Easing of exchange control regulations, welcomed

Finance minister Pravin Gordhan has kept his mid-term budget promise made in October last year to further ease exchange controls, with a series of recently announced relaxations.

Ann van den Berg, director at audit firm PKF chartered accountants and business advisers, unpacks these recent changes. "The tone of these amendments is of a considerable relaxation and simplification of the exchange control regulations. As such, it is welcomed. For instance, there has been consolidation of cross border payments under the single discretionary allowance of R1m a calendar year in that it now includes alimony and child payments over and above the amount provided in the court order; as well as including wedding expenses and a foreign capital allowance.

"No tax clearance certificate is required for each of these individual transfers, thereby relieving one of a considerable administrative burden. Furthermore, one can still apply to the Financial Surveillance Department (FSD) for an increase in the amount where it is insufficient, on a case-by-case basis," says Van den Berg. She cautions that the usual allowance documentation will have to be submitted as required by the specific authorised dealer.

Applications in excess of R500m will be considered

A second relaxation involves South African companies making bona fide outward foreign direct investments. In the past, the FSD applied to such investment a strict restriction to only lines of business within the company's current sphere of business. "The amendment has now widened the scope of such investment to include operations outside its current line of business, though still excluding passive investments. Furthermore, the FSD will consider applications in excess of the R500m a calendar year," explains Van den Berg.

Thirdly is an easing of the FSD's total prohibition on the 'loop' structures. Regulations relating to loop structures have been amended to allow South African companies to now acquire 10-20% equity or voting rights in a target foreign entity which may hold investments or make loans into any common monetary area country.

Approvals come with reporting conditions

"Finally, the FSD has recently approved on a case-by-case basis a number of applications for remittance offshore by individuals of amounts that are multiples in excess of the usual R4m annual allowance for investment purposes. This is primarily of interest to high net worth individuals for whom R4m is an insignificant proportion of their total wealth.

"These approvals in the case of individuals come with certain reporting conditions, include the requirement to report on an annual basis and to make appropriate disclosure of the foreign investments and income earned thereon. They have also approved certain transfers from trusts, but in addition to the requirement to disclose and report, an Advance Tax Ruling has to be obtained from South African Revenue Services. However, there remains some uncertainty with regard to future approvals and we are waiting for clarity in this regard," adds Van den Berg.