

Foreign investment allowance for individuals

What are the facts?

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Foreign Exchange Controls have been part of the lives of South Africans for many years. Currently, the rules are as follows¹:

- Every South African adult resident (above 18 years old) receives a single discretionary allowance per calendar year.
- This allowance stipulates that up to R1 million may be transferred offshore without obtaining a Foreign Tax Clearance Certificate.
- The single discretionary allowance may be used for any legal purpose abroad (including for investment).
- If South African individuals wish to transfer more than R1 million offshore in a calendar year, they may use their foreign investment allowance ("FIA") to transfer up to R10 million offshore.

On 24 April 2023, the South African Revenue Services (SARS) made a few changes to the requirements for tax clearance applications to streamline the process, regardless of your tax residency status². They have also changed the name of the process to an Approval for International Transfer or "AIT". A lot has been speculated in the media over the last week about what this actually means for investors, and what the impact on an individual's foreign investment allowance would be.

What has changed in terms of the requirements?

Applicants are now required to provide a few additional sets of information:

1. Tax Residency status

If the applicant has ceased to be a South African tax resident (i.e. completed financial Tax Migration), they must provide the date upon which they completed Tax Migration (or the previously named Financial Emigration) and confirm the country that they are now a tax resident of. They are also asked to confirm whether they are applying as a family unit or an individual.

2. Whether they are a beneficiary of a Trust? (local or foreign)

If the applicant is a beneficiary of a trust, they must provide the name of the trust, the trust number, the income tax reference number and the ID or passport of the main representative of the trust.

For Financial Advisors and their Clients

¹ Source: South African Reserve Bank: [Exchange control Frequently asked questions](#)

² Source: SARS media statement – [How SARS has changed tax compliance status reporting for transferring funds abroad](#)

3. Whether the applicant has shareholding (directly/indirectly) in an entity (foreign or local) of 20% or more?

If the applicant has a shareholding of 20% or more in an entity, they must provide the name of the entity, the registration number of the entity, the income tax reference number of the entity, the value of their shareholding as well as their shareholding percentage.

4. Whether the applicant has an existing loan to a Trust (foreign or local)?

If the applicant confirms that they have a loan to a trust, they must provide the trust details (as per question 2) as well as the loan value and interest percentage on the loan.

Note: If the applicant is a South African tax resident and none of the other questions apply to the applicant, then there are **no additional fields** to complete for these questions.

5. When completing the form where SARS request the applicant's **three years of assets & liabilities**, they now require the cost value of each line item.

With all the requirements listed above, there is no indication yet from SARS that the individual must provide additional supporting documentation for these. They are still required to submit supporting documentation for the source of funds of the AIT (Approval for International Transfer) as required previously.

Conclusion

From what it looks, the updates implemented are merely for internal administrative processes and SARS is in fact trying to streamline this process and provide more clarity on what is needed to externalise money.

It is perhaps worthwhile to remember that exchange control legislation sits mostly in the ambit of the Reserve Bank and Minister of Finance. SARS has merely changed the administrative process. Naturally, it's easy to see why some commentators might view this as an attempt to make the process more difficult, but perhaps one needs to consider the facts rationally before jumping to any conclusion.

Included below are a few resources that might prove useful:

- [Guide to the tax compliance status functionality on eFiling](#) - This guide is designed to assist taxpayers on how to utilise the Tax Compliance Status functionality on eFiling to obtain a security PIN. In addition, the guide explains the functionality available to the third party to verify the Tax Compliance Status of a taxpayer from whom it received the PIN.
- SARS media statement – [How SARS has changed tax compliance status reporting for transferring funds abroad](#)
- [SARS Supporting documents for approval on International Transfers \(AIT\)](#)



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