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Government Notice

Goewermentskennisgewing

DEPARTMENT OF FINANCE

DEPARTEMENT VAN FINANSIES

No. R. 357

20 February 1981

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20 Februarie 1981

AMENDMENT OF THE EXCHANGE CONTROL REGULATIONS PROMULGATED IN TERMS OF SECTION 9 OF THE CURRENCY AND EXCHANGES ACT, 1933 (ACT 9 OF 1933)

WYSIGING VAN DIE DEWIESEBEHEER-REGULASIES UITGEVAARDIG KRAGTENS ARTIKEL 9 VAN DIE WET OP BETAALMIDDELS EN WISSELKOERSE, 1933 (WET 9 VAN 1933)

The State President has in terms of section 9 of the Currency and Exchanges Act, 1933 (Act 9 of 1933), made the regulations contained in the Schedule hereto.

Die Staatspresident het kragtens artikel 9 van die Wet op Betaalmiddels en Wisselkoerse, 1933 (Wet 9 van 1933), die regulasies in die Bylae hiervan uitgevaardig.

SCHEDULE

BYLAE

1. In these regulations "the Regulations" shall mean the Exchange Control Regulations promulgated under Government Notice R.1111 of 1 December

1. In hierdie regulasies beteken "die Regulasies" die Dewiesebeheerregulasies afgekondig by Goewermentskennisgewing R.1111 van 1 Desember 1961

1961, as amended by Government Notices R.872 of 3 June 1966, R.1647 of 21 October 1966, R.650 of 19 April 1968 and R.355 of 5 March 1976.

2. Regulation 1 of the Regulations is hereby amended

- (a) by inserting the following definition before the definition of "appropriate officer":
 "'affected person' means a body corporate, foundation, trust or partnership operating in the Republic, or an estate, in respect of which —
- (i) 25 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 the Republic; or
- (ii) 25 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 the Republic;"
- (b) by substituting the following definition for the definition of "appropriate officer":
 "'appropriate officer' means any officer of customs or excise, any immigration officer, any member of the South African Police, any member of the South African Railways and Harbours Police or any person authorised by the Treasury to act as such;"
- (c) by inserting the following definition before the definition of "foreign currency":
 "'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 lease-back but excluding —
- (a) 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
- (b) the granting of credit solely in respect of the payment for services rendered;"
- (d) by substituting the following definition for the definition of "foreign currency":
 "'foreign currency' means any currency which is not legal tender in the Republic, and includes any bill of exchange, letter of credit, money order, postal order, promissory note, traveller's cheque or any other instrument for the payment

soos gewysig by Goewermentskennisgewings R.872 van 3 Junie 1966, R.1647 van 21 Oktober 1966, R.650 van 19 April 1968 en R.355 van 5 Maart 1976.

2. Regulasie 1 van die Regulasies word hierby gewysig

- (a) deur die omskrywing van "bevoegde amptenaar" deur die volgende omskrywing te vervang:
 "'bevoegde amptenaar' 'n doeane- en aksyns-beampte, 'n immigrasiebeampte, 'n lid van die Suid-Afrikaanse Polisie, 'n lid van die Suid-Afrikaanse Spoorweg- en Hawenspolisie, of iemand wat deur die Tesourie gemagtig is om as sodanig op te tree;"
- (b) deur na die omskrywing van "eienaar" die volgende omskrywing in te voeg:
 "'finansiële bystand' ook die uitleen van valuta, die verlening van krediet, die opneem van sekuriteite, die aangaan van 'n huurkoop of 'n verhuuring, die finansiering van verkope of voorrade, 'n verdiskontering, 'n faktorering, die waarborg van aksepteringskrediete, die waarborg of aanvaarding van enige verpligting, 'n borgtog, 'n terugkoop en 'n terugverhuuring maar met uitsluiting van —
- (a) die verlening van krediet deur 'n verkoper ten opsigte van enige handelstransaksie wat direk die oorgang van eiendomsreg op die verkoopte goed van verkoper na koper behels, en
- (b) die verlening van krediet alleen ten opsigte van die betaling van dienste gelewer;"
- (c) deur na die omskrywing van "finansiële bystand" die volgende omskrywing in te voeg:
 "'geaffekteerde persoon' 'n regs persoon, stigting, trust of vennootskap wat in die Republiek sake doen, of 'n boedel, ten opsigte waarvan —
- (i) 25 persent of meer van die kapitaal, bates of verdienstes daarvan gebruik mag word vir betaling aan, of vir die bevoordeling op enige wyse van, iemand wat nie in die Republiek woonagtig is nie; of
- (ii) 25 persent of meer van die stembare geldwaardige papiere, stembevoegdheid, mag van beheer, kapitaal, bates of verdienstes daarvan, regstreeks of onregstreeks gesetel is in, of beheer word deur of ten behoeve van, iemand wat nie in die Republiek woonagtig is nie;" en
- (d) deur die omskrywing van "vreemde valuta" deur die volgende omskrywing te vervang:

of currency payable in a currency unit which is not legal tender in the Republic;”.

“‘vreemde valuta’ enige valuta wat nie in die Republiek wettige betaalmiddel is nie, en ook enige kredietbrief, posorder, poswissel, promesse, reistjek, wissel of enige ander instrument vir die uitbetaling van valuta wat betaalbaar is in ’n valuta-eenheid wat nie in die Republiek wettige betaalmiddel is nie.”.

3. Regulation 3 of the Regulations is hereby amended

3. Regulasie 3 van die Regulasies word hierby gewysig

- (a) by substituting the following paragraph for paragraph (e) of sub-regulation (1):

- (a) deur paragraaf (e) van subregulasie 1 deur die volgende paragraaf te vervang:

“(e) grant any financial assistance to any person in the Republic, where as security for such financial assistance, the person granting the financial assistance in turn relies on any security, guarantee, undertaking or financial assistance, directly or indirectly furnished by —

“(e) enige finansiële bystand aan iemand in die Republiek verleen nie, waar as sekuriteit vir sodanige finansiële bystand, die persoon wat die finansiële bystand verleen op sy beurt staatmaak op enige sekuriteit, waarborg, onderneming of finansiële bystand, regstreeks of onregstreeks, voorsien deur —

(i) any person resident outside Republic; or

(i) iemand wat buite die Republiek woonagtig is; of

(ii) an affected person;”;

(ii) ’n geaffekteerde persoon;”;

- (b) by substituting the following paragraph for paragraph (f) of sub-regulation (1):

- (b) deur paragraaf (f) van subregulasie 1 deur die volgende paragraaf te vervang:

“(f) grant any financial assistance to any person in the Republic, where such person —

“(f) enige finansiële bystand aan iemand in die Republiek verleen nie, waar so iemand —

(i) is not resident in the Republic; or

(i) nie in die Republiek woonagtig is nie; of

(ii) is an affected person.”; and

(ii) ’n geaffekteerde persoon is.”; en

- (c) by substituting the following sub-regulation for sub-regulation (9):

- (c) deur subregulasie (9) deur die volgende subregulasie te vervang:

“(9) For the purposes of sub-regulation (1)(a), documents of title relating to securities shall be deemed to be securities, and any reference to securities in sub-regulations (3), (4) and (5) shall be construed as including references to such documents of title.”.

“(9) Vir die toepassing van subregulasie 1(a) word eiendomsbewyse wat betrekking het op geldwaardige papiere as geldwaardige papiere beskou, en enige verwysing in subregulasies (3), (4) en (5) na geldwaardige papiere word geag verwysings na sodanige eiendomsbewyse in te sluit.”.