issue of securities, in or outside of the Republic;

(ii) the receipt of money on loan, the repayment of which may be repaid wholly or partly by the issue or transfer of securities; and

(iii) any loan raised by a municipality or a municipal entity whether or not that loan is based on the issue or transfer of securities; and

(b) the amount of capital issued or to be issued must be calculated as the amount to be raised or the nominal value of the securities, whichever is the greater.

(2) Subject to subregulation (3), a person may not, during any period of twelve months—

(a) make in the Republic an issue of capital which amounts to an aggregate more than the determined threshold; or

(b) renew or postpone the date of maturity of securities maturing for repayment in the Republic which amounts to the aggregate more than the determined threshold;

without an exemption granted by the National Treasury or an authorised person, or except with the permission granted by the National Treasury or an authorised person in accordance with those conditions that the National Treasury or the authorised person may impose.

(3) *(a)* Subject to Chapter 6 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), a municipality or municipal entity may apply for authorisation to raise a loan outside of the Republic only with the written comments of the National Treasury;

(b) Where a municipality or municipal entity has not included the written comments of the National Treasury on submission of the application for authorisation to raise a loan outside the Republic, the authorised person must refer the application back to the municipality or municipal entity for purposes of compliance with paragraph *(a)*; and

(c) The authorised person must consider the written comments of the National Treasury before deciding whether to grant authorisation for the municipality or municipal entity to raise a loan outside of the Republic.

(4) If in any advertisement, prospectus or other document which offers any securities for subscription a statement is to be included intimating or purporting to convey that the National Treasury has approved or consented to the issue of the securities, the statement may be included only at the beginning of the advertisement, prospectus or other document, and must be made and qualified in the following words:

> "The National Treasury has consented under the Capital Flow Management Regulations made under section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933) to the issue of the securities referred to below, but that consent does not imply that the National Treasury has investigated or is responsible in any way for the soundness of the proposals involved or for the correctness of any statement made or opinion or estimate given in connection with those proposals."

Businesses controlled by persons outside the Republic

18. (1) If the control of any business, irrespective of the nature of the legal entity or person in whom the business vests is established outside of the Republic, any transaction with a branch or subsidiary of the business in the Republic must be treated as if the branch or subsidiary were a separate person resident in the Republic.

(2) If any business in the Republic, irrespective of the nature of the legal entity or person in whom the business vests, is controlled by a person outside of the Republic, that business in the Republic must be treated as if that business is a separate person resident in the Republic.

(3) The manager or controller of the branch or subsidiary of the business in the Republic is subject to the same duties and obligations under these Regulations as that manager or that controller would have been if that branch or subsidiary of the business were independent of control from outside of the Republic.

Provision of security

19. (1) For the purposes of this regulation, **"security"** means something given, deposited or pledged to make the fulfilment of an obligation certain.

(2) The National Treasury or an authorised person, may order—

(a) any person to provide security;

(b) in the form and manner, and in the amount that the National Treasury or the authorised person may determine; and

(c) that the person must comply, either generally or in respect of any particular transaction, with the provisions of any of these Regulations, or with any of the conditions to which any permission contemplated in these Regulations is subject.

(3) If any person who provided security in terms of this regulation failed to comply with the provisions of these Regulations, or with any of the conditions on which the permission was granted—

(a) the National Treasury or an authorised person may give notice to the person by whom the security was provided, calling upon the person to furnish reasons why the security should not be forfeited; and

(b) after considering any reasons furnished by that person within 30 days after the date of the notice, direct that the security be forfeited for the benefit of the National Revenue Fund.

(4) A forfeiture of security under subregulation (3) does not preclude the institution of any criminal, civil or administrative proceedings against the person referred to subregulation (3) for failure to comply with these Regulations.

Furnishing of information

20. (1) The National Treasury, or any person authorised by the National Treasury, may order any person to furnish any information in any manner at such person's disposal which the National Treasury or such authorised person deems necessary for the purposes of these regulations.

(2) Any person generally or specifically appointed by the National Treasury for purposes of subregulation (1) may enter and search any premises to inspect any books or documents belonging to, or under the control of such person:

(a) with prior consent of a person so ordered after informing the person that granting permission will enable the person referred to in subregulation (1) to enter the premises for purposes of this subregulation; or

(b) without prior consent and without prior notice to a person so ordered,

(i) if the entry is authorised by a warrant; or

(ii) if the appointed person referred to in subregulation (2) believes on reasonable grounds that—

(aa) a warrant will be issued to them if applied for,

(bb) the delay in obtaining the warrant is likely to defeat the purpose for which entry of the premises is sought; and

(cc) it is necessary to enter the premises for the purposes of the regulations.

(3) In exercising powers in terms of this regulation, the person referred to in subregulation (1) must do so with strict regard to –

(a) an affected persons' right to human dignity, right to freedom and security, right to privacy and other constitutional rights;

(b) decency and good order as the circumstances require, particularly by entering and searching only such areas or objects as are reasonably required for the purposes of obtaining information in terms of subregulation (1), conducting the search discreetly and with due decorum, causing as little disturbance as possible and concluding the search as soon as possible.

(4) If any person makes any statement in any information furnished in compliance with such an order which is in conflict with any other statement previously made by the person in giving information required in connection with the subject matter of such order, the person shall be deemed to have made an incorrect statement in terms of regulation 29 and may, on an indictment, summons or charge alleging that two conflicting statements were made, be convicted of making an incorrect statement in contravention of the said regulation 29 upon proof of the two statements in question and without proof as to which of the said statements was incorrect, unless the person proves that when the two respective statements were made, the person believed it to be true.

Administrative sanctions

21. (1) The National Treasury or an authorised person may impose administrative sanctions on authorised dealers or authorised crypto asset service providers for failure to comply with any of the provisions of these regulations, or any condition imposed thereunder.

(2) The administrative sanctions imposed under subregulation (1) may include any or a combination of the following:

(a) a financial sanction in the amount that the National Treasury or the authorised person may determine;

(b) a public reprimand or censure;

(c) suspension of the appointment as an authorised dealer for a period to be determined by the National Treasury or an authorised person;

(d) a revocation of appointment as an authorised dealer;

(e) disqualification of directors, senior management or key personnel from serving in their roles for a period to be determined by the National Treasury or an authorised person;

(f) restrictions on or curtailment of transactions that may be entered into by the authorised dealer; and

(g) an order to take specified remedial action for a period to be determined by the National Treasury or an authorised person.

(3) The National Treasury or an authorised person may suspend any part of an administrative sanction on any condition the National Treasury or an authorised person deems appropriate for a period not exceeding five years.

(4) The National Treasury or an authorised person may at its discretion allow an authorised dealer to settle administrative sanctions before they are formally instituted.

Forms

22. The National Treasury may prescribe forms for the purposes of these Regulations.

Exemptions and permissions

23. (1) *(a)* The National Treasury or an authorised person may, by notice published in the *Gazette*, and in a publicly accessible medium of communication, exempt all persons or a specified class of persons from compliance with any of these Regulations, either in respect of all transctions contemplated in a regulation or in respect of specified types or categories of transactions; and

(b) the National Treasury or an authorised person may withdraw any exemption granted.

(2) The National Treasury or an authorised person may—

(a) grant any permission provided for in these Regulations to the general public, to a specified class or group of persons, or to a particular person; and

(b) may grant permission in respect of—

(i) a particular transaction;
(ii) specified types or classes of transactions; or
(iii) all transactions referred to in a regulation.

(3) Any permission granted in terms of subregulation (2)—

(a) may be granted either by the National Treasury or an authorised person;

(b) may be granted subject to those conditions that the National Treasury or the authorised person may determine;

(c) must be made in writing; and

(d) may be granted with retrospective effect from a date specified by the National Treasury or the authorised person.

(4) *(a)* Any permission granted in terms of subregulation (2) to a particular person in respect of a particular transaction or transactions must be communicated in writing;

(b) any permission given to the general public or to a specified group or class of persons must be publicly available and communicated in writing to authorised dealers and must be made available as a link on the website of the South African Reserve Bank, www.reservebank.co.za, for the purposes of enabling any member of the public to gain access to the permission; and

(c) any member of the public is entitled to obtain a copy from an authorised dealer of any permission given to the public or to a specified group or class of persons, upon payment of a fee to the authorised dealer in accordance with a prescribed fee structure.

(5) Regulation 11(2) may not impose upon any person an obligation in respect of any foreign asset if the person is, in respect of that asset, exempted from that regulation by the National Treasury or an authorised person.

(6) Notwithstanding regulations 2(1) and (2), 3(1) and (2), 6(6), 8(5), 12(3), 15(2), 16(2) or 17(2), a person may only engage in any of the actions contemplated in those provisions if—

(a) the National Treasury or an authorised person has granted an exemption from the relevant provisions of those regulations;

(b) the National Treasury or an authorised person has given permission to the person to engage in the action; or

(c) the person concerned has complied with any conditions imposed by the National Treasury or the authorised person.

(7) Notwithstanding regulation 4(1), a person may only engage in any of the actions mentioned in that regulation if—

(a) the value of the foreign currency, crypto assets, gold or securities or the amount involved in the transaction is less than a determined threshold; or

(b) the requirements specified in subregulation (6)*(a)* to *(c)* are complied with.

(8) The owner of any bearer security may with the permission of the National Treasury or an authorised person and in accordance with those conditions that the National Treasury or the authorised person may impose, convert a bearer security into a registered security.

Attachment of certain money, crypto assets, property and blocking of certain accounts

24. (1) The National Treasury or an authorised person—

(a) may, in the manner that the National Treasury or the authorised person deems fit, attach any money, crypto assets, or other property, including the right to payment of a credit balance in a bank account, notwithstanding the person in whose possession it is—

(i) in respect of which a contravention of any provision of these Regulations has been committed;

(ii) in respect of which an act or omission has been committed which the National Treasury or an authorised person on reasonable grounds suspects to constitute a contravention of these Regulations;

(iii) which the National Treasury or an authorised person on reasonable grounds suspects to be involved in a contravention of or in a failure to comply with any provision of these Regulations;

(iv) which the National Treasury or an authorised person on reasonable grounds suspects to be involved in an act or omission which constitutes a contravention of or a failure to comply with any provision of these Regulations;

(v) which have been obtained by any person or are due to them, whether by virtue of any personal right or otherwise, and which would not have been obtained by them or would not have been due to them if any actual or suspected contravention, failure, act, or omission had not been committed;

(vi) from which any person has benefited or has been enriched as a result of any actual or suspected contravention, failure, act or omission;

(vii) into which any money, crypto assets, or other property referred to in sub-paragraphs (i) to (vi) have been transformed, including any personal right obtained with the money, crypto assets or property; or

(viii) any money which is held in a controlled account or any property transferred in terms of regulation 6 which the National Treasury on reasonable grounds suspects to be money or property—

(aa) in respect of which a contravention, act or omission referred to in sub-paragraph (i) or (ii) has been committed;

(bb) which has been involved in a contravention, failure, act or omission referred to in sub-paragraph (ii), (iii) or (iv);

(cc) which has been obtained by any person or is due to them as referred to in sub-paragraph (v);

(dd) by which any person has been benefited or enriched as referred to in sub-paragraph (vi); or

(ee) into which any money, crypto assets or other property as referred to in sub-paragraph (vii) have been transformed;

(b) may, in the case of money or crypto assets attached in terms of paragraph *(a)*, deposit the money or crypto assets in an account opened by the National Treasury or an authorised person with an authorised dealer or the Corporation for Public Deposits for that purpose, or cause the credit of crypto assets into a designated deposit address and may, in the case of other property attached, subject to an order issued or made under paragraph *(c)* leave the property in the possession of the person in whose possession such property have been found, or must otherwise keep or cause the property or crypto assets to be kept in custody in the manner that the National Treasury or the authorised person deems fit;

(c) may, if the National Treasury or an authorised person on reasonable grounds suspects that money or crypto assets referred to in paragraph *(a)* has been deposited in or is held in any account and if the money or crypto assets has not been attached under the said paragraph *(a)*, issue or make an order in the manner that the National Treasury or the authorised person deems fit in terms of or by which any person is prohibited to withdraw or cause to be withdrawn, or deal with, except with permission of the National Treasury or an authorised person and in accordance with those conditions that may be imposed by the National Treasury or the

authorised person, any money or crypto assets in that account or not more than an amount determined by the National Treasury or the authorised person, or to appropriate in any manner any credit or balance in that account, notwithstanding who may be the holder of the account; and

(d) may, in the case of property referred to in paragraph *(a)* which has been left in the possession of the person concerned, issue or make an order in the manner that the National Treasury or authorised person deems fit in terms of or by which any person is prohibited to deal, except with the permission of the National Treasury or an authorised person and in accordance with those conditions that may be imposed by the National Treasury or the authorised person, in any manner determined by the National Treasury or the authorised person with the property attached or any part of the property.

(2) When any immovable property is attached under subregulation (1)*(a)* or when an order is issued or made in respect of immovable property under subregulation (1)*(c)*—

(a) the National Treasury or an authorised person concerned must notify the Registrar of the Deeds Registry where the immovable property is registered, in writing, of the attachment or order, and furnish the Registrar with the necessary particulars in connection with the immovable property that the Registrar may require; and

(b) the Registrar must, free of charge, note particulars of the attachment or order against the title deed of the immovable property.

(3) The National Treasury or an authorised person concerned must return any money, crypto assets, or other property attached under subregulation (1)*(a)*, including any money, crypto assets or other property accrued, to the person under whose control, or in whose possession the money, crypto assets or property have been found or the person entitled to the money, or crypto assets or property, on a date not later than the date of expiry of the period referred to in section 9(2)*(g)* of the Act from the date on which the money, crypto assets or property have been attached, unless the money, crypto assets or property to which the order relates are forfeited under regulation 25 before that date.

Forfeiture and disposal of money, crypto assets or property attached or in respect of which orders have been issued or made

25. (1) Subject to subregulations (3) and (4), the National Treasury or an authorised person may issue an order in writing that any money, crypto assets or other property referred to in regulation 24(1) *(a)*, *(c)* and *(d)*, including any money, crypto assets or other property accrued, be forfeit to the State, and must—

(a) in the case of any money or crypto assets, deposit or cause such money to be deposited into an account at the Corporation for Public Deposits, or credit crypto assets into a designated deposit address;

(b) in the case of other property—

(i) realise the property in the manner the National Treasury or authorised person deems fit as if the National Treasury or authorised person were the owner or holder of the property;

(ii) may transfer the property to the purchaser and give a valid title to the goods; and

(iv) in the case of immovable property—

(aa) submit to the Registrar of Deeds the title deed to the immovable property, unless the National Treasury or an authorised person certifies that the National Treasury or the authorised person was unable to obtain those title deeds;

(bb) deposit or cause the proceeds of the realisation of the immovable property to be deposited into an account with the Corporation for Public Deposits; and

(c) at the request of the National Treasury, pay the aggregate of the amounts referred to in paragraphs *(a)* and *(b)* and which were deposited into an account at the Corporation for Public Deposits during the previous financial year, less the expenditure referred to in subregulation (4) which was incurred during that financial year, to the National Revenue Fund.

(2) The National Treasury or an authorised person may, if satisfied on reasonable grounds that any money, crypto assets, or other property attached under regulation 24(1)*(a)* or in respect of which an order has been issued or made under regulation 24(1)*(c)* or *(d)* does not constitute money, crypto assets, or property as referred to in those paragraphs, return the money, crypto assets or property, including any money, crypto assets, or other property that may have accrued to the property which was attached, to the person in whose possession the money, crypto assets or property were found or to any person otherwise entitled to the money, crypto assets or property, or cancel the relevant order.

(3) Any money, crypto assets, or other property referred to in regulation 24(1)*(a), (b)* or *(c),* shall not be forfeited to the State unless the National Treasury or authorised person—

(a) has complied with section 3 of the Promotion of Administrative Justice Act before taking a decision to forfeit;

(b) has published a notice in the *Gazette* in which—

(i) notice is given of any decision to forfeit to the State the money, crypto assets or property specified in the notice;

(ii) particulars are furnished of the manner in which the forfeited money, crypto assets or property will be disposed of; and

(iii) the effective date on which the money, crypto assets or property will be forfeited, is indicated; and

(c) has, in addition to the publication of a notice in the *Gazette*, published a similar notice on the website of the South African Reserve Bank, www.reservebank.co.za, for the purposes of enabling any member of the public to gain access thereto.

(4) The National Treasury or the authorised person may not dispose of any money, crypto assets or other property forfeited to the State under subregulation (1), before—

(a) the expiry of a period of 90 days from the date of publication in the *Gazette* in terms of subregulation (3)*(b);* or

(b) final judgement has been given, if any proceedings have been instituted in connection with any forfeiture decision.

(5) Any person who was the owner or in control of any crypto asset which forfeited in terms of this regulation, shall upon written demand made by National Treasury or an authorised person, furnish full particulars in writing of all and any passwords, personal identification numbers or codes which are necessary to enable National Treasury to obtain access to and control over the crypto assets and their disposal.

(6) Expenditure incurred by the responsible department of the South African Reserve Bank in connection with—

(a) the attachment of any money, crypto assets, or other property in terms of regulation 24(1) or 26(1);

(b) the keeping in custody of any money, crypto assets, or other property in terms of regulation 24(1)*(a)*;

(c) the issuing or making of any order referred to in regulation 23(1)*(c)* or *(d),* or regulation 26(2);

(d) enforcement of compliance with any order referred to in these Regulations;

(e) the forfeiture or realisation of any money, crypto assets, or other property in terms of subregulations (1) and (3) of this regulation or in terms of the said subregulations read with regulation 26(3);

(f) the upkeep or preservation of, or the payment of any tax or other charges in respect of any property attached in terms of regulation 24(1)*(a)* or regulation 26(1), or declared forfeit in terms of subregulations (1) and (3), or in terms of those subregulations read with regulation 26; or

(g) the investigation or regularisation of any suspected non-compliance with or contravention of these Regulations, may, notwithstanding the provisions of subregulation (1)*(a),* be defrayed and recovered from the money or realisable proceeds of the crypto assets, or from the proceeds of the realisation of the goods, insofar as the money, crypto assets or property have been declared forfeit in terms of subregulations (1) and (3) or in terms of those subregulations read with regulation 26(3).

Recovery of certain amounts by National Treasury

26. (1) *(a)* When the National Treasury or an authorised person has under regulation 25 forfeited to the State any money, crypto assets, or other property referred to in regulation 24(1), and the money or realisable proceeds of crypto assets or the proceeds of the property, if any, are less than an amount equal to the aggregate of—

(i) the amount in respect of which a contravention, failure, act, or omission referred to in regulation 24(1)*(a)*(i) or (ii) has been committed;

(ii) the amount which was involved in a contravention, failure, act, or omission referred to in regulation 24(1)*(a)*(iii) or (iv);

(iii) which has been obtained by any person or is due to them as referred to in regulation 24(1)*(a)*(v); or

(iv) by which any person has benefited or been enriched as is referred to in regulation 24(1)*(a)*(vi);

(b) when no money, crypto assets or property has been forfeited to the State under regulation 25, the National Treasury or an authorised person may recover an amount equal to the difference between the aggregate of the amounts referred to in regulation 24(1)*(a)* and the aggregate of the amount of money forfeited and the proceeds of crypto assets and any other property forfeited in terms of regulation 25; and

(c) when no money, or crypto assets or property have been forfeited in terms of regulation 25, an amount equal to the aggregate of the amounts referred to in regulation 24(1)*(a),* as the case may be—

(i) from the person who committed the contravention, failure, act, or omission;

(ii) from the person who the National Treasury or an authorised person on reasonable grounds suspects to have committed the contravention, failure, act, or omission in question;

(iii) from the person benefited or enriched as a result of the contravention, failure, act, or omission in question; or

(iv) if more than one person has committed the contravention, failure, act, or omission or if the National Treasury or an authorised person on reasonable grounds suspects that more than one person has committed any contravention, failure, act, or omission or if more than one person has benefited or been enriched as a result of the contravention, failure, act, or omission in question, jointly and severally from those persons;

by attaching in the manner that the National Treasury or authorised person deems fit, any money or crypto assets, including money in a controlled account or any property transferred in a manner prescribed by the National Treasury referred to in regulation 6, or other property of the person or persons concerned.

(2) The National Treasury or an authorised person may, if the National Treasury or authorised person on reasonable grounds suspects that it may be necessary in due course to recover under subregulation (1) any amount from the person or persons concerned, at any time from the date on which money, crypto assets or property referred to in regulation 22(1)*(a)* have been attached, issued or made an order in the manner that the National Treasury or authorised person deems fit in or by which any person is prohibited—

(a) to withdraw or cause to be withdrawn any money or right to crypto assets held in any account or not more than an amount of money or specified value of crypto assets determined in the discretion of the National Treasury or an authorised person, with due regard to the amount which in the opinion of National Treasury or an authorised person will in due course be recovered, or to appropriate in any manner any credit or balance in that account; and

(b) to deal in any manner that the National Treasury or an authorised person deems fit with any property, as may be determined by the National Treasury or an authorised person, of the person or persons concerned, except with the permission of the National Treasury or an authorised person and in accordance with the conditions that may be imposed by the National Treasury or the authorised person.

(3) The provisions of—

(a) regulation 25(1) and (3) apply with the necessary changes to any money, crypto assets or property referred to in subregulations (1) and (2) of this regulation as if the money, crypto assets or property was money, crypto assets or property referred to in regulation 24; and

(b) regulation 23(3) applies with the necessary changes to any money, crypto assets or property which is subject to an order issued or made under subregulation (2) of this regulation and to any order issued or made under subregulation (2).

Review of orders relating to attachment, blocking and forfeiture of money, crypto assets or property

27. (1) Any attachment of money, crypto assets or property and any order issued or made in terms of regulations 24, 25 or 26 constitute an "administrative action" as defined in section 1 of the Promotion of Administrative Justice Act, 2000.

(2) Any person who is aggrieved by the attachment of any money, crypto assets or property or by the issue or making of any order in terms of regulation 24, 25 or 26 may institute proceedings for the judicial review of that administrative action in terms of the provisions of the Promotion of Administrative Justice Act, 2000, and the court in the review proceedings may grant any just and equitable order as contemplated in section 8 of the Promotion of Administrative Justice Act, 2000.

Delegation of powers

28. (1) The Minister of Finance may in writing delegate to any person any power or function conferred upon the National Treasury by any provision of these Regulations or assign to any person a duty imposed under these Regulations upon the National Treasury.

(2) The National Treasury is not divested of any power, function or duty delegated or assigned to any person under subregulation (1) and may at any time withdraw or amend any decision taken by any person in the exercise or performance of the power, function or duty in question.

Offences and penalties

29. (1) A person commits an offence if that person—

(a) contravenes or fails to comply with any provision of these Regulations;

(b) contravenes or fails to comply with the terms of any notice, order, permission, exemption, or condition made, conferred or imposed in terms of these Regulations;(

(c) obstructs any person in the execution of any power or function assigned to the person by or under these Regulations; and

(d) negligently or intentionally makes any false or incorrect statement in any declaration made or return rendered for the purposes of these Regulations.

(2) A person found guilty of an offence in terms of subregulation (1) is liable to—

(a) a fine not exceeding R1,000,000;

(b) imprisonment for a period not exceeding five years; or

(c) both a fine and imprisonment.

(3) A person who is convicted of an offence in terms of subregulation (1), in relation to any money, crypto asset or property may be liable to a fine not exceeding R1,000,000, or a sum equal to the value of the money, crypto asset or property, whichever is the greater.

Administrative relief

30. (1) For the purposes of this regulation, foreign property includes crypto assets.

(2) The National Treasury or an authorised person may authorise the regularisation of any contravention of these Regulations by allowing a person who has contravened these Regulations, to disclose the contravention to the National Treasury or an authorised person, in accordance with the provisions of, and in the manner provided for in this regulation.

(3) The regularisation of any contravention of these Regulations, by a person who is subject to these Regulations, must take place on the basis that the National Treasury or an authorised person by the National Treasury, may on written notice allow for certain types of contraventions to be regularised on application and supported by a sworn affidavit or solemn declaration in writing, setting out details of the contravention, in the form and manner prescribed, on the basis that—

(a) the sworn affidavit or solemn declaration must be a full disclosure in respect of the contravention of these Regulations by the person;

(b) the person, when making an application in terms of these Regulations in respect of any foreign property, must—

(i) disclose the market value of that foreign property in the foreign currency of the country in which the foreign property is situated;

(ii) include a description of the identifying characteristics and location of that foreign property; and

(iii) submit, in respect of the market value, in the foreign currency of that foreign property, as at the date that may be prescribed, including—

(aa) a valuation certified by an accredited valuator of the country where that foreign property is located;

(bb) a valuation by a sphere of government of the country where that foreign property is located;

(cc) where the asset constitutes a financial instrument, an original or certified copy of a statement of account indicating the balance or market value; or

(dd) any other form of proof of value of that foreign property that the National Treasury or an authorised person may in its discretion allow to be submitted and accept; and

(c) the person, when making an application in terms of this regulation in respect of any contravention of these Regulations, must provide any additional information relating to the contravention, that may be required by the National Treasury or an authorised person.

(4) Subregulation (2) does not apply to persons in respect of whom, on the date on which they apply to regularise any contravention of the regulations—

(a) there is a pending investigation by the National Treasury or an authorised person into the affairs of the person;

(b) an investigation by the National Treasury or an authorised person into the affairs of the person has commenced as at the date of an application made, or caused to be made, by the person; or

(c) a criminal prosecution for contravention of any of these Regulations has been instituted.

(5) Notwithstanding subregulation (4), a person who, in terms of subregulation (3) is not permitted to make application for administrative relief, is entitled, except with the permission of National Treasury or an authorised person and in accordance with the conditions that may be prescribed, to make an application for the administrative relief set out in subregulation (2), provided that the National Treasury or the authorised person, after having regard to the circumstances of the pending or current investigation into the affairs of the person, is of the opinion that—

(a) the contravention of the provisions of these Regulations, for which application is made for administrative relief, would not otherwise be detected in the ordinary cause of any pending or current investigation by the National Treasury or an authorised person into the affairs of the person; or

(b) allowing the person to make an application, in respect of the contravention of the provisions of these Regulations, would be in the interests of the administration of the National Treasury or an authorised person and would be the most effective use of the resources of the National Treasury or the authorised person. (6) If a person complies with the provisions of subregulation (2), in relation to a contravention of these Regulations, the National Treasury or an authorised person may in its discretion, subject to the provisions of subregulation (6) and subregulation (11), grant relief and regularise any contravention of these Regulations.

(7) Subject to the provisions of these Regulations and the exclusion in subregulation (3), if any application for the regularisation of a contravention of these Regulations is granted in terms of this regulation, the National Treasury or an authorised person, shall not in respect of the person and in respect of the specific contravention set out in the application, pursue any criminal prosecution, in respect of the contravention of these Regulations, but may—

(a) exempt the person from payment of any levy or administrative penalty in respect of the contravention of the provisions of these Regulations;

(b) impose a condition and issue a directive that specified foreign property be repatriated or be transferred to the Republic;

(c) impose a condition that a levy or administrative penalty as determined by National Treasury or an authorised person be paid to National Treasury in respect of contraventions of the provisions of these Regulations as provided for in subregulation (12);

(d) impose any other conditions as may be determined and imposed by National Treasury or an authorised person;

(e) determine the effective date on which the regularisation will be effective, which may be a retrospective date;

(f) grant the person retrospective permission to enter into the transaction which constituted the contravention;

(g) make a written recommendation to the National Prosecuting Authority that the person not be prosecuted for the contravention of these Regulations; or

(h) take any one or more of the steps provided for in paragraphs *(a)* to *(g)*.

(8) The National Treasury or an authorised person must deliver, to the person making an application for relief in terms of this regulation, a notice of the decision of the National Treasury or the authorised person in respect of the granting or refusal, of the application and which notice, when granting the relief, must, in addition to any condition or requirement that the National Treasury or the authorised person may impose, include—

(a) the material facts of the relevant contravention of these Regulations on which the application was granted;

(b) details of the levy or any administrative penalty payable by the person to National Treasury, including the arrangements and date for payment of the levy or administrative penalty;

(c) details, in respect of the contraventions, of the applicability of the provisions of these Regulations following the granting of any relief in respect of the contraventions; or

(d) details of any undertaking and conditions as may be imposed on the person.

(9) If within a period of three years after the approval of an application and the granting of relief in terms of this regulation, it is established that the person who made the application to the National Treasury or an authorised person in terms of this regulation, failed to disclose any facts, or misrepresented any facts, which would have been material for the purpose of considering the disclosure and application for regularisation of the contravention, the National Treasury or the authorised person shall be entitled to withdraw the approval of the application with effect from the date on which it was granted, and in that event—

(a) National Treasury or an authorised person must inform the affected person in writing that the approval of the application made by the person has been withdrawn and is of no further force or effect and must set out the reasons for the decision to withdraw the approval of the application;

(b) any amount paid by the person pursuant to the notification referred to in subregulation (8) need not be refunded to the affected person, unless the High Court on application by the affected person otherwise directs, but may be held by National Treasury pending determination and payment of any further levies or administrative penalties that may be imposed by the National Treasury, or criminal penalties that may be imposed following a criminal conviction of the person for contravention of any of the provisions of the regulations; and

(c) criminal prosecution may be initiated in respect of any contravention of the provisions of these Regulations, in which event the National Treasury and the authorised person may make direct use of any information disclosed in any application pursuant to this regulation.

(10) Any person aggrieved by a decision of the National Treasury or an authorised person to refuse an application for regularisation or to subsequently withdraw or declare of no further force or effect any application previously approved under this regulation may lodge an objection in the manner prescribed.

(11) All objections lodged pursuant to and in accordance with subregulation (9) must be dealt with in the manner prescribed.

(12) If any person is required, under a notice issued in terms of subregulation (7) to make payment of a levy or administrative penalty, the National Treasury or an authorised person must issue a final notification in respect of the relief granted in terms of this regulation to the person once the levy or administrative penalty has been paid in full.

(13) Only upon receipt of a final notification referred to in subregulation (11) from National Treasury or an authorised person will the application be regarded as approved.

(14) Any person who made an application in terms of this regulation and whose application is approved subject to the payment of a levy or administrative penalty may be required to pay the amount equal to, but not exceeding, the market value, as at a date determined by National Treasury or an authorised person, of the foreign property disclosed or the amount involved in the contravention of the provisions of these Regulations.

(15) *(a)* The levy or administrative penalty payable, as set out in subregulation (13), must be paid by the person from funds brought into the Republic from outside the Common Monetary Area or, to the extent that the person does not have access to any such foreign funds, the National Treasury or an authorised person may permit the amount to be paid from funds held in the Republic, subject to sub-paragraph *(b)*.

(b) Should the National Treasury or an authorised person permit payment of the levy or administrative penalty not from funds brought into the Republic but from funds held in the Republic, National Treasury or an authorised person may require payment of a further administrative penalty in addition to the determined levy or administrative penalty, in an amount not exceeding 20% thereof.

(16) All amounts payable as a levy or administrative penalty must be paid, by the affected person, to an authorised dealer by no later than the date determined in the notification referred to in subregulation (7) and, if paid from foreign funds brought into the Republic, must be converted into South African Rand by using the ruling exchange rate on the date of payment.

(17) The authorised dealer must pay all amounts received in terms of subregulation (15) into an account kept for that purpose at the Corporation for Public Deposits within the period and under the terms prescribed.

(18) The provisions of regulation 25(1)*(c)* and 25(4) apply with the necessary changes to amounts received in terms of subregulation (15).

(19) A person may not rely on the provisions of this regulation and claim relief in terms of this regulation, unless the National Treasury or an authorised person has published a notice as referred to in subregulation (1), and the affected person has applied for regularisation of a contravention pursuant to that notice and in the manner provided for in this regulation.

Determination of thresholds

31. (1) The Minister of Finance may from time to time and by notice in the *Gazette* determine a threshold amount in South African Rand for the purposes of transactions contemplated in these Regulations.

(2) A reference to a determined threshold, in respect of any particular transaction with an amount not exceeding the determined threshold may not be prohibited.

Repeal and transitional provisions

32. (1) The Regulations published by Government Notice R. 1111 of 1 December 1961, are hereby repealed.

(2) Despite the repeal of the regulations referred to in subregulation (1), for the purposes of the completion of any investigation, prosecution or any criminal or legal proceedings, or any court proceedings or proceedings that are subject to any other processes that are not yet completed on the date of the repeal of the regulations referred to in subregulation (1), may be continued and finalised in accordance with the provisions of the regulations referred to in subregulation (1).

(3) A decision, determination, exemption, permission, authorisation, Manual, circular, directive and guidance note made or issued in terms of the regulations referred to in subregulation (1) and in force immediately before the date on which these Regulations came into effect remain in force, but may be revoked, withdrawn, amended, varied or replaced in terms of these Regulations.

Short title and commencement

33. These Regulations are referred to as the Capital Flow Management Regulations, 2026 and take effect on the date of publication in the *Gazette*.