



**CENTRAL BANK
OF LESOTHO**



CURRENCY EXCHANGES MANUAL FOR AUTHORISED DEALERS

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Currency and Exchanges Manual for Authorised Dealers

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Legal Context

The Exchange Control Order of 1987 repealed the Exchange Control Act of 1975, which formed the legal basis of exchange control in Lesotho. The Exchange Control Regulations, 1989 were promulgated thereunder in terms of section 3(1) of the Exchange Control Order. In terms of these regulations, the control over Lesotho's foreign currency reserves, including accruals thereto and spending thereof is vested in the Minister of Finance, who is authorised to grant permissions or exemptions for certain transactions, subject to certain conditions. Although these permissions or exemptions, which were previously referred to as 'Rulings', have no statutory force, they have the effect of law.

The Minister of Finance has in terms of Regulation 30(1) delegated to the Governor the powers, functions and duties assigned to and imposed on the Minister under the Regulations. The Banking Supervision and Financial Stability Department of the Central Bank of Lesotho, through the Financial Surveillance Division, is responsible for the day-to-day administration of exchange controls in Lesotho.

Introduction

In terms of Regulation 3(2), an Authorised Dealer shall not buy, borrow, receive, sell, lend or deliver any foreign currency or gold except for such purposes or on such conditions as the Minister of Finance, may determine, subject to the delegation referred to above.

This Currency and Exchanges Manual for Authorised Dealers (Authorised Dealer Manual) contains the permissions and conditions applicable to transactions in foreign exchange that may be undertaken by Authorised Dealers and/or on behalf of their clients in terms of Regulation 3(2), details of related administrative responsibilities as well as the BOPCUS Reporting requirements. This Authorised Dealer Manual must be read in conjunction with the Regulations and Authorised Dealers may transact without reference to the Financial Surveillance Division, provided such transactions are permitted in terms of this Authorised Dealer Manual.

The arrangements set out in the Authorised Dealer Manual should in no manner be construed as absolving Authorised Dealers, their clients and associated entities from their duties and obligations under any other law, including but not limited to the Prevention of Corruption and Economic Offences Act, 2006, Money Laundering and Proceeds of Crime Act, 2008 and Prevention and Suppression of Terrorism Act, 2018.

The Financial Surveillance Division views contraventions of the Exchange Control Regulations, as well as any actions to circumvent the permissions and conditions contained in the Authorised Dealer Manual, in a very serious light.

The Financial Surveillance Division reserves the right to amend, grant or impose additional permissions or conditions, with new or amended permissions or conditions which will be communicated by the Financial Surveillance Division.

In instances where an Authorised Dealer is not in a position to buy, borrow, sell or lend foreign currency in terms of the permissions and conditions set out in the Authorised Dealer Manual, an official application with full details applicable to the request must be submitted to the Financial Surveillance Division.

A.1 Definitions

In the Currency and Exchanges Manual for Authorised Dealers, unless the context indicates otherwise:

ADLA means an Authorised Dealer in foreign exchange with limited authority, including Bureaux de Change, independent money transfer operators and value transfer service providers, who are authorised by the Minister of Finance to deal in foreign exchange transactions as determined by the Financial Surveillance Division.

ADLA Manual means the Currency and Exchanges Manual issued to ADLAs by the Financial Surveillance Division under the powers delegated by the Ministry of Finance. The ADLA Manual contains the permissions, conditions and limits applicable to the transactions in foreign exchange that may be undertaken by ADLAs and/or on behalf of their clients, as well as details of related administrative responsibilities.

Affected person means a body corporate, foundation, trust or partnership operating in Lesotho, or an estate, in respect of which:

- (i) 75 per cent or more of the capital, assets or earnings thereof may be utilised for payment to, or to the benefit in any manner of, any person who is not resident in Lesotho; or
- (ii) 75 per cent or more of the voting securities, voting power, power of control, capital, assets or earnings thereof, are directly or indirectly vested in, or controlled by or on behalf of, any person who is not resident in Lesotho.

Africa means any country forming part of the African Union.

Authorised Dealer means, in relation to any transaction in respect of gold, a person authorised by the Ministry of Finance to deal in gold and, in relation to any transaction in respect of foreign exchange, a person authorised by the Ministry of Finance to deal in foreign exchange.

Authorised Dealer Manual means the Currency and Exchanges Manual issued by the Financial Surveillance Division to Authorised Dealers under the powers delegated by the Ministry of Finance. The Authorised Dealer Manual contains the permissions, conditions and limits applicable to the transactions in foreign exchange that may be undertaken by Authorised Dealers and/or on behalf of their clients, as well as details of related administrative responsibilities.

Blocked account is an account to which exchange control restrictions have been applied in terms of the Regulations.

Business and Technical Specifications document means the document containing all the rules and technical specifications pertaining to the reporting of cross-border foreign exchange transactions.

Capital goods mean tangible items (property, plant and equipment) that:

- (i) are held for use in the production or supply of goods and services, for rental to others or for administrative purposes; and
- (ii) are expected to be used during more than one period.

C.F.C. account means a Customer Foreign Currency account conducted by residents in the nostro administration of an Authorised Dealer, in terms of the provisions of the Authorised Dealer Manual or in terms of a specific authority granted by the Financial Surveillance Division. Such accounts are held onshore and represent a local asset denominated in foreign currency.

Circulars mean exchange control circulars issued by the Financial Surveillance Division to Authorised Dealers and/or ADLAs and other role players, setting out the conditions, permissions and limits applicable to foreign exchange transactions, which may be undertaken by Authorised Dealers, ADLAs and/or on behalf of their clients, as well as amendments to related administrative responsibilities.

CIV means client identification and verification in terms of section 16 of the Money Laundering and Proceeds of Crime Act, 2008.

CMA means the Common Monetary Area, which consists of Lesotho, Namibia, South Africa and Swaziland.

Cross-border foreign exchange transaction means the purchase or sale of foreign exchange with or for Maloti.

Currency and Exchanges Manual means the Currency and Exchanges Manual issued to Authorised Dealers and ADLAs by the Financial Surveillance Division under the powers delegated by the Ministry of Finance which contain the permissions, conditions and limits applicable to the transactions in foreign exchange, which may be undertaken by Authorised Dealers, ADLAs and/or on behalf of their customers, as well as details of related - administrative responsibilities.

Customs means Customs and Excise, a division of Lesotho Revenue Authority (LRA).

Documentary evidence means the documents specified in the Currency and Exchanges Manual which are required when doing foreign exchange transactions.

Emigrant means a Lesotho resident who is leaving or has left Lesotho to take up permanent residence or has been granted permanent residence in any country outside the CMA.

Emigrant blocked account means the account of an emigrant from the CMA to which exchange control restrictions have been applied.

Financial assistance includes the lending of currency, the granting of credit, the taking up of securities, the conclusion of a hire purchase or a lease, the financing of sales or stocks, discounting, factoring, the guaranteeing of acceptance credits, the guaranteeing or acceptance of any obligation, a suretyship, a buy-back and a leaseback, 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 sold from seller to purchaser; and
- (ii) the granting of credit solely in respect of the payment for services rendered.

Financial Surveillance Division means the Financial Surveillance Division of the Central Bank of Lesotho (responsible for the administration of exchange control on behalf of the Ministry of Finance).

Foreign bank account means a foreign currency bank account conducted by residents with a bank outside the CMA in terms of the provisions of the Authorised Dealer Manual or a specific authority granted by the Financial Surveillance Division.

Foreign currency means any currency other than currency, which is legal tender in Lesotho, but excludes the currencies of South Africa, Namibia and **Swaziland**. Foreign exchange must be deemed to include any bill of exchange, letter of credit, money order, postal order, and promissory note, **Maloti to or from a Non-Resident Maloti Account**, travellers' cheque or any other instrument of foreign exchange.

Foreign currency account means a foreign currency account conducted by residents (natural persons only) and non-residents in the nostro administration of Authorised Dealers in terms of the provisions of the Authorised Dealer Manual or a specific authority granted by the Financial Surveillance Division.

Foreign direct investment means the objective of obtaining a lasting interest by a resident entity in one economy (direct investor) in an entity resident in an economy other than that of the investor (direct investment enterprise). The lasting interest implies the existence of a long-term relationship between the direct investor and the enterprise, and a significant degree of influence on the management of the enterprise. A direct investment enterprise is defined as **'an incorporated or unincorporated enterprise in which a foreign investor owns 10 per cent or more of the ordinary shares or voting power of an incorporated enterprise or the equivalent of an unincorporated enterprise'**.

Foreign nationals mean natural persons from countries outside the CMA who are temporarily resident in Lesotho, **excluding those on holiday or business visits**.

Foreign portfolio investment is the category of international investment that covers investment in equity and debt securities, excluding any such instruments that are classified as

direct investment or reserve assets. **Foreign portfolio investment reflects investment in which the investor owns less than 10 per cent of the voting rights in the foreign target entity.**

Gold as referred to in Regulations 3 and 6 includes all forms of gold other than wrought gold, as well as ingots, amalgam, concentrates or salts of gold buttons and trade scrap. Gold as referred to in Regulation 4 includes wrought gold and gold coins.

HoldCo means Lesotho's holding company for African and offshore operations.

Immigrants mean natural persons who emigrated from countries outside the CMA with the firm intention of taking up or having taken up permanent residence in Lesotho.

Integrated form means the electronic or paper format of a contract between an Authorised Dealer and its customer resulting in a balance of payments reporting obligation and includes a declaration to the effect that the information provided is true and correct.

Lesotho means the Kingdom of Lesotho

LRA means the Lesotho Revenue Authority.

Maloti means the monetary unit of Lesotho as defined in Section 22 of the Central Bank Act, 2000(Act No. 64 of 2000).

MRN means the Movement Reference Number issued by LRA.

MSM means Maseru Securities Market.

Ministry of Finance means, in relation to any matter contemplated in the Regulations, the Minister for the time being charged with the responsibility for finance.

MTI means the Ministry of Trade and Industry.

Non-resident means a person (i.e. a natural person or legal entity) whose normal place of residence, domicile or registration is outside the CMA.

Non-resident area means all countries other than those included in the CMA.

Non-resident maloti account means the Maloti account of a non-resident conducted in the books of an Authorised Dealer.

Passenger ticket means a ticket issued in respect of travel arrangements, inclusive of electronically issued tickets ("e-tickets").

Regulations mean the Exchange Control Regulations, 1989 as promulgated by Legal Notice No. 175 of 1989, as amended from time to time.

Reporting system means the electronic cross-border foreign exchange transaction reporting system or the credit and debit cards reporting system used to transmit data to the Financial Surveillance Division in an agreed format.

Resident means any person (i.e. a natural person or legal entity) who has taken up permanent residence, is domiciled or registered in Lesotho. For the purpose of the Authorised Dealer Manual, this excludes any approved offshore investments held by Lesotho residents outside the CMA. However, such entities are still subject to Exchange Control Rules and Regulations.

Resident account means the account of a person resident, domiciled or registered in Lesotho, including that of a CMA resident.

Resident temporarily abroad means any resident who has departed from Lesotho to any country outside the CMA, with no intention of taking up permanent residence in another country, **but excluding those residents who are abroad on holiday or business travel.**

SADC means the Southern African Development Community consisting of Angola, Botswana, Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe.

Securities include quoted stocks, shares, warrants, debentures and rights, as well as unquoted shares in public companies, shares in private companies, Government, Municipal and Public utility stocks, non-resident owned mortgage bonds and/or participations in mortgage bonds and short-term debt instruments. The terms scrip and share certificates include any temporary or substitute documents of title such as Letters of Allocation, Warrants, Letters of Allotments, Orphan Certificates, Balance Receipts and any other receipts for scrip.

Single discretionary allowance: means the M1 million allowance available to residents (natural persons) 18 years and older per calendar year.

The Order means the Exchange Control Order, 1987 (Order No.11 of 1987).

The Regulations mean the Exchange Control Regulations, 1989 (Legal Notice No. 175 of 1989).

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A.2 Authorised entities**(A) Authorised Dealers**

The offices in the Kingdom of Lesotho of the under mentioned banks are authorised to act, for the purposes of the Regulations, as Authorised Dealers in foreign exchange:

First National Bank of Lesotho
Nedbank (Lesotho)
Standard Lesotho Bank

(B) Authorised Dealers in foreign exchange with limited authority

The office in Lesotho of the undermentioned institution is authorised to act, for the purposes of the Regulations, as ADLAs:

Interchange Lesotho (Pty)
Mukuru InterAfrica

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A.3 Duties and responsibilities of Authorised Dealers

(A) Introduction

- (i) Authorised Dealers should note that when approving requests in terms of the Authorised Dealer Manual, they are in terms of the Regulations, not allowed to grant permission to clients and must refrain from using wording that approval/permission is granted in correspondence with their clients. Instead, reference should be made to the specific section of the Authorised Dealer Manual in terms of which the client is permitted to transact.
- (ii) **In carrying out the important duties entrusted to them, Authorised Dealers should appreciate that uniformity of policy is essential, and that to ensure this it is necessary for the Regulations, Authorised Dealer Manual and circulars to be applied strictly and impartially by all concerned.**
- (iii) Any deviation from or non-compliance with the directives contained in the aforementioned documents is regarded in a serious light and Authorised Dealers are urged to adhere strictly to the directives issued.
- (iv) In the interest of all parties concerned, it is emphasised that action may be taken in the event of transgressions of the Regulations and non-compliance with the Authorised Dealer Manual, circulars and other directives and authorities. The circulars, other directives and authorities need to be emphasised and adhered to by both the Authorised Dealer and its clients.
- (v) The provisions of Regulation 3(1), expressly prohibit foreign exchange transactions other than through an Authorised Dealer.
- (vi) Authorised Dealers must ensure that foreign exchange is made available for legitimate purposes only and must call for the production of documentary evidence where requested in the Authorised Dealer Manual.
- (vii) Care must be exercised by Authorised Dealers to ensure that **no payments to third parties abroad are effected**. Transactions of this nature must be referred to the Financial Surveillance Division for prior written approval.

(B) **Procedures** to be followed by Authorised Dealers in administering the Exchange Control Regulations



- (i) In cases where an Authorised Dealer is uncertain and/or cannot approve the purchase or sale of foreign exchange or any other transaction in terms of the authorities set out in the Authorised Dealer Manual, an application should be submitted to the Financial Surveillance Division via the Head Office of the Authorised Dealer concerned.
- (ii) Should an Authorised Dealer have any doubt as to whether or not it may approve an application, such application must, likewise, be submitted to the Financial Surveillance Division. Authorised Dealers must, as a general rule, refrain from their own interpretation of the Authorised Dealer Manual.
- (iii) Authorised Dealers are to ensure that when submitting applications to the Financial Surveillance Division, the branch code number of the branch is reflected on the top of the application. The branch code number may replace the name of the branch or may be reflected together with the named branch. Branches of Authorised Dealers who do not have a branch code number are requested to obtain the branch number from the Financial Surveillance Division.
- (iv) An Authorised Dealer shall furnish the Financial Surveillance Division, on a six-monthly basis, with a list of the names and the specimen signatures of officials authorised to sign correspondence addressed to the Financial Surveillance Division as well as the email addresses of at least two senior officials whom urgent correspondence, if needed, could be referred to.
- (v) The Financial Surveillance Division is required to be in possession of full information regarding the transaction, its nature and purpose (clearly specifying the motive and intent), before consulting or exercising the powers, functions and/or duties delegated to it by the Minister of Finance. The application should therefore state whether there are or will be any other direct or indirect underlying, related or connected transactions or arrangements of any nature whatsoever. Any previous application, which has any bearing (directly or indirectly) on the current application, must be referred to as previous related correspondence.
- (vi) When submitting applications for consideration, Authorised Dealers should ensure that the surname and full first names (in the case of an individual) and the correct registered name of a legal entity or juristic person, e.g. company, partnership, trust etc., are furnished. Identification numbers for private individuals and registration numbers in respect of legal entities or juristic persons must also be furnished.

The same names must be used in subsequent applications, unless attention is drawn thereto.

- (vii) Authorised Dealers must state whether or not they recommend the application and their reasons for making or withholding their recommendation.
- (viii) Authorised Dealers' clients should on no account be advised to apply directly to Financial Surveillance Division. Neither the Ministry of Finance nor the Financial Surveillance Division is in a position to consider an application without the comments and recommendations of the Authorised Dealer concerned.
- (ix) Applications submitted to the Financial Surveillance Division that do not contain sufficient information will be returned to the applicant's banker. Accordingly, to avoid unnecessary delays, Authorised Dealers must ensure that full and precise particulars of the underlying transaction are given in the first instance.
- (x) Replies to applications will be addressed to the head offices of Authorised Dealers, who should ensure that the requirements of the Financial Surveillance Division are fully explained to branches to avoid any misunderstanding on the part of the latter and the applicants concerned.
- (xi) Where approval from the Financial Surveillance Division is to be executed (in whole or in part) by an Authorised Dealer other than the one who obtained the approval, the executing Authorised Dealer must first obtain a copy of such approval to ensure that all the terms and conditions laid down have been met. In the case of more than one Authorised Dealer executing a transaction, the onus is jointly on such Authorised Dealers to ensure compliance.
- (xii) Any authority granted by the Financial Surveillance Division should be regarded as cancelled if the applicants concerned **do not avail thereof within a period of six months from the date of such authority**. This would exclude those authorities that were granted for longer periods. **The Financial Surveillance Division reserves the right, however, to cancel any authority with immediate effect.**
- (xiii) It is essential that any transaction must be concluded on the particular basis as formally sanctioned and any deviation from the arrangements originally approved should be referred to the Financial Surveillance Division.

- (xiv) Authorised Dealers may sell foreign currency only for permissible purposes and on such conditions as the Ministry of Finance may determine.
- (xv) It is the responsibility of the Authorised Dealer selling the foreign currency, and not that of the paying away bank, to ensure that the laid down procedures and requirements are complied with. These duties may not be assigned to another Authorised Dealer. **The only exception to this rule relates to forward contracts or foreign currency option contracts not exceeding six months to maturity in subsection D.(1)(C) of the Authorised Dealer Manual.**
- (xvi) Authorised Dealers may extend foreign currency-denominated facilities to Lesotho corporates for the financing of approved foreign direct investments.
- (xvii) The attention of Authorised Dealers is also drawn to, inter alia, the provisions of Regulation 10(1)(c). In this regard it is essential that all transactions (e.g. purchase, sale, exchange, barter), between a resident and a non-resident or emigrant, whereby **capital or any right to capital** is directly or indirectly exported from Lesotho, especially those which have cross-border cash flow implications, are carefully scrutinised and documentary evidence sighted in order to ensure that such transactions are concluded **at arms' length and at market related prices**. In the case of any doubt on the part of the Authorised Dealer concerned, the proposed transaction is to be referred to Financial Surveillance Division.
- (xviii) **Clients of Authorised Dealers are not permitted to set off foreign commitments against foreign accruals, whether of a capital or a current nature, unless specifically authorised by the Financial Surveillance Division or as provided for in the Authorised Dealer Manual.**
- (xix) Attempts have been made to circumvent the Financial Surveillance Division requirements by applying to more than one Authorised Dealer. To prevent this, the following procedures have been laid down:
 - (a) Should an Authorised Dealer to whom an application has been made, be in any doubt, such Authorised Dealer should confer with other Authorised Dealers to whom a similar application may have been made.
 - (b) Where the foreign exchange business of a client is divided, the Authorised Dealers concerned should consult among themselves to ensure that the requirements of the Financial Surveillance Division are being interpreted by each Authorised

Dealer in a similar way and that all parties are conducting the business on an identical basis.

- (xx) Transactions passing through clients' accounts must be closely monitored as a possible means of affording information useful to the Financial Surveillance Division or of detecting any contravention of the Regulations which, if revealed, must be promptly reported to the Financial Surveillance Division. In this regard, the attention of Authorised Dealers is directed to the powers conferred on them under the provisions of Regulation 18(1), which entitle them to call for any information and to inspect any books or documents as may be necessary to ensure compliance with the Regulations. These powers should be fully availed of by Authorised Dealers in carrying out the powers, functions and/or duties assigned to them under the Regulations.

(C) Documentary evidence required by Authorised Dealers in foreign exchange

- (i) As far as documentary evidence, as called for in the various Sections of the Authorised Dealer Manual is concerned, Authorised Dealers should endorse such documentation 'exchange provided' or alternatively where such documentation is stored digitally and an audit trail exists, no endorsement is required.
- (ii) The copies of documents must be retained for a period of five years for inspection purposes and Authorised Dealers should point out to their clients that the original documents must be retained for a period of five years for inspection purposes.
- (iii) Whenever documentary evidence is called for in any section of the Authorised Dealer Manual, Authorised Dealers shall be obliged to ensure that such documentary evidence, which shall be obtained and scrutinised in connection with a relevant commercial or other transaction involving the purchase or sale of foreign currency either spot or forward, shall, in terms of accepted trade usage, or established accounting, commercial or legal practice, be the best evidence for purposes of:
 - (a) identifying and verifying the nature, category or class of the relevant transaction;
 - (b) proving and verifying the obligation(s) of each resident, who is a party to the relevant transaction, to make payment(s) of foreign currency or to place such foreign currency to the credit of any

- non-resident, who is a party to the relevant transaction and/or proving and verifying the right(s) of each resident, who is a party to the relevant transaction, to receive payment(s) of foreign currency from or have such foreign currency placed to its credit by any non-resident, who is a party to the relevant transaction; and
- (c) proving and verifying the amount(s) and timing of each foreign currency payment or credit referred to in (b) above.
- (iv) If the relevant transaction involving foreign currency, as referred to in (iii) above, is recorded in a written agreement to which the relevant resident(s) and non-resident(s) are parties, the term 'documentary evidence', as utilised in the Authorised Dealer Manual and which shall be obtained and scrutinised by Authorised Dealers in connection with foreign exchange transactions, shall, without derogating from the generality of the provisions contained in (iii) above, mean:
- (a) the **original of such written agreement** duly signed by or on behalf of the parties thereto; and
- (b) such further supporting or supplementary documents which shall in terms of established accounting, commercial or legal practice be required and generated to give practical effect to the relevant transaction, which supporting or supplementary documents shall include, but not necessarily be limited to relevant **confirmatory letters, invoices, receipts, bills of lading or other documents of title, carriage contracts, letters of credit, guarantees, insurance contracts, permits, licences and/or bills of exchange.**
- (v) Such original written agreement and supporting or supplementary documents, shall as a minimum requirement, identify and prove the various essential elements of the relevant foreign exchange transaction stipulated in (iii) above.
- (vi) If the relevant transaction involving foreign exchange is not recorded in a written agreement contemplated in (iv) above, the term 'documentary evidence', as utilised in the Authorised Dealer Manual, and which shall be obtained and scrutinised by Authorised Dealers in connection with foreign exchange transactions, shall, without derogating from the generality of the provisions contained in (iii) above, mean the supporting or supplementary documents of the nature specified in (iv)(b) above, provided that such supporting or supplementary documents shall, as a minimum requirement, identify

and prove each of the essential elements of the relevant foreign exchange transaction referred to in (iii) above.

- (vii) The directives contained in (iii) to (vi) above, shall not exonerate Authorised Dealers from the duty of obtaining and scrutinising, in connection with any relevant foreign exchange transaction, such documents as may be specified and named in any of the sections of the Authorised Dealer Manual or in any authority granted by the Financial Surveillance Division.
- (viii) Where the original set of documents is not available, Authorised Dealers may accept those produced by photocopying, faxing or printed copies of electronic documents.

(D) Reporting requirements for all Authorised Dealers

- (i) An Authorised Dealer must comply with the 'same source' principle for the reporting of all cross-border foreign exchange transactions as outlined in detail in section J. of the Authorised Dealer Manual.
- (ii) Authorised Dealers are reminded that the reporting of cross-border foreign exchange transactions, as indicated above, does not exempt them in any way from complying with the Authorised Dealer Manual and Regulations.

(E) Transactions with Common Monetary Area residents

- (i) There are no foreign exchange restrictions between banks of the CMA member countries in respect of cross-border transactions amongst themselves. Lesotho, Namibia and Swaziland have their own monetary authorities as well as their own legislation.
- (ii) The application of exchange control within the CMA is governed by the **Multilateral Monetary Agreement**. Investments and transfers of funds in Maloti from/to Lesotho to/from other CMA countries do not require the approval of the Financial Surveillance Division.
- (iii) CMA country currencies consist of the following: Maloti, South African Rand, Swaziland Emalangenzi and Namibian Dollars.
- (iv) **Authorised Dealers may not enter into foreign exchange transactions with residents of other CMA countries. If such requests are received, the clients should be referred back to their bankers in the CMA country concerned.**

- (v) As an exception to (iv) above, Authorised Dealers may sell foreign currency to:
- (a) foreign diplomats, accredited foreign diplomatic staff as well as students with a valid student card from other CMA member countries while in Lesotho;
 - (b) CMA residents in South Africa, to cover unforeseen incidental costs whilst in transit, subject to viewing a passenger ticket confirming a destination outside the CMA; and
 - (c) **CMA residents who travel overland to and from Namibia through Botswana qualify to be accorded the Botswana Pula equivalent of an amount not exceeding M25 000 per calendar year. This allocation does not form part of the permissible travel allowance for residents.**
- (vi) Authorised Dealers may also enter into **hedging and foreign exchange transactions with financial institutions and registered institutional investors** domiciled and incorporated in South Africa, Swaziland and/or Namibia, provided that these transactions are in respect of the entities' own business and that an approval letter has been obtained from the relevant authority of the Central Bank or an appropriate mandated body of the CMA country. Such a letter must be viewed by an Authorised Dealer to ensure that the transaction is concluded on the particular basis as formally sanctioned. **Authorised Dealers are required to furnish the Financial Surveillance Division, on a quarterly basis, with information on the nature of transaction and the party to whom such authority has been granted.**

(F) Financial Surveillance Division forms

- (i) Branches of Authorised Dealers are requested to record that requisitions should be submitted to their Head Offices for the Financial Surveillance Forms F178, MP336(b), MP1330(a), MP1331, MP1332, N.E.P. and MPI half yearly as follows:
- (a) for the half year January to June, in June of the preceding year; and
 - (b) for the half year July to December, in December of the preceding year to:

Financial Surveillance Division

Central Bank of Lesotho
P O Box 1184
Maseru 100.

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B.1 Payment for imports**(A) Import permits**

- (i) Authorised Dealers must advise importers that they must ensure that a covering **Import Permit** issued by Ministry of Trade and Industry, is available or is not required, prior to processing any import related and/or hedging transaction.

(B) Requisite documentation

- (i) Authorised Dealers may only effect foreign exchange payments for imports against the following documentation:
 - (a) **commercial invoices** issued by the supplier;
 - (b) any one of the **transport documents** as prescribed by the International Chamber of Commerce Uniform Customs and Practice for Documentary Credits (**UCP 600**) and its supplement for electronic presentation, the eUCP, evidencing transport of the relative goods to Lesotho; or
 - (c) Freight Forwarders Certificate of Receipt or Freight Forwarders Certificate of Transport; or
 - (d) Consignee's copy of the electronic **SAD 500** Customs Declaration Form.
- (ii) In lieu of the documents referred to in (i)(b) and (c) above, arrival notifications issued by Lesotho Association of Freight Forwarders companies may be tendered.
- (iii) Imports from Botswana may, however, be paid for against the commercial invoice issued by the supplier and the consignee's copy of the SAD 500 Customs Declaration Form, bearing an original stamp of the Botswana Customs authorities.

(C) Endorsement of documentation

- (i) All Documentation
 - (a) Authorised Dealers providing foreign exchange for payment of imports must endorse the documentation mentioned in subsection (B) above 'Exchange Provided' and insert the date of the relevant foreign exchange transaction, as well as the actual amount of foreign exchange provided.

- (ii) Import Payments under Documentary Credits or Documentary Collections
 - (a) Receipt of Documents in Lesotho
 - (aa) Prior to releasing documents against acceptance or an undertaking to pay at a specified later date, Authorised Dealers must ensure that the original invoice and transport documents are endorsed 'Received within Lesotho', reflecting the date of receipt of the documents, the name of the receiving Authorised Dealer and their transaction reference number.
 - (b) Sight Payments
 - (aa) The appropriate invoices and transport documents must be examined, endorsed 'Exchange Provided' and the date and actual amount of foreign exchange provided, inserted on said invoices, by the Authorised Dealer selling the foreign exchange to the client.
 - (c) Usance Payments
 - (aa) In addition to meeting the requirements of subsection (b) above, any Authorised Dealer presented with documents bearing the 'Received within Lesotho' endorsement, must ensure that payment is still outstanding, before selling foreign currency and/or effecting payment.
 - (bb) Copies of the SAD 500 Customs Declaration Form bearing the 7-digit customs release notification number must be viewed subsequently.

(D) Payment for imports

- (i) Import payments

Foreign currency may be provided to pay:

- (a) the actual price of imported goods;
- (b) bona fide freight charges;
- (c) insurance cover;

- (d) buying commissions and retainer fees due to agents, provided that the rate of commission or fee is normal in the particular trade concerned;
 - (e) other incidental charges incurred in the purchase and shipment of the goods, but not included in the actual price; and/or
 - (f) interest payments of up to the applicable base rate plus 3 per cent for credit shorter than one year.
- (ii) Final settlement for imports
- (a) Authorised Dealers may approve requests for final settlement adjustments on imports (e.g. amounts due in respect of weight adjustments, quality allowances) against documentary evidence confirming the purpose and amounts involved.

(E) Terms of payment for imports

- (i) Advance payments
- (a) Authorised Dealers may provide foreign currency in respect of advance payments to cover the cost of permissible imports, other than capital goods, against the presentation of an **invoice**.
 - (b) Authorised Dealers must, in respect of payments in excess of M25,000, subsequently view a copy of the prescribed Customs Declaration form bearing the **7-digit customs release notification number**, to ensure that foreign exchange provided had been utilized for the purpose stated and that the goods have been imported into Lesotho.
 - (c) All foreign exchange transactions involving advance payments for imports are subject to the **condition that the Authorised Dealer making the advance payment has procedures in place to follow-up and report non-compliance** to the Financial Surveillance Division.
 - (d) Authorised Dealers must also inform importers of their obligations in terms of Regulation 13.
- (ii) Capital goods

- (a) Foreign currency may be provided for advance payments up to 100 per cent of the ex-factory cost of capital goods to be imported not exceeding a **total value of M10 million**.
 - (b) Payment for the importation of capital goods in excess of M10 million may be provided up to 100 per cent of the ex-factory costs of the goods to be imported.
- (iii) Cash on Delivery Consignments
- (a) Authorised Dealers may provide foreign exchange to meet import payments relating to goods which have been consigned by air on a cash on delivery basis against submission of a copy of the relevant transport document dated and signed by a member of the Lesotho Association of Freight Forwarders.
 - (b) Authorised Dealers must satisfy themselves, by viewing the commercial invoices and the prescribed LRA Customs Declaration within 14 days thereafter, that the foreign currency provided has been used for the purpose stated and that the goods have been imported into Lesotho.
- (iv) Extended credit terms
- (a) The establishment of documentary credits, stand-by letters of credit, arranging to guarantee payments (e.g. by aval) or open account payments in connection with the **importation of goods into Lesotho, where the credit terms extended to the local importer exceed 12 months, require the prior approval** of the Financial Surveillance Division. Such extended credit terms would normally relate to the importation of capital goods. Also see section I.3(C) of the Authorised Dealer Manual.
- (v) Payments older than 12 months
- (a) **Payments in respect of imports where the required import documents are older than 12 months may be effected, provided that no interest has been charged by the foreign supplier.**
- (vi) Cross-border foreign exchange reporting categories
- (a) Payments for **imports** against an invoice only should be reported under the advance payment **category 101**.

- (b) Payment for imports against an invoice and transport documents should also be reported under the advance payment category 101.
- (c) Advance payments for clients availing of the imports undertaking dispensation must be reported under category 101.
- (d) Payments for imports where the goods have already been released by Customs and the prescribed LRA Customs Declaration bearing the 7-digit customs release notification number has been issued, the applicable import category, excluding category 101, must be used.

(F) Computer software

- (i) Importation of computer software
 - (a) Authorised Dealers may effect payment in respect of the importation of computer software and specific custom-made computer software products, including any licence fees which may be payable, against the production of documentary evidence confirming the purpose and amount payable.
 - (b) The requirements of subsection (B) (i) above should be adhered to, where applicable.
- (ii) Local reproduction or copying of computer software packages
 - (a) Authorised Dealers may approve royalty payments to non-residents, including any licence fees payable from the local reproduction or copying of computer software packages, provided that:
 - (aa) the licensor is an unrelated party (i.e. none of the parties have any direct/indirect interest or shareholding in each other); and
 - (bb) the application is accompanied by documentary evidence confirming the purpose and amount payable.
 - (b) Where applicable, minimum payments, advance payments and down payments are permissible provided that the advance payments and down payments are recoupable from future royalties or fees payable.

- (c) In addition, payment of percentage-based fees is permissible provided that the client confirms it is normal in the trade concerned.
- (iii) Maintenance payments to non-residents in respect of computer software
 - (a) Authorised Dealers may effect maintenance payments applicable to computer software packages in advance and/or retrospectively against documentary evidence confirming the purpose and amount payable.
- (iv) Payment for computer software downloaded electronically via the Internet
 - (a) Authorised Dealers may effect payment in respect of software downloaded via the Internet (the actual program and/or the activation code) against documentary evidence confirming the purpose and amount payable.
- (v) Extension of agreements
 - (a) Authorised Dealers may, where applicable, approve the extension of the agreements authorised in (i) to (iv) above as well as agreements previously approved by the Financial Surveillance Division, provided that the agreement originally entered into makes provision for an extension or an addendum to the agreement is viewed confirming the extension thereof.

(G) Evidence of importation

- (i) Authorised Dealers must insist upon the presentation to them of the prescribed SAD 500 Customs Declaration Form bearing the 7-digit customs release notification number, as evidence that goods in respect of which transfers have been effected in terms of subsection (D) above, have been cleared by Customs. These documents must be presented at the time foreign currency payments for imports are made where the goods have already been cleared by Customs, or in the case of advance payments in excess of M25 000 within four months of the date of payment. The detailed information shown on these documents must be checked against the information obtained at the time payment for the relative import was made in order to verify that the payment made relates to the goods which have been cleared.

- (ii) Where the prescribed SAD 500 Customs Declaration Form reflects that the goods are held in bond or warehouse, Authorised Dealers must diarise to view subsequent documentation from Customs, confirming the removal of the goods in bonded warehouse.
- (iii) Authorised Dealers must be alert to the presentation of documentation which would indicate that the goods have been exported from Lesotho. Such transactions are regarded as merchanting transactions and are subject to the provisions outlined in section B.12 (A) of the Authorised Dealer Manual.
- (iv) Where the goods have been despatched to Lesotho by post or by courier, Authorised Dealers must insist upon the presentation to them of the commercial invoices issued by the supplier bearing an original Customs stamp as evidence that the goods, for which payment has been made in terms of subsection (D) above, have been cleared by Customs. Authorised Dealers may also accept commercial invoices issued by the foreign supplier bearing an original post office stamp in lieu of an original Customs stamp. Such invoices must be presented at the time foreign currency payments for imports are made in those cases where the goods have already been cleared by Customs or, where clearance has not taken place, as soon as possible thereafter and be endorsed 'Exchange Provided'.
- (v) Where goods for which payment has been made from Lesotho have not been or will not be consigned to Lesotho within four months of the date of payment, the importer must within 14 days of the expiry of such period advise the Authorised Dealer concerned in writing, who should report the matter to the Financial Surveillance Division.
- (vi) Authorised Dealers should on a monthly basis diarise to pursue all outstanding import verifications with the importers concerned in writing (via registered mail or email) during the above-mentioned four-month period. Should no response or an unsatisfactory response be received, the matter should at any time after the four-month period has lapsed but not later than ten months from the original payment date, be reported to the Financial Surveillance Division. In this regard, a fully motivated application must be submitted providing details of the transaction(s) including the customer name, value date, transaction reference number, Maloti amount, and the Customs client number (CCN). The outstanding advance payment transaction may be discharged from the **Import Verification System** only after confirmation has been received from the Financial Surveillance Division.

- (vii) Where the relative consignment has been lost or resold in the country of supply, Authorised Dealers are responsible for ensuring that the foreign currency proceeds of any insurance claim or of the sale of the goods are properly accounted for in terms of the provisions of Regulation 6.
- (viii) Authorised Dealers should note that non-compliance with the above directives will be viewed in a serious light.
- (ix) All documentation must be retained by the client for a period of at least five years.

(H) General

(i) Philatelic Imports

- (a) Authorised Dealers may grant applicants foreign currency in payment for imports from abroad for philatelic purposes.
- (b) No Import Permit will be issued in cases of this nature, but Authorised Dealers must furnish the applicant with a letter of authority, on the following lines, for submission to the appropriate government department:

“To whom it may concern

I/We hereby certify that (full name and address) is/are authorised, in terms of the Exchange Control Regulations, 1989, to import postage stamps, postage stamps on covers and postal stationery.

This authority expires on 31 December (Signed)”.

- (c) The government department concerned will endorse, on the face of the letter, the value of each parcel received in Lesotho during the relative period.
- (d) When this authority has been fully used or on the date of its expiry, the relative letter of authority must be returned to the Authorised Dealer concerned before a new letter in respect of any subsequent period is issued.

(ii) Numismatic Imports



- (a) Authorised Dealers may grant applicants foreign currency in payment of other numismatic imports imported from abroad.
- (b) No import permit will be issued in cases of this nature, but Authorised Dealers must furnish the applicant with a letter of authority on the following lines for submission to the appropriate government department:

“To whom it may concern

I/We hereby certify that..... (full name and address of the applicant) is/are authorised, in terms of the Exchange Control Regulations, 1989, to import currency coins and thereafter and also excluding medals and medallions or necklaces, pendants, girdles and brooches containing medallions.

This authority expires on 31 December (Signed)”.

- (c) The government department concerned will endorse, on the face of the letter, the value of each parcel received in Lesotho during the relative period.
 - (d) When this authority has been fully used or on the date of its expiry, the relative letter of authority must be returned to the Authorised Dealer concerned before a new letter in respect of any subsequent period is issued.
 - (e) Matters relating to the importation of medals, medallions, pendants and other similar non-currency articles must be referred to the Ministry of Trade and Industry.
 - (f) To obviate the issue of numerous letters of authority, an Authorised Dealer may apply in its own name, on behalf of its customers, for a single letter of authority in respect of a specific issue of commemorative currency coins abroad.
- (iii) Importation of motor vehicles and caravans
- (a) Authorised Dealers may provide residents with the necessary foreign currency to cover the cost of motor vehicles and caravans purchased outside Lesotho for subsequent importation into Lesotho, as well as freight, handling charges and other related costs, provided that:

- (aa) the applicant undertakes, in terms of the provisions of Regulation 3(6), to offer for sale to an Authorised Dealer any part of the foreign currency allocation which was not used for the purchase of a motor vehicle or caravan; and
 - (bb) the Authorised Dealer calls for the subsequent submission of documentary evidence of importation of the motor vehicle or caravan and the cost thereof, and ensures that any difference between the foreign currency allocation and the cost of purchasing the motor vehicle or caravan is accounted for in terms of (aa) above.
- (b) Applications submitted through a motor trader on behalf of a Lesotho resident may be approved subject to the same conditions.

(I) Imports undertaking dispensation

- (i) The Financial Surveillance Division would, on application through an Authorised Dealer, be prepared to consider requests to grant dispensation to certain companies from the requirement to submit supporting documentation to their Authorised Dealers for every foreign exchange transaction related to an import transaction.
- (ii) The **imports undertaking dispensation form** may be obtained from the Central Bank of Lesotho.
- (iii) The imports undertaking dispensation application form must be accompanied by a **resolution of the board of directors** of the company, authorising the company to partake in the imports undertaking dispensation.
- (iv) The dispensation is only applicable to companies, excluding Close Corporations, Trusts, Partnerships and Sole Proprietors, that in the course of their business:
 - (a) are involved in the regular importation of goods into Lesotho from countries outside the Common Monetary Area;
 - (b) make foreign exchange payments and/or payments to the credit of Non-Resident Maloti Accounts in consideration of the importation of the goods referred to in (a);

- (c) conclude a **minimum of 120 import transactions per annum** and have an import turnover in excess of **M20 million per annum**; and
 - (d) have been active in the import industry for a minimum period of **three years**.
- (v) Where the Financial Surveillance Division has granted a company the Imports Undertaking dispensation, the company is required to adhere to the following conditions:
- (a) an integrated form must be completed in all instances when the foreign currency is purchased, either spot or forward, from an Authorised Dealer to make a foreign exchange payment.
 - (b) the company must advise its Authorised Dealer that the transaction(s) is in respect of the business activities described in (iv) above;
 - (c) the company must create and maintain an audit within its records which should consist of the logical and orderly retention of the following documents for a period of five years for inspection purposes:
 - (aa) integrated form; and
 - (bb) supporting documentation required in terms of Section B.1(B) above.
 - (d) the directors of the company will be responsible for:
 - (aa) the design, implementation and effective operation of an adequate internal control system over import transactions;
 - (bb) the maintenance of related supporting documentation that will facilitate the prevention and detection of fraud and error; and
 - (cc) the establishment of policies and procedures that ensure compliance with the terms of the imports undertaking dispensation.
 - (e) an authorised representative of the Financial Surveillance Division may at any time inspect the records of the company to

ascertain whether the Regulations and Authorised Dealer Manual are being complied with; and

- (f) a letter of compliance, on the company's official letterhead and signed by two executive directors, confirming that the conditions applicable to the Imports Undertaking Dispensation have been complied with, must be submitted to the Financial Surveillance Division on an annual basis. The letter of compliance must be send to the Central Bank of Lesotho.
- (vi) The company may, under the control of an Authorised Dealer and in accordance with the requirements of the Authorised Dealer Manual, continue to operate and maintain a CFC account in terms of section E.(B) of the Authorised Dealer Manual
- (vii) the company must inform the Financial Surveillance Division in writing through their Authorised Dealer of:
 - (a) any addition or amendment of an Authorised Dealer as identified on the imports undertaking dispensation application form;
 - (b) any addition or amendment to section B: Group Company of the imports undertaking application form; and
 - (c) any amendment to the information stated on the imports undertaking application form.
- (viii) No addition or amendment related to in (vii) above will be binding on the Financial Surveillance Division, unless such amendment and/or addition has:
 - (a) been recorded in writing within a period of one month from the date of such addition and/or amendment;
 - (b) been signed on behalf of the company by an authorised official;
 - (c) been submitted to the Financial Surveillance Division through the company's Authorised Dealer, together with a certified extract of a resolution of the board of directors of the company, in terms of which the authorised official has been authorised to bind the company to such addition and/or amendment; and

- (d) been approved by the Financial Surveillance Division under the signature of a duly authorised Financial Surveillance Division official.
- (ix) The Financial Surveillance Division may at any time, by notice in writing to the company or its Authorised Dealer, amend and/or supplement the requirements relating to the imports undertaking dispensation.
- (x) Any instances of non-compliance with the conditions outlined above will be viewed in a serious light and the Financial Surveillance Division reserves the right to deal with such matters in a manner as contemplated in the Regulations.
- (xi) All other foreign exchange transactions not related to imports do not form part of this dispensation and should be dealt with in terms of the provisions outlined in the Authorised Dealer Manual.

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B.2 Capital transfers**(A) General**

- (i) Except as provided for in subsections (B), (D) and (E) below, residents are not allowed to transfer capital to any country outside the CMA. Applications for such transfers will be considered on merit.
- (ii) Authorised Dealers should note that the transfer of Lesotho owned intellectual property by way of sale, assignment or cession and/or the waiver of rights in favour of non-residents in whatever form, is not allowed without the prior written approval of the Financial Surveillance Division unless specifically exempted in the Authorised Dealer Manual.
- (iii) Authorised Dealers may, however, approve the outright sale, transfer and assignment of intellectual property by Lesotho residents, excluding mandated state owned companies to unrelated non-resident parties at an arm's length and a fair and market related price, provided Authorised Dealers view the sale, transfer or assignment agreement and an auditor's letter or intellectual property valuation certificate confirming the basis for calculating the sale price. The above-mentioned dispensation excludes sale and lease back agreements.
 - (a) All inward funds emanating from such transactions must be repatriated to Lesotho within a period of 30 days from the date of becoming entitled thereto and reported under category 312 on the BOPCUS Reporting System.
- (iv) Authorised Dealers may approve the licensing of intellectual property by Lesotho residents to non-resident parties at an arm's length and a fair and market related price for the term of the agreement, provided Authorised Dealers view the **licence agreement** and an **auditor's letter** confirming the basis for calculating the royalty or licence fee.
 - (a) All royalties and/or fees emanating from such transactions must be **repatriated to Lesotho within a period of 30 days** from the date of becoming entitled thereto and reported under **category 312** on the BOPCUS Reporting System.
- (v) The sale, transfer, assignment and/or licensing of intellectual property in (iii) and (iv) above is subject to appropriate tax treatment.

(B) Private individuals resident in Lesotho

- (i) Foreign investments by private individuals (natural persons) resident in Lesotho

- (a) Authorised Dealers may allow the transfer, as a **foreign capital allowance**, of up to a total amount of M4 million per calendar year per private individual who is a taxpayer in good standing and is 18 years and older, for investment purposes abroad. The funds to be transferred must be converted to foreign currency by the Authorised Dealer and may also be held in a resident foreign currency account in the name of the resident with any Authorised Dealer.
- (b) Authorised Dealers are advised that a **valid Lesotho national identity document or a passport** is the only acceptable document proving residency in Lesotho.
- (c) Prior to authorising the transaction, Authorised Dealers must ensure that their client is acquainted with the declaration contained in the integrated form.
- (d) A duly electronically completed '**Tax Clearance Certificate** – Foreign Investment Allowance' issued by LRA bearing the LRA logo and specific watermark must be presented to the branch, prior to authorising the transaction. No transfer may be effected unless the Tax Clearance Certificate bearing the date is viewed. **Authorised Dealers must ensure that the amount to be transferred does not exceed the amount reflected on the certificate.** Since the Tax Clearance Certificate is specifically dated, such certificate may only be regarded as valid for a period of **12 months from the date reflected thereon**, subject to the taxpayer's continued tax compliance. The format and content of the Tax Clearance Certificate is prescribed and no deviation therefrom whatsoever may be accepted.
- (e) Authorised Dealers must retain the **Tax Clearance Certificate** for a period of **five years** for inspection purposes.
- (f) Private individuals who do not have a tax reference number will have to register at their local LRA branch.
- (g) Private individuals may not utilise funds in terms of the aforementioned dispensation or any other authorised foreign assets to enter into a transaction or a series of transactions to, directly or indirectly through any structure or scheme of arrangement, acquire shares or some other interests in a CMA company or a CMA asset (**'loop structures'**). Similarly, such funds may not be re-introduced as a loan to a CMA resident.

- (h) As an exception to the directives in (g) above, **unintentional 'loop structures' created with legal foreign capital allowance** invested with non-resident asset or fund managers who invest in foreign companies that have CMA assets and/or offshore global investment funds that directly or indirectly hold CMA investments over which the Lesotho investor has no control, are permitted.
- (i) Authorised Dealers must, however, bring to the attention of their clients who utilise this facility that they may not enter into any transactions **whereby capital or the right to capital will be directly or indirectly exported from Lesotho** (e.g. **may not enter into a foreign commitment with recourse to Lesotho**). However, private individuals may raise loans abroad to finance the acquisition of foreign assets without recourse to Lesotho.

Only authorised foreign assets may be used as collateral in this instance and under no circumstances may local guarantees or suretyships be issued or Lesotho assets encumbered.

- (j) The Financial Surveillance Division will consider applications by private individuals who wish to invest in different asset classes offshore in excess of the above-mentioned allowance. Private individuals wishing to avail of this dispensation must first approach LRA to obtain a Tax Clearance Certificate, in the prescribed format, as outlined in (d) and/or (e) above which must accompany their application to the Financial Surveillance Division for consideration.
- (k) Foreign currency accounts may be opened for private individuals (natural persons). Authorised Dealers may allow withdrawals from these accounts through the use of any authorised banking product. Funds withdrawn from these accounts may also be converted to Maloti.
- (ii) Capital transfers by private individuals (natural persons) resident in Lesotho
- (a) The Maloti equivalent of income earned abroad and own foreign capital introduced (with the exceptions of that stated below) into Lesotho on or after **2003-06-27** by private individuals resident in Lesotho, may be retransferred abroad (excluding any growth on the funds introduced), provided that the Authorised Dealer concerned is satisfied that the income and/or capital had

previously been converted to Maloti, by viewing documentary evidence confirming the amounts involved.

- (b) Authorised Dealers are advised that where income is earned abroad as a result of services rendered by private individuals resident in Lesotho, it would be a requirement for such individuals to be abroad physically while rendering these services in order to qualify for the aforementioned dispensation.
 - (c) The sale proceeds of Lesotho assets received from non-residents and export proceeds are therefore not eligible for retransfer abroad by private individuals resident in Lesotho.
- (iii) Foreign parent company share incentive or share option schemes
- (a) Private individuals are allowed to participate in offshore share incentive or share option schemes, provided that such participation is financed under the M4 million foreign capital allowance and/or the M1 million single discretionary allowance and/or from the proceeds of authorised foreign assets. In this regard, (i) above and section B.4(A)(i) of the Authorised Dealer Manual must be complied with.
 - (b) All applications falling outside the ambit of this dispensation must be referred to the Financial Surveillance Division with full details.
 - (c) Any recharge arrangements in connection with a foreign parent company share incentive or share option schemes must be referred to the Financial Surveillance Division.
- (iv) Rights on foreign securities owned by private individuals (natural persons) resident in Lesotho
- (a) Private individuals are allowed to take up new shares in foreign companies that have accrued by way of rights on existing holdings of shares, provided that transfers in payment thereof are dealt with in terms of the M4 million foreign capital allowance and/or the M1 million single discretionary allowance. In this regard, (i) above and section B.4(A)(i) of the Authorised Dealer Manual must be complied with.

(C) Lesotho companies

- (i) **Foreign direct investments not exceeding M500 million per applicant company**
- (a) Authorised Dealers may approve requests by mandated state owned companies and companies wishing to make bona fide new outward foreign direct investments into companies, branches and offices outside the CMA, including requests that fall outside their current line of business, where the total cost of such **investments does not exceed M500 million per company per calendar year.**
 - (b) Foreign currency denominated facilities may be extended by Authorised Dealers to Lesotho companies for the financing of approved foreign direct investments.
 - (c) When considering requests of this nature, Authorised Dealers must have the following documents and information in their possession:
 - (aa) the name and registration number of the applicant company;
 - (bb) the names, domicile and percentage equity interest of all the shareholders in the applicant company (this only applies to private companies and excludes public and listed companies);
 - (cc) the applicant company's latest available financial statements verifying, inter alia, the applicant's nature of business;
 - (dd) details of how the investment will be funded (e.g. cash to be transferred and reflected as share capital or shareholders' loans, guarantees to be issued), as well as details of capital goods that need to be exported from Lesotho;
 - (ee) the proposed structure through which the foreign target entity will be held (i.e. directly from Lesotho or via an interposed or holding company); and
 - (ff) the name(s) of the offshore target company(ies) and a description of what type of business it will be involved in.

- (d) The following criteria must be strictly applied by Authorised Dealers when considering these requests:
- (aa) state owned companies may not use low-tax jurisdictions as a conduit for outward foreign direct investments elsewhere in the world. This restriction is not applicable where the investment is made directly into a low-tax jurisdiction;
 - (bb) for statistical purposes, at least 10 per cent of the foreign target entity's voting rights must be obtained;
 - (cc) passive real-estate investments focused on achieving long-term appreciation of asset values with limited day-to-day management of the asset itself are excluded from this dispensation; and
 - (dd) where Authorised Dealers are in doubt and the conditions outlined above are not met, such requests must be referred to the Financial Surveillance Division.
- (e) At the time of approving the investment, Authorised Dealers must report the following information to the Financial Surveillance Division:
- (aa) the name and registration number of the applicant company and its nature of business;
 - (bb) the names, domicile and percentage equity interest of all the shareholders in the applicant company (this only applies to private companies and excludes public and listed companies);
 - (cc) name and domicile of the foreign target entity and its nature of business, also specifying whether this is the establishment of a new or an investment into an existing foreign entity;
 - (dd) the percentage equity interest and voting rights acquired in the foreign target entity;
 - (ee) details of how the investment will be funded (e.g. cash to be transferred and reflected as share capital or shareholders' loans, guarantees to be issued), as well as details of capital goods exported from Lesotho, if

- applicable. Where cash is to be transferred from Lesotho, the amount and transaction reference number must be reported to the Financial Surveillance Division;
- (ff) where applicable, the registered name and domicile of any foreign domiciled holding company, established to hold the target investment; and
 - (gg) where a new investment is made without funds being transferred from Lesotho, the proposed investment must still be approved in terms of (c)(aa) to (ff) above and reported in the same manner as outlined herein.
- (f) Authorised Dealers must inform their clients of the following conditions that are applicable to these investments:
- (aa) the audited financial statements of the foreign target entities and holding companies must be submitted to the Financial Surveillance Division on an annual basis;
 - (bb) the financial accounts of approved foreign branch operations and the income and expenditure statements of approved foreign offices must be submitted to the Financial Surveillance Division on an annual basis;
 - (cc) in the event of the foreign investment being disposed of to non-residents, the net sale proceeds must be repatriated to Lesotho in terms of the provisions of Regulation 7, under advice to the Financial Surveillance Division. Foreign investments to be disposed of to third-party Lesotho residents require the specific prior written approval of the Financial Surveillance Division;
 - (dd) expansion of the foreign target entity's business is permitted, provided that such expansion is financed within the M500 million foreign direct investment dispensation or alternatively without recourse to Lesotho;
 - (ee) a Lesotho company is permitted to acquire up to 40 per cent equity and/or voting rights in a foreign target entity, which may in turn hold investments and/or make loans into any CMA country. This dispensation does not apply to foreign direct investments where the Lesotho company on its own or where several Lesotho

companies collectively hold an equity interest and/or voting rights in the foreign target entity that exceed 40 per cent in total;

- (ff) applicants may increase their approved equity interest and/or voting rights in the foreign target entity subject to the provisions of (hh) below. For classification purposes, should the applicants reduce or dilute their equity interest and/or voting rights below 10 per cent such information must be reported to the Financial Surveillance Division;
- (gg) any change in the nature of the foreign target entity's business must be reported to the Financial Surveillance Division;
- (hh) requests to transfer unutilised amounts and/or additional working capital to foreign target entities and/or increase an applicant's approved equity interest and/or voting rights in a foreign target entity may be approved by Authorised Dealers in subsequent years provided that:
 - (1) the amount to be remitted will not result in the applicant exceeding the M500 million foreign direct investment dispensation; and
 - (2) full details of such transfers and the purpose thereof must be forwarded by the Authorised Dealer to the Financial Surveillance Division;
- (ii) requests to transfer the normal monthly running expenses of existing buying and/or selling offices established by local merchants may be approved by the Authorised Dealers within the foreign direct investment limit of M500 million. Where existing buying and/or selling offices levy a charge for their services in the form of commissions, foreign currency to cover this charge may be made available, provided that:
 - (1) the client confirms that the rate of commission is normal in the particular trade concerned;

- (2) no other funds are being remitted from Lesotho to cover the maintenance and expenses of the office; and
- (3) the office is run on a non-profit earning basis;
- (jj) profits earned by foreign branches and offices must be repatriated to Lesotho annually since these entities have not been exempted from the provisions of Regulation 7;
- (kk) excess profits earned by approved foreign entities should be declared as dividends on an annual basis. However, such dividends may be retained offshore and be used for any purpose offshore. Similarly, any dividends that are repatriated to Lesotho may be retransferred abroad at any time and used for any purpose provided that there is no recourse to Lesotho, except as provided for in (ll) below;
- (ll) dividend proceeds may be used to acquire up to 40 per cent equity and/or voting rights, whichever is the higher, in a foreign target entity, which may hold investments and/or make loans into any CMA country. This dispensation does not apply to foreign direct investments where the Lesotho company holds an equity interest and/or voting rights in excess of 40 per cent;
- (mm) all dividends declared by the approved foreign entities, the amounts repatriated to Lesotho or alternatively the dividend amounts retained abroad, together with an indication of how such funds were utilised offshore, should be reported to the Financial Surveillance Division on an annual basis;
- (nn) where guarantees from Lesotho have been issued and such guarantees are implemented, payment in terms thereof may be effected, provided that full details of the circumstances giving rise thereto are reported to the Financial Surveillance Division immediately;
- (oo) Lesotho must remain the place of effective management for the applicant company and under no circumstances may the applicants re-domicile without the specific prior

written approval of the Financial Surveillance Division;
and

- (pp) the Financial Surveillance Division reserves the right to instruct the applicant company to dispose of the foreign investment and for the proceeds to be repatriated to Lesotho, in the event of the above-mentioned criteria and conditions not being complied with.
- (ii) Foreign direct investments exceeding M500 million per applicant company per calendar year
- (a) Foreign direct investments outside the CMA by mandated state owned companies, including requests that fall outside their current line of business, where the total cost of such investments exceeds M500 million per investment, require the prior written approval of the Financial Surveillance Division.
 - (b) For statistical purposes, at least 10 per cent of the foreign target entity's equity and/or voting rights must be obtained.
 - (c) Foreign currency denominated facilities may be extended by Authorised Dealers to Lesotho companies for the financing of approved foreign direct investments.
 - (d) Applications to the Financial Surveillance Division should, inter alia, include the following:
 - (aa) the business plan of the applicant;
 - (bb) full details of the longer-term monetary benefits (excluding dividend flows) to be derived by Lesotho on a continuous basis, substantiated by cash flow forecasts;
 - (cc) a pro forma balance sheet of the foreign target entity reflecting the financial position immediately prior to and after the investment from Lesotho;
 - (dd) the percentage equity to be acquired in the foreign target entity and the percentage voting rights to be acquired;
 - (ee) the names and domicile of the shareholders of the applicant company;

- (ff) the proposed financial structure of the foreign target entity to be acquired or to be established (i.e. issued share capital, loan funds, guarantees to be issued from Lesotho or credit facilities to be availed of abroad, the respective amounts involved);
 - (gg) the manner in which the funds required will be employed; and
 - (hh) an estimate of the annual running expenses of the foreign target entity.
- (e) Authorised Dealers must inform their clients of the following conditions that are applicable to investments exceeding M500 million per applicant company per calendar year:
- (aa) while there are no limits on new outward foreign direct investments by Lesotho companies, the Financial Surveillance Division reserves the right to stagger capital outflows relating to very large foreign investments so as to manage any potential impact on the foreign exchange market;
 - (bb) on application, foreign finance may be raised on the strength of the applicant company's Lesotho balance sheet to finance foreign acquisitions;
 - (cc) companies wishing to invest in countries outside the CMA may apply to the Financial Surveillance Division to engage in corporate asset or share swap transactions in order to fund such investments or to repay existing offshore debt. Similarly, requests for share placements and bond issues offshore by locally listed companies will also be considered;
 - (dd) companies that have existing approved subsidiaries abroad are allowed to expand such activities without the prior written approval of the Financial Surveillance Division, provided that:
 - (1) such expansion is financed by foreign borrowings, without recourse to Lesotho, or by the employment of profits earned by that subsidiary;

- (2) the benefits to Lesotho can be demonstrated; and
 - (3) the local parent company places its proposed plans for the expansion of the investment on record with the Financial Surveillance Division at an early stage;
 - (ee) the retention of any balance of the profits earned would, bearing in mind the provisions of Regulation 7, have to be negotiated with the Financial Surveillance Division at the time of the normal annual report back;
 - (ff) dividends declared by offshore subsidiaries of Lesotho companies may be retained offshore and used for any purpose without any recourse to Lesotho. Dividends repatriated to Lesotho may be retransferred abroad at any time and used for any purpose, provided that there is no recourse to Lesotho, except as provided for in (hh) below;
 - (gg) all dividends declared by the offshore operation(s), the amounts repatriated to Lesotho, or alternatively the dividend amounts retained abroad together with an indication of how such funds were utilised offshore, should be reported to the Financial Surveillance Division on an annual basis; and
 - (hh) a Lesotho company is permitted to acquire up to 40 per cent equity and/or voting rights in a foreign target entity, which may in turn hold investments and/or make loans into any CMA country. This dispensation does not apply to foreign direct investments where the Lesotho company on its own or where several Lesotho companies collectively hold an equity interest and/or voting rights in the foreign target entity that exceed 40 per cent in total.
- (iii) Foreign portfolio investments by companies not exceeding M500 million per applicant company
- (a) Authorised Dealers may approve requests by companies wishing to make bona fide new outward foreign portfolio investments into companies, branches and offices outside the CMA, including requests that fall outside their current line of business,

where the total cost of such investments does not exceed M500 million per company per calendar year.

- (b) All conditions and requirements as outlined in subsection (i) above, except for subsection (i)(d)(bb) and (cc), will apply to this dispensation.
- (c) For statistical purposes, investments approved under this dispensation are for less than 10 per cent of the foreign target entity's voting rights and must be suitably reported.
- (d) Foreign portfolio investments must be reported under **category 704** - Details of payments not classified and in the description field insert 'Portfolio Investments'.
- (e) Under no circumstances may local guarantees or suretyships be issued or Lesotho assets encumbered under this dispensation.
- (f) The audited financial statements and/or portfolio investment status report of the foreign target entities must be submitted to the Financial Surveillance Division on an annual basis.
- (g) For classification purposes, any increase in the equity interest and/or voting rights in the foreign target entity from 10 per cent and above must be reported to the Financial Surveillance Division.
- (h) Any transaction for an amount exceeding M500 million per applicant company must be referred to Financial Surveillance Division for prior approval.

Note: This dispensation should not be confused with portfolio investments acquired by Institutional Investors in terms of their applicable foreign portfolio investment limits.

- (iv) Rights on foreign securities owned by companies
 - (a) All applications by companies to take up rights on new shares in foreign companies must be submitted to the Financial Surveillance Division together with full details of the underlying transaction.

(D) International headquarter companies

- (i) Subject to registration with the Financial Surveillance Division for reporting purposes, newly established headquarter companies that meet the following shareholding and asset criteria may invest offshore without restriction:
 - (a) no shareholder in the headquarter company, whether alone or together with any other company forming part of the same group of companies as a shareholder, may hold less than 10 per cent of the shares and voting rights;
 - (b) no more than 20 per cent of the headquarter company shares may be directly or indirectly held by residents;
 - (c) at the end of each financial year, at least 80 per cent of the assets of the holding company must consist of foreign assets; and
 - (d) for the purposes of the requirement in (c) above, cash, cash equivalents and debt with a term of less than one year should not be taken into account.
- (ii) Registration with the Financial Surveillance Division will remain valid for as long as the criteria in (i) above is adhered to for the duration of that year of assessment as well as all previous years of assessment.
- (iii) Reporting of the extent of the foreign investments will be required for statistical purposes which must, inter alia, include the source of funds, new or existing funds, destination of funds, loan funds from local sources.
- (iv) Authorised Dealers must submit annually to the Financial Surveillance Division a detailed organogram of the headquarter company as well as their latest available audited financial statements.
- (v) In order to report all transactions on behalf of the headquarter company via the BOPCUS Reporting System, a ring-fenced resident foreign currency account in the name of the company must be opened.
- (vi) Headquarter companies will be treated by the Financial Surveillance Division as non-resident companies, but are still required to report all cross-border transactions. Transactions by Lesotho entities with headquarter companies will therefore be viewed as transactions with non-residents.

- (vii) Headquarter companies can freely borrow from abroad and such funds may be deployed locally or offshore. These transactions are regarded as occurring outside Lesotho.
- (viii) Any lending by local banks to headquarter companies will form part of the banks' macro-prudential limits.

(E) Lesotho holding company for African and offshore operations

- (i) Entities listed on MSM may establish one subsidiary as a HoldCo to hold African and offshore operations which are not subject to any restrictions. The HoldCo will, however, be subject to the following conditions:
 - (a) registration with the Financial Surveillance Division;
 - (b) the HoldCo must operate as a Lesotho tax resident and be incorporated and effectively managed and controlled in Lesotho;
 - (c) Authorised Dealers may authorise transfers from the parent company to the HoldCo up to M500 million per calendar year. There will be no restriction up to this amount on transfers in and out of the HoldCo, provided that such transfers are not undertaken to avoid tax. Additional amounts of up to **25 per cent of the listed company's market capitalisation** will on application to the Financial Surveillance Division be considered, provided that the entity is able to demonstrate benefits to Lesotho;
 - (d) the HoldCo will be allowed to freely raise and deploy capital offshore, provided that these funds are without recourse to Lesotho. Additional domestic capital and guarantees will be allowed to fund bona fide foreign direct investments in the same manner as outlined in (c) above;
 - (e) the HoldCo will be allowed to operate as a cash management centre for Lesotho entities. Cash pooling will be allowed without any restrictions and local income generated from cash management will be freely transferable;
 - (f) the HoldCo may choose its functional currency and operate a foreign currency account and a Maloti denominated account for operational expenses; and

- (g) applications for the listing of the HoldCo and joint ventures will be considered by the Financial Surveillance Division.
- (ii) Unlisted entities may establish one subsidiary as a HoldCo to hold African and offshore operations that will not be subject to any restrictions. The HoldCo will, however, be subject to the following conditions:
 - (a) registration with the Financial Surveillance Division;
 - (b) the HoldCo must operate as a Lesotho tax resident and be incorporated and effectively managed and controlled in Lesotho;
 - (c) Authorised Dealers may authorise transfers from the parent company to the HoldCo up to M500 million per calendar year. Additional amounts may be considered on application to the Financial Surveillance Division;
 - (d) the HoldCo will be allowed to freely raise and deploy capital offshore, provided that these funds are without recourse to Lesotho. Additional domestic capital and guarantees will be allowed to fund bona fide foreign direct investments in the same manner as the current foreign direct investment allowance;
 - (e) the HoldCo will be allowed to operate as a cash management centre for Lesotho and offshore entities. Cash pooling will be allowed without any restrictions and local income generated from cash management will be freely transferable;
 - (f) the HoldCo may choose its functional currency and operate a foreign currency account and a Maloti denominated account for operational expenses; and
 - (g) certain reporting requirements as mentioned in section J.(C) of the Authorised Dealer Manual will have to be adhered to as a result of the nature of these transactions.

(F) Technology, media, telecommunications, exploration and other research and development companies

- (i) Authorised Dealers are advised that unlisted technology, media, telecommunications, exploration and other research and development companies may apply to the Financial Surveillance Division for approval

to primary list offshore to raise foreign loans and capital for their operations, subject to the following conditions:

- (a) registration with the Financial Surveillance Division;
 - (b) such a company must operate as a Lesotho tax resident and be incorporated and effectively managed and controlled in Lesotho;
 - (c) intellectual property must remain registered in Lesotho, but may be assigned offshore, subject to appropriate tax treatment;
 - (d) the offshore listed entity must secondary list in Lesotho within two years following the successful offshore listing;
 - (e) a report must be submitted to the Financial Surveillance Division on the status of the offshore listing; and
 - (f) an annual report must be submitted to the Financial Surveillance Division on the operations, including details of funds raised offshore.
- (ii) Authorised Dealers are advised that unlisted Lesotho technology, media, telecommunications, exploration and other research and development companies may establish an offshore company to raise foreign funding for their operations, subject to the following conditions:
- (a) registration with the Financial Surveillance Division;
 - (b) the established offshore company must be a tax resident in Lesotho;
 - (c) full details of the percentage shareholding in the offshore company including the group structure must be provided; and
 - (d) an annual report must be submitted to the Financial Surveillance Division on the operations, including details of funds raised offshore.
- (iii) Companies established in terms of (ii) above, may in turn hold investments and/or make loans into Lesotho.
- (iv) Also see section G.(K)(iv) of the Authorised Dealer Manual.

(G) Lesotho private equity funds

- (i) Private equity funds that are mandated to be invest outside the CMA, may apply to the Financial Surveillance Division for approval to invest offshore. The following information must accompany such applications:
 - (a) a copy of the local en-commandite partnership's mandate to invest outside the CMA or, in the case of a local fund running parallel with an offshore fund, a copy of the co-investment agreement between the local and foreign partnership;
 - (b) cash flow projections for a 36-month period indicating the amount of capital to be exited from Lesotho for investment purposes; and
 - (c) the percentage equity interest and voting rights acquired in the foreign target entity.
- (ii) Applications will also be considered where an unintended 'loop structure' is created as a result of private equity funds investing in companies outside the CMA with a portion of their business in Lesotho.
- (iii) Institutional investors and Authorised Dealers must be aware that in terms of the 'look-through' principle, any offshore acquisitions held indirectly via the local private equity fund must be marked off against their respective foreign investment allowances.

(H) Lesotho institutional investors

- (i) Institutions eligible for the foreign portfolio investment allowance
 - (a) All retirement funds, long-term insurers and collective investment scheme management companies are treated as institutional investors.
 - (b) Institutional investors are eligible for the foreign portfolio investment allowance and must comply with the reporting requirements as outlined below.
 - (c) Investment managers may elect to register with the Financial Surveillance Division as institutional investors. Registration is required for all investment managers wishing to invest funds offshore directly.

- (d) To register with the Financial Surveillance Division as an institutional investor, an investment manager must be registered as a discretionary manager or a stockbroker with a discretionary mandate registered with MSM.
 - (e) Investment managers who are not eligible for the foreign portfolio investment allowance, including all non-discretionary managers and discretionary managers who elect not to register as institutional investors with the Financial Surveillance Division will be able to acquire foreign asset exposure for their clients only through another domestic institutional investor. These investment managers are treated by the Financial Surveillance Division as intermediaries and are exempt from the reporting requirements.
 - (f) Investment managers are required to declare their status regarding registration with the Financial Surveillance Division when they invest with another domestic institutional investor.
- (ii) The distinction between institutional assets and retail assets
- (a) The reporting procedure requires that a distinction be made between institutional assets under management and retail assets under management.
 - (b) Institutional assets
 - (aa) Institutional assets refer to assets held or managed on behalf of other institutional investors.
 - (c) Retail assets
 - (aa) Retail assets refer to assets received from individuals and other entities such as companies, trusts, and include assets received indirectly through an intermediary, such as a linked investment service provider, nominee company or investment manager not registered as an institutional investor with the Financial Surveillance Division. All assets sourced from an intermediary must be identified as either institutional assets or retail assets applicable to the underlying client.
- (iii) Application of foreign portfolio investment limits

- (a) The limit on foreign portfolio investments by institutional investors is applied to an institutional investor's total retail assets under management. The foreign exposure of retail assets may not exceed 30 per cent in the case of retirement funds and the underwritten (non-linked) policy business of long-term insurers. Investment managers registered as institutional investors, collective investment scheme management companies and the investment-linked business of long-term insurers are restricted to 40 per cent of total retail assets. It should be noted that compliance with the foreign portfolio investment limit does not preclude an institutional investor from also having to comply with any relevant prudential regulations as administered by the Insurance, Investment and Securities Division. In addition to the foreign portfolio investment allowance, institutional investors also qualify for an additional 10 per cent African allowance. See (iv) below in this regard.
- (b) Authorised Dealers must ensure that when facilitating the transfer of funds on behalf of institutional investors, where such funds represent retail assets under management, the underlying retail clients' accounts are not debited for conversion purposes under any circumstances. A separate trust account, either in the name of the managing institution or an unrelated third party, must be debited for this purpose and the transaction must be reported in the name of the institutional investor in terms of the requirements of the Reporting System.
- (c) Under no circumstances may retail clients have direct access to the foreign assets and all assets abroad must be registered in the name of either an offshore nominee company or the managing institution. The nominee company will hold the beneficial ownership on behalf of retail clients resulting in the retail clients not being able to transfer ownership of the foreign assets into their own names. It follows therefore that the only recourse that retail clients have to the managing institution is a domestic payment in Maloti.
- (d) A managing institution is a long-term insurer, collective investment scheme manager or investment manager that offers investment products to institutional and/or retail investors. Where an institution manages funds on behalf of another institution, the managing institution may, in principle, invest the funds of the originating institution offshore, subject only to the mandate agreed with the originating institution or otherwise

outlined in the mandate of a pooled investment product. An originating institution is an institutional investor that qualifies for a foreign portfolio investment allowance that elects to invest in products offered by a managing institution, either directly or through an intermediary such as a non-discretionary investment manager or linked investment service provider.

- (e) Institutional investors may participate in instruments issued by local entities in the offshore market whether priced in Maloti or foreign currency on condition that the requirements of the Insurance, Investment and Securities Division are complied with. These investments will be subject to the foreign portfolio investment limits.
- (f) Institutional investors are also permitted to hedge the currency risk in terms of making foreign portfolio investments offshore (i.e. hedging the anticipated conversion of Maloti into foreign currency for transfer offshore in terms of the provisions of section D of the Authorised Dealer Manual). The currency risk of the foreign portfolio investment and the currency risk in respect of the repatriation of funds may be hedged. However, the price risk of the underlying foreign portfolio investment may be hedged either in the foreign market or on MSM by utilising approved foreign referenced derivative products traded in Maloti and issued by MSM.
- (g) Institutional investors may not transfer Maloti offshore. In order for an institutional investor to participate in Maloti denominated instruments issued offshore, Maloti would have to be converted to foreign currency and the resultant foreign currency be re-converted back to Maloti in the offshore market to purchase the instrument. The initial conversion of Maloti to foreign currency for the purchase of Maloti denominated instruments issued offshore could be hedged locally, but the subsequent conversion back to Maloti to purchase Maloti denominated instruments issued offshore constitutes price risk and may be hedged either in the foreign market or on MSM by utilising approved foreign referenced derivative products traded in Maloti and issued by MSM.
- (h) Institutional investors may not repatriate Maloti to Lesotho. Foreign currency proceeds in respect of foreign portfolio investments must be converted to Maloti in Lesotho with a local Authorised Dealer as the counterparty to the foreign exchange transaction.

- (i) While Authorised Dealers are not required to scrutinise the quarterly asset allocation reports of institutional investors wishing to obtain foreign exposure, Authorised Dealers are obliged to ensure that they are dealing with a legitimate institutional investor. Therefore, prior to the transfer of any funds abroad, Authorised Dealers must ensure that their clients are indeed registered with the Insurance, Investment and Securities Division by viewing their registration certificates. In addition, institutional investors must provide the Authorised Dealers with documentary evidence confirming the acceptance of their latest quarterly asset allocation reports by the Financial Surveillance Division.
- (j) In instances where Authorised Dealers are unable to confirm the registration of an institutional investor with the Insurance, Investment and Securities Division and/or obtain proof of acceptance of the quarterly asset allocation report, the matter must be referred to the Financial Surveillance Division.
- (k) Foreign assets are defined by the Financial Surveillance Division as the sum of foreign currency denominated assets and Maloti denominated foreign assets. Foreign currency denominated assets may be acquired directly through foreign currency transfers from Lesotho.
- (l) Maloti denominated foreign assets may be acquired indirectly through investments with another domestic institutional investor or indirectly by acquiring approved inward listed investments, excluding inward listed shares, based on foreign referenced assets or issued by foreign entities, listed on MSM. (See section H. of the Authorised Dealer Manual for the definition of inward listed shares.)
- (m) The originating institution or its administrator retains the responsibility for ensuring that both its direct and indirect foreign investments remain within the foreign portfolio investment limit. To ensure the consistent classification of foreign asset exposure, institutional investors are required to report their assets on a 'look-through' basis.
- (n) Institutional investors must take cognisance that any position held as a result of active currency management transactions, not resulting in the actual pay away or receipt of currency (i.e. the 'in-between trades') is regarded as foreign asset exposure

and must accordingly be marked off against their respective foreign portfolio investment allowances as well as being accounted for in the quarterly asset allocation reports.

- (o) No transfers may be effected in respect of costs related to foreign portfolio investments, foreign held assets and liabilities by institutional investors without prior reference to the Financial Surveillance Division.
- (iv) African allowance
 - (a) Institutional investors are also allowed to invest an additional 10 per cent of their total retail assets under management:
 - (aa) by acquiring foreign currency denominated portfolio assets in Africa directly through foreign currency transfers from Lesotho. A separate registered fund or collective investment scheme in Lesotho sanctioned by the Insurance, Investment and Securities Division is preferred in instances where the institutional investor wishes to obtain direct African exposure by means of a pooling arrangement (e.g. an African fund set up specifically by a managing institution). It is, however, not a requirement that such a direct African exposure should always be undertaken through a separate fund (registered or unregistered); by acquiring African assets indirectly through investments with another domestic institutional investor; or
 - (bb) indirectly by acquiring approved inward listed investments, excluding inward listed shares, listed on MSM and classified as 'African'. (See section H. of the Authorised Dealer Manual for the definition of inward listed shares and criteria for 'African' classification).
 - (b) Institutional investors may apply to the Financial Surveillance Division through an Authorised Dealer to acquire indirect African exposure through a foreign registered fund mandated to invest into Africa. The fund should be mandated to invest at least 75 per cent of funds under management into Africa. A copy of the mandate or prospectus must accompany such application.
 - (c) Applications will also be considered in instances, where institutional investors obtain indirect African exposure through

investments in instruments issued by African entities that are listed on non-African exchanges to raise funds earmarked for use in Africa.

- (d) All institutional investors should ensure that their investments in African portfolio assets are also in compliance with the Insurance, Investment and Securities Division requirements and regulations. The provisions of subsection (G) above should also be adhered to.

- (v) Reporting requirements

All institutional investors should submit the following to the Financial Surveillance Division:

- (a) Quarterly asset allocation report
 - (aa) Institutional investors are required to submit quarterly reports of their asset holdings according to the major asset classes as at the end of each calendar quarter. In the case of retirement funds, the administrator must submit quarterly reports for each fund under its administration, unless otherwise instructed by the retirement fund.
 - (bb) The quarterly reports provide the primary mechanism for monitoring compliance. This framework supports a system of prudential regulation of foreign asset exposures and provides consistent, industry-wide statistics on the foreign diversification levels for all types of institutional investors.
 - (cc) All quarterly reports must be submitted within two months of the end of the calendar quarter to the Financial Surveillance Division either through an Authorised Dealer or via bulk or single direct reporting.
 - (dd) In reporting on asset allocations, the 'look-through' principle is applied to investments in collective investment schemes, long-term insurance policies and other investment products. This principle ensures the consistent classification of foreign asset exposure, whether acquired directly in foreign currency or indirectly through a domestic intermediary. For instance, a retirement fund holding foreign equities through a

collective investment scheme registered locally should record such an investment as a Maloti denominated foreign asset.

- (ee) Managing institutions that manage assets on behalf of other institutional investors are required to report the asset allocation of such funds or policies to the originating institution as at the end of each calendar quarter within 15 days of each calendar quarter end. This information is necessary to enable the originating institution to 'look-through' to the underlying assets in compiling its quarterly reports.
- (ff) In the case of long-term insurers, collective investment scheme management companies and investment managers, the quarterly report needs to reflect the allocation of retail assets and institutional assets under management, separately.
- (gg) In the case of retirement funds the quarterly report relates to the allocation of total assets of the retirement fund.
- (hh) Information required from institutional investors in excess of the foreign portfolio investment limit:
- (1) Institutional investors that hold more than the maximum permitted limits on foreign portfolio investments should provide:
 - an explanation for the contravention; and
 - a clear indication of how and by when they intend to adjust their foreign asset holdings to fall within the limit on foreign portfolio investments.
 - (2) Where relevant, this information must be submitted as part of the quarterly asset allocation report.
- (b) Managing institutions' information on institutional clients

- (aa) Managing institutions are required to provide an updated list of all their institutional investors on a quarterly basis together with a list of:
 - (1) all new institutional clients investing funds during the quarter; and
 - (2) all institutional clients who terminated investments during the quarter.
- (bb) The lists must be provided as part of the managing institution's quarterly asset allocation report.
- (c) Audit requirements
 - (aa) Institutional investors holding portfolio assets, directly or indirectly, will also be required as part of their financial year-end audit to obtain an audit report from their external auditors assessing the institutional investor's quarterly asset allocation reports.
 - (bb) All institutional investors with total assets at fair value in excess of M3 million, will be required to submit the audit report to the Financial Surveillance Division through their Authorised Dealer.
 - (cc) The audit reports must be submitted to the Financial Surveillance Division within a maximum period of six months after its financial year end.
 - (dd) The formats of the audit reports are appended A through D.
- (vi) Reporting format
 - (a) The quarterly asset allocation reports may be submitted to the Financial Surveillance Division either through an Authorised Dealer or by direct reporting.
 - (b) Cognisance should, however, be taken that reports rejected electronically, as a result of certain validations into the system, must be re-submitted to the Financial Surveillance Division through an Authorised Dealer.

- (vii) Compliance
 - (a) Institutional investors exceeding the permissible foreign portfolio investment limits are required to provide:
 - (aa) an explanation for the contravention; and
 - (bb) a clear indication of how and by when they intend to adjust their foreign asset holdings to fall within the limit on foreign portfolio investments as part of the quarterly reporting requirements, where relevant.
 - (b) The Financial Surveillance Division will consider the reasons for the contravention and the proposed corrective measures.
 - (c) If these measures are deemed to be unacceptable, the Financial Surveillance Division will issue further directives that may include the repatriation of income and/or capital.
 - (d) Compliance with the reporting requirements as outlined in (v) above will be enforced as outlined hereunder:

The Exchange Control Regulation 21 states:

“Provision of security

- (1) The Ministry or a person authorised by the Ministry, may order any person to provide security, in such form and in such amount as the Minister may determine, that he will comply, either generally or in respect of any particular transaction, with the provisions of any of these regulations specified by the Ministry or by a person authorised by the Treasury.
- (2) Where any person who has provided security in terms of this regulation, has failed to comply with the provisions of the regulations in respect of which the security has been provided, the Minister may direct that the said security shall be forfeited for the benefit of the Consolidated Fund.

The forfeiture of such security shall not prevent any other action against the person concerned for his/her failure to comply with the provisions of these regulations.”

- (e) Under the provisions of Regulation 21 the following payments may apply:
 - (aa) Non-submission of quarterly report, and/or list of institutional clients, including quarterly reports to be submitted by retirement fund administrators:
 - (1) 2 per cent of the market value of foreign assets to be deposited in foreign currency with the Central Bank of Lesotho by purchasing such foreign currency in the spot market. The deposit will be non-interest bearing and will be included as a foreign asset in the calculation of the institutional investor’s foreign exposure. Once the Financial Surveillance Division is satisfied that all the outstanding quarterly returns and/or lists of institutional clients have been received, the deposit will be returned to the institutional investor concerned. Such deposit must, however, be converted back to Maloti in cases where the institutional investor is exceeding the prescribed limit.
 - (2) In cases where retirement fund administrators do not submit reports on behalf of their clients, such administrator will be liable for the payment of the penalty.
 - (bb) Non-submission of quarterly asset allocation information by the managing institution to the originating institution:
 - (1) 2 per cent of the market value of the assets of the affected originating institution(s) placed with the managing institution to be deposited by the managing institution in Maloti with the Central Bank of Lesotho. The deposit will be non-interest bearing. Once the Financial Surveillance Division is satisfied that all outstanding quarterly asset allocation information has been communicated to the affected originating institution(s), the

deposit will be returned to the managing institution.

(cc) Exceeding the foreign portfolio investment limits as a result of market movements and/or a reclassification of assets without corrective measures being in place:

(1) 5 per cent of the market value of the foreign assets to be deposited in foreign currency with the Central Bank of Lesotho by purchasing such foreign currency in the spot market. The deposit will be non-interest bearing. Once the Financial Surveillance Division is satisfied that sufficient corrective measures are in place or the institutional investor is within the applicable limit, the deposit will be returned to the institution concerned for conversion back to Maloti.

(dd) Direct contravention of limits on foreign assets, including misrepresentation of facts in certifying the Financial Surveillance Division compliance via the quarterly reports:

(1) 5 per cent of the market value of the foreign assets to be deposited in foreign currency with the Central Bank of Lesotho by purchasing such foreign currency in the spot market. The deposit will be non-interest bearing and will have a tenor of 12 months, after which such deposit will be returned to the institution concerned. However, should the institution be involved in any misconduct or in breach of the foreign portfolio investment limits during the period stated, the deposit will be forfeited for the benefit of the Consolidated Fund.

(I) Macro-prudential limit for Authorised Dealers

(i) Authorised Dealers may acquire direct and indirect foreign exposure up to a macro-prudential limit of 25 per cent of their total liabilities, excluding total shareholder's equity. It must be clearly understood that the methodology used by the Financial Surveillance Division in calculating the foreign exposure should not be confused with the

directives issued by the Banking Supervision Division of the Central Bank of Lesotho.

- (ii) Authorised Dealers are also allowed to invest an additional 5 per cent of their total liabilities, excluding total shareholder's equity, for expansion into Africa. The criteria applicable to institutional investors to determine whether an investment is classified as 'African', is similarly applicable to Authorised Dealers. See section H.(A) of the Authorised Dealer Manual.
- (iii) The macro-prudential limit of 25 per cent of total liabilities is only applicable to Authorised Dealers who are not branch operations of foreign institutions. Branches of foreign institutions operating as banks in Lesotho are regulated by the Banking Supervision Division of the Central Bank of Lesotho in their entirety.
- (iv) The Financial Surveillance Division defines foreign exposure as all foreign assets held where such assets are foreign currency denominated as well as foreign assets denominated in Maloti and will therefore, *inter alia*, include the following:
 - (a) assets outside of Lesotho;
 - (b) claims on non-residents;
 - (c) commodities;
 - (d) deposits with foreign banks; and
 - (e) inward listed holdings, including derivatives.
- (v) Inward listed shares are excluded from the definition of foreign exposure. See section H.(A) of the Authorised Dealer Manual for the definition of inward listed shares.
- (vi) The macro-prudential limit is applicable to transactions which, *inter alia*, include underwriting foreign currency denominated bonds issued by local entities as well as Lesotho Government bonds, issuing guarantees, foreign currency lending to non-residents, foreign portfolio investments in equity, debt and derivative instruments.
- (vii) Authorised Dealers must note that all foreign intra-group bank exposures should be included in the calculation of the macro-prudential limit, however, the netting of these foreign intra-group exposures is

allowed as provided for in the Macro-Prudential Foreign Exposure Limit Return.

- (viii) Foreign exposures directly related to infrastructural development and/or outward foreign direct investment, including acquisitions in terms of section 52 of the Banks Act, 1990, (Act No. 94 of 1990), are excluded from the macro-prudential limit. CFC account balances, foreign currency denominated facilities made available to Lesotho companies in respect of bona fide foreign direct investments are similarly excluded from the macro-prudential limit.
- (ix) In cases where the macro-prudential limit has been exceeded, Authorised Dealers must provide an explanation for the over-exposure together with a clear indication of how and by when they intend to adjust the foreign exposure to fall within the applicable limit.
- (x) Authorised Dealers must complete and submit the Macro-Prudential Foreign Exposure Limit Return on a monthly basis to the Financial Surveillance Division by the 20th working day of the following month. The amounts reflected on the applicable Financial Surveillance Division's Returns, under the specified line items, must be populated when completing the Macro-Prudential Foreign Exposure Limit Return. The Macro-Prudential Foreign Exposure Limit Return must reflect both gross and net derivative figures, however, the gross derivative figures are only reported for disclosure purposes and do not form part of the calculation of the macro-prudential limit.
- (xi) The Macro-Prudential Foreign Exposure Limit Return must be submitted under cover of an application to the Financial Surveillance Division.
- (xii) Authorised Dealers will also be required, as part of their financial year end audit, to obtain an audit report from their external auditors verifying and confirming the amounts on the last submitted Macro-Prudential Foreign Exposure Limit Return at year end. The audit report must be submitted to the Financial Surveillance Division within a maximum period of six months after the financial year end.
- (xiii) Authorised Dealers may participate in foreign syndicated loans regardless of whether the borrower is a resident or not, provided that they are within their macro-prudential foreign exposure limit.

(J) Emigration

- (i) Emigration requirements

- (a) Private individuals regarded as residents by the Financial Surveillance Division who are leaving Lesotho to take up permanent residence in any country outside the CMA must apply before departure to be accorded the facilities set out below.
 - (b) All emigration applications must be accompanied by a duly completed Form MP336(b) signed by the applicant, together with a duly electronically completed 'Tax Clearance Certificate – Emigration' obtained via the LRA Tax Compliance Status System.
 - (c) Where an emigrant's remaining assets are declared on the Form MP336(b), the Authorised Dealer under whose administration the emigrant's remaining assets are placed must notify all applicable parties of the emigrant's status and ensure that any proceeds derived from such assets are credited to the Emigrant's blocked account.
 - (d) Where securities and financial instruments listed on MSM have been dematerialised or immobilised, the Authorised Dealer under whose administration the emigrant's remaining assets are held must, at all times, be able to demonstrate that such remaining assets are being held to the order of that Authorised Dealer.
- (ii) Emigration allowances
- (a) Private individuals emigrating to any country outside the CMA will qualify, at the time of emigration and after all their assets have been brought under the administration of an Authorised Dealer, to be accorded the following facilities:
 - (aa) Family units
 - (1) a foreign capital allowance of up to M8 million per calendar year after all local liabilities have been provided for; and
 - (2) in addition, a travel allowance applicable to each member of the family unit on the basis and subject to the prescribed limits.
 - (bb) A widow or widower or a single parent with accompanying dependant(s) may also be regarded as a

family unit and be accorded the emigration allowance in (aa) above.

(cc) Single persons

(1) a foreign capital allowance of up to M4 million per calendar year after all local liabilities have been provided for; and

(2) in addition, a travel allowance on the basis of and subject to the prescribed limit.

(b) The travel allowance referred to in (a)(aa) and (cc) above may only be accorded once and not more than 60 days prior to departure.

(c) Foreign assets held by emigrants at the time of departure need not be deducted from the foreign capital allowance outlined above.

(d) Donations or gifts in excess of M100 000 received by an emigrant within three years or capital distributions from inter vivos trusts within three years prior to the date of emigration will be deducted from the aggregate of the assets before determining the amount to be accorded.

(e) Persons who have already emigrated but have not fully utilised the current authorised foreign capital allowance in terms of (a)(aa)(1) or (cc)(1) above may be accorded additional capital transfers, provided that the total amount availed of does not exceed the current annual limits.

(f) Quoted and/or unquoted securities may be exported as part of or in lieu of the foreign capital allowance outlined in (a)(aa) and (cc) above based on the market value thereof at the time of availing of the applicable allowance. The relevant securities must be restrictively endorsed.

(g) Authority may be granted to registered Lesotho insurance companies to transfer life policies (excluding single-premium policies) from a register in Lesotho to a register in any country outside the CMA, provided that:

- (aa) they are satisfied that the insured has formally emigrated and has placed their emigration on record with the Financial Surveillance Division;
 - (bb) in total the surrender values of the policies do not exceed M2 000 in respect of any one family unit; and
 - (cc) the relative transfer will not result in the beneficiaries receiving, on aggregate, assets with a value exceeding that of the applicable foreign capital allowance.
 - (h) Authorised Dealers may similarly permit the transfer to former residents of Lesotho who have taken up residence in countries outside the CMA of claims, surrenders or loans under life policies (excluding single-premium policies), provided that the amounts to be remitted do not exceed M2 000 in respect of any one family unit and they are satisfied that such transfers would not result in the beneficiaries receiving, on aggregate, assets with a value exceeding that of the applicable foreign capital allowance.
- (iii) Export of assets by an emigrant
- (a) The following assets may be exported by an emigrant under cover of a LRA Customs Declaration:
 - (aa) Household and personal effects, motor vehicles, caravans, trailers, motorcycles, stamps, coins and minted gold bars (excluding coins that are legal tender in Lesotho) per family unit or single person within the overall insured value of M2 million.
 - (bb) Applications for the export of the emigrants' household and personal effects, motor vehicles, caravans, trailers, motorcycles, stamps, coins and minted gold bars (excluding coins that are legal tender in Lesotho) in excess of M2 million must be referred to the Financial Surveillance Division.
- (iv) Short-term insurance claims
- (a) Authorised Dealers may authorise the transfer of funds by registered Lesotho insurance companies in respect of claims lodged by emigrants for the loss of or damage to household and personal effects, motor vehicles, caravans, trailers, motorcycles,

stamps and coins (excluding coins that are legal tender in Lesotho) provided that they satisfy themselves that such claims do not exceed the value declared on the attested Form F178.

- (v) Procedures for remaining assets
 - (a) Upon receipt of confirmation of the emigrants' departure from Lesotho they will be redesignated as 'resident' in their new country, but the following procedures will apply in respect of assets held at the time of redesignation:
 - (aa) Any cash balances remaining after the appropriate facilities have been granted and all capital payments accruing thereafter to the emigrant, as well as the total proceeds of any asset subsequently sold, will require to be credited to an Emigrant's blocked account (i.e. current, savings or interest-bearing deposit account with an Authorised Dealer).
 - (bb) Such funds may be utilised locally for any purpose, except as provided for in (cc) to (ee) below.
 - (cc) Where such funds are utilised for investment purposes, Authorised Dealers must at all times be able to demonstrate that such investments are being held to their order.
 - (dd) The proceeds of mortgage bonds and/or mortgage bond participations forming part of the emigrants' remaining assets may be reinvested in further bonds and/or participations.
 - (ee) All securities, quoted and unquoted, owned by the emigrants at the time of their departure or accruing to them thereafter must also be deposited with an Authorised Dealer and may not be released, except temporarily for switching purposes, without the specific authority of the Financial Surveillance Division. Unquoted securities, however, may only be switched into quoted securities. In the case of securities and financial instruments listed on MSM and dematerialised or immobilised, Authorised Dealers must at all times be able to demonstrate that such listed securities or financial instruments are being held to the order of that Authorised Dealer.

- (ff) Securities of the nature referred to above must be restrictively endorsed in terms of section G.(F)(i)(a) of the Authorised Dealer Manual.
 - (gg) Any other CMA assets belonging to the emigrants at the time of their departure or accruing to them thereafter must be brought under the administration of an Authorised Dealer. The Financial Surveillance Division will, on application, consider requests to transfer the emigrants' remaining liquid assets or the export of quoted and/or unquoted securities in lieu of cash, exceeding the foreign capital allowances stipulated in (ii)(a)(aa)(1) and (cc)(1) above.
 - (hh) Emigrants wishing to avail of the dispensation in (gg) above must obtain a duly electronically completed 'Tax Clearance Certificate – Foreign Investment Allowance' in the prescribed format, issued by LRA obtained via the LRA Tax Compliance Status System which must accompany their application to the Financial Surveillance Division for consideration.
 - (ii) If approval has been granted by the Financial Surveillance Division, the Authorised Dealer must verify the taxpayer's tax compliance status via LRA eFiling prior to effecting any transfers. Authorised Dealers must retain the Tax Clearance Certificate and the Tax Compliance Status Verification result for a period of five years for inspection purposes.
 - (jj) The proceeds from insurance policies may be transferred directly to the emigrant abroad where the emigrant has no bank account in Lesotho, provided that the foreign capital allowances stipulated in (ii)(a) (aa)(1) and (cc)(1) above will not be exceeded.
 - (kk) Emigrants' assets that are under the administration of an Authorised Dealer in terms of the provisions of this section may be transferred to another Authorised Dealer with notification to the Financial Surveillance Division.
- (vi) Authority to Authorised Dealers

- (a) Authorised Dealers may authorise the applicable foreign capital allowance on the basis indicated above, provided that:
- (aa) in respect of single persons and family units emigrating the net value of the assets (excluding household and personal effects, caravans, motor vehicles, motor cycles and trailers to be exported) does not exceed the sum of M4 million in the case of a single person or M8 million in the case of a family unit. Where the aforementioned respective amounts are exceeded, an application supported by a completed Form MP336(b) together with a duly electronically completed 'Tax Clearance Certificate - Emigration' obtained via the LRA Tax Compliance Status System confirming that suitable arrangements have been made to liquidate any obligation in this regard, must be submitted to the Financial Surveillance Division for consideration;
 - (bb) the statement of assets does not disclose any third party interest and/or any donations or gifts in excess of M100 000 received within three years, or capital distributions from inter vivos trusts within three years, prior to the date of emigration;
 - (cc) applicant has been resident in Lesotho during the five years preceding the date of application;
 - (dd) Authorised Dealers are satisfied that the applicant is permanently relinquishing Lesotho domicile;
 - (ee) Authorised Dealers are satisfied from the production of documentary evidence that the applicant has been given permission, where necessary, by the appropriate authorities to take up residence in the country to which the applicant is emigrating;
 - (ff) all applications submitted to Authorised Dealers where the net assets do not exceed the sum of M4 million in the case of a single person or M8 million in the case of a family unit are supported by a completed Form MP336(b), which must be retained by the branch concerned for a period of five years after all the remaining assets of an emigrant have been transferred abroad. Each branch should submit details of these emigrants to their head office;

- (gg) all applications submitted to Authorised Dealers where the net assets do not exceed the sum of M4 million in the case of a single person, or M8 million in the case of a family unit, are supported by a belated completed Form MP336(b), where the applicant has resided permanently outside Lesotho without placing their emigration formalities on record with the Financial Surveillance Division;
- (hh) Authorised Dealers are furnished with a duly electronically completed 'Tax Clearance Certificate – Emigration' obtained via the LRA Tax Compliance Status System confirming that suitable arrangements have been made to liquidate any obligation in this regard. However, a Tax Clearance Certificate is not required in respect of applicants who resided permanently outside Lesotho for a period longer than five years and where they have no assets other than inheritance or insurance policies; and
 - (ii) the applicant declares in writing to the Authorised Dealer that similar emigration formalities have not been recorded with another Authorised Dealer.
- (b) The date from which such applicants will be regarded as emigrants from Lesotho will be the date on which permanent residence was granted in their new country of residency. In the absence of such proof, Authorised Dealers must use the date on which the belated Form MP336(b) was signed by the applicant as the date of emigration.
- (c) Each branch must retain such Forms MP336(b) and Tax Clearance Certificates for a period of five years after all the remaining assets of an emigrant have been transferred abroad and should submit details of these emigrants to their head office.
- (d) All the information submitted in terms of (a)(ff) and (gg) above must be consolidated by the head office, under the name and branch code number of each individual branch for onward submission to the Financial Surveillance Division on a monthly basis. The following information should be included in the return: names, identity numbers, dates of departure, value of the remaining assets and foreign capital allowances accorded.

(vii) Returning emigrants

- (a) Former residents who have been permanently resident outside the CMA for a period in excess of five years will, on completion of the necessary declaration and undertaking, be regarded by the Financial Surveillance Division as new immigrants to Lesotho.
- (b) The Authorised Dealers concerned must satisfy themselves from documentary evidence that such individuals had in fact been permanently resident outside the CMA for a period in excess of five years and are entitled to reside in Lesotho.
- (c) Should there be any emigrants' assets administered in terms of (v) above, such assets may not be released without prior written approval from the Financial Surveillance Division.

(K) Legacies and distributions from deceased estates and testamentary trusts

(i) Estates of residents

- (a) Cash bequests and the cash proceeds of legacies and distributions from resident estates due to non-resident private individuals, non-resident entities and/or trusts with no direct and/or indirect Lesotho interest, including emigrants, may be remitted abroad, provided that the Liquidation and Distribution Account bearing a Master of the High Court reference number has been viewed.
- (b) In cases where the total assets of the resident estate is less than M125 000, cash bequests and the cash proceeds of legacies due to non-resident private individuals, non-resident entities and/or trusts with no direct and/or indirect Lesotho interest, including emigrants, may be remitted abroad, provided that the Last Will and Testament and Letter of Executorship or Authority have been viewed.
- (c) Where the beneficiary is an emigrant, it would be incumbent upon Authorised Dealers to ensure that the emigrant has been formally designated as a non-resident before effecting transfers in terms of the foregoing. Where no such record can be established, the matter must be referred to the Financial Surveillance Division.

- (d) In all cases where such a resident estate holds authorised foreign assets, distribution of the foreign assets may be effected to non-residents, provided that all foreign administrative and related costs have been met from the foreign portion of the estate.
- (ii) Other assets inherited by non-residents
 - (a) Jewellery
 - (aa) The export of jewellery, including articles of gold jewellery, inherited by non-residents, including emigrants, from deceased estates in Lesotho, may be exported under cover of the prescribed LRA Customs Declaration provided that documentary evidence is produced to the Authorised Dealer showing that the articles to be exported were, in fact, bequeathed to the beneficiary in terms of the deceased's will or otherwise in terms of the Liquidation and Distribution Account bearing a Master of the High Court reference number.
 - (b) Other effects
 - (aa) Other effects of a purely personal nature (e.g. clothing and household articles) may be exported under cover of the prescribed LRA Customs Declaration provided that the items to be exported emanate from a deceased estate and have been inherited by the beneficiary.
- (iii) The Lesotho portion of estates of emigrants and non-residents
 - (a) Cash bequests and the full cash proceeds of legacies and distributions from such estates, due to emigrants and non-residents, may be remitted abroad, provided that all legal requirements have been met (e.g. a resealed grant of probate) and the Liquidation and Distribution account bearing a Master of the High Court reference number has been viewed.
 - (b) Other assets inherited by non-residents, including emigrants, may be dealt with in terms of (ii)(b) above.
- (iv) Capital distributions from local testamentary trusts
 - (a) Capital distributions from local testamentary trusts due to non-residents, including emigrants may be remitted abroad,

provided that the trustees resolution confirming the capital distribution and the Last Will and Testament confirming that the beneficiary is entitled to such capital distribution, have been viewed.

- (b) Where the capital beneficiary is an emigrant, it would be incumbent upon Authorised Dealers to ensure that the emigrant has been formally designated as a non-resident before effecting transfers in terms of the foregoing. Where no such record can be established, the matter must be referred to the Financial Surveillance Division.
- (c) Distributions as a result of the renunciation of a beneficiary's right to capital of a testamentary trust must be referred to the Financial Surveillance Division.

(L) Re-investment of foreign assets or the proceeds thereof into the Kingdom of Lesotho and/or export of capital

- (i) Residents are reminded that they may not enter into a transaction or a series of transactions (Transactions), the purpose and/or effect of which is to export capital directly or indirectly from Lesotho. These transactions, which contravene the Regulations, including Regulation 11(1)(c), invariably entail the formation by (or at the instance of) a resident of an offshore structure that by a re-investment into the CMA acquires shares or some other interest in a CMA company or CMA asset ('loop structure').
- (ii) The Financial Surveillance Division regards these Transactions and various derivatives thereof as a contravention of the Regulations in that they result in and/or have the potential to result in the direct or indirect export of capital abroad (by the resident company to the non-resident company or other relevant non-resident trust or entity for the ultimate benefit of a resident, of dividends including dividends arising from increased profits, revenue reserves and/or capital reserves accruing from the introduction of carefully selected CMA growth assets to a CMA company).

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B.3 Income transfers**(A) General**

- (i) Transfers in respect of dividends, profits and current income accruing to emigrants and non-residents of the CMA are subject to the conditions laid down in the following subsections. Authorised Dealers must ensure that the amounts to be transferred are legitimately due to the non-resident and that suitable arrangements are made to meet all local liabilities. Income must, therefore, be interpreted as net income.
- (ii) Transfers of income other than transfers from pensions and/or retirement annuities, excluding lump sum payments, may not be made to persons who, although temporarily resident outside the CMA, are regarded as residents of Lesotho from a Financial Surveillance Division's point of view.

(B) Income due to emigrants

- (i) For purposes of this subsection 'income' is defined as hereunder and all applications for the transfer of any other form of income must be referred to the Financial Surveillance Division:
 - (a) interest and profit;
 - (b) dividends. The declaration of a dividend in specie or a special dividend for any purpose requires the prior approval of the Financial Surveillance Division;
 - (c) income distributions from close corporations;
 - (d) directors' fees or members' fees;
 - (e) pension payments paid by registered funds only;
 - (f) cash bonuses on insurance policies;
 - (g) income received from a Trust created in terms of a Last Will and Testament;
 - (h) income received from an inter vivos trust;
 - (i) rentals on fixed property including rental pool agreements, provided that rentals are substantiated by the production of a copy of the rental or rental pool agreement and that the

Authorised Dealer concerned is satisfied that the amount is reasonable in relation to the property in question;

- (j) the difference between the purchase consideration and maturity value of quoted gilts;
 - (k) annuity payments where the annuity has been in existence for a period of five years prior to the date of emigration;
 - (l) annuity payments where the annuity has been funded from a pension payout from a previous employer; and
 - (m) refunds in respect of income tax paid by emigrants on income earned subsequent to the date of emigration.
- (ii) Only the Authorised Dealer under whose administration an emigrant's assets are held may allow the transfer of income earned in Lesotho from the date of designation as an emigrant, subject to the limitations mentioned below, provided that it can be shown, from the production of documentary evidence that:
- (a) the funds represent earned income from normal trading activities and do not include any element of a capital nature (e.g. the sale proceeds of assets or the revaluation of assets);
 - (b) the funds do not represent future income;
 - (c) where applicable the assets from which the income accrues are the sole property of the emigrant;
 - (d) no third party has any interest therein; and
 - (e) the emigrant has taken up permanent residence abroad.
- (iii) Documentary evidence
- (a) Forms to be completed
 - (aa) The forms MP1330(a), MP1331, MP1332 are available from the Central Bank of Lesotho and are the only forms that will be accepted in support of an application.
 - (b) Auditor's report and representation letter in respect of dividend of profit transfers to emigrants from a body corporate,

foundation or partnership, excluding companies quoted on MSM and from trusts

- (aa) Auditor's report of factual findings given when the relevant information has been audited
 - (1) The format and wording for an unqualified report is specified in Annex I.
- (bb) Limited assurance auditor's report given when the relevant information has not been audited and a review has been carried out
 - (1) The format and wording for an unqualified report is specified in Annex II
- (cc) Representation letter
 - (1) The format and wording is specified in Annex III.
- (c) Auditor's report and representation letter for inter vivos trusts and trusts created in terms of a Last Will and Testament
 - (aa) Representation letter in respect of trusts (Form MP1330(a))
 - (1) Only the Form MP1330(a) is to be used.
 - (bb) Auditor's report of factual findings in respect of trusts, applicable when the annual financial statements have been audited (Form MP1331)
 - (1) Only the Form MP1331 is to be used.
 - (cc) Limited assurance auditor's report in respect of trusts, given when the annual financial statements have not been audited, but a review has been carried out (Form MP1332)
 - (1) Only the Form MP1332 is to be used.
 - (dd) Interim representation letter in respect of trusts
 - (1) The format and wording is specified in Annex IV

- (iv) Requirements applicable to income transfers to emigrants
 - (a) Dividends, profit or income distributions
 - (aa) Dividends, profit or income distributions received from non-quoted entities (excluding trusts) must be supported by an Auditor's Report and Representation Letter in the format referred to in (iii)(b)(aa) and (cc) or (b)(bb) and (cc) above.
 - (bb) Dividend distributions from quoted entities in favour of emigrant beneficiaries are transferable.
 - (b) Income from a trust created in terms of a Last Will and Testament
 - (aa) Requests for the transfer of income to the emigrant beneficiaries of a trust created in terms of a Last Will and Testament must be supported by an Auditor's Report (Form MP1331 or Form MP1332), Representation Letter (Form MP1330(a)) and financial statements.
 - (bb) As an exception, however, where the total net income earned by a Will Trust does not exceed M125 000 per annum, it is not necessary to submit a Form MP1331 or a Form MP1332 in support of requests for the transfer of income abroad. It should, however, be noted that a Form MP1330(a) will still have to be completed and submitted to an Authorised Dealer in support of a request for the transfer of income.
 - (cc) Such forms must be retained by the Authorised Dealer concerned for a period of five years for inspection purposes.
 - (dd) In the case of interim transfers of income from Will Trusts to emigrant beneficiaries, an Interim Representation Letter in the format referred to in (iii)(c)(dd) above may be used.
 - (ee) Authorised Dealers should, however, still be furnished with the documentation specified in (aa) above on an annual basis, which must be reconciled with the Interim Representation Letter.

- (c) Income from an inter vivos trust
- (aa) All initial requests for the transfer of income derived from inter vivos trusts to emigrant beneficiaries must be referred to the Financial Surveillance Division.
 - (bb) Fully motivated requests for the transfer of income derived from inter vivos trusts to an emigrant beneficiary must be accompanied by the financial statements of the trust, together with all the appropriate documentation, as well as Forms MP1330(a) and MP1331, based on the accompanying financial statements.
 - (cc) To enable the Financial Surveillance Division to initially formulate policy pertaining to a particular inter vivos trust, the following information or documentation must be provided:
 - (1) a copy of the original trust deed together with all subsequent amendments thereto;
 - (2) full names, domicile, percentage interest and, if applicable, details of their emigration from Lesotho of all the beneficiaries of the trust;
 - (3) financial statements of the trust and the audited financial statements of all the underlying non-quoted investments which are 75 per cent or more directly or indirectly non-resident controlled (i.e. affected persons). It should be noted that for very old trusts this information is required for at least the last three financial years. For more recently established trusts, the information is required from creation to the latest available statements;
 - (4) full details of all funding (i.e. loans and donations made available to the trust since its inception). In this regard, the Financial Surveillance Division would require to know the extent of the loan(s) and/or donation(s), the date it was made, as well as the name(s) and domicile of the donor(s) or lender(s);

- (5) full names, domicile and percentage interest of all the shareholders of the underlying non-quoted investments (i.e. affected persons) in which the trust had or still has a direct or indirect interest. Where a shareholder or member is a private company or close corporation, the same breakdown of ownership is required. Where the shareholder is a trust, a copy of the trust deed, the full names of the capital and income beneficiaries, the domicile of such beneficiaries and the percentage of their interests are required;
 - (6) full details of all financing made available by third parties and/or the trust to the underlying non-quoted investments in which the trust had or still has a direct or indirect interest, in particular with reference to preference shares and loans. In this regard, the Financial Surveillance Division would similarly require to know the extent of financing, when such financing was made available and by whom. The information called for is in respect of the funding or financing irrespective of whether loans have been repaid and preference shares redeemed; and
 - (7) any further information the client or the Authorised Dealer may consider appropriate to enable the Financial Surveillance Division to reach a decision in the matter.
- (dd) The information requested above is also required in respect of all capital distributions made to an emigrant within a period of three years prior to the date of emigration.
- (ee) In all instances where consideration is being given to income transfers, cognisance is to be taken of any local financial assistance at the disposal of the trust and its underlying non-quoted company investments that are affected persons, as defined.
- (ff) In determining whether a trust is an affected person, the Financial Surveillance Division deem a discretionary trust to have a 100 per cent non-resident shareholding by

virtue of the discretionary powers of the trustees, unless the Financial Surveillance Division is otherwise satisfied by virtue of past and continuing distribution policies of the trustees.

- (gg) Should permission for the initial transfer of income to a specific beneficiary be granted by the Financial Surveillance Division, the Authorised Dealer who obtained permission may on request by the trust effect payment of such income, as well as future annual or interim income, to the Authorised Dealer controlling the emigrant's remaining assets.
- (hh) Requests for income transfers in respect of a specific financial year that exceed the previous year's transferable income by more than 30 per cent must, however, continue to be referred to the Financial Surveillance Division for approval.
- (ii) Prior to authorising an income transfer, Authorised Dealers must satisfy themselves that the provisions of (mm) below are not applicable and that none of the under-mentioned occurred since the previous approval:
 - (1) an amendment to the trust deed;
 - (2) an additional donation received by the trust;
 - (3) a change in the accounting policy of the trust and/or its underlying investments;
 - (4) a change in the investments or assets of the trust (other than its quoted investments and/or deposits with financial institutions); or
 - (5) a non pro rata distribution of income where a beneficiary has a fixed interest.
- (jj) Each request must be accompanied by a Form MP1330(a). Where the total net income earned by the trust exceeds M250 000 per annum, Forms MP1330(a) and MP1331 or MP1332 must accompany each request. In all instances the aforementioned forms must be retained by the Authorised Dealer concerned for a period of five years for inspection purposes.

- (kk) In the case of interim transfers of income from inter vivos trusts to emigrant beneficiaries, an Interim Representation Letter in the format referred to in (iii)(c)(dd) above may be used.
 - (ll) Authorised Dealers should, however, still be furnished with the documentation specified in (bb) above on an annual basis, which must be reconciled with the Interim Representation Letter.
 - (mm) Where the auditor report has been qualified on either the financial statements or the Representation Letter, an application would have to be submitted to the Financial Surveillance Division. Such an application must be supported by the Auditor's Report, the Representation Letter and the financial statements covering the period in question and be accompanied by additional clarifying information.
- (d) Donations or gifts
- (aa) All requests for the transfer of income derived from donations or gifts received by emigrants within three years, or capital distributions from inter vivos trusts within three years, prior to the date of emigration, must be referred to the Financial Surveillance Division.
 - (bb) Where any other restrictions on the transfer of income have been imposed by the Financial Surveillance Division, such restrictions must be complied with.

(C) Income due to non-residents

- (i) Dividends, profit and income distributions
 - (a) Authorised Dealers may allow the transfer of dividends, profit and/or income distributions from quoted companies, non-quoted companies and other entities to non-residents in proportion to their percentage shareholding and/or ownership.
 - (b) Authorised Dealers may not allow the transfer from Lesotho of any income earned outside Lesotho, unless such funds represent the profits of wholly-owned subsidiaries or of

branches of Lesotho registered companies previously transferred to Lesotho.

(ii) Interest

- (a) Authorised Dealers may allow the transfer to non-residents of interest income on local debt securities owned by them, including interest bearing deposits held by them, with local financial institutions in terms of the Authorised Dealer Manual or in terms of a specific authority granted by the Financial Surveillance Division, provided that documentary evidence of such indebtedness by a resident debtor is produced by the applicant. Rates of interest or discount rates earned by the non-resident investor or lender must equate to the money and/or capital market rates ruling for such debt securities at the time of purchase or investment or lending or as specifically approved by the Financial Surveillance Division.
- (b) Authorised Dealers may allow the transfer to non-residents of interest income on loans granted to residents, provided that they are satisfied that the acceptance of the loan and the interest rate payable, were approved by the Authorised Dealer or Financial Surveillance Division.
- (c) Authorised Dealers may allow the transfer to non-residents of interest income in respect of funds held in trust accounts against the production of documentary evidence confirming the amount involved.

(iii) Directors' Fees

- (a) Authorised Dealers may allow the transfer to non-residents of directors' fees, provided that:
 - (aa) the application is accompanied by a copy of the resolution of the board of directors of the remitting company confirming the amount to be paid to the beneficiary; and
 - (bb) it can be shown that the beneficiary is a non-resident.

(iv) Income from Trusts

- (a) Trusts created in terms of a Last Will and Testament

- (aa) Authorised Dealers may allow the transfer of income to non-residents.
- (b) Inter Vivos Trusts
 - (aa) Authorised Dealers may allow the transfer of income to non-residents. The provisions of subsection (B)(iii)(c) above will also apply.
- (v) Rentals
 - (a) Income accruing to non-residents in the form of rental on their fixed property and income from rental pool agreements in which they have an interest may be remitted abroad against the production of a copy of the rental or rental pool agreement and provided that the client confirms to the Authorised Dealer that the amount is reasonable in relation to the property in question.
- (vi) Members' fees
 - (a) Authorised Dealers may allow the transfer of members' fees to non-resident members of close corporations, provided that:
 - (aa) the application is accompanied by a copy of the resolution of members of the remitting close corporation confirming the amount to be paid to the beneficiary; and
 - (bb) it can be shown that the beneficiary is a non-resident.

(D) Royalties and fees payable by Lesotho resident entities to non-residents

- (i) All royalties and fees payable to unrelated non-resident parties (e.g. the use of foreign owned technology, intellectual property and for services rendered by non-residents) are freely transferable abroad as outlined below:
 - (a) Payment for services rendered by non-residents, including the reimbursement of air fares, accommodation and other costs directly associated with the rendering of the services in question, not specifically dealt with elsewhere in the Authorised Dealer Manual, is transferable.

- (b) Prior to effecting any payments, Authorised Dealers should, where applicable, view a copy of the agreement entered into. In all instances an invoice, verifying the purpose and the amount involved, from the relevant non-resident party should be presented.
 - (c) Where applicable, minimum payments, advance payments and down payments are permissible provided that the advance payments and down payments are recoupable from future royalties or fees payable.
 - (d) Payment of percentage based fees is permissible provided it is normal in the trade concerned.
 - (e) The applicant entity must present a letter in respect of royalty payments, on an annual basis, from their independent auditor, confirming the amount or percentage transferred over a 12-month period to the Authorised Dealer. This arrangement only applies where the applicant entity has made recurring payments in terms of a royalty agreement.
- (ii) Requests by Lesotho residents to make royalty and fee payments to related parties abroad should be submitted to the Financial Surveillance Division for consideration. **A related party is defined as a party to a transaction that has a direct or indirect interest in the other party and has ability to control the other party or exercise significant influence over the other party in making financial and operating decisions.**
 - (iii) Authorised Dealers may, where applicable, approve the extension of related and/or unrelated party agreements authorised in (i) above as well as agreements previously approved by the Financial Surveillance Division, provided that the agreement originally entered into makes provision for an extension or an addendum to the agreement is viewed confirming the extension thereof.

(E) Licence agreements involving the local manufacture of goods

- (i) Royalties and fees payable to non-residents (related and unrelated parties) in respect of licence agreements involving the local manufacture of goods are subject to the following conditions:
 - (a) in respect of any new, renewed or amended licence agreement involving the local manufacture of goods, licensees should be informed that they must submit the royalty agreement in

triplicate directly to the Ministry of Trade and Industry and not to the Financial Surveillance Division;

- (b) the Authorised Dealer should be satisfied that the payments fall within the terms of the relative agreement and where applicable, comply with any conditions laid down in the authority granted by the Ministry of Trade and Industry;
- (c) where applicable, minimum payments, advance payments and down payments are permissible provided that such payments are normal in the trade concerned. The advance payments and down payments must be recoupable from future royalties or fees payable;
- (d) prior to effecting any payments, Authorised Dealers should view a copy of the approval letter from the Ministry of Trade and Industry. An invoice from the licensor, verifying the purpose and the amount involved, from the relevant non-resident party must also be presented for payment; and
- (e) a letter from the independent auditors of the local applicant entity, confirming the amount or percentage transferred or to be transferred has been correctly calculated and is reasonable in the trade concerned, is submitted to the Authorised Dealer effecting the transfer, at least once per calendar year.

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B.4 Single discretionary allowance and other miscellaneous payments for private individuals**(A) Single discretionary allowance per calendar year**

- (i) Residents (natural persons) who are 18 years and older may be permitted to avail of a single discretionary allowance within an overall limit of M1 million per individual per calendar year without the requirement to obtain a Tax Clearance Certificate, which may be used for any legal purpose abroad (including for investment purposes as well as the sending of gift parcels in lieu of cash excluding gold and jewellery).
- (ii) This dispensation may be utilised solely at the discretion of the resident without any documentary evidence having to be produced to the Authorised Dealer except for travel purposes outside the CMA where a passenger ticket needs to be produced.
- (iii) The single discretionary allowance may be transferred abroad in Maloti, however, transfers of a capital nature must be converted to foreign currency through an Authorised Dealer.
- (iv) The resident individual must produce a valid Lesotho identity document or a passport for identification purposes and the identity number is mandatory when reporting the transaction in terms of the Reporting System.
- (v) The requirements of (ix) below as well as that of section A.3(B)(xx) of the Authorised Dealer Manual must be complied with.
- (vi) Authorised Dealers should advise their clients that payments for current account transactions as provided for elsewhere in the Authorised Dealer Manual may be effected abroad against the presentation of documentary evidence and such payments will not be deducted from an individual's single discretionary allowance limit.
- (vii) To ensure accurate and comprehensive reporting of all data on cross-border transactions, Authorised Dealers must impress upon their clients the need to provide accurate information to enable the Authorised Dealers to correctly report the purpose of the transaction via the Reporting System.
- (viii) Authorised Dealers may allow resident individuals to transfer monetary gifts and loans within the single discretionary allowance limit of M1 million per applicant during a calendar year to non-resident individuals and to resident individuals who are overseas temporarily, excluding those residents who are abroad on holiday or business travel.

- (ix) In addition to monetary gifts, residents may export commemorative coins or the equivalent in fractional commemorative coins up to an amount of M30 000 as gifts to non-residents subject to the completion of the prescribed LRA Customs Declaration.
- (x) The authority conveyed by this section may not be used to disguise transfers for other purposes for which foreign currency would be refused under the appropriate sections of the Authorised Dealer Manual.

(B) Travel allowances

- (i) General
 - (a) There is no limit on the amount of Maloti that may be spent on travelling within the CMA.
 - (b) Residents (natural persons) who are under the age of 18 years may not be accorded single discretionary allowance as outlined in subsection (A)(i) above, but may be accorded a travel allowance not exceeding an amount of M200 000 per calendar year.
 - (c) In addition, up to M25 000 in cash, per person, may be taken when proceeding on visits outside the CMA, to meet travellers' immediate needs on return to Lesotho.
 - (d) When according travel allowances to persons who do not conduct accounts in their books, Authorised Dealers must record such persons' names, nationalities, residential addresses and telephone numbers to facilitate communication if needed.
 - (e) Visiting artistes, entertainers, sportspersons and other similar professionals may not be accorded the facilities outlined in this section of the Authorised Dealer Manual.
- (ii) Travel allowance limits
 - (a) Foreign currency may be made available within the single discretionary allowance limit of M1 million per calendar year, to the eligible parties mentioned in (iv) below, provided that the requirements of (ix) below are complied with.

- (b) Residents (natural persons) who are under the age of 18 years may be accorded a travel allowance not exceeding an amount of M200 000 per calendar year.
- (iii) Travel allowance format
 - (a) Foreign currency in respect of a travel allowance may be provided in any authorised form. Authorised Dealers may, therefore, accord individuals with foreign currency banknotes and travellers cheques for travel purposes.
 - (b) The travel allowance may also be transferred abroad to the traveller's own bank account and/or spouse accounts, but not to the account of a third party.
 - (c) Minors travelling with parents may have their travel allowances transferred to their parents' bank account abroad.
 - (d) Credit and/or debit cards may be used to avail up to 100 per cent of the authorised prescribed or remaining travel allowance.
- (iv) Eligible parties
 - (a) Residents
 - (aa) A travel allowance within the single discretionary allowance limit of M1 million per calendar year may be availed of by residents (natural persons) (excluding persons proceeding abroad to study) who are 18 years and older.
 - (bb) Residents (natural persons) who are under the age of 18 years may avail of a travel allowance not exceeding an amount of M200 000 per calendar year.
 - (b) Residents proceeding temporarily abroad
 - (aa) Residents proceeding abroad temporarily for reasons other than business or holiday travel may be granted a travel allowance within the single discretionary allowance limit of M1 million per calendar year.
 - (bb) See subsection (G) below.
 - (c) Students

- (aa) Residents who are proceeding abroad for study purposes qualify for an allowance within the single discretionary allowance limit of M1 million.
- (bb) Should a spouse accompany a student, an allowance within the single discretionary allowance limit of M1 million may also be accorded to the spouse.
- (cc) See (v) below.
- (d) Emigrants
 - (aa) An allowance within the single discretionary allowance limit of M1 million per calendar year may be availed of by emigrants on their permanent departure, provided that the requirements of section B.2(E) of the Authorised Dealer Manual have been complied with.
- (e) Prospective immigrants and immigrants
 - (aa) prospective immigrants and immigrants who have applied for, but who have not been granted permanent residence in Lesotho may be granted a travel allowance within the single discretionary allowance limit of M1 million per calendar year.
 - (bb) the Authorised Dealer should view documentary evidence to ensure that the funds tendered in payment represent either savings from local earnings or the proceeds of foreign currency introduced to and exchanged in Lesotho.
 - (cc) before acceding to such requests, Authorised Dealers must satisfy themselves that such persons have declared their foreign assets and liabilities.
 - (dd) in the case of recent immigrants, Authorised Dealers must satisfy themselves that the requirements of section B.5(B) of the Authorised Dealer Manual have been met.
- (f) Foreign nationals

- (aa) foreign nationals may be granted a travel allowance within the single discretionary allowance limit of M1 million per calendar year.
 - (bb) the Authorised Dealer should view documentary evidence to ensure that funds tendered in payment represent either savings from local earnings or the proceeds of foreign currency introduced to and exchanged in Lesotho.
 - (cc) in need, additional foreign currency may be provided to such persons in terms of the provisions of section B.5(A) of the Authorised Dealer Manual.
- (g) Common Monetary Area residents
- (aa) Residents of South Africa, Namibia and Swaziland do not qualify to be accorded a travel allowance in Lesotho except for the following:
 - (1) CMA residents who travel overland to and from Namibia through Botswana qualify to be accorded the Botswana Pula equivalent of an amount not exceeding M25 000 per calendar year. This allocation does not form part of the permissible travel allowance for residents.
 - (2) Foreign currency may be sold to foreign diplomats, accredited foreign diplomatic staff as well as students with a valid student card from other CMA member countries while in Lesotho.
 - (3) Residents of the other CMA countries, in Lesotho, may be accorded foreign currency at local international airports to cover unforeseen incidental costs while in transit, subject to viewing a passenger ticket confirming a destination outside the CMA.
 - (4) See section A.3(E) of the Authorised Dealer Manual.
- (v) Study allowances

- (a) Residents who are proceeding abroad for study purposes qualify for an allowance within the single discretionary allowance limit of M1 million.
- (b) Should a spouse accompany a student, an allowance within the single discretionary allowance limit of M1 million per calendar year may also be accorded to the spouse.
- (c) Authorised Dealers may also authorise the export of any household and personal effects, including jewellery (but excluding motor vehicles), up to a value of M200 000 per student under cover of the prescribed LRA Customs Declaration.
- (d) In addition to the foregoing, Authorised Dealers may transfer directly to the institution concerned the relative tuition and academic fees for the academic year, against documentary evidence confirming the amount involved.
- (e) Students under the age of 18 years also qualify for a study allowance to pay for costs associated with their studies abroad as well as a travel allowance of M200 000 per calendar year.
- (f) Any additional foreign exchange requirements must be referred to the Financial Surveillance Division.
- (g) Prior to effecting the payment, Authorised Dealers must view:
 - (aa) documentary evidence from the institutions concerned confirming that the student has been enrolled for a course for the period claimed; and
 - (bb) evidence of the tuition and academic fees in the form of a letter or prospectus from the institution to be attended.
- (h) The Authorised Dealers must, however, retain copies of the documents mentioned in (g) above, for a period of five years for inspection purposes.
- (i) Should a student require a continuation of the above-mentioned transfers during a period following the initial 12 months, new documentary evidence complying with the requirements of (g) above must be submitted and further transfers may thereafter be permitted on the basis outlined in (a), (b) and (e) above.

- (vi) Passenger tickets
- (a) With the exception of (viii) below, foreign currency may only be provided to persons who have been issued with passenger tickets in their names in Lesotho for journeys commencing from Lesotho.
 - (b) Such tickets may be paid for in Maloti, without any deduction from the travellers' travel allowances.
 - (c) Under no circumstances should this concession be regarded as being applicable to any arrangements whereby hotel accommodation and meals, overland, lake and river transportation and sightseeing tours are included in the price of a passenger ticket.
 - (d) In cases where a traveller who is in possession of a passenger ticket which has been purchased by a non-resident and issued abroad proceeds overseas, Authorised Dealers may issue foreign currency within the single discretionary allowance limit of M1 million.
 - (e) The cost of a cruise on a cruise ship may specifically not be paid in Maloti without any deduction from a travel allowance, unless the prior written approval of the Financial Surveillance Division has been obtained.
 - (f) Subject to the above-mentioned restrictions, the Financial Surveillance Division is also agreeable to a traveller who commences a journey from Lesotho, paying in Maloti without any deduction from the travel allowance for any additional cost of an extension or alteration to the journey, provided that the relative additional and/or alternative ticket is issued in Lesotho by:
 - (aa) an airline office or a travel agent acting on behalf of an airline who has ownership of the original passenger ticket; or
 - (bb) an overseas agent or representative office abroad of a ticket issuer in Lesotho, against a prepaid ticket advice arranged through a ticket issuer in Lesotho in conjunction with the original passenger ticket.

- (g) The arrangement in (f) above may also be regarded as being applicable in cases where travellers, having commenced the journey, wish to change from one means of transport to another in continuation of their journey.
- (h) Residents embarking on coastal cruises in Lesotho territorial waters and cruises to nowhere may be issued with foreign currency within the single discretionary allowance limit of M1 million per calendar year, subject to the following conditions:
 - (aa) foreign currency may only be provided to persons who have been issued with a valid passenger ticket in their name in Lesotho for the above-mentioned journeys; and
 - (bb) the conditions of (ix) below should be adhered to.
- (vii) Overland travel, charter flights, private aircraft and private yachts
 - (a) The arrangements in (vi) above do not apply to overland travellers, passengers on charter flights, persons flying private aircraft and persons sailing on private yachts who do not purchase tickets of the nature mentioned.
 - (b) Authorised Dealers may issue foreign currency within the single discretionary allowance of M1 million to such travellers.
- (viii) Land arrangements
 - (a) Authorised Dealers may effect advance payments in respect of tours, hotel accommodation and vehicle rental at the request of resident travel agents and/or tour operators. In this regard, a facsimile copy of an overseas invoice or email message, plus a covering invoice from the local travel agent may be accepted. The invoice issued by the local travel agent must contain the name and residential address of the resident traveller, as well as the foreign and/or Maloti amount.
 - (b) The eligible parties referred to in (iv) above who are not utilising the services of a travel agent or tour operator may be allowed to make advance payments or payments in full in respect of passenger tickets for travel between destinations outside of Lesotho, tours, hotel accommodation, vehicle rental and to cover the cost of admission to drama, music, religious and other similar festivals and sports events, provided that documentary

evidence from the foreign beneficiary is submitted in support of the request.

- (c) The advance payments mentioned in (a) and (b) above, must be deducted from the permissible travel allowance.
 - (d) The eligible parties referred to in (iv) above who are representing e.g. a club, school, provincial or national team may, however, prior to the purchase of a passenger ticket, be allowed to make advance payments or payments in full in respect of tours, hotel accommodation, vehicle rental and to cover the cost of admission to drama, music, religious and similar festivals and sports events, provided that documentary evidence from the foreign beneficiary is submitted in support of the request.
 - (e) These payments may be made over and above the travel allowance granted to an eligible party referred to in (iv) above.
 - (f) Furthermore, when reporting the transaction via the Reporting System, the name of the school, club, provincial or national body must be indicated and not the name of the individual participant.
 - (g) Where a local tour wholesaler or operator receives Maloti from a non-resident in respect of an inbound tour package, Authorised Dealers may permit the conversion of such Maloti into foreign currency in the spot market to enable the tour wholesaler or operator to settle foreign expenses in respect of the non-CMA portion of the tour package.
- (ix) Conditions applicable to the provision of foreign currency
- (a) Regulation 3(4) and (5) and 7(1)
 - (aa) When providing foreign currency, Authorised Dealers must inform their clients that in terms of the provisions of Regulation 3(4), the foreign currency provided may only be used for the purpose for which it was made available. Authorised Dealers must also inform their clients that in terms of the provisions of Regulation 7(1), any unused foreign currency must be resold within 30 days to an Authorised Dealer.
 - (cc) Exemption from Regulations 3(5) and 7(1) is, however, granted to business travellers going abroad on recurring

business trips. Where the next business trip is to occur within 90 days from returning from a previous business trip, any unutilised foreign currency may be retained by the traveller for use during the next business trip.

- (x) Provision of foreign currency facilities
 - (a) Except for business travel and land arrangements, a prospective traveller may not be furnished with foreign currency more than 60 days prior to the date of departure.
 - (b) Prior to making such foreign currency available, Authorised Dealers must record on their integrated forms the following information:
 - (aa) the mode of transport, the reference number issued, the date of departure as well as the destination, where a passenger ticket is issued; and
 - (bb) the mode of transport, the date of departure, the destination as well as the name of the border post from where the traveller will exit Lesotho, where a passenger ticket is not issued.
 - (c) Authorised Dealers must also obtain a written undertaking from the prospective traveller that the prospective traveller:
 - (aa) will indeed travel within 60 days from the date of the request to be accorded foreign currency;
 - (bb) will not purchase foreign currency from an Authorised Dealer in excess of the applicable limits;
 - (cc) will offer for resale all foreign currency accorded in the event of the trip being cancelled, to an Authorised Dealer and/or ADLA within 30 days of cancellation; and
 - (dd) will offer for resale to an Authorised Dealer and/or ADLA any unused foreign currency within 30 days of their return to Lesotho. Also see (ix) above.
- (xi) Term of travel allowance
 - (a) Travel allowances cover a calendar year. Any traveller who, on departure does not avail of the full travel allowance may be

accorded the unused portion while abroad, provided that the overall limit is not exceeded and the allowance is availed of in the same calendar year.

- (b) Any traveller not availing of the maximum allowance during a first journey may utilise the unused portion of the annual allowance for a subsequent journey at any time during the same calendar year.
 - (c) While advance payments in terms of (viii) above may, in need, be made in a preceding calendar year in respect of a journey commencing in the next calendar year, the amounts involved must be deducted from the single discretionary allowance applicable to the individual concerned in the following calendar year.
 - (d) A person who has not utilised any part of the travel allowance for a particular calendar year and who leaves on a journey which will extend into the next calendar year may be granted the full travel allowance facilities applicable to the calendar year in which the journey commences and the fact that the journey extends into the subsequent calendar year would not debar the granting of further travel allowance facilities for a separate subsequent journey in such calendar year. Also see (xii)(d) below regarding partially utilised facilities.
 - (e) A traveller whose visit extends from the current year into the following year may be accorded foreign currency in respect of the next year's facilities without returning to Lesotho.
- (xii) Unused foreign currency facilities
- (a) Arrangements have been concluded with international carriers in terms of which refunds on unutilised tickets issued in Lesotho will only be made in Lesotho.
 - (b) In respect of a completely or partially unutilised passenger ticket, a refund will only be made by the carrier against production of a written statement from the Authorised Dealer concerned, confirming that all the foreign currency originally provided has been repurchased. All parties who issued the relative facilities may have to consult with one another.
 - (c) A traveller who made advance payments, but who did not travel or who did not take up some bookings and who receives a

refund, must offer the foreign currency for sale to an Authorised Dealer within 30 days.

- (d) To the extent that foreign currency facilities previously granted have been repurchased, Authorised Dealers may subsequently furnish the equivalent Maloti amount in foreign currency to that person for further travel in the same calendar year, together with any balance which may not have been previously availed of up to the single discretionary allowance limit of M1 million per calendar year.

(C) Omnibus travel facilities

- (i) Authorised Dealers may approve in writing applications by entities for omnibus travel facilities up to M20 million per calendar year for allocation to the entities' representatives for business travel purposes only, at the discretion of the relevant entity.
- (ii) At the beginning of each calendar year, the entity should apply in writing, on the entity's letterhead, to the Authorised Dealer for permission to avail of an omnibus travel facility. The following should be included in the letter:
 - (a) the total amount that is applied for in the calendar year;
 - (b) that the amount applied for is reasonable in relation to the business activities of the entity concerned;
 - (c) the purpose that the omnibus travel facility will be used for;
 - (d) the envisaged number of trips during the calendar year;
 - (e) the names, surnames and identity numbers of the administrative employees that are authorised by the entity to deal with the Authorised Dealer;
 - (f) the CIV documentation of the administrative employees that are authorised by the entity to deal with the Authorised Dealer; and
 - (g) the CIV documentation of the entity.
- (iii) If the Authorised Dealer is satisfied that the entity has not applied for an omnibus travel facility with any other Authorised Dealer and the application letter and CIV documentation meet with the minimum requirements, a formal letter must be issued authorising the entity to

avail of an omnibus travel facility of up to M20 million (for business travel, land arrangements and subsistence allowances only) during the calendar year.

- (iv) On each occasion during the calendar year that the representatives of the entity have to travel, the Authorised Dealer must view an official letter from the entity concerned authorising the proposed business visits to be undertaken and explaining the purpose of the proposed business trips. The Authorised Dealer must also view the passenger ticket and passport of the prospective traveller(s).
- (v) The Authorised Dealer must maintain a schedule of the visits undertaken by the representative(s), the amount of foreign currency accorded and subsequently resold on each occasion.
- (vi) The above-mentioned documentation must be retained by the Authorised Dealer for a period of five years for inspection purposes.
- (vii) The omnibus travel facility may only be used for business travel purposes and may not be deposited into any foreign bank account or be used to acquire goods and/or services abroad.
- (viii) Applications for facilities in excess of M20 million must be submitted to the Financial Surveillance Division for consideration.
- (ix) Representatives of entities availing of an omnibus travel facility also qualify in their personal capacity for a travel allowance within the single discretionary allowance limit of M1 million per calendar year.

(D) Temporary exportation of personal effects and jewellery

- (i) All residents of the CMA may be required to present the prescribed LRA Customs Declaration on their departure from the CMA.

In the case of any jewellery to be temporarily exported, it must be fully manufactured and not crudely produced.

- (ii) Should the insurance value of the goods taken by the traveller exceed M200 000, the prior written approval of the Financial Surveillance Division must be obtained.
- (iii) The items to be exported must be returned to Lesotho within a period of six months.

- (iv) Where the items exported will not be returned to Lesotho and where the insurance value thereof exceeds M50 000, an application must be submitted to the Financial Surveillance Division.

(E) Temporary exportation of caravans, horse-boxes, motor/sail boats, motor vehicles and trailers

- (i) All residents of the CMA will be required to present the prescribed LRA Customs Declaration on their departure from the CMA.
- (ii) A traveller is allowed to export a caravan, horse-box, motor/sail boat, motor vehicle and/or trailer, from Lesotho temporarily when visiting SADC countries provided the items will be returned to Lesotho within a period of six months.
- (iii) Where the items exported will not be returned to Lesotho and where the insurance value thereof exceeds M50 000, an application must be submitted to the Financial Surveillance Division.

(F) Temporary export of ocean-going yachts, luxury vehicles and aircraft

- (i) Residents may be allowed to export ocean-going yachts, luxury vehicles and aircraft on a temporary basis, provided that the items will be returned to Lesotho within a period of 24 months and that the insured value thereof does not exceed M4 million. An application in this regard must be lodged with an Authorised Dealer who should view the following documentation before granting the approval:
 - (a) owner's registration certificate;
 - (b) insurance documents verifying the insured value; and
 - (c) a sworn affidavit from the registered owner confirming that the item will be returned to Lesotho within 24 months.
- (ii) All residents of the CMA may be required to present the prescribed LRA Customs Declaration on their departure from the CMA.
- (iii) A copy of the Authorised Dealer's approval must be retained by the traveller for presentation to the Customs authorities, if required, when the item(s) is returned to Lesotho.
- (iv) The Authorised Dealer concerned must also inform the applicable parties that while the item(s) may be chartered abroad, it may not be

sold abroad without the prior written approval of the Financial Surveillance Division.

- (v) Authorised Dealers may accord foreign currency to the crew members and/or any passengers proceeding abroad temporarily within the single discretionary allowance limit of M1 million.
- (vi) No further foreign currency may be accorded to such persons without the prior written approval of the Financial Surveillance Division.

(G) Residents temporarily abroad

- (i) Subsistence allowance
 - (a) Residents temporarily abroad, may avail of the M1 million single discretionary allowance and the M4 million foreign capital allowance per calendar year without returning to Lesotho.
 - (b) The requirements under section B.2(B)(i) of the Authorised Dealer Manual and subsection (A) above must be adhered to.
 - (c) Where residents temporarily abroad make use of a general or special power of attorney to facilitate such transfers, a certified copy of the applicant's national identity document or a passport must accompany the power of attorney.
 - (d) Authorised Dealers must view a duly electronically completed 'Tax Clearance Certificate – Foreign Investment Allowance', issued by LRA bearing the LRA logo every 12 months where a resident temporarily abroad avails of the M4 million foreign capital allowance dispensation. Also see section B.2(B)(i)(d) and/or (e) of the Authorised Dealer Manual.
 - (e) Residents temporarily abroad may use their local debit and/or credit cards within the overall single discretionary allowance limit of M1 million per applicant during a calendar year.
 - (f) The annual limit of the M1 million single discretionary allowance and the M4 million foreign capital allowance dispensations may not be exceeded.
 - (g) Residents temporarily abroad may receive pension and retirement annuities as mentioned in section B.3(A)(ii) of the Authorised Dealer Manual as well as monetary gifts and loans as mentioned in subsection (A)(x) above, however, no other

foreign currency may be availed of without the specific prior written approval of the Financial Surveillance Division.

- (ii) Temporary exportation of personal effects and other assets
 - (a) Any household and personal effects, motor vehicles, caravans, trailers, motorcycles, stamps and coins (excluding coins that are legal tender in Lesotho) per family unit or single person, where the insurance value does not exceed M1 million may be exported under cover of the prescribed LRA Customs Declaration.
 - (b) Farming implements for which the insurance value does not exceed M1 million may be exported against the prescribed LRA Customs Declaration by persons proceeding into African countries for farming purposes.

(H) Maintenance transfers

- (i) Authorised Dealers may allow their customers to effect maintenance transfers provided that the proposed beneficiaries are the father, mother, brother or sister of the applicant and are in necessitous circumstances.
- (ii) Before effecting any transfer, commencing a series of transfers or continuing a series of transfers, Authorised Dealers must obtain from the applicant documentary evidence signed by a magistrate or civic official in the city or town in which the beneficiary is resident stating, inter alia:
 - (a) Full names of the beneficiary;
 - (b) Address of the beneficiary; and
 - (c) Family relationship with the remitter in Lesotho and confirming that the beneficiary is in necessitous circumstances.
- (iii) The documentary evidence called for above may be regarded as valid for a period of 12 months and the original must be clearly endorsed "Exchange Provided", together with the date and the amount involved and returned to the customer, who must be requested to retain the evidence for a period of at least five years. Should a customer require a continuation of such remittances during a following 12 month period, fresh documentary evidence, which must be dealt with as outlined above, must be submitted to the branch.

(I) Alimony and child support payments

- (i) Authorised Dealers may allow their customers to effect alimony and child support payments over and above the amount provided for in an Order of Court provided that the beneficiary can be regarded as a non-resident for exchange control purposes. – see Section B.14 (B).

(J) Miscellaneous payments

- (i) In addition to the single discretionary allowance dispensation, Authorised Dealers may approve applications by residents (natural persons) for the transfer abroad of payments inclusive of associated costs to non-residents in respect of legitimate foreign obligations against the presentation of documentary evidence such as an invoice, court order or agreement.

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B.5 Personal transfers by foreign nationals and immigrants**(A) Foreign nationals**

- (i) Foreign nationals temporarily in Lesotho
 - (a) Foreign nationals (except those who are purely on a temporary visit) are required to declare on arrival in writing to an Authorised Dealer:
 - (aa) whether they are possessed of foreign assets and if so, give an undertaking to the effect that they will not place such assets at the disposal of a third party normally resident in Lesotho; and
 - (bb) that they have not applied for similar facilities through another Authorised Dealer.
 - (b) On receipt of such completed declarations and undertakings, Authorised Dealers may permit such foreign nationals to:
 - (aa) conduct their banking on a resident basis;
 - (cc) dispose of or otherwise invest their foreign assets including foreign cash funds held by them, subsequent accruals, as well as foreign income, without interference from the Financial Surveillance Division.
 - (dd) conduct non-resident or foreign currency accounts in the books of an Authorised Dealer; and
 - (bb) transfer abroad funds accumulated during their stay in Lesotho provided that:
 - (1) the foreign nationals can substantiate the source from which they have acquired such funds; and
 - (2) the value of such funds is reasonable in relation to their income generating activities in Lesotho during the period.
 - (c) The completed declarations and undertakings must be retained by Authorised Dealers, after the permanent departure of such individuals, for a period of five years for inspection purposes.

- (d) This provision excludes single transactions up to an amount of M3 000 per transaction per day within a limit of M10 000 per applicant per calendar month.
- (e) It should be noted that while the personal banking of foreign nationals temporarily resident in Lesotho may be conducted on **a resident basis**, any interest held by such individuals in local entities (i.e. legal persons) will be deemed as non-resident for the purposes of local financial assistance.
- (f) Export of personal effect and other assets
 - (aa) any household and personal effects, including motor vehicles, may be exported under cover of the prescribed Form F178 provided that the goods to be exported have been purchased with funds which would have been transferable or the goods have been imported into Lesotho. The individual must, in need, be able to substantiate the importation thereof by the production of documentary evidence.
- (g) Capital transfers by foreign nationals
 - (aa) Authorised Dealers may permit foreign nationals to retransfer abroad capital which has been introduced into Lesotho, provided that they can substantiate the original introduction of such funds.
- (ii) Foreign crew members
 - (a) Foreign crew members and seamen of ships calling at South African ports may be permitted to remit savings from their earnings, but in no circumstances should foreign exchange be made available against local payment in Maloti.
- (iii) Foreign visitors
 - (a) Foreign visitors (tourists) to Lesotho may only be granted foreign currency if the Authorised Dealers are satisfied that the amount being applied for, is the unspent portion of the proceeds of foreign currency introduced to and exchanged in Lesotho.

- (b) Foreign visitors (tourists) to Lesotho may introduce foreign currency in any amount and in any amount and in any form (e.g. foreign bank notes, travellers cheques).
- (c) Foreign visitors (tourists) may export any funds originating from instruments of foreign currency (including foreign bank notes) imported into Lesotho on their arrival. No more than M25 000 may be exported in Central Bank of Lesotho notes.
- (d) Credit and/or debit card issuers any issue such cards to foreign visitors, provided that the expenditure is settled in foreign currency or Maloti from a Non-resident Maloti account.

(B) Immigrants

- (i) Taking up of permanent residence in Lesotho
 - (a) On arrival in Lesotho, immigrants are required to declare to an Authorised Dealer, whether they possess foreign assets and, if so, give an undertaking that they will not place such foreign assets at the disposal of a third party normally resident in Lesotho.
 - (b) Authorised Dealers are required to furnish the Financial Surveillance Division, on a monthly basis, with a consolidated return in which the following information is reflected under the name and branch code number of each individual branch in respect of such individuals:
 - (aa) full names of individuals, spouse and dependant(s);
 - (bb) dates of immigration (see (c) below); and
 - (cc) dates of birth.
 - (c) New immigrants must in due course provide the Authorised Dealer with documentary evidence substantiating that they have been granted permanent residence in Lesotho. They should be regarded as immigrants with effect from the date of their arrival in Lesotho.
 - (d) The relevant declaration and undertaking, as well as documentary evidence substantiating permanent residence must be retained by Authorised Dealers for a period of five years

after the expiry of the concessionary period referred to in (ii)(b) below (i.e. for a period of ten years).

- (ii) Concessions to immigrants
 - (a) Authorised Dealers should inform new immigrants who have completed the necessary declaration and undertaking that they may dispose of or otherwise invest their foreign assets, including foreign cash funds held by them, subsequent accruals, as well as foreign earned income without interference from the Financial Surveillance Division.
 - (b) Authorised Dealers may permit immigrants who have immigrated:
 - (aa) Within five years of the date of their immigration, to retransfer or re-export all own assets introduced or imported during the five-year period, provided that:
 - (1) the necessary declarations and undertakings were completed on their arrival in Lesotho as outlined in (i)(a) above; and
 - (2) they can substantiate the original introduction or importation of such assets.
 - (bb) Within five years of the date of their immigration, to transfer abroad their Lesotho assets in excess of those referred to in (aa) above, provided that:
 - (1) the Authorised Dealer concerned is satisfied that the individuals will be leaving Lesotho permanently; and
 - (2) the Authorised Dealer is satisfied that the assets to be transferred are reasonable in relation to the growth resulting from such individual's business or employment activities and/or is market related.
 - (cc) After five years of the date of their immigration, immigrants will be regarded on departure as emigrants from Lesotho and will qualify for the prescribed emigration facilities.

- (dd) In addition to (cc) above, Authorised Dealers may permit such immigrants to retransfer or re-export all own assets introduced or imported, provided that:
 - (1) the necessary declarations and undertakings were completed on the arrival in Lesotho; and
 - (2) they can substantiate the original introduction or importation of such assets.
 - (ee) Any household and personal effects, including motor vehicles, may be exported under cover of the prescribed LRA Customs Declaration provided that the goods to be exported have been purchased with funds that would have been transferable and/or have been imported into Lesotho. The individual must, in need, be able to substantiate the importation thereof by the production of documentary evidence.
- (iii) Payments by immigrants
- (a) Applications by immigrants may be approved by Authorised Dealers for the provision of foreign currency to cover current and arrear premiums due on foreign currency life insurance policies or contributions to pension and medical aid funds, provided that:
 - (aa) the necessary declaration and undertaking were completed; and
 - (bb) documentary evidence is presented, verifying the amounts due and that the commitment was entered into before the applicants took up residence in Lesotho.
 - (b) Immigrants may against the presentation to an Authorised Dealer of documentary evidence confirming the amount involved repay loans received in their previous country of domicile.
 - (c) Immigrants may settle foreign tax commitments from Lesotho against the production of documentary evidence confirming the amount involved.

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B.6 Embassies, high commissions, legations, consulates and official overseas representatives**(A) Embassies, high commissions, legations and consulates**

- (i) Embassies, high commissions, legations and consulates may conduct their banking on a resident basis.
- (ii) Foreign currency for the transfer of official funds may be provided freely where the Authorised Dealer concerned is satisfied that the transaction is in the normal course of their business.

(B) Official overseas representatives

- (i) Official foreign representatives should, for purposes of this section, be interpreted to include foreign diplomatic and trade representatives, as well as members of their staff.
- (ii) The facilities outlined in (iii) and (iv) below should not be extended to Lesotho nationals employed by, or as, official overseas representatives, but should be confined to those persons transferred to Lesotho on a tour of duty.
- (iii) While it is not intended to grant such persons any general exemption from the provisions of the Regulations, they may be permitted to retransfer funds introduced from abroad.
- (iv) The export of personal and household goods and vehicles brought into the CMA by the official representatives or purchased by them while in the CMA with funds introduced from abroad, is permissible under cover of the prescribed LRA Customs Declaration.

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B.7 Transfers to charitable, religious or educational bodies and missionaries**(A) Charitable, religious or educational bodies**

- (i) Applications by official or recognised charitable, religious or educational bodies, for the transfer of funds to such bodies in countries outside the CMA should be submitted to the Financial Surveillance Division with full particulars, unless Authorised Dealers have received special authority to approve, without further reference to Financial Surveillance Division, applications made by specific organisations.

(B) Missionaries

- (i) Authorised Dealers may allow religious bodies to transfer up to M20 000 per annum per beneficiary to missionaries, provided that a letter from an official or recognised religious body is viewed confirming that the person is a missionary abroad.

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B.8 Shipping companies, airline companies and travel agents**(A) General**

- (i) Shipping and airline companies, travel agents and tour operators, may not, without the permission of the Financial Surveillance Division, engage in any foreign exchange transactions, except as provided for in (ii) and (iii) below.
- (ii) Travel agents and tour operators may effect transfers abroad on the basis indicated in subsection (C) below.
- (iii) Shipping or airline companies may only effect bulk transfers abroad on the basis outlined in subsection (D) below.

(B) Sale of passenger tickets in Lesotho

- (i) Except as provided for in (iii) below, no passenger ticket may be issued locally against payment in Maloti for utilisation by a traveller whose journey does not commence from the CMA.
- (ii) Journeys by Non-Residents
 - (a) Travel agents and tour operators may accept payment in foreign exchange (either by foreign credit card or foreign exchange payments to the agent's bank account) by visitors to Lesotho for passenger tickets for journeys from Lesotho.
 - (b) Where payment is to be effected in Maloti by such visitors, travel agents and tour operators must view documentary evidence that the relative funds represent the proceeds of foreign exchange introduced into and exchanged in Lesotho.
 - (c) Where a resident wishes to pay for the cost of a passenger ticket for a single or return journey commencing outside the CMA to the CMA, payment for such ticket may either be transferred directly to a foreign travel agent or to an overseas airline company. Alternatively, the ticket may be issued and paid for in Maloti in Lesotho or the ticket may be issued abroad against a Prepaid Ticket Advice (PTA) paid for in Maloti.
 - (d) No payment may be accepted to cover the cost of the fare of a non-resident for travel between destinations outside Lesotho without the specific approval of the Financial Surveillance Division, unless payment is made in foreign exchange or Maloti from a Non-Resident Maloti Account.

- (e) Alternatively, travel agents and tour operators may arrange that passenger tickets be purchased via the internet.
- (iii) Sale of passenger tickets where travel agents and tour operators sell journeys to their clients for travel between destinations outside Lesotho
 - (a) Travel agents and tour operators may accept payment in Maloti to cover the cost of passenger tickets for travel between destinations outside of Lesotho in order to accommodate the following:
 - (aa) corporate clients and/or contractors who may need to second foreign based personnel, or outsourced persons, to fulfil contractual obligations;
 - (bb) Local clients with a global presence who wish to attend conferences and/or training;
 - (cc) travel arranged by Non-Governmental Organisations (NGO's); and
 - (dd) leisure bookings by travel agents via the internet.
 - (b) The passenger ticket may be issued and paid for in Maloti in Lesotho or the passenger ticket may be issued abroad against a Prepaid Ticket Advice (PTA) paid for in Maloti.
 - (c) Alternatively, travel agents and tour operators may arrange that passenger tickets be purchased via the internet.

(C) Foreign exchange disbursements on behalf of travellers

- (i) Advance Payments and/or Payments in full
 - (a) Travel agents and tour operators who wish to effect advance payments or payments in full in respect of independent or package tours offered to the public must produce documentary evidence in the form of an invoice or pro forma invoice from the foreign payee confirming the amount payable.
 - (b) For purposes of this subsection, as well as subsection (ii) below, a facsimile copy of an overseas invoice plus a covering invoice

issued by a local travel agent and tour operator may be accepted when remitting funds abroad. The invoice issued by the local agent must contain the name and residential address of the traveller, as well as the foreign currency and/or Maloti amount.

- (ii) Subsequent Payments
 - (a) Subsequent payments by agents to cover any portion or the balance of a tour not transferred in subsection (i) above may be permitted, provided that documentary evidence in the form of an invoice or pro forma invoice from the foreign payee confirming the amount payable, is exhibited.
 - (b) Travel agents and tour operators must, at the time of selling a tour to an individual, in respect of advance payments, payments in full and/or subsequent payments, obtain a written declaration from the party concerned to the effect that such party is fully conversant with the conditions pertaining to the issue of a travel allowance and is aware that the cost of any land arrangements paid for locally and/or abroad is deductible from the travel allowance that forms part of the single discretionary allowance limit of M1 million per calendar year.
- (iii) Cancellation Fees
 - (a) In respect of cancellation fees due to foreign payees, Authorised Dealers may effect such payments, against the production of documentary evidence.
- (iv) Refunds in respect of unutilised bookings
 - (a) Where payments for bookings abroad have been effected on behalf of a traveller who does not travel or does not utilise the bookings made and a refund is obtained, such reimbursement received by the agent from abroad must be retransferred to Lesotho within 30 days.
- (v) Incentive Tours
 - (a) Travel agents may effect payments, including advance payments, in respect of package tours offered by firms or companies to employees as part of an incentive scheme against the production of documentary evidence, as well as an official letter from the firm or company concerned.

(D) Bulk transfers by shipping and airline companies

- (i) The local offices of foreign shipping and airline companies may be allowed to transfer surplus funds abroad periodically against submission to Authorised Dealers of supporting statements giving details of freight and passenger fare collections, less local disbursements in respect of their vessels or aircraft and administrative expenditure.
- (ii) Authorised Dealers must, on an annual basis, call for auditors' certificates confirming the items enumerated on the statements.

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B.9 Freight payments and ships disbursements**(A) Inward freight payable in foreign currencies**

- (i) Foreign currency payments for imports into Lesotho may be effected on any shipment and/or delivery term where the freight is included in the cost of the goods being imported.
- (ii) Authorised Dealers may authorise payments in respect of freight on imports into Lesotho on a Free on Board (F.O.B.) basis against documentary evidence of the commitment and confirmation that the relative goods have been or are to be imported on a F.O.B. basis.

(B) Inward freight payable in maloti to non-Lesotho shipping and airline companies

- (i) Local agents and branches of non-Lesotho carriers may accept Maloti in respect of inward freight against evidence of the commitment and confirmation that the relative goods have been or are to be imported on a F.O.B. basis.
- (ii) These funds will be eligible to meet local disbursements by the non-Lesotho carriers concerned and any surplus may be transferred abroad.
- (iii) In selling foreign exchange to local agents and branches of non-Lesotho carriers, Authorised Dealers should satisfy themselves, by calling for a letter from the company signed by a senior official enclosing a statement of the relative freight collections, less disbursement in Lesotho, that the funds are eligible for transfer. Audited statements should be called for on an annual basis.

All transactions should be closely scrutinised to ensure that the requirements of the Financial Surveillance Division are fully complied with.

(C) Outward freight payable in foreign currencies

- (i) Payment may be effected to non-resident owners or charterers of carrying vessels, aircraft or vehicles, provided that it can be satisfactorily established that the relative goods have either:
 - (a) been sold on a Cost and Freight or Cost Insurance and Freight basis against payment in foreign currency;

- (b) been sold on a Cost and Freight or Cost Insurance and Freight basis against payment in Maloti from a Non-Resident Maloti Account;
- (c) are being exported on consignment; or
- (d) are exported under cover of an attested Form F178.

(D) Freight payment in foreign currency between residents

- (i) Refer to section E.(B)(iv) of the Authorised Dealer Manual regarding exemptions granted in this regard.

(E) Freight documentation requirement

- (i) Residents must ensure that original freight invoices are presented to an Authorised Dealer for payment. Under no circumstances may Authorised Dealers accept quotes and/or pro-forma invoices presented for payment.

(F) Ships and aircraft disbursements

- (i) Authorised Dealers may permit payments in respect of the normal operational commitments, including container leasing charges incurred outside Lesotho by ships and aircraft owned or chartered by residents for commercial purposes. Documentary evidence of the charges involved should be submitted by the applicant.

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B.10 Insurance and pension**(A) Introduction**

- (i) Only those branches of the Authorised Dealers referred to in subsection (K) below may effect payments in foreign currency in terms of this section of the Authorised Dealer Manual.
- (ii) As a general approach residents are not allowed to enter into any insurance contracts with foreign insurance companies.
- (iii) However, in view of the limited scope and extent of cover that is available in the Lesotho insurance market, persons, local insurance companies, intermediaries or brokers and Lloyd's correspondents are in certain instances allowed to cover risks with foreign insurance companies and with Lloyd's of London.
- (iv) The Insurance Act, 2014, prohibits a person to induce or attempt to induce a person to enter into a contract of insurance with a person who is not registered as an insurer under this Act. A foreign insurer or an intermediary (local or foreign) is therefore not allowed to market or sell a foreign insurer's product in Lesotho unless registered as an insurer or reinsure under this Act.
- (v) Authorised Dealers may approve applications by resident entities or individuals to make payments in the prescribed manner to non-resident parties in respect of insurance premiums in terms of the provisions set out in the subsections below.

(B) Glossary of terms

- (i) Bordereau
 - (a) A bordereau is an invoice submitted by an insurer to a reinsurer setting out details of the reinsurance, which has been effected (i.e. name of the insured, period of insurance, sum insured, premium and reinsurer's proportion of sum insured and premium).
- (ii) Brokers
 - (a) See the intermediaries referred to in (vii) below.
- (iii) Captive Insurance Company

- (a) A captive insurance company is a company which is a subsidiary of a parent group and which is formed in order to insure or reinsure risks and exposures of that parent group only.
 - (b) Many large national and multinational organisations have the financial ability to self-insure.
 - (c) One of the recognised ways of effecting self-insurance is to set up a captive insurance subsidiary.
- (iv) Direct Insurers
- (a) Direct insurers underwrite direct insurance and reinsurance business.
- (v) Facultative Reinsurance
- (a) Facultative reinsurance is arranged on an “ad hoc” basis meaning that risks are offered one by one according to the particular requirements of the original insurer.
 - (b) All material facts relating to the risk must be disclosed to the reinsurer in the same way as a proposer must disclose material facts to an insurer.
 - (c) The reinsurer considers each case on its merits and is free to accept or to reject the offer.
 - (d) The important features of facultative reinsurance are freedom of choice by the original insurer and the reinsurer respectively to offer and to accept and disclosure of material facts relating to individual risks.
- (vi) Insurance Act, 2014
- (a) Means the Insurance Act, 2014, as amended.
- (vi) Insurer
- (a) An insurer is one party to an insurance policy/contract, the other party being the policyholder.
- (vii) Intermediaries

- (a) Intermediaries are go-betweens or middlemen between the insurer and the policyholder.
 - (b) An intermediary may represent an insurer and canvas for business on its behalf or he may act for a client and purchase insurance on the client's behalf. The intermediary is remunerated by the insurer by way of commission.
 - (c) Where an intermediary acts on behalf of a client, the intermediary advises the client on the nature and extent of the cover he should have and acts for him in obtaining the best cover available in the market. The intermediary may not be tied to any particular insurer, but is, however, remunerated by way of brokerage commission by the insurer with whom the intermediary places the business.
- (vii) Life insurance business
- (a) Life insurance business means the business of assuming the obligations of an insurer under life policies which, inter alia, include endowment policies, retirement annuity policies, annuity policies, etc.
- (viii) Lloyd's Correspondent
- (a) Lloyd's correspondent means a person who is approved by Lloyd's and authorised by a Lloyd's broker or Lloyd's underwriter to act in Lesotho as an agent for or on behalf of such broker or underwriter.
- (ix) Lloyd's of London
- (a) Lloyd's underwrites are authorised, based on the conditions determined in the Insurance Act, to carry on short-term insurance business in Lesotho. Lloyd's is not an insurance company. It is an association of individual underwriters who operate only from London, but who underwrites business introduced by brokers from all parts of the world.
 - (b) Lloyd's can also be referred to as a market place and a central organisation dealing with administration, documentation and accounting.
 - (c) The insurance is transacted by separate underwriting syndicates. These syndicates conduct independent operations

in the acceptance of insurance business, although some specialise in particular classes of insurance and geographical areas. The syndicates vary in size and act on behalf of their individual members. Each member authorises the syndicate of which he is a member to underwrite premium income and accepts unlimited liability for the insurance underwritten. Insurance can only be placed with syndicates by registered accredited Lloyd's brokers in London. These brokers have agents, known as Lloyd's correspondents throughout the world.

- (x) Long-term Insurance Business
 - (a) Long-term insurance business means any life business, industrial business, funeral business, home service business or sinking fund business.
 - (b) Long-term insurance's main purposes are the offering of benefits on death on a specific date or the occurrence of an accident or on disablement. It helps the policy holder to make financial provision for himself and his dependants. It also provides a medium of saving and investment on a systematic long-term basis. Most policies combine these two aspects of life insurance, the protection element and the savings element, to a greater or lesser degree.

- (xi) Marine Insurance
 - (a) Marine insurance is a contract which indemnifies the insured against:
 - (aa) loss of or damage to any vessel;
 - (bb) loss of or damage to goods during their conveyance by land, air or water or whilst being stored, handled or treated in connection with such conveyance;
 - (cc) loss of freight for any such conveyance; and
 - (dd) any other loss in connection with any such vessel or goods or freight against which an insurance may lawfully be effected.
 - (b) Goods conveyed solely on land, although interstate, shall not be regarded as a marine policy and will therefore not qualify for purposes of subsection (E) (iv) below.

- (xii) Professional Reinsurers
 - (a) Professional reinsurers confine their activities to reinsurance and do not undertake direct underwriting.
- (xiii) Reinsurer
 - (a) A reinsurer is a party to an insurance contract with an insurer.
 - (b) Under a reinsurance contract the reinsurer accepts all or a certain share of the insurance or insurances underwritten by the insurer in return for a certain share of the premium. This enables an insurer to underwrite much larger amounts than it would be able to carry for its own account.
- (xiv) Short-term Insurance act
 - (a) Short-term Insurance Act means the Insurance Act, 2014, as amended.
- (xv) Short-term insurance business
 - (a) Short-term insurance embraces all insurance contracts other than long-term insurance contracts.
 - (b) The majority of short-term insurance contracts run for 12 months or less and may be renewed from one period to another.
- (xvi) Sinking fund business
 - (a) Sinking fund business means the business of assuming obligations under sinking fund policies.
- (xvii) Sinking fund policy
 - (a) Sinking fund policy means a contract other than a life policy, in terms of which an insurer, in return for a premium, undertakes to provide one or more sums of money, on a fixed or determinable future date, as policy benefits.
- (xviii) Slip
 - (a) A slip means a memorandum from the insurer to the reinsurer setting out all salient details of the proposed transaction in

terms of the original offer. If acceptable, the original (or Master) slip is initialled and dated by the reinsurer and returned to the insurer.

(xxi) Treaty Reinsurance

- (a) Treaty reinsurance is a contract between an insurer and a reinsurer whereby the reinsurer is obliged to accept all items ceded to it in terms of the treaty over a specified period without any consideration being given to the merits of any individual risk.
- (b) The important features of treaty reinsurance are an obligatory acceptance by the reinsurer of any risk falling within the ambit of the treaty and the absence of the necessity for the original insurer to disclose details of individual risks.

(C) Foreign currency payments in respect of short-term insurance premiums

- (i) In respect of insurance placed abroad, Authorised Dealers may approve the following:

- (a) Reinsurance by Registered Insurers (excluding registered captive insurance companies)

Applications by registered insurance companies to remit reinsurance premiums (excluding reinsurance premiums in respect of currency risks), which request is accompanied by a letter signed by two senior officials of the company concerned, incorporating:

- (aa) a declaration that the applicant is registered in terms of Section 8 of the Insurance Act and has been issued with a registration certificate by the Commissioner of Insurance; and
- (b) Reinsurance through intermediaries, including Lloyd's correspondents approved by Lloyd's of London

Applications by intermediaries to remit reinsurance premiums, excluding reinsurance premiums in respect of currency risks, provided that the request is accompanied by:

- (aa) a letter signed by two senior officials of the intermediary/Lloyd's correspondent concerned

incorporating the names of the registered insurance and reinsurance companies or Lloyd's brokers/Lloyd's underwriters on whose behalf the reinsurance is transacted;

- (c) Insurance (excluding reinsurance) through Lloyd's correspondents approved by Lloyd's of London

Applications by Lloyd's correspondents approved by Lloyd's of London to remit insurance premiums, excluding insurance premiums in respect of currency risks, in respect of:

- (aa) cover placed in its entirety with Lloyd's underwriters through a broker at Lloyd's, which request must be accompanied by a letter signed by two senior officials of the agent concerned incorporating:

- (1) a declaration that the Lloyd's correspondent is authorised to carry on such insurance business as stipulated in the Insurance Act, 2014; and
- (2) a declaration that the underlying transaction was entered into with an underwriter at Lloyd's;

- (bb) cover placed through a broker at Lloyd's which is not in its entirety underwritten by an underwriter at Lloyd's which request must be accompanied by:

- (1) letter signed by two senior officials of the Lloyd's correspondent declaring that the Lloyd's correspondent is authorised to carry on such insurance business as stipulated in the Insurance Act, 2014.
- (2) a copy of the letter issued by the Commissioner of Insurance, granting approval in terms of section 74 of the Insurance Act, 2014 to the intermediary/Lloyd's correspondent to render services in relation to that policy.

- (ii) Documentary Evidence

- (a) All requests for the remittance of insurance premiums referred to above must also be supported by documentary evidence (e.g.

a statement of account, bordereau, slip or debit note) reflecting details of the insurance transacted and premiums payable.

- (iii) Transactions on open account
 - (a) In respect of the transactions outlined in subsection (C)(i) above, Authorised Dealers may approve requests by the entities mentioned to transact insurance business with foreign insurance companies, intermediaries and Lloyd's of London on open account with settlement of outstanding account balances taking place periodically.
 - (b) Authorised Dealers are required to view statements of account or bordereaux reflecting details of all debits and credits passed over such accounts before authorising payments in settlement thereof. Care must be exercised to ensure that only the following debits and credits are reflected:
 - (aa) premiums;
 - (bb) taxes;
 - (cc) commissions;
 - (dd) brokerage;
 - (ee) losses;
 - (ff) claims;
 - (gg) premium reserves retained;
 - (hh) premium reserves released;
 - (ii) loss reserves retained;
 - (jj) loss reserves released;
 - (kk) premium adjustments including refunds; and
 - (ll) interest on reserves.
 - (c) No other debits and credits, e.g. directors' fees, travel expenses, administrative fees, dividends, etc. may be passed over these accounts.
- (iv) Applications to the Financial Surveillance Division
 - (a) All applications to remit insurance premiums, excluding insurance premiums in respect of currency risks, not covered in subsection (C)(i) above, must be submitted timeously by the Authorised Dealer to the Financial Surveillance Division, P.O. Box 1184, Corner Moshoeshoe and Airport road, Maseru, 100.
 - (b) Such applications must be accompanied by documentary evidence (e.g. invoice, a statement of account, etc.).

- (c) The Financial Surveillance Division will communicate their response to the Authorised Dealer concerned who may effect transfer against suitable documentary evidence, provided that the request was recommended by the aforementioned division.
- (v) Applications to the Financial Surveillance Division
 - (a) All applications to remit reinsurance and/or insurance premiums abroad in respect of currency risks must be submitted to the Financial Surveillance Division for consideration.
- (vi) Registered captive insurance companies
 - (a) Offshore captive insurance companies
 - (aa) The establishment of captive insurance companies abroad requires the prior approval of the Financial Surveillance Division.
 - (bb) Permission is also required to remit insurance premiums to such captives. Any such request must contain full particulars of the insurance to be transacted and be accompanied by documentary evidence (e.g. invoice, a statement of account, etc.).
 - (b) Onshore captive insurance companies
 - (aa) Applications by onshore captive insurance companies to remit premiums in respect of the placement of reinsurance abroad must be submitted to the Financial Surveillance Division.
 - (bb) Such applications must contain full particulars of the reinsurance to be transacted, and documentary evidence (such as statement of account, bordereau, slip or debit note)
- (vii) Refund of pro rata worldwide corporate group insurance
 - (a) Where the group or global insurance cover is taken out by the non-resident holding or parent company, Authorised Dealers may transfer the pro rata premium against the production of documentary evidence confirming the local company's portion.

- (b) Authorised Dealers should on a quarterly basis and in the prescribed format report directly to the Insurance Supervision Division under Other Financial Institutions Department all refunds transferred in terms of the above-mentioned authority, and notify the Financial Surveillance Division.

(D) General

(i) Insurance Acts

- (a) It should be drawn to the attention of registered Lesotho insurance companies and brokers, underwriters and Lloyd's correspondents approved by Lloyd's of London that the Authorised Dealer Manual does not absolve them from complying with all the relevant sections of the Insurance Act, 2014.

(ii) Branch Settlements

- (a) The registration of branches outside the CMA requires the prior approval of the Financial Surveillance Division and notification to the Insurance Supervision Division of the Other Financial Institutions Department.
- (b) Authorised Dealers may approve requests by registered local insurance companies to settle claims in Lesotho under policies written by their authorised branches or agents outside Lesotho and vice versa.
- (c) It is a condition that any foreign currency surplus to a branch's requirements must be repatriated periodically (at least on an annual basis) in terms of the provisions of Regulation 7.
- (d) All Lesotho insurance companies with branches or agents outside the CMA must submit a statement to the Financial Surveillance Division by 31 March each year, giving particulars of their foreign currency assets and liabilities as at 31 December of the previous year.

(iii) Foreign currency working balances

- (a) Applications by Lesotho insurance companies registered in terms of Section 3(i) of the Insurance Act, who wish to retain foreign currency premiums and any other foreign currency that

accrues to them for settlement of claims under policies issued in foreign currency must be submitted to the Financial Surveillance Division. Such applications must, inter alia, also incorporate the following information:

- (aa) the amount of the contingent liabilities (unexpired premiums) of the insurer or reinsurer concerned under unexpired foreign currency policies, calculated in accordance with the provisions of Section 16 of Insurance Act, 2014 read in conjunction with Section 5 of Insurance regulations 1985;
 - (bb) the amount, as estimated by the insurer or reinsurer, of the liabilities in respect of claims under foreign currency policies which had been intimated to the insurer or reinsurer but which had not been paid at any given date; and
 - (cc) the amount, as estimated in accordance with the method prescribed by the applicable authority of the insurer's or reinsurer's liabilities relating to claims under foreign currency policies which had arisen but had not been intimated at any given date.
- (b) The above-mentioned information would be used by the Financial Surveillance Division as a guideline only in determining the extent of foreign currency working balances that may be retained.
- (c) The following would be conditions of any approval granted by the Financial Surveillance Division:
- (aa) the foreign currency working balances must be administered by local Authorised Dealers in a C.F.C. account opened in the name of their client.
 - (bb) the C.F.C. accounts must form part of the Authorised Dealer's nostro accounts administration and accordingly the client may not operate thereon other than through and with the full cognisance and approval of the Authorised Dealer concerned; and
 - (cc) any foreign currency surplus not required to meet estimated future foreign currency commitments, must

be converted to Maloti periodically (at least on an annual basis).

- (iv) Premiums
 - (a) Premiums on existing long-term foreign currency insurance policies and pension fund contributions due by immigrants may be dealt with in terms of subsection B.5 (B) (i) of the Authorised Dealer Manual.
 - (b) Premiums on insurance policies and pension fund contributions due by nationals of other countries who are temporarily resident in Lesotho on secondment to a local firm or who were recruited by a Lesotho firm under a definite contract and who are still so employed, may be dealt with in terms of subsection B.5(A) of the Authorised Dealer Manual.

(E) Short-term insurance by residents

- (i) In general, short-term insurance policies may be issued by registered Lesotho insurance companies in Maloti only, except as provided for in (ii) below
- (ii) Insurance policies may be issued in foreign currency to cover risks incidental to:
 - (a) aviation (hull only);
 - (b) assets held outside the CMA with approval;
 - (c) foreign travel;
 - (d) marine and war, general average, salvage or other third party liability under marine insurance and reinsurance (hull and cargo); and
 - (e) imports and exports of physical goods (provided that the contract of sale is denominated in foreign currency and the resident party carries the risk).
- (iii) Premiums may, however, only be paid in Lesotho and the insurance company concerned may apply to the Financial Surveillance Division for

permission to convert such premiums into foreign currency on the basis outlined in subsection (D)(iv) above.

- (iv) Short-term insurance policies issued by tribunalised agents on behalf of Lloyd's of London may be issued in Maloti or in any foreign currency.
- (v) In paying or arranging the payment of foreign currency claims to residents, insurance companies and agents referred to above must ensure that the funds are converted to Maloti in terms of Regulation 7.
- (vi) Should it be required to dispose of the foreign currency in some other way, an application must be submitted to the Financial Surveillance Division. Pending the submission of an application, funds not exceeding the equivalent of M5 000 per person may be made available in foreign currency to cover the cost of replacement articles and expenses incidental to claims in respect of policies issued to cover foreign travel risks.
- (vii) Where insurance policies have been issued to exporters of goods sold on C.I.F. terms, funds due by registered Lesotho insurance companies in settlement of claims lodged by the buyers may be transferred abroad or if authorised, released by the Authorised Dealer concerned from a C.F.C. account.

(F) Short-term insurance by non-residents

- (i) Short-term insurance policies may be issued to non-residents by registered Lesotho insurance companies and intermediaries in Maloti or in any foreign currency. Authorised Dealers must, however, satisfy themselves that premiums in respect thereof are received in Lesotho and converted to Maloti or if authorised, credited to a C.F.C. account as referred to in subsection (D)(iv) above.
- (ii) Any funds due by registered Lesotho insurance companies in settlement of claims lodged by non-residents may be transferred abroad or if authorised, released by the Authorised Dealer concerned from a C.F.C. account.
- (iii) Losses payable and account balances due by registered Lesotho insurance companies on facultative and treaty reinsurance may also be transferred abroad or if authorised, released by the Authorised Dealer concerned from a C.F.C. account, provided that the request is supported by a statement of account reflecting details of the losses or account balances to be settled. Care must be exercised to ensure that

only debits and credits referred to in subsection (D)(iii) above are reflected on the accounts before authorising settlement of outstanding account balances.

(G) Foreign currency payment of premiums in respect of the reinsurance of long-term insurance risks

- (i) Authorised Dealers may approve applications by registered insurance companies to remit long-term reinsurance premiums in respect of mortality and morbidity risks only, provided that the request is accompanied by a declaration signed by two senior officials of the company concerned confirming:
 - (a) the contract of reinsurance was entered into under an approved reinsurance policy and the approval of the Commissioner of Insurance has been obtained.
 - (b) the name of the reinsurer with whom the reinsurance contract has been entered into; and
 - (c) the applicant is registered in terms of Section 8 of the Insurance Act 2014 and has been issued with a registration certificate by the Commissioner of Insurance.
- (ii) Authorised Dealers must forward a copy of the approval granted to Commissioner of Insurance, Central Bank of Lesotho, P.O. Box 1184, Maseru. 100. for their information.

(H) Long-term insurance by residents

- (i) Long-term insurance policies may be issued by registered Lesotho insurance companies or through local intermediaries in Maloti only.
- (ii) The proceeds of claims on existing foreign currency policies received abroad by residents from non-Lesotho insurers must be converted to Maloti in terms of the provisions Regulation 7.
- (iii) Except as provided for in subsection B.2 (E)(ii)(h) of the Authorised Dealer Manual, no insurance may be switched from Maloti to a foreign currency or assigned to a non-resident without the prior approval of the Financial Surveillance Division and the relevant insurance authority.

(I) Long-term insurance by non-residents

- (i) Currency in which policies may be issued
 - (a) Long-term insurance policies may be issued to non-residents by registered Lesotho insurance companies or through local intermediaries either in Maloti or in any foreign currency.
 - (b) The arrangement in (a) above also applies to emigrants in respect of new policies issued after date of emigration.
 - (c) Authorised Dealers must, however, satisfy themselves that the foreign currency premiums in respect of policies issued to non-residents and to emigrants are received in Lesotho in foreign currency or in Maloti from a Non-Resident Account.
 - (d) Funds due to non-residents by registered Lesotho insurance companies in settlement of claims and in respect of surrenders and loans granted may be transferred abroad. Foreign currency premiums received in this regard must be converted to Maloti.
- (ii) Medical examination expenses of existing and prospective policy holders
 - (a) Authorised Dealers may approve applications by registered Lesotho insurance companies and intermediaries to remit funds for the purpose stated, provided that the request is supported by the account from the non-resident medical practitioner, addressed to the applicant company or firm.

(J) Pension and provident schemes

- (i) Retention of contributions in foreign currency
 - (a) Where registered Lesotho pension or provident schemes include non-resident members, the prior approval of the Financial Surveillance Division must be obtained for the retention of foreign currency contributions to cover the scheme's foreign currency liabilities.
 - (b) All schemes referred to in subsection (i)(a) above which have been authorised to retain contributions in foreign currency (see C.F.C. accounts referred to in subsection (D)(iv) above) must submit a statement to the Financial Surveillance Division by 31 March each year, giving particulars of their foreign currency

balances and foreign currency liabilities as at 31 December of the previous year.

- (ii) Pension commutations
 - (a) Emigrants
 - (aa) Authorised Dealers may approve the transfer of lump sum commutations abroad, provided that the total amount in question does not exceed M10 000 per emigrant.
 - (bb) Any lump sum commutation falling outside the limit referred to above, must be dealt with in terms of subsection B.2 (E) of the Authorised Dealer Manual.
 - (b) Foreign Nationals
 - (aa) Authorised Dealers may approve the transfer of lump sum commutations as well as monthly pensions abroad, provided that they are satisfied that the provisions of Section B.5(A) of the Authorised Dealer Manual have been complied with.
 - (c) Mine Labourers
 - (aa) In the case of mine labourers who are returning or who have already returned permanently to countries outside the CMA, Authorised Dealers may approve the transfer abroad of lump sum commutations as well as monthly pensions.
 - (d) Death benefits
 - (aa) Proceeds from registered Lesotho pension and provident schemes as well as insurance policies (annuity, endowment and life) due to non-residents, including emigrants, who are nominated beneficiaries upon the demise of the policy holder, may be transferred abroad on presentation of a Death Certificate as well as documentary evidence from the institution concerned reflecting the full names of the beneficiary and the amount due to the beneficiary.

- (bb) where the beneficiary is an emigrant, it is incumbent upon Authorised Dealers to ensure that the emigrant has been formally designated as a non-resident before effecting transfers in terms of the foregoing. Where no such record can be established, the matter must be referred to the Financial Surveillance Division.
- (e) Non-residents
 - (aa) in the case of non-residents, including non-resident employees of Lesotho entities who contributed to a Lesotho pension or provident scheme by transferring funds to Lesotho, Authorised Dealers may approve the transfer abroad of lump sum commutations, as well as monthly pensions.
- (iii) Bonuses and surplus pension distributions
 - (a) Emigrants, non-residents and foreign nationals

Authorised Dealers may approve the transfer abroad of bonuses and/or surplus pension distributions, paid by registered pension funds.

(K) Nominated Authorised Dealers

- (i) The following Authorised Dealers are authorised to transact insurance business and to effect payments in foreign currency:
 - (a) First National Bank of Lesotho;
 - (b) Nedbank (Lesotho);
 - (c) Standard Lesotho Bank.

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B.11 Bank notes**(A) General**

- (i) Regulation 4(1) prohibits the exportation and importation of Maloti notes unless the prior approval of the Ministry of Finance has been obtained. The export of foreign bank notes is similarly restricted.
- (ii) As an exception Authorised Dealers may allow the exportation of Maloti notes and foreign bank notes subject to the conditions set out hereunder.
- (iii) It should be noted that various foreign countries have imposed restrictions on the amount of currency which travellers to such countries may import in the form of bank notes and any excess of the applicable limits may be subject to confiscation by the authorities of those countries.

(B) Residents and non-residents

- (i) Residents including foreign nationals, non-residents and visitors are permitted to export up to capita in notes when leaving Lesotho. This allowance for residents and foreign nationals is in addition to the normal travel allowance.
- (ii) The parties mentioned in (i) above are also not permitted to import Maloti notes or any bank notes of other member countries of the CMA in excess of a total value of M25 000 per person.
- (iii) Authorised Dealers should also take note of the provisions of section F.1(B) of the Authorised Dealer Manual regarding the export and repatriation of Maloti notes.

(C) Visitors to Lesotho

- (i) Visitors to Lesotho, excluding foreign seamen, will be permitted, on their arrival in Lesotho from countries outside the CMA, to import bank notes of CMA countries up to a total value of M25 000 per person to meet their initial expenses. In this regard, it should be noted that visitors to Lesotho may introduce foreign currency in any amount and in any form, e.g. foreign bank notes, traveller's cheques, etc.
- (ii) Visitors leaving Lesotho may be allowed to take with them up to a total value of M25 000 per person in the form of Maloti notes which must be reduced by the value of any bank notes issued by other member countries of the CMA which are permitted to be exported. In addition,



visitors may be allowed to take with them foreign bank notes, provided that it can be established that they imported the foreign bank notes into Lesotho, alternatively, that such notes represent the proceeds of instruments of foreign exchange (e.g. travellers cheques, letters of credit, etc.) imported into and exchanged in Lesotho.

- (iii) Under no circumstances may foreign bank notes be made available to seamen against payment in Lesotho notes.

(D) Migrant labourers returning to neighbouring countries

- (i) The provisions of subsections (B) and (C) above do not apply to migrant labourers returning to neighbouring countries who are permitted, in terms of existing arrangements with Customs, a division of LRA, to take with them reasonable amounts in the form of Maloti notes representing their earnings in Lesotho.

(E) Foreign bank notes

- (i) Authorised Dealers, who wish to import bulk supplies of foreign bank notes for their normal requirements, must obtain approval from the Financial Surveillance Division.
- (ii) There are no restrictions on the acquisition by Authorised Dealers of foreign bank notes from bona fide visitors to Lesotho and returning residents. Authorised Dealers should, however, bear in mind that various foreign countries have imposed restrictions on the amount in bank notes which may be exported from and repatriated to their respective countries.
- (iii) Regulation 4(1) precludes the export of foreign bank notes and Authorised Dealers wishing to despatch their holdings of surplus foreign bank notes to their correspondents abroad for collection, must obtain the prior approval of the Financial Surveillance Division.

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B.12 Merchanting, barter and counter trade**(A) Merchanting trade**

- (i) Authorised Dealers may authorise merchanting trade transactions by residents provided that the time-lag between paying funds away to the foreign supplier (seller) and receiving funds from the foreign importer (buyer) will not exceed 60 days for trade with countries on the African continent, including Mauritius, and 30 days for trade with any other country.
- (ii) Authorised Dealers must ensure that payment is received from the foreign importer (buyer), which must include Lesotho merchant's profit and must be received in foreign currency or Maloti from a Non-Resident Maloti Account.
- (iii) A copy of the relative agreement entered into between the parties concerned and a commercial invoice from the seller together with a commercial invoice from Lesotho merchant must be produced in confirmation of the arrangements.
- (iv) These transactions should preferably be covered by confirmed irrevocable letters of credit issued by the foreign importer's bankers in favour of the Lesotho merchant.
- (v) In instances where the above-mentioned requirements cannot be complied with, a written application must within 14 days be submitted to the Financial Surveillance Division for consideration.
- (vi) Authorised Dealers should note that non-compliance with the above directives will be viewed in a serious light.

(B) Barter and counter trade

- (i) Transactions of this nature must be referred to the Financial Surveillance Division for prior written approval.
- (ii) Requests for barter and counter trade must be supported by copies of the contracts entered into between the relative parties with a full explanation of the manner in which the values of the goods have been arrived at. Where an open market or world price exists, any deviation therefrom must be fully substantiated and motivated.



B.13 Buying and selling commissions**(A) Buying commissions**

- (i) Buying commissions may be effected to independent agents outside Lesotho in foreign exchange or in Maloti to the credit of a Non-Resident Maloti Account, provided that the client confirms in writing that the rate of the commission or fee does not exceed 10 per cent of the invoice value of the goods.

(B) Selling commissions

- (i) Where payment for goods exported to countries outside Lesotho has been received in foreign currency or in Maloti from a Non-Resident Maloti Account, or the Authorised Dealer concerned is fully satisfied that payment will be so received, foreign currency may be made available in settlement of commissions due to independent selling agents on viewing an invoice or statement of account from the selling agent and provided that the rate at which such payments are calculated can be regarded as reasonable in the trade concerned.
- (ii) Authorised Dealers are reminded that such commissions (or any other related expenses) may not be set-off against export proceeds unless specifically authorised by the Financial Surveillance Division or provided for in the Authorised Dealer Manual.

(C) Commission and/or brokerage on investments introduced into Lesotho from abroad

- (i) Authorised Dealers may approve, against the production of documentary evidence confirming the amount involved, applications by residents to effect commission and/or brokerage to non-resident parties in respect of investments introduced into Lesotho from abroad, provided that the rate at which such payments are calculated is market related.

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B.14 Miscellaneous transfers**(A) General**

- (i) Authorised Dealers may approve applications by Lesotho business entities and/or individuals for the remittance abroad of the payments mentioned below, against the production of documentary evidence confirming the amounts involved.

(B) Advertising, exhibition, sponsorship and trade fair expenses

- (i) Advertising and exhibition fees, inclusive of sponsorship fees, in respect of participating in trade fairs outside the CMA.

(C) Alimony and child support payments

- (i) Alimony and child support payments against an Order of Court confirming the amount involved, provided that the beneficiary can be regarded as a non-resident for exchange control purposes. See Section B.4 (J).

(D) Charges for repairs and adjustments to goods temporarily exported

- (i) In the case of manufactured goods registered with Customs for re-export to their country of origin for repairs or adjustments, provided that Authorised Dealers are fully satisfied that the funds are required for repairs or adjustments and not for replacements.

(E) Charges in connection with legal disputes

- (i) Legal fees, court costs as well as upfront deposits for legal work incurred outside the CMA.

(F) Insurance and road accident fund claims due to non-residents

- (i) Claims payable to non-residents as a result of injury, loss or damages suffered whilst visiting Lesotho. In the event of the recipient being an emigrant, the funds must be reported to an emigrant's blocked account.

(G) Court judgement payments

- (i) Payments due to non-residents in terms of or as a result of any judgment granted by a court in Lesotho.

(H) Examination fee payments

- (i) Examination fees payable to schools, universities or similar educational institutions or examining bodies abroad whose exams are being held in the Lesotho.

(I) Fees in respect of services rendered

- (i) Payment for services rendered by non-residents, including the reimbursement of air fares, accommodation and other costs directly associated with the rendering of the services in question not specifically dealt with elsewhere in the Authorised Dealer Manual, provided that the fee payable is not calculated on the basis of a percentage of turnover, income, sales or purchases.
- (ii) No transfers may be effected in respect of costs related to foreign portfolio investments, foreign held assets and liabilities by institutional investors, Lesotho corporates and private individuals without prior reference to the Financial Surveillance Division.
- (iii) Foreign currency may also be provided in advance or against an advanced payment guarantee issued by the beneficiary's bankers. Authorised Dealers must satisfy themselves from the production of documentary evidence supplied by the overseas supplier of the services to be rendered that the service would otherwise be refused and that such payment is normal in the service industry concerned.
- (iv) It is incumbent upon Authorised Dealers to satisfy themselves, by viewing documentary evidence in due course, that the foreign exchange provided has been utilised for the purpose stated and that the service has been duly rendered.

(J) Final settlement - Exports

- (i) Refunds to purchasers in countries outside Lesotho representing final adjustments in respect of exports from Lesotho, e.g. produce under-yields, weight adjustments, etc., provided that evidence is produced showing that the full invoice price for the consignment has been received in foreign currency or in Maloti from a Non-Resident Maloti Account.

(K) Medical expenses

- (i) Medical examination expenses in respect of prospective contract workers and immigrants, provided that the account from the non-

resident medical practitioner, addressed to the resident corporate entity, is submitted in support of the request.

(L) Passports, visas, birth and death certificates, testimonials, degrees and diplomas

- (i) Costs relating to the renewal of passports and in respect of the cost of obtaining visas, as well as copies of birth and death certificates, testimonials, degrees and diplomas.

(M) Refunds

- (i) Refunds paid by LRA to non-residents, including refunds in respect of income tax paid subsequent to the date of emigration, provided that Authorised Dealers are satisfied that the beneficiaries are permanently resident outside the CMA.
- (ii) Pension payments which have been received from outside the CMA after the demise of a resident beneficiary.
- (iii) Refunds in respect of orders, tour reservations, registration fees, erroneous payments and overpayments by non-residents.
- (iv) Any other refunds not exceeding a total value of M100 000 per calendar year due to non-residents involving related parties, provided that the Authorised Dealer is satisfied that the relevant transaction complies with the transfer pricing guidelines and the suitable documentary evidence is viewed in this regard.

(N) Registration of drugs

- (i) Fees due by pharmaceutical companies registered in Lesotho in respect of the registration of drugs outside the CMA.

(O) Rental and lease payments

- (i) Rental and lease payments in respect of capital goods utilised in Lesotho or utilised outside Lesotho to fulfil any contractual obligations.

(P) Sporting events

- (i) Entrance fees for participation in international sporting events.

(Q) Subscriptions

- (i) Current membership and affiliation fees to recognised medical, engineering and other technical, learned or international societies.
- (ii) Club subscriptions.
- (iii) Current subscriptions for international business or technical information services, supplied via data or telephone lines to visual display units and printers.

(R) Technical service payments

- (i) Fees including reimbursements of air fares to the CMA due in respect of non-residents brought to Lesotho for the specific purpose of installing or repairing specialised machinery and equipment or for commissioning and supervising the installation thereof, as well as training local personnel in this regard.

(S) Tender documentation

- (i) Fees due to acquire tender documentation in order to tender for contracts outside the CMA.

(T) Transportation costs and cash floats

- (i) Ship disbursements, landing fees, fuel costs, emergency repair costs, toll fees and other fees related to the transport of goods.
- (ii) In cases where a resident must effect these payments on a regular basis in cash to non-residents or on behalf of non-residents, Authorised Dealers may accord residents with a cash float in foreign currency not exceeding the equivalent of M100 000 at any one time. The cash float may only be replenished against the presentation of documentary evidence confirming the utilisation of foreign currency from the cash float for these purposes.
- (iii) Authorised Dealers may also make advance payments in foreign currency, not exceeding the limit mentioned above, to non-resident petroleum and concession companies where cards will be issued to allow for the payment of petrol and toll fees respectively. The accounts may be replenished against the presentation of documentary evidence confirming the purpose of which funds were utilised.

(U) Registration of agrochemical products

- (i) Registration fees in respect of agrochemical products registered outside the CMA.

(V) Visiting artistes, entertainers, sportsmen, etc

- (i) The net earnings of foreign artistes, entertainers, sportsmen and similar professionals engaged by residents, may on departure be effected by Authorised Dealers, provided that they view documentary evidence from LRA confirming that all tax commitments have been met.
- (ii) Where a contract requires that an upfront or advance payment be transferred prior to completion of the non-resident's contractual obligations such payment may only be credited to an Escrow account and may only be released proportionately after the completion of each performance.

(W) Foreign contract payments

- (i) Expenses such as salaries, accommodation costs, etc., incurred abroad by residents as a result of their foreign contractual obligations. A copy of the relevant foreign contract must be viewed.

(X) Conference, congress, seminar fees

- (i) Residents including local companies, may be permitted to pay conference, congress and seminar fees (including ad-hoc short-term courses presented at foreign entities) to non-residents in respect of local or international events, provided that documentary evidence from the foreign beneficiary is submitted in support of the request.

(Y) Employment contracts involving non-residents

- (i) Where Lesotho entities are required to remit funds abroad in respect of employment contracts involving non-residents who are employed in Lesotho, Authorised Dealers may allow such transfers provided that the payments are commensurate with the work undertaken. In this regard the provisions of subsection B.5(A)(i) should be adhered to by the individual contract workers.
- (ii) Where Lesotho entities are required to remit funds abroad in respect of employment contracts involving non-residents who are employed outside Lesotho, Authorised Dealers may allow such transfers provided that the payments are commensurate with the work undertaken.

(Z) Mould Payments

- (i) Payments in respect of the design and/or manufacturing of moulds not exceeding M100 000. A copy of the underlying agreement must be viewed and the Authorised Dealer should, prior to effecting the payment, be satisfied that:
 - (ii) the mould is manufactured by the foreign supplier;
 - (iii) it is only for a once-of design and manufacturing of the mould; and
 - (iv) the mould is required to manufacture goods to be imported by the applicant.

(AA) Miscellaneous Payments

- (i) Miscellaneous payments within a limit of M100 000 per transaction to non-residents not specifically dealt with elsewhere in the Authorised Dealer Manual.
- (ii) Suitable documentary evidence must be viewed substantiating the amount and nature of the liability.
- (iii) The nature of these transactions must be correctly reported to the Financial Surveillance Division via the Reporting System.

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B.15 Guarantees**(A) Guarantees to non-residents**

- (i) Authorised Dealers may, without reference to the Financial Surveillance Division, issue guarantees to non-residents on behalf of residents for transactions that are permissible in terms of the Authorised Dealer Manual or alternatively where prior written approval from the Financial Surveillance Division has been granted.
- (ii) Capital guarantees (refer to section B.2(C) of the Authorised Dealer Manual) and currency transfer guarantees are excluded from the dispensation.
- (iii) Authorised Dealer may, where applicable, approve the extension of the guarantees authorised.
- (iv) In the event of such guarantees being implemented, Authorised Dealers may effect payment in terms thereof.

(B) Guarantees issued by non-residents

- (i) Authorised Dealers may grant local financial assistance to a resident, who is not an 'affected person', against guarantees by non-residents.
- (ii) Payment in respect of guarantee fees payable in guarantees issued by non-residents, may be effected provided that the fee is market related or falls within an approved percentage of the guarantee amount based on existing market practice.
- (iii) Shipping guarantees may be issued to residents acting on behalf of non-residents, against guarantees by non-residents.

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B.16 Credit and/or debit cards**(A) Credit and/or debit cards authorised for use outside the CMA**

- (i) All credit and/or debit cards, including co-branded cards, issued by Authorised Dealers, as licensed by American Express, Diners Club, MasterCard or Visa may be utilised outside the CMA, subject to the provisions mentioned in subsections (D) and (E) below and provided that all outward transactions are reported in terms of the Reporting System.

(B) Issue of credit and/or debit cards to non-residents

- (i) Credit and/or debit card issuers may issue such cards to non-residents, provided that the expenditure is settled in foreign currency or Maloti from a Non-Resident Maloti Account.

(C) Bulk transfers by credit and/or debit card issuers

- (i) Authorised Dealers may permit periodic bulk transfers by credit and/or debit card issuers in settlement of debits received from abroad and commission charges due in respect of amounts spent by cardholders.
- (ii) Certain card issuers have set-off arrangements with their overseas associates and settlement is effected for net amounts only.

(D) Travel allowances

- (i) A resident or a resident temporarily abroad in whose name one or more bank credit and/or debit cards have been issued may use such cards to avail up to 100 per cent of the authorised single discretionary allowance or the remaining balance thereof applicable to the journey of the resident.
- (ii) In the event of any contravention of the provisions of the Exchange Control Regulations a cardholder may be deprived of the use of all cards in addition to being liable for prosecution.

(E) Miscellaneous payments for imports, services or subscriptions by means of credit and/or debit cards

- (i) Resident individuals or local entities in whose name one or more bank credit and/or debit cards have been issued, may be permitted to make permissible foreign currency payments for small transactions (e.g. imports over the Internet), by means of such credit and/or debit cards.

- (ii) Payments are limited to M50 000 per transaction.
- (iii) Any singular transaction exceeding M50 000 may not be split to circumvent the limit applicable to this dispensation.
- (iv) It should be brought to the attention of cardholders that this dispensation does not absolve them from ad valorem excise and custom duties or from complying with the requirements imposed by Lesotho Revenue Authority.

(F) Foreign lottery tickets and gambling activities

- (i) Residents may not participate in lotteries organised abroad.
- (ii) Accordingly, Authorised Dealers must decline requests to purchase foreign exchange for such purposes in all instances.
- (iii) Residents may not use their credit and/or debit cards in Lesotho to facilitate payments for the abovementioned purposes. In addition, all issuers of American Express, Diners Club, MasterCard and Visa cards, may not accept such debits against resident cardholder's accounts in respect of the payment for foreign lottery tickets or gambling activities.

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B.17 Foreign currency holdings and other foreign assets**(A) Foreign earned income**

- (i) Private individuals (natural persons) resident in Lesotho are exempted from the provisions of Regulation 7 in respect of foreign earned income (i.e. income earned on approved foreign assets or in respect of services rendered to non-residents whilst physically abroad), with the exception of the proceeds of merchandise exports, which must be repatriated to Lesotho within 30 days from the date of becoming entitled thereto.

(B) Foreign inheritances or legacies from bona fide non-resident estates

- (i) Residents who inherited foreign assets from a non-resident are exempted from the provisions of Regulation 7 and/or 8.
- (ii) Residents need not declare to their Authorised Dealer inheritances or legacies from bona fide accrued foreign estates and may retain the capital and any income generated thereon abroad.
- (iii) The retention of such assets abroad is subject to the condition that the assets will not be placed at the disposal of other residents (i.e. no loans etc. to other residents or 'loop structures').

(C) Gifts and/or donations from non-residents

- (i) Any foreign asset received by a resident from a non-resident as a gift or donation is not exempted from the provision of Exchange Control Regulation 7 and must be declared and repatriated to Lesotho. Alternatively, a fully motivated application to retain the assets abroad must be submitted to the Financial Surveillance Division.

(D) Foreign inheritance and legacies from Lesotho estates with foreign assets

- (i) Residents, who become entitled to a foreign inheritance from the estate of a resident, are required to declare such foreign assets inherited via an Authorised Dealer to the Financial Surveillance Division for exemption from the provisions of Regulation 7.
- (ii) The foreign assets inherited may, on application to the Financial Surveillance Division normally be retained abroad provided that the assets were held abroad by the deceased in compliance with the provisions of the Regulations (e.g. funds were externalised legally by the deceased and no 'loop structure' was created).

- (iii) The approval of the Financial Surveillance Division to retain such foreign assets abroad will be granted subject to the condition that the foreign assets may not be placed at the disposal of other residents or used to create 'loop structures' and no levy in terms of the Regulations will be payable by the resident beneficiary.
- (iv) Where it is disclosed to the Financial Surveillance Division that foreign assets inherited were held by the deceased in a manner contrary to the provisions, including 'loop structures', an application for regularisation of such assets must be submitted via an Authorised Dealer to the Financial Surveillance Division. If approved, the retention of such assets abroad is subject to the conditions that the assets will not be placed at the disposal of other residents or used to create 'loop structures'.
- (v) Foreign assets inherited and which were held abroad by the resident beneficiary not in compliance with the provisions of the Regulations, e.g. the resident beneficiary created a 'loop structure' after receiving the inheritance from the deceased's estate, must apply for regularisation via an Authorised Dealer to the Financial Surveillance Division.

(E) Residents

- (i) Residents and foreign nationals, who are holders of foreign currencies outside Lesotho must, unless exempted elsewhere in the Authorised Dealer Manual, offer to sell their holdings to an Authorised Dealer within 30 days from the date of becoming entitled thereto.

(F) Retention of foreign currency balances abroad

- (i) Attention has repeatedly been drawn to the obligations imposed on residents by Regulation 7 and a serious view will be taken by the Financial Surveillance Division of any unauthorised retention of foreign currency balances, whether with foreign banks, overseas principals, agents or shippers.

(G) Disposal of legal foreign assets held

- (i) Residents with legally held foreign assets may not dispose of such assets to other residents, whether settlement takes place in Maloti or foreign currency, without the specific prior written approval of the Financial Surveillance Division.

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B.18 Control of exports – general**(A) Export declaration on Form N.E.P.**

- (i) All exports to countries outside Lesotho must be supported by the prescribed LRA Customs export declaration.
- (ii) All temporary exports to countries outside the CMA for which no payment is to be received in Lesotho must, where required, be supported by the prescribed LRA Customs Declaration. These goods or replacement items must be returned to Lesotho within a period of six months.
- (iii) Requests to export any items or goods, with an insurance value in excess of M50 000 for which no payment will be received and where the items exported will not be returned to Lesotho must be referred to the Financial Surveillance Division.
- (iv) All exports in excess of M20 000 to countries outside the CMA, for which no payment is to be received, must be supported by an attested Form N.E.P.

(B) Regulations in respect of goods exported for sale abroad

Authorised dealers must ensure that all exporters are aware of their legal obligation in terms of the provisions of Regulations 7, 11 and 12 to:

- (i) Sell goods exported within a reasonable time, but no later than six months from the date of shipment;
- (ii) Receive the full foreign currency proceeds not later than six months from the date of shipment. Authorised Dealers may, however, without reference to Financial Surveillance Division, authorise Lesotho exporters to grant credit up to a total of 12 months to foreign importers, provided that the Authorised Dealer granting the authority is satisfied that the credit is necessary in the particular trade or that it is needed to protect an existing export market or to capture a new export market. In this regard, Authorised Dealers are requested to specifically draw the attention of exporters to the provisions of Regulation 7(1) and (5);
- (iii) Receive payment in foreign currency or Maloti from a Non-Resident Maloti Account;
- (iv) Offer for sale to an Authorised Dealer the full foreign currency proceeds within 30 days after becoming entitled thereto or deal with it in accordance with the rules applicable to C.F.C. accounts; and

- (v) Report in writing to an Authorised Dealer the non-receipt of the full foreign currency proceeds within the prescribed period, as well as the failure to sell the goods exported within six months from the date of shipment.

(C) Exports against payment in Maloti

- (i) Authorised Dealers must refer all export transactions with a value in excess of M25 000 per transaction to the Financial Surveillance Division where payment is tendered in Maloti notes.

(D) Scrutiny of export declarations

Authorised Dealers must scrutinise export declarations on Forms N.E.P. to ensure that:

- (iii) The insurance value of goods exported is reasonable in relation to current market prices for the commodity concerned. Where any doubt exists in this respect, documentary evidence of the insurance value should be called for; and
- (iv) Where any exemptions have been granted, the provisions of such exemption are strictly adhered to.

(E) Control of export proceeds

- (i) Authorised Dealers must inform their exporting clients that the Financial Surveillance Division will, through the use of an electronic monitoring system, monitor the receipt of export proceeds.
- (ii) Authorised Dealers must emphasise to their exporting clients the importance of accurately completing the prescribed LRA Customs export declaration form and integrated for export proceeds, which transactions are reported by Authorised Dealers (including the Custom Client/Code Numbers and Unique Consignment References).

(F) Goods exported by rail

- (i) Authorised Dealers must inform their exporting customers, who export goods by rail, to complete the prescribed LRA Customs export declaration form.

(G) Exports on consignment

- (i) While it is not desired to prevent the export of goods on consignment where this is the normal practice in any particular trade, Authorised Dealers should advise their exporting clients of the provisions of Regulation 12.
- (ii) General usance of the trade should be borne in mind and Authorised Dealers should be on their guard against attempts to unduly delay repatriation of proceeds having regard to the provisions of Regulation 7(5)(a).

(H) Export of motor vehicles

- (i) Motor vehicles principally designed for the transport of persons and goods, but excluding vehicles exported by diplomatic and foreign representatives and new vehicles exported by local manufacturers or their appointed agents, may not be exported for sale outside the South African Customs Union (i.e. Botswana, Lesotho, Namibia and Swaziland except by virtue of an export permit.
- (ii) In respect of the temporary export of motor vehicles to all countries outside the CMA, travellers must complete the prescribed LRA Customs Declaration.

(I) Temporary exportation of diamonds

- (i) Authorised Dealers must inform their clients who export diamonds for further processing abroad (e.g. cutting and grading) that the prescribed LRA Customs Declaration must be completed when exporting the diamonds and that the onus is on the exporter to produce documentary evidence when requested to do so, confirming receipt of the diamond returned to Lesotho.
- (ii) All conditions imposed by the Ministry of Mines and Geology must be strictly adhered to.

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B.19 Control of exports – completion, attestation and disposal of export declaration on forms N.E.P.**(A) Completion and attestation of forms N.E.P.****(i) Attestation**

- (a) The Form N.E.P. must be completed in duplicate and signed by the owner of the articles in question, prior to attestation by an Authorised Dealer.
- (b) Only the original Form N.E.P. (the owner's copy) must be attested.

(ii) Information on and completion of Forms N.E.P.**(a) General**

- (aa) Authorised Dealers are requested to impress upon their branches the need for the full and correct completion of the Forms N.E.P.

(b) Guide to completion of Forms N.E.P.

- (aa) Nature of Export: the appropriate block(s) 1(a), (b), 2(a), (b) must be marked with an X.
- (bb) Name and Local Address of Owner: Post Office Box numbers are not acceptable.
- (cc) Description and Particulars of Goods: a proper description of the goods and packages, container numbers and where available, the registration numbers and serial numbers of the items exported, e.g. in the case of motor vehicles and machinery.
- (dd) Insurance Value: the insurance value of the goods exported is the insured value or where the goods are not insured, the replacement value thereof. Authorised Dealers must ensure that the total value of goods exported is reflected in the appropriate block.
- (ee) Declaration: the name of the owner must be completed in block letters and only the owner of the goods or accredited representative may sign the form. The appropriate block must be marked with an X.



(ff) Financial Surveillance Permission: the Section or subsection of the Authorised Dealer Manual authorising the export, e.g. B.2 (E) (v).

OR

(gg) Application Number: the Head Office number and date of the application submitted to the Financial Surveillance Division to obtain authorisation for the transaction.

(B) Disposal of forms N.E.P.

(i) In order to facilitate Financial Surveillance Division inspections, Authorised Dealers must retain the duplicate copy of the Form N.E.P. for a period of five years.

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B.20 Control of exports – Miscellaneous**(A) Replacement goods, short shipments and goods under guarantee**

- (i) Authorised Dealers must advise exporters that goods to be shipped in replacement of rejected or defective goods previously shipped or in completion of a previous short shipment may be exported under cover of the prescribed Form F 178, provided that:
 - (a) the full invoice value of the original shipment has been or will be received from the consignee;
 - (b) the exporter is bound by guarantee or trade practice to make good the deficiency without charge; and
 - (c) where applicable, the replaced goods are being destroyed, reimported or sold abroad for payment in foreign currency or Maloti from a Non-Resident Maloti Account.

(B) Export of advertising matter and trade samples

- (i) Authorised Dealers must advise exporters that advertising matter and trade samples on a no charge basis may be exported under cover of the prescribed Form F 178 provided that the goods are being shipped purely for advertising or promotional purposes.

(C) Goods re-exported for repairs and adjustments

- (i) In the case of manufactured goods registered with Customs, a division of LRA, for re-export to their country of origin for repairs or adjustments free of payment, the goods may be exported under cover of the prescribed Form F 178.

(D) Return of goods for which no payment has been made

- (i) Authorised Dealers must advise exporters that the return of goods to the original supplier, free of counter-value or re-exports for the latter's account, may be exported under cover of the prescribed Form F 178.

(E) Temporary export of goods to Africa

- (i) Authorised Dealers must advise exporters that the temporary export to African countries of used equipment, which is required by residents to enable them to fulfil any contractual obligations, may be exported under the cover of the prescribed Form N.E.P., provided that the equipment is the contractor's own property.

(F) Export of defective goods for replacement

- (i) Authorised Dealers should advise residents that they are permitted, under cover of the prescribed Form N.E.P., to re-export to the original supplier, defective goods which have been paid for, provided that it can be shown from the production of documentary evidence that the foreign supplier has agreed to:
 - (a) replace the consignment on a no charge basis with goods of an equivalent value (in such cases the applicant must, if necessary, be in possession of a permit to cover the importation of the replacement goods); or
 - (b) to refund the cost of the defective goods in full; or
 - (c) provide a credit note for the full value of the defective goods.
 - (d) Exporters should be advised that the replacement goods should be imported within a reasonable time or that the foreign currency refund is transferred to Lesotho in terms of the provisions of Regulation 7.

(G) Export of postage stamps or philatelic items

- (i) The export of postage stamps and philatelic items must be regarded as a normal export transaction subject to the completion of the prescribed Form F 178. Enquiries must, if needed, be referred to the Financial Surveillance Division.
- (ii) Authorised Dealers must advise their clients that postage stamps or philatelic items exported for exhibition purposes must be returned to Lesotho within a period of six months.

(H) Export of currency coins or numismatic items

- (i) Except as provided for in subsections (ii) and (iii) below, all matters relating to the export of gold coins, currency coins and numismatic items must be referred to the Financial Surveillance Division.
- (ii) As an exception, Authorised Dealers may allow residents to export gold coins, currency coins and numismatic items within an overall limit of M300 per applicant, per calendar year, subject to the completion of the prescribed LRA Customs Declaration form.

- (iii) Authorised Dealers must advise their clients that currency coins and numismatic items for exhibition purposes must be returned to Lesotho within a period of six months.

(I) Export of motor vehicles from the CMA by residents

- (i) The exportation of motor vehicles belonging to non-residents, who have purchased the vehicles in the CMA and who wish to export their motor vehicles from the CMA either temporarily or permanently, is allowed, provided the prescribed Form N.E.P. is completed.

(J) Goods of non-Lesotho origin paid for and re-exported

- (i) Goods imported into Lesotho and paid for, may be exported subject to the completion of the prescribed Form F 178.

(K) Re-exports of goods of non-Lesotho origin not paid for or ex bond

- (i) Non-residents are permitted to take out of Lesotho any vehicles and other goods brought into the CMA.
- (ii) Goods imported in bond may be exported ex-bond without the completion of any export declaration.

(L) Final settlement – exports

- (i) Refunds may be effected to purchasers in countries outside Lesotho representing final adjustments in respect of exports from Lesotho (e.g. produce under-yields, weight adjustments), provided that evidence is produced showing that the full invoice price for the consignment has been received in foreign currency or in Maloti from a Non-resident Maloti Account.

(M) Foreign customs duty

- (i) Where goods are exported on a Delivered Duty Paid (DDP) basis, Authorised Dealers may provide foreign exchange in payment of the foreign customs duty against the production of documentary evidence confirming the amount involved.

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B.21 Acceptance of foreign bank notes and foreign currency travellers cheques**(A) Dispensation to travel agents, hotels, restaurants, shops and other entities whose business is directly related to the tourism industry**

- (i) Authorised Dealers may authorise travel agents, hotels, restaurants, shops and other entities whose business is directly related to the tourist industry to accept foreign bank notes and foreign currency travellers' cheques from visitors to Lesotho in payment of goods supplied and services rendered against a written undertaking that such foreign currency will be sold to an Authorised Dealer and/or an ADLA not later than the following business day after acquisition thereof.
- (ii) A record of all transactions must be kept and be available for inspection by the Financial Surveillance Division.
- (iii) Authorised parties may not exchange currency offered by foreign tourists or any other party for Maloti or any other currency without an underlying sale of goods and/or services rendered.
- (iv) Authorised Dealers must advise the Financial Surveillance Division of the names, addresses and nature of business of the parties to whom such authority has been granted on a monthly basis.

(B) Dispensation for residents

- (i) Authorised Dealers may purchase foreign bank notes from residents, who received the foreign bank notes from visitors to Lesotho, as payment for services rendered, gratuities, tips or gifts.
- (ii) Authorised Dealers should note that foreign bank notes or other foreign currency instruments such as travellers' cheques may be accepted in payment of exports and services rendered.
- (iii) Resident exporters receiving payment in this manner must, however, declare and offer for sale such foreign currency to an Authorised Dealer, not later than the following business day after acquisition thereof.

(C) Foreign currency not purchased by Authorised Dealers

- (i) Any foreign currency offered for sale to an Authorised Dealer, but not purchased by them, must immediately be reported to the Financial Surveillance Division.



C. Gold**(A) Export of gold jewellery by manufacturing jewellers**

- (i) All applications for permission to export gold jewellery by manufacturing jewellers should be referred to the Ministry of Mining and Geology.
- (ii) The export of gold jewellery by manufacturing jewellers in Lesotho, to countries outside the CMA, requires the prior approval of the Financial Surveillance Division.
- (iii) Such exports will be subject to the following conditions:
 - (a) the full sale proceeds of all exports must be received in Lesotho in foreign currency or Maloti from a Non-Resident Maloti Account;
 - (b) the applicant will be required to furnish a written declaration to the effect that the gold articles to be exported are in fully manufactured form and that the gold content of each article does not exceed the limit laid down in (iii) below;
 - (c) the cost to the manufacturer of the gold content of each article to be exported may not exceed 85 per cent of the selling price to the ultimate consignee. If the article is set with precious stones or any other object, the value of such settings must be excluded from the selling price in calculating the percentage gold content;
 - (d) each shipment for export must be supported by the Form F 178; and
 - (e) exporters will be required to furnish their bankers, for submission to the Financial Surveillance Division, with quarterly Returns giving the following information concerning each consignment:
 - (aa) a description of the articles exported;
 - (bb) the name and address of the consignee; and
 - (cc) the total value of the gold content and the total selling price of the articles exported.

(B) Other exports of gold

- (i) Except as provided for in subsections B.2(G), B.4(F) and B.20(I) of the Authorised Dealer Manual, all applications for permission to export gold in any form should be referred to the Financial Surveillance Division, who will impose such conditions on export as may from time to time be regarded as necessary.

(C) Acquisition of gold for trade purposes

- (i) The acquisition of gold for legitimate trade purposes by manufacturing jewellers, dentists, etc., is subject to the approval of the Ministry Mining and Geology.
- (ii) After receiving such approval, a permit must be obtained from LRA.
- (iii) The holders of gold, having received the approvals outlined above, are exempt from the provisions of Regulation 6(1).

(D) Advances against gold

- (i) Payment of an instalment of the purchase price of gold sold to an Authorised Dealer is not regarded as an advance against gold and is permissible.

(E) Commemorative coins

- (i) Provided that the purchase consideration has been received in Lesotho in foreign currency or Maloti from a Non-Resident Maloti Account, up to 15 commemorative coins or the equivalent in fractional commemorative coins, may be exported to non-residents supported by the prescribed LRA Customs export declaration form.
- (ii) Non-resident visitors may export up to 15 commemorative coins or the equivalent in fractional commemorative coins, supported by the prescribed LRA Customs export declaration form; provided that they can prove that the coins were acquired with the proceeds of foreign currency introduced.
- (iii) All applications from overseas banks, etc., for large quantities of commemorative coins, should be referred to the Financial Surveillance Division.

(F) Marketing of Lesotho gold

- (i) Lesotho gold producers may elect to sell their total gold output to approved counterparties, once exempted by the Financial Surveillance Division from the provisions of Regulation 6.
- (ii) The full export proceeds must be received in Lesotho in foreign currency or Maloti from a Non-Resident Maloti Account.

(G) Applications for the importation of gold

- (i) Authorised Dealers must ensure that all applications requesting Import Permits are fully motivated and submitted to the Ministry of Trade and Industry.

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D.1 Forward cover or hedging transactions between authorised dealers and residents**(A) General**

- (i) The aim of hedging is either to offset or to minimise the risk of losses that an enterprise may be exposed to due to the effect of price changes on its assets, liabilities or future firm and ascertained commitments and/or accruals.
- (ii) Authorised Dealers must ensure that dealings in hedging instruments are not undertaken for speculative purposes nor as a means of circumventing the Regulations.
- (iii) Residents, excluding transactions by private individuals trading on online platform, may, however, subject to the conditions outlined in subsection (B)(i) below hedge their foreign exchange risk in a controlled manner through the active management of their currency exposures in the over the counter (OTC) foreign exchange market.
- (iv) This Section of the Authorised Dealer Manual is concerned with the multiplicity of OTC hedging instruments and techniques which are divided into the following main categories:
 - (a) forward contracts;
 - (b) futures contracts (excluding currency futures listed on a regulated exchange in Lesotho);
 - (c) options;
 - (d) warrants; and
 - (e) swaps.
- (v) Applications for spot foreign currency by residents to cover future commitments or accruals should normally be refused unless permission has been granted elsewhere in the Authorised Dealer Manual. The applicants must be informed of the permissible cover contracts which are obtainable by means of the relevant hedging instruments.

(B) Foreign currency against Maloti in respect of forward contracts or foreign exchange option contracts not exceeding six months to maturity (active currency management)

- (i) Foreign currency may be sold forward to or purchased forward from residents, excluding transactions by private individuals trading on

online platforms, by either entering into a forward contract or a foreign exchange option contract with an Authorised Dealer, subject to the following conditions that:

- (a) The facilities are required to cover a direct underlying foreign currency exposure and to manage possible losses arising from adverse movements in foreign exchange rates from a transaction that is:
 - (aa) permissible in terms of the Authorised Dealer Manual;
 - (bb) in respect of a specific authority has been granted by the Financial Surveillance Division; or
 - (cc) in respect of a resident party actively managing foreign exchange risk exposure, inter alia, in respect of import payments, export proceeds, service type payments/receipts, tenders, acquisitions, balance sheet risk and loans.
- (b) While cover may not be granted for a period extending beyond six months, contracts may be entered into and exited at the client's discretion and need not run until the commitment or accrual has to be met.
- (c) The same underlying commitment or accrual is not already covered forward.
- (d) In respect of all commitment or accruals, documentary evidence is exhibited at the time of pay away confirming the nature and extent of the commitment or that foreign currency is definitely accruing and the nature and extent of such accruals.
- (e) All settlements in terms of forward cover taken out by clients not resulting in the physical conversion of currency to and from Maloti (i.e. the so called 'in-between trades' must take place in Maloti).
- (f) Authorised Dealers facilitating the 'in-between trades' must furnish the Financial Surveillance Division with the following reports on a monthly basis:
 - (aa) summary beneficial holdings trading report indicating volumes, value and ownership differentiating between the following investor classes: corporates, individuals, institutional investors and non-residents; and

- (bb) a report depicting the forward rates applicable to each contract concluded, supported by parallel graphs of trading volumes, number of contracts and value, specifically highlighting the impact of the 'in-between trades' on the foreign exchange market and the exchange rate of Maloti.
- (g) The reports must be submitted to the Financial Surveillance Division, Central bank of Lesotho, P.O. Box 1184, Corner Moshoeshoe and Airport road, Maseru, 100, by the 7th of the following month. The beneficial holdings trading report must only reflect the 'in-between trades' where the client does not convert Maloti into foreign currency and vice versa in terms of the contract forward rate but decides to rather settle the contract in Maloti. Therefore, the reporting must exclude legitimate settlements in Maloti (e.g. export proceeds).
- (ii) Institutional investors, as defined in section B.2(H) of the Authorised Dealer Manual, must take cognisance that any position held as a result of entering into the 'in-between trades' is regarded as foreign exposure and must accordingly be marked off against their respective foreign portfolio investment allowances as well as being accounted for in the quarterly asset allocation reports.
- (iii) In respect of cover granted to local stockbrokers for foreign exchange transactions with non-residents on MSM, the period of such cover may not exceed 45 days from the date of the transaction as evidenced by brothers' notes.

(C) Foreign currency against Maloti in respect of forward contracts or foreign exchange option contracts exceeding periods longer than six months

- (i) Foreign currency may be sold forward to or purchased forward from residents by either entering into a forward contract or a foreign exchange option contract with an Authorised Dealer, subject to the following conditions that:
 - (a) The facilities are required to cover a firm and ascertained foreign exchange commitment due to a non-resident or a foreign exchange accrual due from and payable by a non-resident arising from a transaction either:
 - (aa) permissible in terms of the Authorised Dealer Manual; or

- (bb) in respect of which a specific authority has been granted by the Financial Surveillance Division.
- (b) While cover may not be granted for a period extending beyond the due date of the underlying commitment or accrual, contracts may be entered into at any time after the commencement of the commitment or accrual for the full amount or part thereof and, in the circumstances outlined in subsection (F) below, need not run until commitment or accrual has to be met.
- (c) The same underlying commitment or accrual is not already covered forward.
- (d) In respect of imports, the nature and extent of the import commitment must be confirmed by any one of the documents specified in section B.1(B) of the Authorised Dealer Manual or pro forma invoices, purchase orders, copies of import letters of credit or copies of order confirmations or, when such documents are not available, a letter signed by two responsible persons, whose names and titles should appear below their signatures, giving full details of the underlying commitment. The above letter, however, does not absolve the client from the requirements of (i) above.
- (e) In respect of the accrual of the proceeds of exports, the period covered granted may not extend beyond six months from the date of shipment, except where the Authorised Dealer concerned or the Financial Surveillance Division has granted permission for such proceeds to be received after six months. In addition, cover may also be granted in respect of any pre-shipment period.
- (f) Where a dispensation has been granted by the Financial Surveillance Division to certain corporates from the requirement to submit documentary evidence for trade related foreign exchange transactions (the imports undertaking dispensation), such dispensation also applies when concluding forward or foreign exchange option contracts in respect of those transactions.
- (g) In respect of all other commitments or accruals, documentary evidence is exhibited confirming the nature and extent of that commitment or that foreign exchange is definitely accruing and the nature and extent of such accruals.

- (h) Where the required documentary evidence is not available at the time of establishment of a forward or foreign exchange option contract, such documentation be presented within 14 days.
- (i) All documentation submitted in evidence of the foreign exchange commitment or accrual in respect of which cover is availed of must indicate the contract number and the period of the contract. Furthermore, in respect of an import transaction where a letter has been submitted in terms of (d) above, the documents specified in section B.1(B) of the Authorised Dealer Manual or pro forma invoices, purchase orders, copies of import letters of credit or copies of order confirmation must subsequently be viewed.
- (j) Authorised Dealers may allow Lesotho corporates to cover forward up to 75 per cent of budgeted import commitments or export accruals in respect of the following financial year, subject to the following conditions:
 - (aa) all matured sales contracts must relate to firm and ascertainable underlying commitments and the underlying documentation must be viewed at the time of settlement, in accordance with the provisions of section B.1(B) and (F) of the Authorised Dealer Manual;
 - (bb) under no circumstances may the contracts be used as a mechanism to speculate against Maloti'
 - (cc) proceeds of matured forward exchange sales contracts may only be credited to the applicant's C.F.C. account in terms of the provisions of section E.(B)(ii)(a)(ff) of the Authorised Dealer Manual; and
 - (dd) any unutilised portion of the contracts must be swapped in terms of the provisions of subsection (F) below. The Authorised Dealer(s) with whom the applicant company transacts must ensure that the conditions outlined above are strictly adhered to.
- (k) Authorised Dealers must be furnished with a written letter from their clients, signed by two senior officials, confirming that the above conditions were adhered to, together with a detailed schedule of utilisation to ensure compliance with the limit authorised, prior to considering a request for the next financial year.

(D) Foreign currency against foreign currency

- (i) Subject to the same conditions as set out in subsections (A), (B) and (C) above, Authorised Dealers may arrange cover on behalf of their customers in one foreign currency against another.

(E) Transactions between Authorised Dealers

- (i) Authorised Dealers may, in respect of permitted cover contracts, marry such contracts and deals with one another, either spot or forward in any currency.
- (ii) In addition, Authorised Dealers may establish contra contracts on overseas foreign exchange markets or take their forward position into their spot position.
- (iii) Authorised Dealers may also offset such risk through MSM.

(F) Surrenders or extensions by means of SWAPS

- (i) Since forward or foreign exchange option contracts entered into in terms of subsection (B) above may only be concluded for firm and ascertained foreign exchange commitments or accruals and constitute a binding agreement between the parties concerned, such contracts may not be annulled prior to the maturity date.
- (ii) Should circumstances arise in which it is required to vary the delivery date of a forward or foreign exchange option contract or part thereof, surrenders, early take-ups or extensions may be allowed, subject to settlement taking place by means of a counter contract or swap. Any profits or losses arising from such action should be regarded as being for account of the customer and the rate applied to the extension of such contracts may under no circumstances be adjusted to incorporate the relative profit or loss.

(G) Hedging operations

- (i) Subject to the same conditions as set out in subsections (A), (B) and (E) above, Authorised Dealers may arrange cover with resident customers in respect of the risks mentioned below.

- (ii) Authorised Dealers are required to keep a register of all Over the Counter (OTC) contracts traded and such register should be available at all times for inspection purposes by the Financial Surveillance Division.
- (iii) All trades must take place under International Swaps Derivatives Association (ISDA) agreements with all individual trades being subsequently confirmed with a transaction form stating who the Granter (Seller) and Grantee (Purchaser) of the products are.
- (iv) Residents who wish to hedge directly with an offshore counterparty require prior approval of the Financial Surveillance Division.
- (v) Risks for which cover maybe arranged with resident clients:
 - (a) Interest Rates
 - (aa) Authorised Dealers may cover their customers' firm and ascertained exposure to possible losses as a result of adverse movements in interest rates arising from an underlying transaction.
 - (bb) Such an interest rate hedge may be arranged by way of a futures contract on fixed income securities or time deposits, including forward rate agreements, an interest rate options contract or an interest rate swap. An interest rate hedge in any other form may only be entered into after the prior approval of the Financial Surveillance Division has been obtained.
 - (b) Price Risk
 - (aa) Commodities
 - (1) Commodity futures and commodity option contracts with resident customers may be entered into, provided that they are quoted and traded on the Maseru Securities Market (MSM).
 - (2) The terms and conditions pertaining to dealings by non-residents on MSM are incorporated in their Rules and Regulations.
 - (bb) Metals
 - (1) Precious and base metals may be sold forward to or purchased forward from residents by either

entering into a commodity futures contract or a commodity option contract with an Authorised Dealer.

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D. 2 Forward cover transactions between Authorised Dealers and non-residents**(A) General**

- (i) The aim of hedging is either to offset or to minimise the risk of losses that an enterprise may be exposed to due to the effect of price changes on its assets, liabilities or future firm and ascertained commitments and/or accruals.
- (ii) Authorised Dealers must ensure that dealings in hedging instruments are not undertaken for speculative purposes or as a means of circumventing the Regulations.

(B) Forward cover transactions between Authorised Dealers and non-residents

- (i) Forward Purchase and/or Sale of Maloti
 - (a) In addition to the criteria outlined in subsection (A) above, non-residents may purchase or sell Maloti in the domestic foreign exchange market, subject to the conditions that:
 - (aa) The Maloti bought or sold on this basis by the non-resident must purely be aimed at hedging the non-resident against a firm and ascertainable underlying local commitment or accrual which is denominated in Maloti and which is either:
 - (1) permissible in terms of the Authorised Dealer Manual; or
 - (2) in respect of which a specific authority has been granted by the Financial Surveillance Division; or
 - (3) in respect of a non-resident party actively managing foreign exchange risk exposure in respect of a direct underlying local commitment or accrual;
 - (bb) While cover may normally not be granted for a period extending beyond six months, contracts may be entered into and exited at the client's discretion and need not run until settlement of the commitment or accrual;
 - (cc) The same underlying commitment or accrual is not already covered forward;

- (dd) Non-resident counterparties who are foreign subsidiaries or branches of Lesotho corporates or other Lesotho entities, including foreign subsidiaries or branches of Authorised Dealers who wish to transact in Maloti hedging for its own account, present to the Authorised Dealer a copy of a specific approval from the Financial Surveillance Division granting permission for such a non-resident to enter into the Maloti hedge transaction, plus suitable documentation confirming that an underlying Maloti denominated commitment or accrual is in place;
 - (ee) In respect of hedging contracts for periods longer than six months, suitable documentation confirming that an underlying Maloti denominated commitment or accrual is in place, is viewed on the settlement date;
 - (ff) 'Suitable documentation' as mentioned in (ee) above confirming the underlying transaction would in most instances be the official and binding document used between the contracting parties as evidence of the underlying transaction, (e.g. a broker's note for the sale or purchase of local listed securities by the non-resident).
 - (gg) All settlements in terms of forward cover taken out by non-residents not resulting in the physical conversion of currency to and from Maloti, i.e. the so called 'in between trades' must be reported to the Financial Surveillance Division on the same basis as outlined in subsections D.1(C)(i)(f) and (g) of the Authorised Dealer Manual.
- (ii) General information on trading parameters
- (a) Non-resident correspondent banks are free to deal in the spot foreign exchange market. Spot transactions must, however, be settled on the original spot value date.
 - (b) Foreign exchange swap transactions by non-resident correspondent banks with Authorised Dealers, involving the funding of short Maloti positions, may only be undertaken by non-resident correspondent banks in respect of their assets, liabilities or underlying firm and ascertainable exposures, commitments or accruals.

- (c) Transactions that involve the outright purchase of Maloti for purposes of making an investment constitute an exposure that can be hedged against exchange rate risk. Thus, correspondent banks can create Maloti on the swap for purposes of funding their nostro accounts.
- (d) Swap transactions in the forward market with the sole purpose of trading an interest rate view and which do not involve the financing of a short Maloti position are acceptable.

(C) Foreign currency against foreign currency

- (i) Subject to the same conditions as set out in subsections (A) and (B) above, Authorised Dealers may arrange cover on behalf of their customers in one foreign currency against another.

(D) Surrenders or extensions by means of swaps

- (i) Since forward or foreign exchange option contracts entered into in terms of subsection (B) (i) (e) above may only be concluded for firm and ascertained Maloti denominated commitments or accruals and constitute a binding agreement between the parties concerned, such contracts may not be annulled prior to the maturity date. In the case of optional contracts, the contract matures once the full amount has been taken up which may be prior to the final delivery (maturity) date mentioned in the contract.
- (ii) However, should circumstances arise in which it is required to vary the delivery date of a forward or foreign exchange option contract or part thereof, surrenders, early take-ups or extensions may be allowed, subject to settlement taking place by means of a counter contract or swap. Any profits or losses arising from such action should be regarded as being for account of the customer and the rate applied to the extension of such contracts may under no circumstances be adjusted to incorporate the relative profit or loss.

(E) Hedging operations

- (i) Subject to the same conditions as set out in subsections (A) and (B) above, Authorised Dealers may arrange cover with non-resident counterparties, in respect of the risks mentioned below.
- (ii) Authorised Dealers are required to keep a register of all OTC contracts

traded and such register should be available at all times for inspection purposes by the Financial Surveillance Division.

- (iii) All trades must take place under International Swaps and Derivatives Association (ISDA) Agreements, with all individual trades being subsequently confirmed with a transaction form stating who the Granter (Seller) and Grantee (Purchaser) of the products are.
- (iv) Risks for which cover may be arranged with non-resident counterparties:
 - (a) Interest Rates
 - (aa) Authorised Dealers may cover their customers' firm and ascertained exposure to possible losses as a result of adverse movements in interest rates arising from an underlying transaction.
 - (bb) Such an interest rate hedge may be arranged by way of a futures contract on fixed income securities or time deposits, including forward rate agreements, interest rate option contracts or interest rate swaps.
 - (cc) An interest rate hedge in any other form may only be entered into after the prior approval of the Financial Surveillance Division has been obtained.
 - (b) Price Risk
 - (aa) All contracts and instruments such as gilts, equity options and index-linked hedging instruments and warrants written by non-resident institutions and subscribed to by residents, excluding Authorised Dealers, must be referred to the Financial Surveillance Division on a case by case basis.
 - (bb) Once approval has been granted, all cross-border cash flows must be settled in foreign currency or Maloti from a Non-resident Maloti account.
 - (c) Credit risk (credit derivatives)
 - (aa) Authorised Dealers may enter into credit derivative transactions with non-resident counterparties in order

to offer such non-residents protection on Maloti denominated securities acquired in or debt advanced to the domestic markets.

- (bb) Credit exposures resulting from foreign currency denominated loans advanced by non-residents to residents for domestic employment may also be assumed by Authorised Dealers.
- (cc) No credit derivative transactions may be entered into with non-residents in respect of foreign currency denominated securities issued by residents or securities (including Maloti denominated) issued by non-residents except as provided for in subsections B.2(B)(iv) and D.1(C) of the Authorised Dealer Manual.
- (dd) Authorised Dealers may also enter into credit derivative transactions with non-resident banks in order to reduce such Authorised Dealers' credit risk exposure as a result of the above-mentioned transactions with non-residents or transactions with residents.
- (ee) Where it is necessary for non-residents to place collateral with Authorised Dealers in respect of any credit derivative transaction, only cash cover in Maloti or the pledge of other unencumbered non-resident owned local Maloti denominated assets is allowed.
- (ff) Authorised Dealers may place funds in margin accounts or as collateral with non-resident banks as a result of permissible derivative transactions. Such funds must, however, form part of the foreign currency holdings of Authorised Dealers.
- (gg) Authorised Dealers are only allowed to enter into credit derivative transactions in order to reduce credit risk exposures resulting from genuine underlying transactions. Documentary evidence must be viewed confirming the nature and extent of the underlying exposure. It follows that such transactions are not allowed for pure trading and speculative purposes.
- (hh) Authorised Dealers are required to keep a register of all credit derivative contracts entered into and such register should be available at all times for inspection purposes by the Financial Surveillance Division. All transactions

must take place in terms of International Swaps and Derivatives Association (ISDA) Agreements or ISDA confirmations. All individual transactions must subsequently be confirmed with a transaction form stating the name and domicile of the protection seller and protection buyer and signed undertakings by both parties that the premium or margin requirements reflected in the ISDA Agreement, is payable and receivable wholly in terms of that Agreement and does not relate to any other agreement between the two parties.

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E. Non-resident Maloti accounts, Customer Foreign Currency accounts, foreign currency accounts and foreign bank accounts

(A) Non-resident Maloti accounts

- (i) Transactions over Non-resident Maloti accounts
 - (a) Maloti accounts opened by non-residents must be designated and conducted as Non-resident Maloti accounts.
 - (b) Authorised Dealers must report any transactions other than those specified below that pass through these accounts, to the Financial Surveillance Division.

Debits	Credits
(1) Maloti payments to residents for any purpose, except loans.	(1) The proceeds of sales of foreign exchange made by a non-resident to an Authorised Dealer.
(2) Payments to other Non-resident Maloti accounts.	(2) Payments from other Non-resident Maloti accounts.
(3) Payment for foreign currency purchased.	(3) Maloti payments that are eligible for transfer abroad in terms of the applicable sections and subsections of B.1 through B.21, as well as G. of the Authorised Dealer Manual or for which approval of the Financial Surveillance Division has been obtained and after all requirements had been met.
(4) Maloti payments to the account holder while visiting the CMA.	(4) Re-deposits of unused Maloti withdrawn while visiting the CMA.
(5) Maloti payments in respect of investment in local debt instruments in terms of the provisions of Section G(D) of the Authorised Dealer Manual.	
(6) Transactions by Authorised Dealers in terms of	

subsection B.2(l) of the Authorised Dealer Manual.	
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- (c) All transactions, not specified above, require prior approval from the Financial Surveillance Division.
- (ii) Control over Non-resident Maloti accounts
- (a) Authorised Dealers are requested to exercise extreme care over deposits to Non-resident Maloti accounts. Such accounts must be kept separately under the supervision of a responsible officer conversant with the principles of exchange control and the provisions of the Authorised Dealer Manual.
 - (b) Non-resident Maloti accounts may not be overdrawn without the permission of the Financial Surveillance Division, except as provided for in Sections I.1(B) and B.2(I). However, Authorised Dealers are permitted to use their discretion in allowing occasional overdrafts (as a result of clerical, transmission or operational errors) on the non-resident clearing accounts of foreign banks (vostro accounts) held in their books. It is, however, incumbent on the Authorised Dealer to advise the foreign bank concerned of such overdraft immediately and to request rectification thereof.
 - (c) Authorised Dealers are requested to advise the Financial Surveillance Division of all cases where these clearing accounts overdraw regularly in amounts of M1 million and over, or, where the provision of cover is unduly delayed (i.e. beyond two business days from the date that the account went into overdraft). Cover for bank charges and other transactional expenses may continue to be provided on a periodic basis.
- (iii) Transfer of non-resident funds between Authorised Dealers

The transfer of non-resident funds between Authorised Dealers is only permitted by means of the appropriate authenticated S.W.I.F.T. message types. For all Maloti transfers, the originator must quote the following in field 72:/REC/NTNRC.

Settlement will be effected via NPS (National Payment System).

(B) Customer Foreign Currency accounts (C.F.C. Accounts)

- (i) Authorised Dealers may open C.F.C. accounts for the following Lesotho entities (legal persons):
 - (a) C.F.C. Account holders include:
 - (aa) importers and exporters of goods;
 - (bb) ADLAs;
 - (cc) locally recognised ships' agents;
 - (dd) freight forwarders;
 - (ee) marine insurance brokers;
 - (ff) any Lesotho entity, with the exception of those entities authorised in terms of the provisions of Section B.21 of the Authorised Dealer Manual, that provides a service from Lesotho to non-residents and who receives payment in foreign currency in Lesotho; and
 - (gg) local entities (i.e. legal persons) involved in foreign business transactions whereby they become entitled to commissions or profit in foreign currency as a direct result thereof (e.g. merchanting trade in accordance with Section B.12(A) of the Authorised Dealer Manual, insurance brokers, stockbrokers, tour wholesalers or operators). It should be noted that such C.F.C. accounts may not be overdrawn without prior approval from the Financial Surveillance Division unless authorised elsewhere in the Authorised Dealer Manual.
 - (b) Special C.F.C. Account holders include:
 - (aa) the insurance industry to cater for foreign currency working balances in terms of Section B.10 (D) (iv) of the Authorised Dealer Manual;
 - (bb) local entities involved in the importation and exportation of rough diamonds, crude oil, wrought gold and/or steel. Separate C.F.C. accounts clearly designated as Special C.F.C. accounts may, on application to an Authorised Dealer, be opened for these local entities (i.e. legal persons), to facilitate the local

settlement in foreign exchange between such accountholders in respect of transactions which will result or have resulted in the direct importation and/or exportation, by one of the entities involved, of rough diamonds, crude oil, wrought gold and/or steel. The following provisions must, at all times, be strictly adhered to:

- (1) no more than two local entities (i.e. one buyer and one seller) may be party to any transaction to be so settled and both parties must obtain permission from their respective Authorised Dealers to conduct Special C.F.C. accounts for such transactions. Authorised Dealers must liaise with each other in this regard;
- (2) one of the parties to transactions to be so settled must be a registered importer and/or exporter of the commodity in question. The Authorised Dealer of the importer and/or exporter should be presented with suitable documentary evidence to this effect;
- (3) the commodities to be so acquired must be destined for exportation or importation by one of the parties concerned and documentary evidence to this effect should be presented to the Authorised Dealer in whose books such a party conducts or wishes to conduct a Special C.F.C. account;
- (4) only the aforementioned transactions may be settled over such Special C.F.C. accounts;
- (5) only the party that will have to convert Maloti to foreign exchange in order to settle such transactions, may be permitted to hedge its exposure in respect of the particular transactions. It follows that the party, which will export or import the commodities, may not be permitted to enter into hedging transactions in respect of their accruals or commitments resulting from such transactions; and

- (6) Authorised Dealers should ensure that all other provisions of the Authorised Dealer Manual regarding imports, exports and hedging are fully complied with.

- (cc) local entities who are oil and gas right holders and whose sole trade relates to exploration and production (i.e. extraction only) may open and conduct C.F.C. accounts without any restriction on the nature of transactions passing over the account, provided that all requirements relating to reporting, in terms of the Reporting System, are adhered to.

- (c) The opening of C.F.C. accounts for any other purpose requires prior approval from the Financial Surveillance Division.

- (ii) Control over C.F.C. Accounts
 - (d) The above-mentioned accounts are subject to the following conditions:
 - (aa) these accounts must form part of the bank's nostro account administration and accordingly the customer cannot operate on it other than through and with the full cognisance and approval of the Authorised Dealer concerned. Clients are permitted to retain funds in their C.F.C. accounts without the obligation to convert the funds into Maloti. The current repatriation requirement remains extant;
 - (bb) only foreign exchange transactions concluded in the name of the account holder and which qualifies as a permissible debit and/or credit, may be passed over these accounts;
 - (cc) all transactions must comply fully with the provisions of the Authorised Dealer Manual or the provisions of specific authorities from the Financial Surveillance Division;
 - (dd) hedging transactions may be entered into for specific import payments and the maturity proceeds used to

replenish an overdrawn C.F.C. account. Foreign exchange may also be purchased in the spot market to replenish an overdrawn C.F.C. account;

- (ee) for compliance purposes, both the account holder and the Authorised Dealer must maintain an audit trail of all set-offs;
- (ff) foreign currency purchased in the spot market for permissible transactions in respect of a firm and ascertainable underlying commitment or the maturity proceeds of hedging contracts may only be credited to a C.F.C. account if the funds are to be transferred abroad within a period of 30 days. Authorised Dealers must ensure that this dispensation is not abused;
- (gg) when permitting the transfer of funds between C.F.C. accounts at different Authorised Dealers, such transfers may only be by means of the appropriate S.W.I.F.T. client transfer message type. The following provisions should also be adhered to:
 - (1) if proceeds are transferred between C.F.C. accounts, Field 72 of the appropriate S.W.I.F.T. client transfer message type should clearly indicate the foreign exchange amount purchased in the spot market or received as maturity proceeds from hedging contracts. In the event of funds being transferred in bulk, this information should be broken down into the specific amounts, making up the total transferred;
 - (2) the Authorised Dealer receiving funds for credit to a C.F.C. account from another Authorised Dealer, may not accept such funds if Field 72 does not indicate, inter alia, the date on which the funds were originally credited to the C.F.C. account.
 - (3) transfer of foreign currency, which was not acquired by means of a spot transaction or from the maturity of hedging contracts, should be reflected in Field 72;

- (4) transfer between local entities in settlement of transactions in rough diamonds, crude oil, wrought gold and steel, should be reflected in Field 72 as TRF 4 COMMODITIES; and
 - (5) the authority number should be reflected in Field 72 in the event of funds being transferred between C.F.C. accounts in terms of specific authorities granted by the Financial Surveillance Division.
- (hh) if a C.F.C. account has been debited in respect of bridging finance, no forward cover may be availed of, as the account may only be replenished by means of proceeds received from abroad;
- (ii) where the account is credited with export proceeds, the Authorised Dealer administering the C.F.C. account must inform the attesting bank, in writing, that the relative export proceeds have been received and thus the underlying Form(s) F.178 may be discharged;
- (jj) where a group of companies operate C.F.C. accounts, the Lesotho parent company may consolidate the group's earnings and any local subsidiary may utilise the funds, provided that the group operate through a centralised treasury located in Lesotho; and
- (kk) interest earned on C.F.C. accounts may be retained in such accounts and be used for set off purposes.
- (iii) Permissible set offs/debits over C.F.C. accounts
- (a) The following payments may be set off against single C.F.C. account balances:
 - (aa) imports and software electronically downloaded, including all costs related thereto;
 - (bb) the payment of expenses such as commission, freight, insurance and demurrage, which are expressed in a foreign currency;

- (cc) advertising, exhibition or trade fair expenses;
 - (dd) charges for repairs and adjustments to goods exported temporarily;
 - (ee) charges in connection with legal disputes;
 - (ff) examination fees where the account holder is responsible for the payment thereof;
 - (gg) fees in respect of services rendered;
 - (hh) fees in respect of the registration of drugs;
 - (ii) royalties and fees arising from the use of patent, designs and trademarks;
 - (jj) subscriptions; and
 - (kk) technical service payments.
- (b) The setoffs/debits referred to above may only be passed provided that the Authorised Dealer concerned has satisfied itself that the transactions are permissible in terms of the various sections of the Authorised Dealer Manual or in respect of which a specific authority has been granted by the Financial Surveillance Division.
- (iv) Exemptions
- (a) Freight payments, which are expressed in foreign currency and are directly related to a specific import or export transaction may be settled between local entities (i.e. legal persons) in foreign currency.
 - (b) Similarly, importers who do not conduct a C.F.C. account or who have no inflow of foreign currency may purchase foreign currency in the spot market to pay freight charges to another

resident provided that such resident has an obligation to pay freight charges in foreign currency.

- (c) Foreign currency held by a locally recognised ships' agent (including cash to master transactions), freight forwarder, marine insurance broker or tour wholesaler or operator for the ultimate benefit or account of a non-resident entity (e.g. a ship's owner, freight forwarder, insurance broker or insurance entity abroad) need not be offered for sale to an Authorised Dealer. These funds may be retained in a C.F.C. account until distribution on behalf of or remittance to the non-resident beneficiary abroad. Authorised Dealers must ensure that this concession is not abused.
- (d) If the account holder is required to pay any interest on an overdrawn account by converting Maloti into foreign currency, this may be permitted in the spot market.

(C) Foreign currency accounts

- (i) Foreign currency accounts may be opened for private individuals (natural persons) resident in Lesotho for transactions permissible in terms of the Authorised Dealer Manual and for non-residents.

(D) Foreign bank accounts

- (i) Authorised Dealers may approve requests by Lesotho companies to open and operate foreign bank accounts, subject to the following conditions:
 - (a) only Lesotho companies that have legal/bona fide sources of income abroad are permitted to open foreign bank accounts;
 - (b) all foreign credits to such bank accounts are subject to the provisions of Regulation 7, except in respect of foreign earned dividends which are exempted from the aforementioned Regulation;
 - (c) funds that accrue in foreign bank accounts must be in respect of transactions permissible in terms of the Authorised Dealer Manual or a specific authority granted by the Financial Surveillance Division;

- (d) applicants must give written undertakings to Authorised Dealers that no debits other than transfers to Lesotho, debits permissible in terms of a specific authority from Financial Surveillance Division or bank charges, will be passed over the foreign bank accounts; and
 - (e) Applicants must ensure that the foreign bank accounts have been conducted within the ambit of the aforementioned conditions.
- (ii) The Financial Surveillance Division reserves the right to instruct the applicant company to close any foreign bank account and for any funds accumulated therein to be repatriated to Lesotho, in the event of the above-mentioned conditions in (i) above not being complied with.
 - (iii) At the time of approving the opening of the foreign bank account, Authorised Dealers must report the following to the Financial Surveillance Division:
 - (a) the name and registration number of the applicant company;
 - (b) domicile of where the foreign bank account has been opened;
 - (c) the account holder and account number; and
 - (d) the purpose of opening the foreign bank account.
 - (iv) Authorised Dealers may, where applicable, approve the extension of the authorities previously granted by the Financial Surveillance Division provided the conditions stipulated in (i) above are strictly adhered to.

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F.1 Negotiable instruments denominated in Maloti and Maloti notes**(A) Cheques, dividend warrants and drafts**

- (i) The remittance to points outside Lesotho of cheques, dividend warrants and drafts in Maloti contravenes Regulation 4(1)(e) and such instruments presented to Authorised Dealers' overseas branches, offices and subsidiaries, should not be negotiated but accepted for collection only. The remittance of the proceeds by the drawee bank is dependent on the production of documentary evidence that the transaction is permissible in terms of the Authorised Dealer Manual.
- (ii) Bank drafts issued in Maloti by Authorised Dealers are, however, exempted from the provisions of Regulation 4(1) (e) and may be honoured when presented for payment. The production of documentary evidence confirming that transactions are permissible in terms of the Authorised Dealer Manual is still applicable when issuing bank drafts.

(B) Import and export of Maloti notes

- (i) As the import and export of Maloti notes are prohibited (except as provided for in Section B.11 of the Authorised Dealer Manual), Authorised Dealers should not accept such notes received from points outside Lesotho.
- (ii) However, the proceeds of Maloti notes repatriated from SADC members, excluding CMA members, may be remitted on the production of documentary evidence confirming that they were not exported from Lesotho in contravention of the Regulations. In this regard, it would meet the requirements of the Financial Surveillance Division if consignments of notes are accompanied by the confirmation of the repatriating bank that the notes were acquired from bona fide travellers from Lesotho in amounts not exceeding M25 000 per capita.
- (iii) For statistical purposes, Authorised Dealers must advise the Financial Surveillance Division monthly of all amounts of Maloti notes received from the aforementioned countries. The figures furnished must indicate the source from which the notes were received and the number of notes in each denomination.

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F.2 Assignment to ministry of finance of the right to exported goods**(A) Exports**

- (i) Whenever goods have been exported from Lesotho and the exporter has either failed to sell those goods or has not received payment in respect thereof within six months from the date of export, the exporter must within 14 days from the date of expiry of the six month period, report the matter to the Ministry of Finance or to an Authorised Dealer.
- (ii) In the absence of a satisfactory explanation for such failure, the Ministry of Finance may, in terms of the provisions of Regulation 12(1), order the exporter to assign to the Ministry of Finance the right to such goods.

(B) Imports

- (i) Whenever goods have been purchased and paid for outside Lesotho, but which goods have not been consigned to Lesotho within four months of the date of payment, the importer must within 14 days from the date of expiry of the four month period, report the matter to the Ministry of Finance or to an Authorised Dealer.
- (ii) In the absence of a satisfactory explanation for the delay in the shipment of the goods, the Ministry of Finance may, in terms of Regulation 12(1), order the importer to assign to the Ministry of Finance the right to such goods.
- (iii) For the purposes of Regulation 12, goods held in bond abroad are not regarded as having been shipped to Lesotho.

(C) Exemptions

- (i) Authorised Dealers may, at their discretion, both in the case of exports and imports, grant short extensions of the periods referred to in Regulations 11 and 12, provided that they are satisfied that the goods will be sold, or in the case of imports, received in Lesotho within a reasonable period, that the delay in the sale or shipment is due to factors outside the control of the local merchant, and that no intentional circumvention of the Regulations is involved.
- (ii) Authorised Dealers should diarise import and export transactions to ensure compliance with these Regulations and should render monthly

returns of all exemptions granted to their clients under this paragraph to the Financial Surveillance Division, furnishing details of:

- (a) the name of the importer and exporter;
- (b) date of payment or of export;
- (c) amount of payment or declared value of export; and
- (d) the reason for delay in shipment or, in the case of exports, of the repatriation of the export proceeds.

(D) Assignments

- (i) In the event of an exemption being refused, the Ministry of Finance would instruct the importers and/or exporters to assign their right to the goods held outside Lesotho to their Authorised Dealer, who would be requested to dispose of the goods to best advantage.
- (ii) The sum payable as consideration for any assignment would be the amount realised, less the cost of realisation.

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G. Securities control**Index****(A) Control over dealings by residents in securities owned by non-residents or in which such persons have an interest**

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(A) Control over dealings by residents in securities owned by non-residents or in which such persons have an interest

- (i) Exchange Control Regulations
- (a) The regulations governing dealings in securities owned by non-residents are set out in Regulations 15 and 16.
- (b) The attention of Authorised Dealers is drawn to the provisions of, inter alia, Regulation 11(1)(c). In this regard, it is essential that all securities related transactions, between a resident and a non-resident or emigrant whereby capital or any right to capital is directly or indirectly exported from Lesotho, are carefully scrutinised. Documentary evidence such as brokers' notes or validated trade advices and auditors' certificates, where applicable, must be viewed in order to ensure that such transactions are concluded at arm's length and at market related prices. In the case of any doubt on the part of the Authorised Dealer or Authorised Bank concerned, the proposed transaction must be referred to the Financial Surveillance Division.
- (c) Residents of South Africa, Namibia and Swaziland are also regarded as residents for purposes of securities control.
- (ii) Glossary of terms
- (a) For purposes of the application of this section of the Authorised Dealer Manual, unless the context otherwise indicates, the following definitions should be applied:
- (aa) **Authorised Bank** means a person authorised by the Financial Surveillance Division to effect and cancel non-resident endorsements.
- (bb) **Authorised Dealer** means a person authorised by the Ministry of Finance to deal in foreign exchange and to effect non-resident endorsements.
- (cc) **Certificated Securities** are securities issued in paper form.
- (dd) **Controlled Securities** means:
- (1) any security which is registered in the name of a non-resident or of which a non-resident is the

owner or in which a non-resident has an interest;
and

- (2) any security acquired from a non-resident or acquired outside the CMA, by any person, irrespective of the residence of such person.
- (ee) **CSA** means a Custody and Settlement Agent appointed by a broking member (equities) issued by MSM, to exercise custody over that member's managed account, safe custody and controlled account assets and to effect settlement of certificated and uncertificated securities on behalf of that member and its clients.
- (ff) **CSD** means central securities depositories.
- (gg) **CSDP** means a duly appointed participant in a central securities depository.
- (hh) **CSM** means a custody and settlement member of the MSM, who has been appointed in terms of the rules and, on behalf of its clients and/or another member and that member's clients:
- (1) exercises custody over managed accounts, safe custody and controlled account assets; and
- (2) effects settlement of uncertificated and certificated securities.
- (ii) **MSM** means the Maseru Securities Market
- (jj) **Settlement authority** means the person or persons appointed by MSM to manage the settlement of transactions in uncertificated securities effected through the trading system of MSM in terms of the rules and directives, as well as the CSD rules.
- (kk) **Stockbroker** means a natural person who is a member or who is an officer or employee of a member and who is authorised and qualified under the rules of the exchange concerned to be a stockbroker.

(iii) General

- (a) There are no restrictions on local dealings in securities, other than bearer securities, which are owned by residents.
- (b) It is emphasised that this section applies not only to securities registered in the name of a non-resident, but also to securities in the name of a resident acting as a nominee for a non-resident.
- (c) The principal objectives in controlling non-resident owned securities are to ensure that:
 - (aa) residents requiring funds outside the CMA do not obtain such funds by purchasing securities in the CMA and selling them outside the CMA, without accounting for the proceeds in foreign currency or Maloti from a Non-resident Maloti account; and
 - (bb) since all income due to non-residents on their securities is freely transferable, non-residents do not purchase securities from residents other than through approved channels at a fair market price; and
 - (cc) since exchange controls on non-residents have been abolished, the onus is on the Lesotho buyer or seller of securities to prove that the transaction was concluded on an arm's length basis and at a fair and market related price.
- (d) The scheme outlined hereunder has been designed to segregate securities owned by non-residents from securities owned by residents without imposing control over the actual securities, in both certificated and uncertificated environments, to allow non-residents the maximum freedom to change their investment portfolios without defeating the objectives outlined above and at the same time to obviate the necessity for a cumbersome administrative system which, in the interests of investors and others concerned, it is naturally desired to avoid.
- (e) All securities traded on MSM need to be dematerialised or immobilised in the records of the CSD specifically established for this purpose, before it can be rendered 'good delivery'. The residential status will be flagged by the various CSDPs or settlement agents.
- (f) Since only CSDPs would be able to initiate the dematerialisation

process in an electronic settlement environment, the initiation of this process in respect of emigrants would need to be the CSDP of the Authorised Dealers controlling the particular emigrant's remaining assets or the CSDP contracted by such an Authorised Dealer, under the auspices of the controlling Authorised Dealer.

- (g) Only CSDP of Authorised Dealer may enter into securities lending transactions with non-residents and then only within the ambit of the powers granted to them.
 - (h) Except with the authority of the Financial Surveillance Division, no advances may be made against securities.
 - (i) The Financial Surveillance Division is of the view that in a certificated environment, securities control can best be administered by a few financial institutions who have a detailed knowledge of the subject and requirements imposed by the Financial Surveillance Division. It has, therefore, been centralised in the hands of a few branches of Authorised Dealers, who are referred to hereunder as Authorised Banks and CSDPs.
 - (j) In an uncertificated environment there is no distinction between the duties of Authorised Dealers, Authorised Banks and CSDPs. CSDPs and settlement Agents are also authorised as such by the Financial Surveillance Division, while members of stock exchanges are authorised by the exchanges concerned.
- (iv) Existing holdings of non-resident owned securities in certificated form
- (a) Regulation 15 makes it obligatory for all residents who hold or receive securities on behalf of non-residents to submit such securities to any Authorised Dealer or CSDP in the CMA for non-resident endorsement as indicated in subsection (c) below. The securities must be accompanied by a declaration signed by the holder that the beneficial owner of the securities is permanently resident in the country indicated.
 - (b) This Section applies both to securities registered in the names of non-residents and to those held in the names of nominees, including Authorised Dealers and all other nominee companies.
 - (c) Regulation 15 precludes any resident from acting as a nominee for a non-resident, unless permission has been obtained from the Financial Surveillance Division. Such permission will

normally be granted only to stockbrokers, banks and other financial institutions. Authorised Dealers and their nominee companies are hereby authorised to act as nominees for non-residents.

- (d) Authorised Dealers who are presented with unendorsed securities, will endorse such securities non-resident. The endorsement will be written or stamped in bold letters, not less than five millimetres high, on the top right-hand corner of the security. The endorsement will be authenticated by the stamp of the Authorised Dealer concerned and the signature of one of its authorised officers. It is emphasised that any Authorised Dealer may endorse securities, but that only an Authorised Bank may cancel the endorsement. Cancellations must also be authenticated as indicated above.
- (e) The effect of the non-resident endorsement will be to render the securities 'bad delivery' to a resident until the endorsement has been cancelled by an Authorised Bank.
- (f) If a non-resident wishes to effect a switch, the security will have to be presented to an Authorised Bank to have the endorsement cancelled. Such cancellation must be signed by an authorised officer of the Authorised Bank concerned.
- (g) The Authorised Banks will only cancel the endorsement on the following conditions:
 - (aa) against the presentation of other locally listed or unlisted securities of an equivalent value as evidenced by brokers' notes or an auditors' certificate confirming the value of the unquoted security, which would then be endorsed non-resident and returned to the broker, buyer or Authorised Dealer controlling the remaining assets of the emigrant;
 - (bb) against payment to the Authorised Bank, for transfer abroad or for credit of a Non-resident Maloti account, of the proceeds of the securities realised, as evidenced by brokers' notes or auditors' certificate confirming the value of the unlisted security; and
 - (cc) against payment to the bank of part of the proceeds for transfer abroad or for credit to a Non-resident Maloti account and presentation of other locally listed or unlisted securities, together totalling the equivalent of

the value of the securities sold. A non-resident endorsement must be placed on the securities presented.

- (h) Funds held in Non-resident Maloti accounts are freely transferable and will accordingly be eligible for investment in locally listed and unlisted securities, financial instruments and any other assets on behalf of such account holder. The funds may be released to a stockbroker or seller, against presentation of local securities on which a non-resident endorsement must be placed by the Authorised Bank.
- (i) If the value of securities sold on behalf of a non-resident exceeds the value of the new securities purchased, as evidenced by the relative brokers' notes or auditors' certificate, the difference must be deposited with an Authorised Bank for credit of a Non-resident Maloti account.
- (j) Where the value of securities purchased on behalf of a non-resident exceeds the value of the securities sold, the stockbroker or purchaser must satisfy the bank that the shortfall has been received in foreign currency or Maloti from a Non-resident Maloti account.
- (k) Authorised Banks may permit switches into other locally listed securities. Switches may also be permitted from unlisted securities to listed securities, from listed to unlisted securities, or from unlisted to other unlisted securities. The value of unlisted securities need to be confirmed by an auditors' certificate in each instance.
- (l) Transfer secretaries are also required to endorse securities in certain circumstances and will not be permitted to:
 - (aa) register securities in the name of a non-resident without endorsing the relative securities non-resident;
 - (bb) transfer securities out of the name of a non-resident (except to another non-resident), unless the relative securities have been endorsed non-resident and the endorsement cancelled by an Authorised Bank; and
 - (cc) issue rights to non-residents without endorsing the relative documents non-resident.
- (v) Securities purchased by non-residents and not dematerialised or

immobilised in a CSD

- (a) Authorised Dealers must place an endorsement on securities purchased with funds received in foreign currency or for which payment is made from a Non-resident Maloti account (including funds received from an emigrant's blocked account). The endorsement will consist of the word non-resident and will be authenticated by the stamp of the Authorised Dealer concerned and the signature of one of its authorised officers. After the endorsement has been annotated, the securities will be returned to the broker, buyer or Authorised Dealer controlling the blocked assets of the emigrant concerned, whichever is applicable.
 - (b) If the owner wishes to switch a security endorsed transferable or non-resident into another listed or unlisted security, an Authorised Bank must cancel the endorsement on the security sold and place a non-resident endorsement on the security purchased. This will only be done against confirmation of brokers' notes confirming the value of listed securities or auditors' certificates confirming the value of unlisted securities. When the latter is presented for transfer into the name of a non-resident or her/his nominee, the transfer secretary who signs the security issued to the transferee, must endorse that security non-resident above his signature. Securities forming part of an emigrant's blocked assets will be returned to the Authorised Dealer controlling such emigrant's blocked assets, for control in terms of the Regulations.
 - (c) Non-residents may switch their securities as provided for in subsection (iv)(j) above.
 - (d) In endorsing any security purchased under a switch, the Authorised Bank must ensure that any shortfall is received in foreign currency or Maloti from a Non-resident Maloti account. Any surplus funds arising from a switch must be credited to a Non-resident Maloti account.
 - (e) A non-resident may sell any CMA securities to another non-resident.
- (vi) Initiation of the dematerialisation and immobilisation process and subsequent trading in this environment
- (a) All securities traded on MSM need to be dematerialised or immobilised before they can be rendered good delivery. The residential status of

the electronic record (i.e. non-resident or emigrant or resident) will be flagged accordingly by the various participants in the central depository, and linked to the applicable non-resident, emigrant blocked or resident accounts in the books of the Authorised Dealer or Authorised Bank concerned.

- (b) Only CSDPs would be able to initiate the dematerialisation process in an electronic trading environment. It follows that the initiation of this process in respect of emigrants would need to be the CSDPs of the Authorised Dealer controlling the particular emigrant's remaining assets, or the CSDPs contracted by such an Authorised Dealer under the auspices of the controlling Authorised Dealer.
- (c) This Section applies both to securities registered in the names of non-residents and to those held in the names of nominees, including Authorised Dealers and all other nominee companies. It may further be added that Regulation 15 precludes any resident from acting as a nominee for a non-resident, unless permission has been obtained from the Financial Surveillance Division.
- (d) In processing any security purchased by a non-resident under a permitted switch, the relevant bank must confirm that the funds needed to settle the trade will be available on settlement date.

The bank must ensure that any shortfall is received in foreign currency or Maloti from a Non-resident Maloti account and that any surplus funds arising from a switch will be credited to a Non-resident Maloti account.

- (e) Funds held in Non-resident Maloti accounts are freely transferable and will accordingly be eligible for investment in locally listed and unlisted securities, financial instruments and any other assets on behalf of such account holder. The funds may be released to a stockbroker against presentation of a broker's note.
- (f) Where a non-resident removes securities or financial instruments that have been dematerialised or immobilised to a foreign register, the endorsement and cancellation procedures will not be applicable.
- (g) Where a non-resident removes securities or financial instruments that have been dematerialised or immobilised in a CSD, the endorsement procedures will again become operative.
- (h) To cover the expenses which will necessarily be incurred by CSDPs or settlement agents in maintaining qualified staff to deal with the matters outlined in this section, certain charges may be levied.

(vii) Duties of Authorised Dealers and Authorised Banks

(a) Authorised Dealers

- (aa) All certificated securities held by an Authorised Dealer on behalf of a non-resident must be endorsed as prescribed in this section. This applies irrespective of the name in which the shares are registered.
- (bb) All non-resident owned certificated securities that are not already endorsed and that are presented to an Authorised Dealer must be endorsed against presentation of the signed declaration referred to therein.
- (cc) Declarations need not be completed in respect of endorsed scrip held by an Authorised Bank on behalf of a non-resident.
- (dd) On no account may any person other than an authorised officer of an Authorised Bank cancel the endorsement on a certificated security. It follows that switches on behalf of a non-resident from certificated securities, where an endorsement needs to be cancelled, must be referred to an Authorised Bank.
- (ee) With regard to settlement and custody in an electronic environment, there is no difference between the duties of Authorised Dealers and Authorised Banks.
- (ff) Authorised Dealers must account for individual securities held by their clients on the resident, non-resident and emigrant platforms of their nominee account with a CSDP.
- (gg) They are also required to satisfactorily reconcile the aggregate of their electronic sub-register records per platform (i.e. resident, non-resident and emigrant) on a daily basis with the total of their nominee account.
- (hh) When opening an account for a non-resident investor, the Authorised Dealer must ensure that the following indicators are correctly identified:
 - a. resident;

- b. non-resident; and
 - c. emigrant.
- (ii) Authorised Dealers must ensure that a properly styled resident, non-resident, emigrant blocked or transferable income account has been linked to the securities account for settlement and corporate action purposes.
 - (jj) Under no circumstances may Authorised Dealers permit the transfer of securities within a nominee electronic register between local, non-resident and emigrant client accounts, other than for settlement related transfers.
- (b) Authorised Banks
- (aa) The information below under (cc) to (gg) refer to the existing certificated holdings of non-residents, howsoever acquired and to securities forwarded to the CMA or acquired as a result of switches.
 - (bb) The provisions of subsection (A) above apply to Authorised Banks who are also vested with the powers mentioned in the succeeding subsections.
 - (cc) Authorised Banks may permit switches into unquoted securities.
 - (dd) The endorsement on non-resident owned securities may be cancelled only on the conditions outlined in subsection (iv)(f) above.
 - (ee) With regard to subsection (iv)(g), Authorised Banks will appreciate that, before releasing funds to a member of the MSM, it is essential for them to endorse the certificated securities presented and to ensure that the latter are of approximately equal value to those sold.
 - (ff) It is emphasised that endorsements may not be cancelled without the endorsement of other securities of similar value or against credit of the proceeds to a Non-resident Maloti account.
 - (gg) With regard to subsection (v) above, Authorised Banks will appreciate that the non-resident endorsement on a

security no longer restricts the transferability of the sale proceeds thereof.

- (hh) A security purchased for a non-resident may only be endorsed if the Authorised Bank concerned is satisfied that payment therefore has been received in foreign currency or Maloti from a Non-resident Maloti account.
 - (ii) If the owner of a transferable security wishes to sell it and purchase another, an Authorised Bank must place a non-resident endorsement on the security purchased and must:
 - a. satisfy itself that the security sold was endorsed by an Authorised Bank or by the transfer secretary whose signature appears at the foot of the security; and
 - b. cancel the endorsement on the security sold.
 - (jj) All income due on securities owned by non-residents is transferable to countries outside the CMA.
 - (kk) Except with the authority of the Financial Surveillance Division, advances may not be made against securities owned by non-residents.
 - (ll) Securities owned by non-residents may not be exported, unless they have been endorsed 'Non-Resident'.
- (viii) Duties of Members of the MSM
- (a) Dealing with listed securities where the securities are in certificated form
 - (aa) In terms of the provisions of Regulation 15, members of the MSM receiving securities in certificated form from or on behalf of a non-resident must immediately have the securities endorsed non-resident by an Authorised Dealer.
 - (bb) This applies also to securities purchased on behalf of a non-resident, even if the securities are to be registered in the name of the broker as nominee and to any securities bearing an address outside the CMA, whether the securities are to be dealt in or not.

- (cc) Members of the MSM should on no account deal in any way with unendorsed securities in which they know or have reason to believe a non-resident has an interest.
 - (dd) When requested by a non-resident to sell any security, the proceeds must either be used to purchase another locally listed security or be deposited with an Authorised Bank for transfer abroad or for credit of a Non-Resident Account in the name of the non-resident. The conditions governing dealings on behalf of non-residents are set out more fully in this section of the Authorised Dealer Manual.
 - (ee) Members are required to ensure that all securities introduced by a non-resident client into a non-resident share account are in fact non-resident securities by verifying that the securities bear a non-resident endorsement or that the securities have been transferred from another non-resident share account.
 - (ff) Members are required to ensure that where residents emigrate from the CMA, their remaining assets are brought under the administration of an Authorised Dealer.
- (b) Dealing with listed securities where the securities have been dematerialised or immobilised in a central depository
 - (aa) After a transaction has been concluded with a non-resident or emigrant or resident party, brokers notes must be sent to both the client and nominated CSDP.
 - (c) General
 - (aa) Members of the MSM should at all times strictly adhere to these requirements to prevent the objectives of securities control being defeated.
 - (bb) When in any doubt, members must consult an Authorised Bank or Head, Financial Surveillance. Reference to the Surveillance Division should be via an Authorised Dealer.
- (ix) Duties of transfer secretaries

- (a) Regulation 15 restricts dealings in securities belonging to non-residents, except on the conditions prescribed by the Ministry, whose powers under this regulation have been delegated to the Financial Surveillance Division. Except with permission (which must be obtained from an Authorised Dealer who will, in need, refer to the Financial Surveillance Division), no person may:
- (aa) register the transfer of any security in which a non-resident has an interest;
 - (bb) change the address of a non-resident, except to another non-resident address;
 - (cc) register a Lesotho address if the owner is a non-resident; or
 - a. transfer a non-resident entry from the foreign Section of a register to the Lesotho section of the register or vice versa.
 - (dd) This Section deals with the prescribed conditions upon which the acts specified in Regulation 15, may be performed by transfer secretaries and the duties that devolve upon them. In general:
 - a. no transfer of securities may be effected to or from a non-resident without the approval of an Authorised Bank or CSDP;
 - b. no securities in certificated form or right to purchase securities may be issued to, or for account of, a non-resident unless the documents are endorsed non-resident;
 - c. any request to change the address of a non-resident, except to another non-resident address, requires the prior approval of the Financial Surveillance Division;
 - d. it is possible that some securities in certificated form owned by non-residents may not be presented for endorsement, but if transfer secretaries receive, for any purpose, unendorsed securities in certificated form in the names of persons whose addresses are shown in the register as being outside the CMA, they should immediately hand the securities to an Authorised Dealer for endorsement;

- e. transfer secretaries may transfer securities in certificated form from one non-resident to another non-resident, provided that they place a non-resident endorsement on the security in the name of the transferee;
- f. transfer secretaries may transfer securities in certificated form from a resident to a non-resident only if the transferee's security is endorsed non-resident;
- g. transfer secretaries may not transfer securities in certificated form from a non-resident to a resident unless the transferor's security bears a non-resident endorsement and the endorsement has been cancelled by an Authorised Bank. No non-resident endorsement must be placed on the security issued to the resident. A transfer from a non-resident to a local nominee acting for the same non-resident, where no change of ownership is involved, is not regarded as a transfer from a non-resident to a resident. Transfer secretaries may, therefore, effect such transfers without reference to an Authorised Bank, provided that they place a non-resident endorsement on the new security issued in certificated form;
- h. forms of acceptance in certificated form, in respect of non-residents, must be endorsed 'Non-Resident', before issue. Securities (including letters of allocation, letters of allotment, option certificates, balance receipts and any other receipts for securities) may not be issued to a non-resident, or to a person known to be his nominee, without the approval of an Authorised Bank, who will indicate that the purchase price has been received in foreign currency or Maloti from a Non-Resident Maloti Account. The securities must be endorsed 'Non-Resident';
- i. where non-resident endorsed securities are received for splitting or replacement without change of ownership, transfer secretaries must endorse the new securities 'Non-Resident' as well;

- j. all non-resident endorsements by transfer offices must be authenticated by the signature of the authorised official of the transfer secretary concerned;
- k. transfer secretaries must in the following instances ensure that the original securities in certificated form are surrendered prior to issuing new securities in their stead:
 - (1) change of name;
 - (2) subdivision or consolidation of shares;
 - (3) participation in a reconstruction or merger; and
 - (4) buy-out and in lieu of cash, new shares are issued to the original shareholders;
- l. where a transfer secretary is requested by a CSDP to rematerialise for a non-resident, the transfer secretary may produce a certificate, provided that such certificate is endorsed 'Non-Resident'.

(B) Financial Surveillance Division requirements relating to the MSM

Note: (i) to (vii) below, only apply to Lesotho registered and domiciled companies with Lesotho primary listings.

- (i) The listing of a Lesotho registered company on the MSM
 - (a) Authorised Dealers may, on application to them, permit the listing of a Lesotho registered company, excluding a bank and/or a bank holding company, on the MSM, provided that they are fully satisfied that the following clause is incorporated in the prospectus:

“In terms of the Exchange Control Regulations of Lesotho:

 1. a former resident of the Common Monetary Area who has emigrated, may use funds in the emigrant capital account to subscribe for shares in terms of this prospectus;
 2. all payments in respect of subscriptions for shares by an emigrant, using funds from an emigrant’s blocked account,

must be made through the Authorised Dealer controlling the remaining assets;

3. any shares issued pursuant to the use of funds from emigrant's blocked account, will be credited to their share accounts at the central securities depository participant controlling their remaining portfolios;
4. shares subsequently re-materialised and issued in certificated form, will be endorsed 'Non-Resident' and will be sent to the Authorised Dealer through whom the payment was made; and
5. if applicable, refund monies payable in respect of unsuccessful applications or partly successful applications, as the case may be, for shares in terms of this prospectus, emanating from emigrant capital accounts, will be returned to the Authorised Dealer through whom the payments were made, for credit to such emigrants' capital accounts.

Applicants resident outside the Common Monetary Area should note that, where shares are subsequently re-materialised and issued in certificated form, such share certificates will be endorsed 'Non-Resident' in terms of the Exchange Control Regulations."

- (b) Authorised Dealers should, however, ensure that nothing is stated in the prospectus that is contrary to the provisions of the Authorised Dealer Manual or a specific authority granted by the Financial Surveillance Division, prior to the granting of any authority in this regard.

(ii) Capitalisation issues

Authorised Dealers may, on application, permit capitalisation issues, provided that they are fully satisfied that the following clauses, where applicable, are incorporated in the circular to shareholders:

- (a) Capitalisation award emanating from a share premium account

"In terms of the Exchange Control Regulations of Lesotho:

1. any share certificates that might be issued to non-resident shareholders will be endorsed 'Non-Resident';

2. any new share certificates, dividend and residual cash payments based on emigrants' shares controlled in terms of the Exchange Control Regulations, will be forwarded to the Authorised Dealer controlling their remaining assets. The election by emigrants for the above purpose must be made through the Authorised Dealer controlling their remaining assets. Such share certificates will be endorsed 'Non-Resident'; and
 3. dividend and residual cash payments due to non-residents are freely transferable from Lesotho."
- (b) Capitalisation award emanating from distributable reserves
- "In terms of the Exchange Control Regulations of Lesotho:
1. any share certificates that might be issued to non-resident shareholders will be endorsed 'Non-Resident';
 2. any new share certificates issued based on emigrants' shares controlled in terms of the Exchange Control Regulations, will be forwarded to the Authorised Dealer controlling their remaining assets. Such share certificates will be endorsed 'Non-Resident'; and
 3. dividend and residual cash payments are freely transferable from Lesotho."
- (iii) Reverse listings
- (a) Authorised Dealers may on application permit reverse listings, provided that the requirements of subsection (F) below are adhered to, where applicable.
- (iv) The issue of shares for cash
- (a) Authorised Dealers may on application permit the issue of shares for cash, provided that the requirements of subsection (F) below are adhered to, where applicable.
 - (b) The use of any proceeds for investments outside the CMA requires the prior written approval of the Financial Surveillance Division.
- (v) Rights issues or claw-back offers by listed companies

- (a) Authorised Dealers may on application permit rights issues or claw-back offers by listed companies, provided that the following clause is incorporated in the circular to shareholders:

“In terms of the Exchange Control Regulations of Lesotho, non-residents of the Common Monetary Area will be allowed to:

- (1) take up rights allocated in terms of the offer;
- (2) purchase letters of allocation on MSM;
- (3) subscribe for new ordinary shares arising from letters of allocation purchased on MSM; and
- (4) purchase excess shares that have been applied for in terms of the offer (if applicable);

provided that payment is received in foreign currency or in Maloti from a Non-resident Maloti account.

All applications by non-residents for the above purposes must be made through an Authorised Dealer. Shares subsequently re-materialised and issued in certificated form, will be endorsed ‘Non-Resident’.

Where a right in terms of the offer falls due to a former resident of the Common Monetary Area, which right is based on shares controlled in terms of the Exchange Control Regulations, only funds in the Emigrant’s blocked account may be used to take up this right. In addition, such funds may also be used to:

- (1) purchase letters of allocation on MSM;
- (2) subscribe for new ordinary shares arising from the letters of allocation purchased on MSM; and
- (3) purchase excess shares that have been applied for in terms of the offer (if applicable).

Applications by emigrants to use funds in their capital account for the above purposes must be made through the Authorised Dealer controlling their remaining assets. Any shares issued pursuant to the use of funds in the emigrant capital account will be credited to their share accounts at the

central securities depository participant controlling their remaining portfolios. The sale proceeds of letters of allocation, if applicable, will be returned to the Authorised Dealer for credit to such emigrants' capital accounts."

- (b) The use of proceeds for investments outside the CMA requires the prior written approval of the Financial Surveillance Division.
- (vi) The acquisition by non-residents of a 'cash company'
 - (a) Authorised Dealers may, on application, permit the acquisition by non-residents of a 'cash company', provided that the requirements of subsection (F) below are adhered to, where applicable.
- (vii) The acquisition from or disposal to a non-resident of assets by a listed company
 - (a) Authorised Dealers may on application permit the acquisition from or disposal to a non-resident of assets by a listed company, provided that the requirements of subsection (C) below are adhered to.
- (viii) Authorised Dealers are referred to the listings requirements of MSM, which require the prior written approval of the Financial Surveillance Division before MSM gives approval in respect of the following transactions:
 - (a) the listing of a bank and/or bank holding company;
 - (b) the issue of bearer securities;
 - (c) restructures, mergers and changes in control where non-residents are involved;
 - (d) the listing of a quoted Lesotho company on a foreign stock exchange;
 - (e) the listing of an external company on MSM;
 - (f) the listing of warrants;
 - (g) the issue of hedge securities;
 - (h) the delisting of a company listed on MSM;

- (i) the declaration of a dividend in specie or special dividend, for any purpose; and
 - (j) the elimination of so-called 'odd lot' minority shareholders through the mechanism of consolidations and/or subdivisions of share capital.
- (ix) Authorised Dealers are advised that MSM is now also in a position to facilitate the issuance of debt instruments. The terms and conditions pertaining to dealings by non-resident clients in these instruments are incorporated in the relevant exchange's rules and regulations.

(C) Lesotho assets owned by non-residents

- (i) Non-residents may freely invest in Lesotho, provided that suitable documentary evidence is viewed in order to ensure that such transactions are concluded at arm's length, at fair market related prices and are financed in an approved manner. In this regard, such financing must be in the form of the introduction of foreign currency, Maloti from a Non-Resident Maloti Account or in terms of the provisions of section I.1 of the Authorised Dealer Manual. Authorised Dealers are reminded that the creation of any loan account between a resident and a non-resident would require prior approval of the Financial Surveillance Division.
- (ii) The local sale or redemption proceeds of non-resident owned assets in Lesotho may be regarded as freely transferable. Such proceeds may also be freely used in the CMA by non-residents for investment and other purposes and may accordingly be credited to Non-resident Maloti accounts. The provisions of subsection (D) below should be noted.
- (iii) Stockbrokers may not retain, uninvested in their possession, the cash proceeds of securities sold on behalf of non-residents. Such funds must be paid to the credit of a Non-resident Maloti account with an Authorised Bank with whom each stockbroking firm may, for this purpose, maintain a single Non-Resident Account in its own name to handle the share transactions of non-resident clients.

(D) Investments by non-residents in Lesotho debt securities

- (i) In view of the multiplicity of debt securities (debt instruments) on offer, largely as a result of the securitisation of many forms of debt or assets, Authorised Dealers and their corporate clients are advised to seek the guidance and/or the prior written approval of the Financial Surveillance Division before issuing, listing and/or purchasing any form of debt security, other than those specifically dealt with in this subsection.

- (ii) Non-resident investors may subscribe to and/or purchase government, municipal and public utility stocks.
- (iii) Non-resident investors may subscribe to and/or purchase short-term money market bearer or negotiable instruments such as treasury bills, parastatal project bills, bankers acceptances, promissory notes and negotiable certificates of deposit.
- (iv) These securities must remain in the custody of the non-resident's local Authorised Bank until such time as these are sold or redeemed.
- (v) Rates of interest or discount rates earned by the non-resident investor must equate to the money market rate ruling for such a security at the time of purchase.
- (vi) Authorised Banks are exempted from the provisions of Regulation 15 (1), (2) and (3), provided that the terms and conditions of this subsection are strictly complied with.
- (vii) Emigrants may utilise funds in their capital account to subscribe to and/or purchase stocks and/or short-term money market bearer or negotiable instruments of the above nature on the same terms and conditions as set out above. The sale or redemption proceeds are not eligible for transfer abroad and must be credited to the emigrants' capital accounts. Only interest earned or any discount obtained, as against that purchased, is eligible for transfer abroad or may be placed to the credit of a Non-resident Maloti account. The provisions of section B.3(B) of the Authorised Dealer Manual would, however, continue to apply.
- (viii) The local issue, listing and/or purchase of the following debt securities require the prior written approval of the Financial Surveillance Division:
 - (a) Subscription to and/or purchase of zero coupon bonds
 - (aa) A deep discount security is a bond that makes low or, in the case of a zero coupon bond, no periodic interest payments and is, therefore, sold at a large discount to its nominal value. The buyer of such a bond receives a rate of return from the gradual appreciation of the security, which is redeemed at nominal value on a specified maturity date.
 - (b) Subscription to and/or purchase of stripped treasury certificates

- (aa) Stripped treasury certificates are a type of zero coupon bond, but are not issued by a corporate entity to raise funds. They are usually created by an investment (merchant) bank buying blocks of long-term securities issued by the government (treasury stocks) and separating (stripping) the future coupon payments and principal redemption values. Usually a special purpose vehicle is set up to carry out the stripping. Zero coupon bonds are then issued by the special purpose vehicle with maturity values determined by and secured on the coupons and redemptions of the underlying treasury stocks. The treasury stocks are held in trust by a custodian bank which collects the coupons to pay off each tranche of the zero coupon bonds. The final tranche is redeemed out of the redemption value of the block of treasury stocks.
- (c) Subscription to and/or purchase of foreign currency or index linked debt instruments
 - (aa) The active swap market has facilitated the issue of a large number of debt instruments which have some of the following features:
 1. interest payments denominated in a currency other than that of redemption;
 2. redemption in a currency other than that of issue;
 3. redemption values linked to index values such as stock exchange indices;
 4. interest and/or redemption values linked to commodity prices; and
 5. interest payments in a range of currencies.
- (d) Subscription to and/or purchase of asset backed securities
 - (aa) With asset backed securities, specific assets serve as collateral for the securities and generate the payment streams that are used to finance the payment of interest and principal to the investors in the security (debt instrument). Typically, the issuer cannot easily convert assets into cash, and the assets are then securitised.

- (bb) In general, any receivable that has a contractual cash flow is potentially suitable for securitisation. Assets to be securitised or unitised must have some, if not all, of the following characteristics:
1. the cash flow generated from the assets should be received periodically in accordance with a predetermined schedule;
 2. the actual cash flows generated from the assets should be predictable, or statistics should be available for their expected performance (e.g. a history of defaults and prepayments);
 3. the assets should be large enough in number and total value for it to be economical to issue them in securitised form;
 4. there should be sufficient similarity in the characteristics of the assets (e.g. the final maturity date) so that their cash flows can be pooled; and
 5. the assets should be of good saleable quality (i.e. there is a low risk of default) or some form of credit enhancement may be required (e.g. a guarantee).
- (cc) There are two basic forms of asset backed securities. The choice of structure is generally regulatory and tax-driven. The first form is usually referred to as pass-through securities, which are sold to investors who receive participation certificates. The payments of both interest and capital received by the issuer from the pool of assets are passed through directly to the investors in proportion to their participation.
- (dd) The second form is the issue of asset backed bonds structured as a financing transaction. Debt securities are issued which are backed by collateral (i.e. the assets). The cash flows generated from the assets are not passed directly through to investors, but are used to pay coupon interest on the bonds and then redeem principal in a predetermined order. The pool of assets will often have been sold to a special purpose vehicle, which will in turn issue the securities. The special purpose vehicle may or may not be a subsidiary of the original owner

(E) Advances to non-residents**(i) Advances, including those in respect of securities dealings**

Advances, including those in respect of securities dealings, except where it is permissible in terms of the Authorised Dealer Manual, may not, without the specific authority of the Financial Surveillance Division, be granted to non-residents against the pledge of such securities or against any other form of security.

(ii) Switch transactions

In switch transactions, however, where a stockbroker simultaneously sells one security for a non-resident and buys another, credit may be allowed on a purely temporary basis, to bridge the gap pending receipt of payment for the security sold. Such facilities must be regarded as valid for the interim period only and may not be unduly protracted.

(iii) Repurchase Agreements

- (a)** A repurchase transaction, also known as a carry deal, is an agreement whereby one party (known as the seller-borrower) sells a security to the other party (the buyer-lender) with a simultaneous agreement to repurchase the security at a fixed future date at a stipulated price. Whilst the legal form of the transaction is a sale and a repurchase, in substance the seller-borrower borrows the proceeds of the sale from the buyer-lender and deposits the securities as collateral. The difference between the sale and repurchase price of the security is essentially an interest cost to the seller-borrower.
- (b)** Repurchase transactions entered into with a non-resident seller-borrower counter party are deemed to be a form of financial assistance and therefore subject to the provisions of Regulation 4(1)(e) and (f).
- (c)** Authorised Dealers may, however, enter into repurchase transactions with a non-resident seller-borrower, provided that such transactions are fully secured either by providing cash cover in Maloti or the pledge of unencumbered non-resident owned local assets. Any additional margin requirements are to be provided similarly.

- (d) The aforementioned provisions would also apply to any repurchase transactions undertaken by an Authorised Dealer with emigrant seller-borrower counterparties in respect of their remaining portfolios.
 - (e) Authorised Dealers are exempted from the provisions of Regulation 4(1)(e) and/or (f), provided that the terms and conditions of this subsection are strictly complied with.
 - (f) The interest factor or cost of the carry may be settled in foreign currency or over a Non-Resident Account, provided that the rate is reasonable having regard to current interest rates. In the case of emigrants the provisions of Section B.3 of the Authorised Dealer Manual would, however, continue to apply. All other cash flows related to repurchase transactions would be settled over the Non-resident Maloti account or emigrant's blocked account of the non-resident or emigrant concerned.
- (iv) Securities Lending
- (a) Securities lending is the transfer of ownership of a locally quoted security, including inward listed securities from a lender to a borrower in exchange for collateral of an agreed type and for an agreed value. The transaction is accompanied by a pledge from the borrower to the lender to reverse the transaction at a future date by the redelivery of equivalent locally quoted securities. Collateral is usually required by lenders to cover the counter party risk involved in securities lending. Loans of locally quoted securities can be made either on a fixed term or on an open-ended (or call) basis. Open-ended loans will continue until either the lender or the borrower decide to terminate the loan. In both cases, on termination, the lender will ordinarily receive back from the borrower locally quoted securities of a similar kind to those lent and in exchange the lender will return the borrower's collateral. For the period of the loan the lender retains all the rights attached to the locally quoted securities lent, except the right to vote. Thus all dividends and corporate action entitlements pass back to the lender through the borrower.
 - (b) Securities lending transactions entered into with a non-resident counter party are deemed to be either a form of financial assistance to the non-resident borrower and therefore subject to the provisions of Regulation 4(1)(e) and/or (f) or a borrowing by a resident from a non-resident lender which is amongst

others subject to the provisions of Regulation 3, amongst others.

- (c) Authorised Dealers may, however, enter into securities lending transactions with a non-resident borrower, provided that such transactions are fully secured by cash cover in Maloti, the transfer of unencumbered non-resident owned local collateral securities or the pledge of unencumbered non-resident owned local assets. Similarly, securities lending transactions with a non-resident lender must be fully secured by cash cover in Maloti or the pledge of local assets. Any additional margin requirements are to be provided on the same basis. The securities in question may not be held outside of Lesotho and both legs of any transfer of securities as collateral must be administered by a Lesotho resident custodian.
- (d) The aforementioned provisions would also apply to any securities lending transactions undertaken by an Authorised Dealer with emigrant lender or borrower counterparties in respect of their remaining portfolios.
- (e) Authorised Dealers are exempted from the provisions of Regulations 4(1)(e) and/or (f) and/or Regulation 3, provided that the terms and conditions of this subsection are strictly complied with.
- (f) The interest factor or lending fee accruing to the lender may be settled in foreign currency or over a Non-resident Maloti account, provided that the rate is reasonable having regard to current interest rates. In the case of emigrants, the provisions of section B.3 would, however, continue to apply. All other cash flows related to securities lending transactions would be settled over the Non-resident Maloti account or emigrant's blocked account of the non-resident or emigrant concerned.

(F) Endorsement

- (i) For the guidance of Authorised Dealers and to assist them in the administration of Securities Control, certain further aspects relative to endorsements are clarified below:
 - (a) Non-resident interest of any nature
 - (aa) Obligation to endorse

Certificated securities in which there is a non-resident interest of any nature whatsoever must be endorsed 'Non-Resident' and it is the duty of any transfer secretary or Authorised Dealer to whom the securities are presented to immediately procure such an endorsement. Any new shares issued in certificated form based on emigrants' shares controlled in terms of the Regulations, will be forwarded to the Authorised Dealer controlling their blocked assets.

(bb) Domicile of investor

It should be noted that the current form of restrictive endorsement is 'Non-Resident', although historically, certain securities may bear the endorsement 'Transferable'. The country of domicile of the investor must not be added to an endorsement.

(a) Residents of the CMA - Foreign Address

(aa) Endorsement and removal

A resident of the CMA may not register an address outside the CMA and any securities currently held at an address outside the CMA are subject to immediate tainting by endorsement. Such occurrences must in each instance be referred to the Financial Surveillance Division together with full and precise details of the circumstances pertaining thereto.

(b) Bonus Shares

(aa) Bonus shares issued to non-residents must be endorsed 'Non-Resident'.

(c) Government, municipal and public utility stocks

(aa) Non-resident owned stock is subject to the same endorsement requirements as apply to any other securities.

- (d) Shares of foreign companies quoted on MSM
 - i. The shares of companies registered outside the CMA, which are quoted on MSM, are subject to the same endorsement and other restrictions as applicable to CMA shares when traded locally on behalf of non-residents.
- (e) Documents of title other than scrip
 - (aa) While the terms 'scrip' and 'share certificates' are used in general terms, the intention is that any other temporary or substitute documents of title such as letters of allocation, letters of allotment, option certificates, balance receipts and other receipts for scrip, are subject to the same endorsement and other restrictions as applicable to securities.

(G) Export of securities

- (i) The purchase and export of securities, particularly bearer securities, is a possible means by which residents may circumvent Financial Surveillance Division requirements. Authorised Dealers should accordingly exercise special care in handling securities transactions in which it appears that a non-resident may have an interest.
 - (a) Export by Non-Residents
 - (aa) Authorised Dealers may permit the export of certificated securities owned by non-residents (except where such shares form part of an emigrant's blocked assets), provided that they ensure that the certificates are first endorsed 'Non-Resident'.
 - (b) Re-export by transfer secretaries
 - (aa) Transfer Secretaries may re-export certificates sent to them by non-residents solely for registration, splitting or marking. Before returning such certificates it is, however, incumbent on the transfer secretary concerned to ensure that they are endorsed 'Non-Resident'.
 - (c) Export of securities acquired in switch deals
 - (aa) Where a non-resident in a switch deal simultaneously sells one security locally and buys another, Authorised

Dealers may, as an exceptional case and in their discretion, after endorsing the script 'Non-Resident', authorise the export of the new security bought before receipt from abroad of the security sold. In these cases, Authorised Dealers must keep adequate records to ensure that the securities sold are ultimately presented to them. Copies of brokers' notes substantiating details of the transactions must be called for.

(H) Address

- (i) The address at which securities are registered is of particular importance in the administration of securities control and Authorised Dealers should be on their guard when handling applications involving any change of address.
 - (a) Deceased estates outside the CMA
 - (aa) Transfer secretaries may, without the specific authority of the Financial Surveillance Division, record a change of address in their registers from the foreign address of the deceased, or the foreign estate, to the address of a resident executor or agent appointed to act for the non-resident estate. This concession only applies where the beneficial ownership remains non-resident and the executors or agents merely act on behalf of such owners. The securities must retain the non-resident endorsement.
 - (b) Nominees
 - (aa) Under the provisions of subsection (A)(x) above, a change from a non-resident address to the address of a local nominee acting for a non-resident may be effected by a transfer secretary without specific authority because, in this case, the beneficial ownership remains consistently non-resident. The certificates, therefore, must retain the non-resident endorsement.
 - (c) Address in Lesotho
 - (aa) Authorised Dealers may permit the registration of an address in Lesotho by a non-resident after the relative securities have been endorsed 'Non-Resident'.

- (d) Foreign companies with offices in Lesotho - Change of ownership and address
 - (aa) In no instance may a change of ownership and address of securities from an office of an issuer outside Lesotho to an office of an issuer within Lesotho be recorded without the specific approval of the Financial Surveillance Division.
- (e) Duties of transfer secretaries
 - (aa) Except in the cases mentioned in the preceding paragraphs, a transfer secretary may not record a change of address from resident to non-resident or from non-resident to resident on any register maintained in Lesotho, whether it be a principal, duplicate or branch register and whether the relative advice is received in Lesotho or by an office outside Lesotho, without the authority of an Authorised Dealer.

(I) Income

- (i) Income due to Non-Residents
 - (a) Income due to non-residents on their securities must be paid to their registered address.
 - (b) Non-residents may, however, if desired, receive dividend payments in Lesotho and no formal authority would subsequently be required from the Financial Surveillance Division if the non-resident decides to change the place of payment to that of his appropriate registered address.
 - (c) Such dividend and income payments are subject to the provisions of section B.3 of the Authorised Dealer Manual.
- (ii) Income due to residents
 - (a) Residents may under no circumstances have dividends paid outside the CMA without specific approval from Financial Surveillance Division.

(J) Emigrants, immigrants and deceased estates

- (i) Emigrants

(a) Emigrants may not record a non-resident address in respect of any securities, which form part of their blocked assets on emigration. Such securities may not be exported and must remain under the control of an Authorised Dealer.

(ii) Immigrants

(a) Purchase abroad of Lesotho quoted securities

(aa) Immigrants, who have been accorded the concessions laid down in subsection B.5(B)(ii) of the Authorised Dealer Manual, may within five years after their arrival, invest their foreign funds in or switch other foreign investments owned by them into Lesotho securities abroad.

(b) Cancellation of the non-resident endorsement on Lesotho securities.

(aa) Immigrants may transfer their foreign assets to Lesotho by way of locally quoted securities and Authorised Dealers must, in such instances, grant authority to Authorised Banks to cancel non-resident endorsements on such scrip. Such scrip must be transferred to Lesotho Register and a local address must be registered. Should Lesotho quoted securities acquired abroad be introduced by an immigrant for sale on MSM, the resultant sale proceeds must be credited to a resident account.

(c) Emigration within five years

(aa) Lesotho securities physically introduced and retained or purchased locally by immigrants who leave the country within five years of arrival, may be exported on departure, provided that they have completed the necessary declaration and undertaking as outlined in subsection B.5(B)(ii)(a) of the Authorised Dealer Manual.

(d) Former residents of the CMA

(aa) The facilities outlined above may not be accorded to any person who has previously resided in the CMA. Any requests received from such persons should be referred to the Financial Surveillance Division.

- (iii) Deceased estates
 - (a) Securities in estates of persons who at time of death were permanently resident in Lesotho.
 - (aa) Cash transfers by executors to non-resident legatees are permissible subject to the conditions laid down in subsection B.2(G) of the Authorised Dealer Manual. Executors may, prior to the submission and approval of the Liquidation and Distribution accounts, sell any securities in the estate and then, after the accounts have been passed, transfer the cash to the non-resident heirs.
 - (bb) Where Lesotho securities in the estate are specifically bequeathed to a non-resident legatee, such securities should be endorsed 'Non-Resident' and may thereafter be exported to the legatee.
 - (cc) In all cases where such an estate holds authorised foreign assets, distribution of the foreign assets may be effected, provided that all foreign administrative and related costs have been met from the foreign portion of the estate.
 - (b) Securities forming part of the estate of persons who at the time of death were non-resident.
 - (aa) Lesotho securities forming part of Lesotho estates of non-residents, which are bequeathed to beneficiaries outside Lesotho, remain non-resident assets and may be dealt with accordingly.

(K) Dealings by residents on foreign stock exchanges

- (i) Sales
 - (a) Lesotho securities may be exported by residents for sale abroad only through the medium of an Authorised Dealer, whose duty it will be to ensure that the sale proceeds are repatriated to Lesotho.
- (ii) Purchases
 - (a) Residents are not permitted to purchase securities abroad, except as permitted in Section B.2(B) of the Authorised Dealer

Manual. Certain arrangements are, however, in force providing for controlled dealings by stockbrokers. Details of these arrangements are set out in subsection (iii) below.

- (iii) Arbitrage
 - (a) Finance - switch transactions
 - (aa) There is no differentiation of a restrictive nature against arbitrage dealings by stockbrokers with or on behalf of non-resident, as compared with other dealings in this respect.
 - (bb) Authorised Banks must submit the names of foreign arbitrageurs, as well as the individual limits of the relevant Non-Resident Maloti accounts, to the Financial Surveillance Division for prior approval, adding their recommendation for acceptance or stating reasons why recommendation is being withheld.
 - (cc) Shares subsequently re-materialised must be endorsed 'Non-Resident' and sent to the Authorised Dealer through whom the payment was made.
 - (dd) It is emphasised that this facility is subject to review on an annual basis and any abuse of the spirit and conditions of this arrangement will result in its immediate withdrawal from the parties concerned.
 - (b) Joint accounts between resident and non-resident stockbrokers
 - (aa) Joint accounts between resident and non-resident stockbrokers should be regarded as non-resident and subject to the securities control requirements.
 - (bb) Applications to settle profits and/or losses due to the foreign party to such joint accounts on four-way arbitrage deals for completed delivered transactions, must be submitted to the Financial Surveillance Division quarterly. Copies of the joint accounts concerned must accompany these applications.
- (iv) Primary listings offshore

- (a) Authorised Dealers may submit requests by major corporates to establish primary listings offshore. The following guidelines will, inter alia, be taken into account:
 - (aa) Foreign expansion is necessary and integral to the company, given its size and the nature of its business;
 - (bb) a significant proportion of revenue is derived from outside Lesotho, making the company in effect an international concern;
 - (cc) there are clear monetary and balance of payments benefits to Lesotho;
 - (dd) a substantial advantage can be demonstrated over alternative approaches to raising the required capital;
 - (ee) the direct and indirect Lesotho assets may not be encumbered;
 - (ff) Lesotho reserves may not be negatively impacted by an outflow of dividends or any other funds;
 - (gg) the corporate involved must commit itself to match any dividends declared to the foreign holding company with dividends paid out to Lesotho shareholders, to preserve balance of payments neutrality; and
 - (hh) all the Lesotho operations and assets of the Lesotho corporate or the proceeds thereof, as well as any other cash holdings, must remain in Lesotho and may only be exported from Lesotho if payable pro-rata to the non-resident shareholders of the listed holding company with the approval of the Financial Surveillance Division.
- (v) Offshore secondary listings and depository receipt programmes
 - (a) Authorised Dealers may permit Lesotho listed companies, to secondary list on foreign exchange and/or list depository receipt programmes in the offshore market, subject to receiving the following confirmations:
 - (aa) admission to trade on the offshore exchange

- (bb) the shares/securities will be traded for cash only to non-residents and qualifying institutional investors subject to their foreign portfolio investment limits;
 - (cc) Lesotho residents would hold their shares and/or securities and settle via the MSM register, whereas non-residents would hold their assets and/or securities and settle via the offshore secondary register;
 - (dd) The proposed shares and/or securities comprising the secondary listing will form part of the locally listed company's share capital;
 - (ee) Lesotho must remain the place of effective management for the locally listed company and under no circumstances may the company re-domicile;
 - (ff) the locally listed company will continue to be regulated in accordance with the rules and regulations of MSM; and
 - (gg) the locally listed company will remain a Lesotho incorporated company.
- (b) The locally listed company must furnish the Authorised Dealer with information regarding the ratio between the company's shares listed on MSM and the offshore exchange as a proportion of the locally issued shares. In addition, the envisaged percentage non-resident shareholding in the local company post the secondary listing on the foreign exchange must be provided.
 - (c) Authorised Dealers must report annually to the Financial Surveillance Division details of the above-mentioned authorities granted.

(L) General

- (i) Nominees for non-residents
 - (a) Authorised Dealers and their nominee companies are authorised to act as nominees. Any other person or company (including stockbrokers and trust companies) must obtain, through their bankers, the prior approval of the Financial Surveillance Division to act in this capacity.

- (ii) Brokerage rebates due to non-resident stockbrokers
 - (a) Brokerage rebates due to a non-resident stockbroker, by a resident stockbroker, in terms of the MSM rules, may be transferred abroad against documentary evidence confirming the amount involved.

(M) Bearer securities

- (i) Regulations
 - (a) The attention of Authorised Dealers is drawn to the provisions of Regulation 16, which prohibits the issue of, or any dealing in, bearer securities or bearer options, without the specific approval of the Ministry of Finance.
- (ii) Conditions of issue - Share or stock warrants to bearer

Note: The term 'bearer warrants' used in this statement refers to both share warrants to bearer and stock warrants to bearer.

- (a) Only companies that have obtained the prior approval of the Financial Surveillance Division, may issue bearer warrants on the following conditions:
 - (aa) Bearer warrants may only be issued to non-residents, in exchange for an equal number of registered shares of the same class and the conversion may be effected only against confirmation from an Authorised Dealer that the non-resident owned shares to be converted into bearer warrants were purchased locally with foreign currency or Maloti from a Non-resident Maloti account. The bearer warrants must be endorsed 'Non-Resident'.
 - (b) Shares purchased in the prescribed manner by a non-resident or on his/her behalf by a broker or by his/her duly appointed nominee in Lesotho, may be converted into bearer warrants:
 - (aa) on application by such non-resident or his nominee in Lesotho;
 - (bb) on application by the person who is the registered holder of the shares at the time they are acquired by the non-resident; or

- (cc) on application by the holder of registered shares bearing the endorsement 'Transferable';
- (c) Where non-residents, by virtue of being registered shareholders or holders of bearer warrants in a company, are entitled as a right to take up shares in the same or another Lesotho company, they may, if the latter company has obtained the necessary approval to issue bearer warrants, be issued against payment in foreign currency or Maloti from a Non-resident Maloti account, with bearer warrants equal to the number of shares to which they are entitled. Before issuing the bearer warrants, the company concerned must be furnished with a certificate by an Authorised Dealer that payment for such shares has been effected in foreign currency or Maloti from a Non-resident Maloti account;
- (d) Bearer warrants may not be dealt in but must be converted into registered shares before being sold in Lesotho on behalf of the non-resident beneficial owner.
 - (aa) In effecting reconversions into registered scrip, and in the event of such shares subsequently being re-materialised and issued in certificated form, such share certificates will be endorsed 'Non-Resident' and will be sent to the Authorised Dealer through whom the payment was made.
- (e) All dividend payments made against coupons detached from bearer warrants are eligible for transfer abroad. Coupons received by Authorised Dealers on a collection basis may be similarly dealt with and should be presented to the issuing company as though the Authorised Dealer were acting as nominee.
- (f) Subject to the provisions of subsection (d) above, bearer warrants may be held in Lesotho by a nominee of a non-resident, but in terms of Regulation 15(1)(b) no person may act as nominee for non-residents without the permission of the Financial Surveillance Division. Presentation of dividend coupons by a nominee must be accompanied by a declaration that the coupons are presented on account of non-residents;
 - (aa) The proceeds of coupons so presented less non-resident shareholders' tax, can thereafter be transferred to the non-resident abroad. The Authorised Dealer will require a declaration by the company that the payments are due

to non-residents in respect of dividends on bearer warrants issued under these special arrangements.

- (g) Bearer warrants must be distinctively printed and must bear the endorsement "These bearer warrants are issued with the approval of the Ministry of Finance under the Lesotho Exchange Control Regulations". The words 'Lesotho' must appear prominently on all bearer warrants, talons and coupons, so that the difference between these issues and previous issues may be easily recognised.
- (h) Bearer warrants issued under these arrangements must be endorsed in terms of Regulation 15(2).

(N) Dual listing of entities within SADC and SADC depository receipts (SDRS) on the MSM

- (i) Applications by foreign entities to list on MSM must be submitted to the Financial Surveillance Division together with full details of the proposed transactions.

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H. Inward listings by foreign entities on the Maseru Securities Market**(A) Introduction**

- (i) Lesotho corporates, trusts, partnerships and private individuals may invest in approved inward listed instruments without restrictions.
- (ii) Emigrants may invest in approved inward listed instruments without restrictions, subject to the provisions of section B.2E(iii) of the Authorised Dealer Manual. Authorised Dealers are allowed to invest in inward listed shares without affecting their macro-prudential limit.

(B) General

- (i) It is envisaged that inward listings will attract foreign direct investment to the domestic economy, increase market capitalisation and liquidity in the local capital market, support the New Partnership for Africa's Development initiative and support the enhancement of foreign investment diversification through domestic channels.
- (ii) Criteria for an 'African' company
 - (a) A company will be regarded as 'African' if it is:
 - i. Domiciled in Africa or its activities are geographically located in Africa; or
 - ii. Domiciled outside Africa, but the majority of its activities are geographically located in Africa.
 - b. 'African based' activities would generally be determined by employment of assets and/or capital in countries which are part of the African Union.
 - c. Should a company's shares need to be reclassified from 'African' to 'foreign' in terms of the exchange control limits, institutional investors must realign their portfolios within a period of 12 months.
- (iii) Criteria for 'African' debt
 - (a) 'African' debt encompasses debt securities issued and listed on MSM by African governments, African public entities, African local authorities, African development agencies and by non-African development institutions where the funds raised are earmarked for use in Africa.

- (iv) Financial Surveillance Division approval
 - (a) Any entity wishing to list inward listed instruments on MSM requires prior approval of the Financial Surveillance Division.
 - (b) Any Authorised Dealer wishing to facilitate transactions of the nature outlined above, requires prior approval of the Financial Surveillance Division and will have to comply with the specific reporting requirements of the Financial Surveillance Division.

(C) Measures applicable to inward listed debt instruments, derivative and equity issues on the MSM

- (i) Types of instruments
 - (a) Debt instruments, equity, as well as derivative instruments based on foreign reference assets, may be listed.
 - (b) The listing of and trading in derivative instruments are subject to the following conditions:
 - (aa) for every buyer there should be a seller;
 - (bb) the loss for one party is paid as the profit of the counterparty;
 - (cc) participants may not hedge their exposures by physically trading in the underlying reference asset, unless that particular asset is also inward listed on the MSM; and
 - (dd) all settlements should take place locally in Maloti.
- (ii) Acquisition Issue
 - (a) Foreign companies are allowed, upon application, to use their shares as acquisition currency.
 - (b) On application to the Financial Surveillance Division, Lesotho institutional investors will be given 12 months to realign their portfolios, should the exchange control foreign exposure limits be exceeded. Emigrants may accept the shares without restrictions, subject to the provisions of Section B.2(E)(iii) of the Authorised Dealer Manual. Authorised Dealers may accept the

shares subject to the macro-prudential limit as defined in Section B.2 (B)(iv) of the Authorised Dealer Manual.

- (iii) Issue of Shares for Cash (Capital Raising through an Initial Public Offering (“IPO”))
 - (a) The foreign entity must open a special designated vostro-styled account (designated account) for the duration of the listing with an Authorised Dealer for purposes of receiving and recording the capital raised in terms of the Prospectus, effecting dividend payments, etc. This is essential to ensure compliance with the Reporting System requirements. The capital must be deployed as soon as possible but not later than one month after being raised and recorded in the designated account.
 - (b) Failure to deploy the capital within the stipulated period must be reported to the Financial Surveillance Division (and MSM), who will require to be furnished with the reasons for the delay in deploying the capital, as well as the expected date of deployment of such capital.
- (iv) Capital raising through new debt listings
 - (a) The foreign issuer must open a special designated vostro-styled account (designated account) for the duration of the listing with an Authorised Dealer for purposes of receiving the capital raised, effecting coupon payments, redemption payments, etc. This is essential to ensure compliance with the Reporting System requirements.
- (v) Rights Offers
 - (a) Lesotho institutional investors, corporates, trusts, partnerships and private individuals may exercise their rights in terms of a rights offer without restriction.
 - (b) Emigrants may also exercise their rights in terms of a rights offer without restriction, subject to the provisions of Section B.2(E)(iii) of the Authorised Dealer Manual. Institutional investors will be given 12 months to realign their portfolios should they be in excess of their exchange control foreign exposure limits. Authorised Dealers will be entitled to exercise their rights subject to the macro-prudential limit as defined in Section B.2 (B) (iv) of the Authorised Dealer Manual.

- (vi) Suspension of listings
 - (a) Inward listed shares suspended by MSM, must be retained on the investor's balance sheet for a maximum period of six months, at the last price struck (i.e. closing price) before the suspension. If the suspension lasts longer than six months, the investor may revalue the shares at zero value.
 - (b) If shares previously valued at zero have a residual value when the suspension is lifted, the investor will have 12 months to realign the portfolios to operate within the exchange control limits.
 - (vii) Main Index Inclusion
 - (a) Only companies who are "African" companies as defined in subsection B.(ii) above and who obtain an inward listing, may be included in the MSM's indices.
 - (viii) Denomination of debt instruments, equity issues and derivative instruments
 - (a) All instruments and equity issues may only be denominated in Maloti.
- (D) Special dispensation to local brokers to facilitate the trading of inward listed shares**
- (i) Local brokers are allowed to purchase inward listed shares offshore and to transfer such shares to the Lesotho section of the register, as a book-building exercise and to enhance liquidity on MSM.
 - (ii) This dispensation is confined to inward listed shares and brokers may warehouse such shares for a maximum period of 30 days only.

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I.1 Local financial assistance to affected persons and non-residents**(A) Introduction**

- (i) Regulation 4(1) (f) and (g) prohibits the granting of local financial assistance to, as well as the acceptance of collateral from, affected persons and non-residents.

(B) General

- (i) The lender is obliged to obtain exemption from the provisions of Regulation 4(1) (f). It is therefore the lender's responsibility to establish whether or not a prospective borrower is an affected person or a non-resident.
- (ii) For ease of administration, any application for exemption from the aforementioned Regulation must be submitted in the name of the borrower.

(C) Affected persons availing of local financial assistance in respect of transactions other than financial transactions and the acquisition of residential property

- (i) Authorised Dealers are exempted from the provisions of Regulation 4(1)(e) and (f) and may grant or authorise local financial assistance facilities to affected persons without restriction.

(D) Affected persons availing of local financial assistance in respect of financial transactions and the acquisition of residential property

- (i) Authorised Dealers are exempted from the provisions of Regulation 4(1)(e) and (f) and may grant or authorise local financial assistance facilities to affected persons where the funds to be borrowed are required for financial transactions and/or the acquisition of residential property in Lesotho, provided the 1:1 ratio applies, i.e. for every M1 in cash or assets that a non-resident introduces or owns, such non-resident may borrow an equivalent amount in the local market.
- (ii) Financial transactions include, inter alia, the purchase and sale of any securities (listed or unlisted), repurchase agreements and any derivative transactions on securities.

(E) Non-residents and emigrants

- (i) Authorised Dealers may grant or authorise local financial assistance facilities to non-residents in respect of bona fide foreign direct investment in Lesotho without restrictions, except where the funds are required for financial transactions and/or the acquisition of residential or commercial property in Lesotho, the 1:1 ratio will apply.
- (ii) Financial transactions inter alia include the purchase and sale of any securities (listed or unlisted), hedging, securities lending, repurchase agreements and any derivative transactions on securities.
- (iii) Any facility being made available to a non-resident party must be secured by an unencumbered Maloti deposit or Maloti based asset of equal or higher value. In addition, any facility accorded to the non-resident in respect of the aforementioned may not cause the borrower to exceed 100 per cent of the Maloti value of funds introduced from abroad and invested locally.
- (iv) If facilities are granted for the acquisition of fixed property, such facilities may not be increased at any stage based on a revaluation of the property in question.
- (v) Local financial assistance granted to emigrants that utilise their blocked Maloti balances or blocked Maloti assets as collateral must comply with the 1:1 ratio irrespective of the nature of the transaction.

(F) Local financial assistance to affected persons or non-residents against a guarantee issued by an affected person or non-resident

- (i) Exemption from the provisions of Regulation 4(1)(e) is hereby granted to a local lender where such facilities granted are secured against a guarantee from an affected person or non-resident. C.F.C. and foreign currency account balances may also be accepted as security for local financial assistance.

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I. 2 Local facilities to non-residents**(A) Short-term trade finance extended by a local Authorised Dealer to a non-resident directly related to the export of goods or services from Lesotho**

- (i) In order to facilitate the export of goods from Lesotho, the Financial Surveillance Division is prepared to permit local Authorised Dealers, on application, to extend short-term finance facilities denominated in Maloti or a foreign currency to the non-resident importer or his/her banker abroad on the conditions mentioned below.
 - (a) Finance facilities denominated in Maloti
 - (aa) The facilities must relate to the post-shipment finance of the export of a specific shipment of goods and at the time of drawdown, the local bank extending these facilities must view the prescribed LRA Customs export declaration form.
 - (bb) The foreign currency proceeds eventually received in Lesotho and/or payments received from any Non-Resident Maloti Account must be utilised to liquidate the aforementioned short-term export finance facility. The relevant Financial Surveillance Division requirements relating to the reporting in terms of the Reporting System and the observance of the 30-day rule must be complied with.
 - (cc) The overall finance period, including any initial credit granted by the exporter, may not exceed six months from date of shipment of the underlying goods from Lesotho unless the dispensation outlined in section B.18 (B) (ii) of the Authorised Dealer Manual has been granted, when the overall finance period, including any initial credit granted by the exporter, may not exceed 12 months from date of shipment of the underlying goods from Lesotho. An export finance facility may be extended in the event of the overseas importer requiring an extension of the original credit period, provided that the overall finance periods set out above are not exceeded.
 - (dd) The facility must be repaid with foreign currency and/or by payment from a Non-resident Maloti Account. No facility may be drawn down where the proceeds of the underlying export transaction have already been received.
 - (b) Finance facilities denominated in a foreign currency

- (aa) The facilities being extended must be funded, in turn, from foreign currency placements attracted and/or lines of credit obtained from correspondent banks abroad for that specific purpose.
 - (bb) The facilities must relate to the pre-shipment or post-shipment finance of the export of a specific consignment of goods.
 - (cc) The local Authorised Dealer extending these facilities must ensure that at the time of draw down, the foreign currency amount of the drawing is converted to Maloti and the relevant Financial Surveillance Division requirements, including the reporting of transactions in terms of the Reporting System and the observance of the 30-day rule, are fully complied with.
 - (dd) The foreign currency proceeds eventually received in Lesotho must be utilised to liquidate the aforementioned short-term export finance facility.
 - (ee) The overall finance period including any initial credit granted by the exporter may not exceed six months from date of shipment of the underlying goods from Lesotho or unless the dispensation outlined in Section B.18(B)(ii) of the Authorised Dealer Manual has been granted, when the overall finance period including any initial credit granted by the exporter, may not exceed 12 months from date of shipment of the underlying goods from Lesotho. An export finance facility may be extended in the event of the overseas importer requiring an extension of the original credit period, provided that the overall finance periods set out above are not exceeded.
 - (ff) The facility must be repaid with foreign currency and/or by payment from a Non-Resident Maloti Account. No facility may be drawn down where the proceeds of the underlying export transaction has already been received.
- (c) In the application to the Financial Surveillance Division for approval to extend short-term foreign finance facilities, relating to the export of goods from Lesotho, to non-residents, without obtaining a written approval in each instance, Authorised Dealers must undertake to observe the guidelines enumerated above and all other relevant Financial Surveillance Division directives.

(B) Finance facilities extended by a local authorised dealer not related to the export of goods and services from Lesotho

- (i) Foreign currency denominated finance facilities extended to non-residents for utilisation outside Lesotho in terms of Section B.2(B)(iv) of the Authorised Dealer Manual are not subject to the requirements of Regulations 4(1)(f) and (g).
- (ii) Maloti denominated finance facilities extended to non-residents for utilisation within Lesotho in terms of Section B.2 (B) (iv) of the Authorised Dealer Manual are subject to the conditions as outlined in section I.1 of the Authorised Dealer Manual.

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I.3 Borrowing abroad by residents**(A) Fraudulent practices involving purported foreign loan facilities such as advance fee fraud**

- (i) Any applications for foreign currency to meet the purported cost of raising fees or administrative charges in connection with any proposed borrowing abroad by residents must be referred to the Financial Surveillance Division for prior written approval with details of the terms of the proposed loan together with the original documentary evidence submitted in support of the request.
- (ii) Furthermore, should Authorised Dealers be approached by prospective borrowers with the request to issue, on the borrower's behalf, stand-by letters of credit or other forms of guarantees, make promissory notes or other forms of debt instruments made by the borrower, in favour of the lender, all such requests must be referred to the Financial Surveillance Division for approval with full details as mentioned above.

(B) Authority to Authorised Dealers

- (i) Authorised Dealers may approve applications by residents, to avail of inward foreign loans and foreign trade finance facilities from any non-resident, subject to the specific criteria applicable to inward foreign loans being adhered to and that such loans are recorded via the Loan Reporting System.
- (ii) Reporting of loans
 - (a) All loans reported via the Loan Reporting System will be monitored by the Financial Surveillance Division and any inconsistencies will be queried with the specific Authorised Dealer concerned.
- (iii) Application requirements
 - (a) All applications for inward foreign loans and foreign trade finance facilities must, *inter alia*, contain the following information:
 - (aa) full names of the local borrower;
 - (bb) identity number or temporary resident permit number or registration number of the borrower;

- (cc) full names of the foreign lender;
 - (dd) domicile of the foreign lender;
 - (ee) relationship between the foreign lender and the borrower;
 - (ff) denomination of the loan;
 - (gg) currency and amount of principal sum;
 - (hh) interest rate and margin;
 - (ii) purpose of the loan;
 - (jj) details of the type of security required, if any;
 - (kk) tenor. In instances where a loan will be repaid at a fixed future date, the date on which the loan will be repaid must be provided and, where a loan will be repaid in instalments, the date of the first instalment should be provided as well as the interval of the instalments, e.g. monthly/quarterly intervals;
 - (ll) copy of the loan agreement, if available/applicable;
 - (mm) confirmation that there is no direct/indirect Lesotho interest in the foreign lender;
 - (nn) full details of early repayment options, as well as currency switch options, if any;
 - (oo) in the case of foreign trade finance facilities, written confirmation from the borrower to the effect that the relative import or export transaction is not being financed elsewhere; and
 - (pp) detail of any commitment fees, raising fees and/or any other administration fees payable by the borrower.
- (iv) Adjudication process
- (a) The following criteria must be strictly applied by Authorised Dealers when adjudicating applications for inward foreign loans and foreign trade finance facilities:

- (aa) the tenor of each loan must be at least one month;
 - (bb) the interest rate in respect of third party foreign denominated loans may not exceed the base lending rate plus 3 per cent or, in the case of shareholders' loans, the base lending rate as determined by commercial banks in the country of denomination;
 - (cc) the interest rate in respect of Maloti denominated loans may not exceed the base rate, i.e. prime rate, plus 5 per cent on third party loans or the base rate, in the case of shareholders' loans;
 - (dd) the fixed interest rate linked to the base rate, if applicable, may not exceed the interest rate mentioned in (bb) or (cc) above. In this regard, approved inward foreign loans should always be adjusted accordingly in line with the set criteria.
 - (ee) the loan funds to be introduced may not represent or be sourced from a Lesotho resident's foreign capital allowance, legitimate foreign assets, legitimate foreign earnings retained abroad, and/or foreign inheritances;
 - (ff) there may not be any direct/indirect Lesotho interest whatsoever in the foreign lender;
 - (gg) the loan funds may not be invested in sinking funds; and
 - (hh) no upfront payment of commitment fees, raising fees and/or any other administration fees are payable by the borrower.
 - (ii) the above-mentioned fees may be paid from Lesotho once the loan funds have been received and converted into Maloti locally, provided that such fees do not exceed 5 per cent of the principal sum.
- (v) Applications to be submitted to the Financial Surveillance Division.
- (a) Authorised Dealers must submit an application to the Financial Surveillance Division for consideration in the following instances:

- (aa) Regularisation of all unauthorised inward foreign loans and foreign trade finance facilities;
- (bb) loan draw downs, capital and interest payments, where the funds originate from or are deposited to Non-Resident Accounts. These transactions are not reportable on the Reporting System;
- (cc) loan draw downs, capital and interest payments in respect of foreign trade finance facilities for imports/exports where the transactions will not be reported;
- (dd) any other instances where the Reporting System will not reflect changes to the original loan;
- (ee) any other instances subsequent to the original loan approval to reflect changes to the original loan, interest rate, capital repayment to non-resident third parties other than the original lender on record with the Financial Surveillance Division and instances where funds are draw-down or are to be received from parties other than the original lender;
- (ff) any unauthorised increase/decrease of the principal amount of the foreign loan;
- (gg) capitalisation of interest;
- (hh) compounding of interest;
- (ii) conversion of the loan to share capital;
- (jj) consolidation of loans;
- (kk) all loans where commitment fees, raising fees and/or any other administrative fees exceeds 5 per cent of the principal sum;
- (ll) early capital redemptions;
- (mm) issuance of redeemable preference shares to non-residents;
- (nn) bond issues; and

- (oo) all cases where the criteria outlined in (iii) above cannot be met.
- (vi) Capital Repayments
 - (a) Authorised Dealers may provide foreign exchange for the repayment of inward foreign loans and foreign trade finance facilities, inclusive of loans and trade finance facilities approved by the Financial Surveillance Division prior to 2007-10-01, equal to the funds drawn own under a specific loan on the due date. Capital and interest payments must be reported separately on the Reporting System.
 - (b) Capital repayments must be strictly in accordance with the terms of the loan.
 - (c) In the case of foreign trade finance facilities, repayments of such facilities must be reported under Category 107 and interest payments under Category 407 of the Reporting System.
- (vii) Guarantees
 - (a) Authorised Dealers may issue guarantees in favour of non-resident lenders as and when required.
- (viii) Draw downs
 - (a) Authorised Dealers must ensure that loan draw-downs, inclusive of any draw down advices in respect of loans approved by the Financial Surveillance Division prior to 2007-10-01, are reported on the Reporting System or, where no flow of funds will take place, a suitable application advice must be submitted to the Financial Surveillance Division.
 - (b) The principal sum of the loan must be introduced within a period of 12 months and may not exceed the authorised amount of the loan. Any extensions in this regard, must be advised to the Financial Surveillance Division.
- (ix) Retention of documentation
 - (a) Authorised Dealers must be able to substantiate all information submitted to the Financial Surveillance Division. For inspection

purposes, documentary evidence must be retained for a period of five years after the full repayment of the loan.

(C) Trade finance, long-term loans and working capital loans extended by Authorised Dealers

(i) Short-term trade finance

(a) Imports

1. Authorised Dealers may, on application to the Financial Surveillance Division or unless exempted, extend short-term foreign trade finance facilities, relating to the importation of goods into Lesotho to residents subject to the following conditions:

- (1) the facilities being extended by the local bank concerned are funded, in turn, from foreign currency placements attracted and/or lines of credit obtained from correspondent banks abroad for this specific purpose;
- (2) the facilities relate to the payment for the importation of a specific consignment of goods. In this regard, the local bank concerned may bundle a number of payments together when extending a short-term foreign trade finance facility, but must ensure that payments for the underlying transactions have been made not more than six weeks prior to the date of draw-down of the facility or that payments will be made within six weeks from the date of draw-down of the facility. In all instances the draw-down of the facility may only take place on or after date of shipment, except for advance payments where the draw-down can be done prior to the goods being shipped, provided that the advance payments complies with the provisions outlined in section B.1(D)(i) and (ii) of the Authorised Dealer Manual;
- (3) the Authorised Dealer extending these facilities ensures that the underlying payments comply fully with the relevant Financial Surveillance

Division authorities and directives, including the viewing, endorsement of substantiating documentation and the reporting in terms of the Reporting System on repayment of the facility.

- (4) the overall finance period, including any initial supplier's credit taken, does not exceed 12 months from date of shipment of the underlying goods to Lesotho; and
- (5) no such facility may be drawn-down unless the supplier had been paid or will be paid with the proceeds of the said facility and no other financial commitment exists in regard to the underlying importation, except where a batch of import payments are being bundled into one draw-down under a short-term foreign trade finance facility.

(b) Exports

- (aa) Authorised Dealers may, on application to the Financial Surveillance Division or unless exempted, extend short-term foreign trade finance facilities relating to the export of goods from Lesotho to residents, subject to the following conditions:
- (1) the facilities being extended by the Authorised Dealer concerned are funded, in turn, from foreign currency placements attracted and/or lines of credit obtained from correspondent banks abroad for this specific purpose;
 - (2) the facilities relate to the pre- or post-shipment finance of the export of a specific consignment of goods;
 - (3) the Authorised Dealer extending these facilities ensures that at the time of draw-down, the foreign currency amount of the drawing is converted into Maloti and the relevant exchange control requirements, including the reporting in terms of the Reporting System and the observance of the 30-day rule, are complied with. The reporting in terms of the Reporting

System must take place upon the receipt of export proceeds from abroad;

- (4) the foreign currency draw-down, under a short-term export finance facility, must be treated as the early accrual of the export proceeds, be converted to Maloti and further administered as such. Should the exporter be required to effect any foreign payments specifically relating to the export transactions, such costs may be paid in foreign currency, without first being converted to Maloti. Authorised Dealers must view suitable documentation pertaining thereto and ensure the correct reporting of the transaction in terms of the BOPCUS reporting system;
- (5) the foreign currency eventually received from the overseas importer is not converted to Maloti, but is applied in repayment of the export finance facility;
- (6) where another Authorised Dealer has been instructed to receive the proceeds, it would pass these on to the Authorised Dealer extending the trade finance facility by crediting the latter's nostro account, thus ensuring that it is always possible to relate all outstanding facilities to specific current export transactions;
- (7) the overall finance period, including any initial credit granted by the exporter, does not exceed six months from date of shipment of the underlying goods from Lesotho, unless the dispensation outlined in section B.18 (B) (ii) of the Authorised Dealer Manual has been granted, when the overall finance period including any initial credit granted by the exporter may not exceed 12 months from date of shipment of the underlying goods from Lesotho. An export finance facility may be extended in the event of the overseas importer requiring an extension of the original credit period, provided that the overall finance periods set out above are not exceeded;

- (8) the facility must be repaid with foreign currency. No facility may be drawn-down where payment of the underlying export transaction has already been received;
 - (9) in the event of the overseas importer paying before the relative export finance facility has fallen due for repayment and effecting an early repayment thereof is not possible, the local exporter may either retain these foreign currency funds in a CFC account to meet his/her export finance liability on due date, or alternatively convert such funds to Maloti. Should the local exporter opt for the latter, the foreign finance facility must, from then on, be administered as a short-term working capital loan and be reported as such in subsequent monthly returns submitted to Financial Surveillance Division; and
 - (10) in the event the overseas importer does not effect payment or only makes partial payment, the balance outstanding must from then on be administered as a short-term working capital loan and be reported as such in subsequent monthly returns submitted to the Financial Surveillance Division, who must also be informed of the overseas importer's default.
- (bb) The facilities enumerated above would not be included in the calculation of an affected person's local borrowing levels in terms of the provisions of Regulation 4(1)(f), provided that the facilities being extended by the local bank concerned are funded, in turn, from foreign currency placements attracted and/or lines of credit obtained from correspondent banks abroad for the specific purposes mentioned.
- (ii) Short-term working capital loans
- (a) Authorised Dealers may, on application to the Financial Surveillance Division or unless exempted, extend short-term foreign currency working capital loan facilities, specifically relating to the financing of current assets, other than those

arising from the import or the export of goods into or from Lesotho, to residents on the following basis:

- (aa) the facilities being extended by the Authorised Dealer concerned are funded, in turn, from foreign currency placements attracted and/or lines of credit obtained from correspondent banks abroad for this specific purpose; and
 - (bb) the facilities relate to the financing of a resident's current assets, other than those arising from the importation or the exportation of goods into or from Lesotho.
- (b) The facilities enumerated above would not be included in the calculation of an affected person's local borrowing levels in terms of the provisions of Regulation 4(1) (f), provided that the facilities being extended by the Authorised Dealer concerned are funded, in turn, from foreign currency placements attracted and/or lines of credit obtained from correspondent banks abroad for this specific purpose.
- (iii) Long-term Loans
- (a) In the event of an Authorised Dealer wishing to interpose itself locally and assume the funding of a capital goods import by substituting either local funding or shorter-term foreign currency finance facilities and, in so doing, bars direct utilisation of new long-term lines of credit, which were available for that specific purpose (by e.g. negotiating any bills of exchange or promissory notes, transferring or providing any security or acknowledging any debt), the Financial Surveillance Division's prior approval must be obtained, if not exempted.
 - (b) Should an Authorised Dealer in similar circumstances wish to interpose itself through a subsidiary or branch office outside Lesotho, it may do so provided that such transactions are financed solely out of the offshore entity's own resources abroad. It follows that no funding may be provided from the CMA to the offshore entity to assist either wholly or partially, with the financing of such a transaction. Furthermore, such financing must run for the full credit period originally agreed and the resident debtor may not repay such financing at an earlier date, without the Financial Surveillance Division prior approval.

- (c) Authorised Dealers must obtain prior approval from the Financial Surveillance Division before entering into export credit facility agreements with correspondent banks abroad. Furthermore, the prior approval from the Financial Surveillance Division must be obtained for all facilities subsequently availed of under such agreements where the overall finance period, including any initial supplier's credit, exceeds 12 months from date of shipment of the underlying goods to Lesotho.
- (d) The facilities mentioned above would not be included in the calculation of an affected person's local borrowing levels in terms of the provisions of Regulation 4(1) (f), provided that the facilities being extended by the Authorised Dealer concerned are funded, in turn, from foreign currency placements attracted and/or lines of credit obtained from correspondent banks abroad, for that specific purpose.

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J. The cross-border foreign exchange transaction reporting system**(A) Introduction**

- (i) The objective of the Reporting System is to ensure accurate and comprehensive reporting of all data by Authorised Dealers on cross-border transactions for compilation of:
 - (a) balance of payments statistics by the Research Department of the Central Bank of Lesotho;
 - (b) foreign debt statistics and repayment profiles to support monetary policy decisions; and
 - (c) statistical information relating to the nature, volume and values of the various cross-border flows and provide the appropriate information for economic and financial management decisions, as well as planning and policy formulation.

(B) Inward payments – reporting procedures

- (i) General
 - (a) Authorised Dealers must ensure the correct reporting of all cross-border foreign exchange transactions irrespective of the amounts and currencies involved.
 - (b) Data pertaining to reportable transactions must be submitted to the Financial Surveillance Division in various formats outlined in the Business and Technical Specifications document within two business days from the value date of the transaction.
 - (c) Rejections by the Financial Surveillance Division must be corrected and re-submitted in the agreed format within one business day from the date of the rejection.
 - (d) Warning messages by the Financial Surveillance Division must be thoroughly investigated and actioned within one business day from the date of the warning message and, where required, the appropriate remedial actions be taken.
- (ii) Integrated Form

- (a) Authorised Dealers must make use of an integrated form in respect of all inward payments either in hard copy or electronic format, to obtain data required for the processing and reporting of all cross-border foreign exchange transactions to the Financial Surveillance Division. The integrated form must contain a declaration to the effect that the information supplied in respect of the particular transaction is true and correct.
- (b) When the customer is physically present at the Authorised Dealer, the integrated form must be completed and signed by the customer in respect of all inward payments.
- (c) When the client is not physically present to complete and sign the integrated form, the Authorised Dealer may complete and sign the integrated form, either physically or electronically, provided that the Authorised Dealer has been authorised or mandated to do so by means of a letter, a facsimile message, an e-mail message or by a recorded telephonic message to act on the client's behalf. The client's communication must be retained by the Authorised Dealer for a period of five years for inspection purposes.
- (d) As an exception to the arrangement outlined in the preceding paragraph, an integrated form need not be completed by the client of an Authorised Dealer in respect of inward payments under M50 000 per transaction, subject to the following conditions;
 - (aa) only transactions in respect of a natural person who is a client of the Authorised Dealer, will qualify;
 - (bb) the purpose of the transaction must be disclosed in the applicable 70, 72 or 77 of the SWIFT customer transfer message, in a clear and unambiguous manner;
 - (cc) where additional information is required to report a transaction, e.g. exports, loans, this procedure may not be applied;
 - (dd) all transactions must be reported in terms of the Reporting System in line with the requirements of the Business and Technical Specifications document;

- (ee) where no official mandate is in place, a confirmation must be sent by the Authorised Dealer to the client on conclusion of each transaction, containing the reporting category and clearly stipulating that should the client not be in agreement with the category selected and reported to the Financial Surveillance Division, the client must dispute same within a period of 14 days; and
- (ff) a copy of the communication to the client must be retained for a period of five years for inspection purposes.

- (e) In cases where the client transacts with the Authorised Dealer via an electronic interface in terms of this dispensation, the Authorised Dealer must ensure that the underlying agreements legally bind the client in terms of the correctness of the information provided via the electronic medium.
- (f) The above-mentioned dispensation does not apply to an ADLA.

(iii) Declaration

- (g) The following declaration must be included in the integrated form:

“I, the undersigned, hereby declare that:

1. I have read this document and know and understand the contents thereof;
2. the information furnished above is in all respects both true and correct;
3. the currency applied for will only be used for the specific purpose stated herein;



4. the documentation presented in support of this application is in all respects authentic;
5. I have been informed of the limit applicable to the above transaction and confirm that this limit will not be exceeded as a result of the conclusion of this transaction; and

I consent to this information being provided to the Lesotho Revenue Authority and/or the Financial Intelligence Unit.”

(C) Balance of Payments categories applicable to BOPCUS – inward payments

A balance-of-payment category consists of a category and in some cases a category and a sub-category is also applicable.

Adjustments

100 Adjustments related to merchandise trade

Merchandise exports

101 Advance payments

102 F.O.B.

103 C.I.F.

104 Repair

105 Procured in ports

106 Exports where no SAD500 Form is required by Customs

107 Not allocated

Gold exports

201 Proceeds

202 Hedging

Services related to travel by non-residents

253 Business travel - non-residents

254 Holiday travel - non-residents

255 Foreign exchange accepted by residents from non-resident travellers

Services related to travel payments received from third parties

260 Travel related payments received from third parties

Services related to transportation

301 Freight

302 Passenger fares

Services related to travel by residents

- 303 Business travel - purchase of unutilised funds from residents
- 304 Holiday travel – purchase of unutilised funds from residents

Services related to study

- 305 Tuition fees
- 306 Study loans

Other services

- 307 Telecommunication
- 308 Postal and courier
- 309 Construction
- 310 Insurance
- 311 Financial
- 312 Copyrights, royalties and patent fees

Computer related services

- 313 Data and news related
- 314 News agency fees

Other business services

- 315 Merchanting
- 316 Operational leasing

Professional, management and technical services

- 317 Legal, accounting, management consulting
- 318 Advertising and market research
- 319 Research and development
- 320 Architectural, engineering and other technical
- 321 Agricultural, mining and other processing

Personal, cultural and recreational services

- 323 Audiovisual and related services
- 324 Cultural and recreational

Government services

- 325 Diplomatic transfers

Medical services

- 326 Medical and dental services

Income

- 401 Dividends
- 402 Interest
- 403 Branch profits

- 404 Compensation of employees including migrant workers
- 405 Commission or brokerage
- 406 Rental
- 407 Interest in respect of loans
- 408 Income in respect of inward listed securities

Transfers – current

- 501 Gifts
- 502 Annual contributions
- 503 Contributions to social security schemes
- 504 Contributions – charitable, religious, scientific and cultural
- 505 Pension payments
- 506 Annuities
- 507 Not allocated
- 508 Inheritances
- 509 Alimony
- 510 Income tax
- 511 Premiums paid (non-life / short-term insurance)
- 512 Claims (non-life / short-term insurance)

Transfers of a capital nature

- 601 Government
- 602 Non-government sector – cash linked to fixed assets
- 603 Non-government sector – donations for fixed investment
- 604 Non-government sector – inheritance taxes
- 605 Acquisition / disposal (patents, copyrights, trademarks, franchises)
- 606 Repatriation, on instruction by the Financial Surveillance Division, of a foreign investment by a resident individual in respect of cross-border flows
- 607 Repatriation, on instruction by the Financial Surveillance Division, of a foreign investment by a resident individual originating from an account conducted in foreign currency held at an Authorised Dealer in Lesotho.
- 608 Not allocated
- 609 Immigrants

Financial transactions

- 701 Shares
- 702 Bonds
- 703 Money market instruments
- 704 Foreign portfolio investments – repatriation by resident institutional investors
- 705 Bank prudential – repatriation
- 706 Inward listed securities – redemption

Deposits / Derivatives

- 801 Not allocated
- 802 Not allocated

- 803 Not allocated
- 804 Options
- 805 Futures
- 806 Warrants
- 807 Not allocated

Miscellaneous payments

- 901 Details of payments not classified
- 902 Adjustments not related to merchandise trade
- 903 Not allocated for inward payments
- 904 Maloti drafts/cheques drawn on vostro accounts [Only applicable if no description is available]
- 950 Reversal of transaction (monetary value) previously reported and accepted by the Central Bank of Lesotho
- 998 Repayment by a non-resident of a loan (capital portion) received from a resident
- 999 Loan made to a resident by a non-resident

(D) Outward payments – reporting procedures

(i) General

- (a) Authorised Dealers must ensure the correct reporting of all cross-border foreign exchange transactions irrespective of the amounts and currencies involved.
- (b) Data pertaining to transactions must be submitted to the Financial Surveillance Division in the various format outlined in the Business and Technical Specifications document within two business days from the value date of the transaction.
- (c) Rejections by the Financial Surveillance Division must be corrected and re-submitted in the agreed format within one business day from the date of the rejection.

(ii) Integrated Form

- (a) Authorised Dealers must make use of an integrated form, in respect of all outward payments either hard copy or electronic format, to obtain data required for the processing and reporting of all cross-border foreign exchange transactions to the Financial Surveillance Division.

- (b) When the client is physically present at the Authorised Dealer, the integrated form must be completed and signed by the client in respect of all outward payments.
- (c) When the client is not physically present to complete and sign the integrated form, the Authorised Dealer may complete and sign the integrated form, either physically or electronically, provided that the Authorised Dealer has been authorised or mandated to do so by means of a letter, a facsimile message, an email message or by a recorded telephonic message to act on the client’s behalf. The client’s communication must be retained by the Authorised Dealer for a period of five years for inspection purposes.
- (d) In cases where the client transacts with the Authorised Dealer via an electronic interface, the Authorised Dealer must ensure that the underlying agreements legally bind the customer in terms of the correctness of the information provided via the electronic medium.

(iii) Declaration

- (a) The following declaration must be included in the integrated form:

“I, the undersigned, hereby declare that:

1. I have read this document and know and understand the contents thereof;
2. the information furnished above is in all respects both true and correct;
3. the currency applied for will only be used for the specific purpose stated herein;
4. the documentation presented in support of this application is in all respects authentic;



5. I have been informed of the limit applicable to the above transaction and confirm that this limit will not be exceeded as a result of the conclusion of this transaction; and

I consent to this information being provided to the Lesotho Revenue Authority and/or the Financial Intelligence Unit.”

(E) Balance of payments categories applicable to BOPCUS- outward payments

A balance-of-payments category consists of a category and in some cases a category and a sub-category is also applicable.

Adjustments

100 Adjustments related to merchandise trade

Merchandise imports

101 Advance payments

102 F.O.B.

103 C.I.F.

104 Repair

105 Procured in ports

106 Imports where no SAD500 Form is required by Customs

107 Trade finance

Gold imports

201 Payments

202 Hedging

Services related to travel by non-residents

253 Business travel – purchase of Maloti from non-residents

254 Holiday travel – purchase of Maloti from non-residents

255 Not allocated

Services related to travel payments to third parties

260 Travel related payments to third parties

Services related to transportation

- 301 Freight
- 302 Passenger fares

Services related to travel by residents

- 303 Business travel – residents
- 304 Holiday travel – residents

Services related to study

- 305 Tuition fees
- 306 Study loans

Other services

- 307 Telecommunication
- 308 Postal and courier
- 309 Construction
- 310 Insurance
- 311 Financial
- 312 Copyrights, royalties and patent fees

Computer related services

- 313 Data and news related
- 314 News agency fees

Other business services

- 315 Merchating
- 316 Operational leasing

Professional, management and technical services

- 317 Legal, accounting, management consulting
- 318 Advertising and market research
- 319 Research and development
- 320 Architectural, engineering and other technical
- 321 Agricultural, mining and other processing

Personal, cultural and recreational services

- 323 Audiovisual and related services
- 324 Cultural and recreational

Government services

325 Diplomatic Transfers

Medical services

326 Medical and dental services

Income

401 Dividends

402 Interest not in respect of loans

403 Branch profits

404 Compensation of employees including migrant workers

405 Commission or brokerage

406 Rental

407 Interest in respect of loans

408 Not allocated

Transfers – current

501 Gifts

502 Annual contributions

503 Contributions to social security schemes

504 Contributions – charitable, religious, scientific and cultural

505 Pension payments

506 Annuities

507 Payments by immigrants

508 Inheritances

509 Alimony

510 Income tax

511 Premiums paid (non-life / short-term insurance)

512 Claims (non-life / short-term insurance)

Transfers of a capital nature

601 Government

602 Non-government sector – cash linked to fixed assets

603 Non-government sector – donations for fixed investment

604 Non-government sector – inheritance taxes

605 Acquisition / disposal (patents, copyrights, trademarks, franchises)

606 Foreign investment by a resident individual in respect of cross-border flows

607 Investment by a resident individual originating from a local source into an account conducted in foreign currency held at an Authorised Dealer in Lesotho

608 Foreign investment by a resident individual in respect of cross-border flows originating from a foreign currency account held at an Authorised Dealer in Lesotho

609 Emigrants

Financial transactions

- 701 Shares
- 702 Bonds
- 703 Money market instruments
- 704 Foreign portfolio investments – investment by resident institutional investors
- 705 Bank prudential
- 706 Inward listed securities

Deposits / Derivatives

- 801 Not allocated
- 802 Not allocated
- 803 Not allocated
- 804 Options
- 805 Futures
- 806 Warrants
- 807 Not allocated

Miscellaneous payments

- 901 Details of payments not classified
- 902 Adjustments not related to merchandise trade
- 903 Maloti collections for the credit of vostro accounts
- 904 Not allocated for outward payments
- 950 Reversal of transaction (monetary value) previously reported and accepted by CBL
- 998 Loan made by a resident to a non-resident
- 999 Repayment by a resident of a loan (capital portion) received from a non-resident

(F) Business and technical specifications

Authorised Dealers should read this Section in conjunction with the complete Business and Technical Specifications document and Operations Manual applicable to the Cross-Border Foreign Exchange Transaction Reporting System, which are available from the Financial Surveillance Division or at the following website address:
www.centralbank.org.ls

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K. Returns and reports

The following returns and reports must be submitted to the Financial Surveillance Division by Authorised Dealers as required in terms of the applicable sections of the Authorised Dealer Manual:

(A) Return on emigrants whose assets do not exceed the sum of M4 million in the case of a single person or M8 million in the case of a family unit

See subsection B.2 (J)(vi)(a)(aa) of the Authorised Dealer Manual.

(B) Returns of immigrants

See subsection B.5 (B)(i)(b) of the Authorised Dealer Manual.

(C) Return of extensions granted to importers and exporters in terms of Exchange Control Regulations 11 and 12

See Section F.2 of the Authorised Dealer Manual.

(D) Authorisation to travel agents, hotels, restaurants, shops and other persons whose business is directly related to the tourist industry

See subsection B.21 (A) of the Authorised Dealer Manual.

(E) Return of Central Bank of Lesotho notes repatriated from countries outside Lesotho

See subsection F.1(B)(iii) of the Authorised Dealer Manual.

(F) Return of overdrawn non-resident clearing accounts of foreign banks in excess of M25 million

See section F.1(B)(iii) of the Authorised Dealer Manual

(G) Return of local financial assistance granted to affected persons and non-residents

See subsection I.1(F) of the Authorised Dealer Manual.

(H) Macro-prudential foreign exposure limit return

See subsection B.2(I) of the Authorised Dealer Manual.

(I) Report of active currency management regarding in-between trades in respect of beneficial holdings trading

See subsection D.1(B)(i)(f) and (g) of the Authorised Dealer Manual.

(J) Report of active currency management regarding in-between trades in respect of forward rates applicable to each contract concluded

See subsection D.1(B)(i)(f) and (g) of the Authorised Dealer Manual.

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