South African residents face restrictions known as exchange controls on transactions involving foreign currency. These are aimed both at protecting South Africa’s foreign currency reserves and controlling movements of capital in and out of the so-called Common Monetary Area (CMA) which comprises South Africa, Lesotho, Namibia and Swaziland. Every individual’s transaction outside the CMA that exceeds a certain threshold, requires approval from the Financial Surveillance Department (FinSurv) of the South African Reserve Bank (SARB).

Position up to 30 October 2019

The exchange control rules generally prohibit, without SARB approval or within certain limits and parameters, transactions that result in the export of capital from South Africa. In recent years, SARB has permitted individuals subject to certain conditions to transfer a certain amount of funds abroad each year. No restriction is imposed on the type of foreign investment the individual makes with one significant exception. South African
individuals are strictly forbidden to make a foreign investment that invests funds back into the CMA, which is known as looping. This would occur, for example, if the South African individuals loaned funds to a foreign company that used the funds to buy shares in a company within the CMA or loaned the funds back to a CMA resident.

**Exchange Control Circular No 18/2019 – Partial relaxation of loop structures by South African private individuals.**

As of 31 October 2019, SARB has relaxed the restriction on investment in loop structures in relation to individuals.

South African private individuals are now allowed to obtain up to 40% of the equity shares and/or voting rights in a foreign company that holds investments or makes loans to a CMA country like South Africa. However pre-existing loop structures will unfortunately still have to be regularised with the SARB.

Furthermore, SARS will now also permit South African individuals to invest with foreign fund or asset managers that invest in foreign companies that have CMA interests over which the individuals has no control (ie so-called unintentional loop structures).

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