
**GOLD AND FOREIGN EXCHANGE CONTINGENCY
RESERVE ACCOUNT**

SETTLEMENT AGREEMENT

*(as envisaged in section 28(2)(b) and 28(3)(b) of the South African Reserve Bank Act,
1989 (Act No. 90 of 1989))*

Made By and Between

THE SOUTH AFRICAN RESERVE BANK

And

**THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA ACTING THROUGH
THE NATIONAL TREASURY**

relating to

the settlement of the balance on the Gold and Foreign Exchange Contingency
Reserve Account

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1. PARTIES:

This **GOLD AND FOREIGN EXCHANGE CONTINGENCY RESERVE ACCOUNT SETTLEMENT AGREEMENT** ("Agreement") is made by and between:

- (1) **THE SOUTH AFRICAN RESERVE BANK** ("Reserve Bank"); and
- (2) **THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA ACTING THROUGH THE NATIONAL TREASURY** ("National Treasury").

(together, the "Parties", and "Party" shall mean either of them).

2. PREAMBLE

- A. **WHEREAS** GFECRA is an account comprised of the Gold Price Adjustment Account, Foreign Exchange Adjustment Account and Forward Exchange Contracts Adjustment Account established and managed by the Reserve Bank on behalf of the National Treasury;
- B. **AND WHEREAS** sections 25 to 28 of the South African Reserve Bank Act serve as the founding legal framework for GFECRA;
- C. **AND WHEREAS** in terms of the South African Reserve Bank Act, any debit or credit balance resulting from revaluations of the Gold Price Adjustment Account, Foreign Exchange Adjustment Account and Forward Exchange Contracts Adjustment Account shall be transferred to a GFECRA at the end of each financial year or as the Reserve Bank and the National Treasury may determine;
- D. **AND WHEREAS** in terms of section 28(3) of the South African Reserve Bank Act read with section 1 of the GFECRA Act, any debit balance on the GFECRA is a direct charge against the National Revenue Fund;

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- E. **AND WHEREAS** any credit balance on the GFECRA accrues to the National Revenue Fund in terms of section 28(2) of the SARB Act.
- F. **AND WHEREAS** any debit or credit balance on the GFECRA is carried forward until such time as the Reserve Bank and the National Treasury determine otherwise.
- G. **NOW THEREFORE** to establish certain principles for the settlement of the GFECRA balance, the Parties are entering into this Agreement, as contemplated in section 28(2)(b) and 28(3)(b) of the SARB Act.

ACCORDINGLY, IT IS AGREED AS FOLLOWS:

3. DEFINITIONS AND INTERPRETATION

3.1 Definitions

In this Agreement, and in the preamble above:

- 3.1.1 **Contingency Reserve** means a contingency reserve held, owned and maintained by the Reserve Bank;
- 3.1.2 **Contingency Reserve Estimated Adequacy Level** means an initial amount of R100 billion, and thereafter an amount as may be determined in terms of this Agreement;
- 3.1.3 **Effective Date** means the Signature Date;
- 3.1.4 **Estimated Adequacy Levels** means the GFECRA Estimated Adequacy Level and the Contingency Reserve Estimated Adequacy Level;
- 3.1.5 **Foreign Exchange Reserve Estimated Adequacy Levels** means the estimated foreign exchange reserve adequacy levels as determined by



the Reserve Bank and communicated to the Standing Committee from time to time;

- 3.1.6 **GFECRA** means the Gold and Foreign Exchange Contingency Reserve Account established and managed by the Reserve Bank in terms of section 28 of the South African Reserve Bank Act;
- 3.1.7 **GFECRA Act** means the Gold and Foreign Exchange Contingency Reserve Account Defrayal Act, 2003 (Act No. 4 of 2003), as amended;
- 3.1.8 **GFECRA Estimated Adequacy Level** means an amount as may be determined from time to time in terms of this Agreement for the purpose of GFECRA Distributions;
- 3.1.9 **GFECRA Distributions** means the amounts to be distributed from GFECRA in accordance with clause 7.2.7.
- 3.1.10 **National Treasury** means the National Treasury established by section 5 of the PFMA;
- 3.1.11 **PFMA** means the Public Finance Management Act, 1999 (Act No. 1 of 1999), as amended;
- 3.1.12 **Reserve Bank** means the South African Reserve Bank referred to in Section 2 of the South African Reserve Bank Act;
- 3.1.13 **South African Reserve Bank Act** means the South African Reserve Bank Act, 1989 (Act No. 90 of 1989), as amended; and
- 3.1.14 **Standing Committee** means the Standing Committee on Banking and Financial Markets, established by the Parties in terms of the Memorandum of Understanding dated 23 March 2004, as may be amended, supplemented or modified from time to time, to oversee banking and financial market issues, and



3.1.15 **Signature Date** means the date of the signature of the Party last signing this Agreement in time.

3.2 **Interpretation**

3.2.1 Unless a contrary indication appears, any reference in this Agreement to:

3.2.1.1 a gender includes the other gender;

3.2.1.2 any **Party**, or any other person shall be construed so as to include its successors in title, permitted cessionaries and permitted transferees to, or of, its rights and/or obligations under this Agreement;

3.2.1.3 **authority** includes any court or any governmental, intergovernmental or supranational body, agency, department or any regulatory, self-regulatory or other authority;

3.2.1.4 the use of the word **including** followed by specific examples may not be construed as limiting the meaning of the general wording preceding it, and the *eiusdem generis* rule must not be applied in the interpretation of such general wording or such specific examples;

3.2.1.5 a **person** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);

3.2.1.6 a **regulation** includes any regulation, rule, official directive, request or guideline of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;



- 3.2.1.7 a provision of law is a reference to that provision as amended or re-enacted; and
- 3.2.1.8 a time of day is a reference to Johannesburg time.
- 3.2.2 Section, Clause and Schedule headings are for ease of reference only and shall not be taken into account when interpreting this Agreement.
- 3.2.3 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it appears only in an interpretation clause, effect shall be given to it as if it were a substantive provision of this Agreement.
- 3.2.4 Unless inconsistent with the context, an expression in this Agreement which denotes the singular includes the plural and vice versa.
- 3.2.5 The Schedules to this Agreement form an integral part of this Agreement and a reference to a **Clause** or a **Schedule** is a reference to a clause of, or a schedule to, this Agreement.
- 3.2.6 The rule of construction that, in the event of ambiguity, a contract shall be interpreted against the party responsible for the drafting thereof, shall not apply in the interpretation of this Agreement.
- 3.2.7 The expiry or termination of this Agreement shall not affect those provisions of this Agreement that expressly provide that they will operate after any such expiry or termination or which of necessity must continue to have effect after such expiry or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 3.2.8 Where figures are referred to in numerals and in words in this Agreement, if there is any conflict between the two, the words shall prevail.

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- 3.2.9 Unless a contrary indication appears, where any number of days is to be calculated from a particular day, such number shall be calculated as including that particular day and excluding the last day of such period.

4. TERM AND TERMINATION

This Agreement shall become effective on the Effective Date and shall remain valid and binding until terminated by mutual agreement between the Parties.

5. STATUS AND PURPOSE

- 5.1 The purpose of this Agreement is to define the terms and conditions governing the maintenance of GFECRA.
- 5.2 This Agreement is an enabling instrument under the terms and conditions of which the Parties may from time to time agree on future settlement of the debit and credit balance on the GFECRA.
- 5.3 Any specific terms and conditions for the subsequent financial years shall be set out in the letters that will be exchanged between the Parties substantially in the form of letters in the Schedule hereto. Upon signature of the last letter, the exchanged letters shall become Schedules to this Agreement.
- 5.4 Except where specifically provided for, to the contrary, any Schedule to this Agreement shall incorporate the terms and conditions of this Agreement. The terms and conditions of one Schedule shall not apply to any other Schedule.
- 5.5 With effect from the Effective Date, this Agreement shall be the sole agreement between the Parties on the matters set out herein and it

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supersedes all prior agreements and/or understandings between the Parties on the matters set out in this Agreement.

6. PRINCIPLES - GFECRA SETTLEMENT METHODOLOGY

- 6.1 The Parties agree, in pursuit of the purpose of this Agreement, that they shall be guided by the following principles:
- 6.1.1 No settlement of any balance on the GFECRA shall, at any time, undermine the policy solvency of the Reserve Bank.
- 6.1.2 There shall be no sales of the foreign exchange reserves to realise GFECRA gains so long as foreign exchange reserves are below the Foreign Exchange Reserve Estimated Adequacy Levels.
- 6.1.3 There shall be no settlement of an unrealized balance on the GFECRA that could plausibly be unwound by future currency reversals. The GFECRA Estimated Adequacy Level will ensure compliance with this principle.
- 6.1.4 The settlement of the credit balance on the GFECRA to the National Treasury shall be used to reduce government's borrowing.
- 6.1.5 Any future settlement of GFECRA funds shall be governed by this Agreement and the relevant Schedule.
- 6.1.6 Where the balance on the GFECRA is below GFECRA Estimated Adequacy Level, any GFECRA gains will be retained in the GFECRA.
- 6.2 Where the settlement of the balance on the GFECRA to National Treasury is unusually large, such that money markets may be disturbed by an infusion of liquidity, the Reserve Bank and the National Treasury shall cooperate to stagger these payments and make other adjustments, as necessary, to avoid undue market volatility.

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- 6.3 The terms and conditions of this Agreement including any Schedule shall be published in the interest of transparency and accountability.

7. OBLIGATIONS OF THE PARTIES

7.1 General

- 7.1.1 It is recorded that, as of the Signature Date, the total credit balance on the GFECRA is R524.1 billion, of which R250 billion shall be transferred from the GFECRA to the National Revenue Fund in accordance with this Agreement.
- 7.1.2 The Parties agree that for the 2024/25 financial year R100 billion shall be transferred as a direct charge from the National Revenue Fund to the Reserve Bank for contingency reserve requirements, subject to applicable legislation. For the avoidance of doubt, any amounts transferred to the Reserve Bank for the Contingency Reserve requirements are not subject to any conditions.
- 7.1.3 It is further recorded that any debit balance on the GFECRA is a loss to the National Treasury and that such a loss shall be defrayed, subject to the applicable legislation.
- 7.1.4 At least annually and on an *ad hoc* basis, the Parties shall provide written reports regarding the settlement of the balance on the GFECRA to the Standing Committee.
- 7.1.5 All payments made in terms of this Agreement shall be made free of all deductions for, or on account of, any taxes, levies and withholdings of any nature, save as required by law. Should a Party be compelled to make such deductions or withholdings, then the amount paid shall, subject to applicable legislation, be increased as necessary to ensure that the Party receiving payment receives the amount it would have received had no such deductions been made.

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7.2 Obligations of the Reserve Bank

7.2.1 The Reserve Bank shall, over the next three years, transfer an amount of R250 billion from the GFECRA to the National Treasury as follows:

7.2.1.1 R100 billion upon the promulgation into law of the legislation described in clause 7.3 and a subsequent R100 billion within the 2024/25 financial year;

7.2.1.2 R25 billion within the 2025/26 financial year; and

7.2.1.3 R25 billion within the 2026/27 financial year.

7.2.2 The Reserve Bank shall, from time to time and through its internal processes, estimate and determine the GFECRA Estimated Adequacy Level, and shall, in the initial stage of this estimation process, discuss and consult with the relevant National Treasury technical teams.

7.2.3 The Reserve Bank shall, from time to time, after consultation with National Treasury and through its internal processes, estimate and determine the Contingency Reserve Estimated Adequacy Level. The Contingency Reserve Estimated Adequacy Level shall be subject to the review and approval of the Reserve Bank's auditors.

7.2.4 The Reserve Bank shall present both of the Estimated Adequacy Levels mentioned in clause 7.2.2 and 7.2.3 above to the Standing Committee for scrutiny and review.

7.2.5 The Standing Committee will deliberate on the Estimated Adequacy Levels and aim to reach an agreement on their respective final values.



7.2.6 Should the Standing Committee fail to make a final determination of any of the Estimated Adequacy Levels, the disagreement shall be resolved as set out in clauses 8.1 and 8.2 below.

7.2.7 The Reserve Bank shall, on an annual basis, where the GFECRA satisfies the GFECRA Estimated Adequacy Level in the first instance, and where the Contingency Reserve also satisfies the Contingency Reserve Estimated Adequacy Level in the second instance, pay any excess balance to the National Treasury, subject to the SARB Act.

7.2.8 The Reserve Bank shall report the Foreign Exchange Reserves Estimated Adequacy Level to the National Treasury and the Standing Committee.

7.3 **Obligations of the National Treasury**

The National Treasury shall, in respect of the financial year 2024/25, facilitate as set out in clause 7.1.2, the introduction before Parliament of appropriate legislation to enable the transfer of a net amount of R100 billion against the National Revenue Fund for Contingency Reserve requirements. It is recorded that only Parliament has the authority to approve the applicable legislation to transfer funds from the National Revenue Fund to the Reserve Bank.

7.4 **General Obligations**

7.4.1 Either Party shall, for the duration of this Agreement-

7.4.1.1 co-operate and assist the other Party in performing its obligations in terms of this Agreement;

7.4.1.2 timeously furnish the other Party with all required information and documentation in its possession to enable the other Party to perform its obligations in terms of this Agreement;



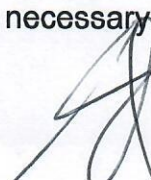
- 7.4.1.3 intervene timeously to ensure that necessary information and documents are submitted to the other Party.

8. DISPUTE RESOLUTION

- 8.1 Should the Standing Committee fail to make a final determination of the Estimated Adequacy Levels in terms of 7.2.5 and 7.2.6 above, the disagreement shall be escalated to the Minister and Governor.
- 8.2 The Minister and the Governor may, on such terms and conditions as they may deem appropriate, appoint advisors or experts for technical and/or advisory support, so as to resolve the disagreement.
- 8.3 Any dispute, other than a dispute in terms of clause 8.1, arising out of or in connection with this Agreement or related thereto, whether directly or indirectly, is considered a dispute for the purposes of this Agreement and shall be resolved amicably between the Parties through a consultative process.

9. IMPLEMENTATION

- 9.1 The incumbent of the following positions will have an overall responsibility for implementation of this Agreement:
- 9.1.1 For the National Treasury - Deputy Director General: Asset and Liability Management
- 9.1.2 For the Reserve Bank - Head of Department: Financial Markets
- 9.2 The Parties undertake to do all such things, perform all such acts, take all such steps and procure the doing of all such things, the performance of all such acts, and the taking of all such steps as may be necessary to



give effect to the terms and conditions under the import of this Agreement.

10. CONFIDENTIALITY

- 10.1 The Parties acknowledge that confidentiality is of utmost importance given their respective mandates.
- 10.2 No information which a Party may acquire during the duration of this Agreement and thereafter, may be disclosed by such Party to any third party, save to the professional advisors of a Party and who may require such information in order to advise a Party or where required by the operation of law, whether before or after the termination of this Agreement.
- 10.3 Unless otherwise expressly provided in this Agreement, the Parties agree to hold each other's information, whether pertaining to or arising from the operation of this Agreement, in the strictest of confidence and not to make use thereof other than to give effect to their respective obligations in this Agreement.

11. GOOD FAITH

Each Party shall be bound to show the utmost good faith to the other in regard to all matters arising from or in terms of this Agreement.

12. CHANNELS OF COMMUNICATION

- 12.1 For the purpose of facilitating the implementation of this Agreement, the channel of communication for the Parties will be the following addresses:

12.1.1 THE NATIONAL TREASURY

Physical: 40 Church Square, Pretoria, 0002

Postal: Private Bag X115, Pretoria, 0001



Tel: 012 406 9015

E-mail: DGRegistry@treasury.gov.za

12.1.2 THE RESERVE BANK

Physical: 370 Helen Joseph Street, Pretoria, 0002

Postal: P.O. Box 427, Pretoria, 0001

Tel: 012 399 7822

E-mail: governor@resbank.co.za

12.2 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing but it shall be competent to give notice by e-mail.

12.3 Any notice, request or other communication under this Agreement will be in writing and will be deemed to have been duly given or made when it has been delivered by hand or mail, as the case may be, by either Party to the other at the address specified in this Agreement or such other address as either Party may notify to the other Party.

13. MISCELLANEOUS

13.1 No partnership or agency

This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

13.2 No amendment or variation

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This Agreement may not be released, discharged, supplemented, interpreted, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each of the Parties to this Agreement.

13.3 **Waiver**

- 13.3.1 The failure of any Party to exercise any contractual right or remedy shall not constitute a waiver thereof.
- 13.3.2 No waiver shall be effective unless it is communicated in writing to the other Party.
- 13.3.3 No extension of time or relaxation of any of the provisions or terms of this Agreement and/or any agreement or other undertaking made or executed pursuant to or in terms of this Agreement, shall operate as an estoppel against any Party in respect of its rights under this Agreement, nor shall it operate so as to preclude such Party thereafter from exercising its rights in accordance with this Agreement.

13.4 **Assignment**

Neither Party shall sell, cede, delegate, assign, transfer or otherwise dispose of all or any part of its rights and/or obligations under this Agreement to a third party without the prior written approval of the other Party.

13.5 **Counterparts**

This Agreement may be executed in any number of counterparts or duplicates, each of which shall be an original, and such counterparts or duplicates shall together constitute one and the same agreement.

13.6 **Entire Agreement**

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This Agreement contains the whole agreement between the Parties in respect of the subject matter hereof and supersedes any prior written or oral agreement between them.

13.7 Further assurances

Each Party agrees to execute, acknowledge and deliver such further instruments, and do all further similar acts as may be necessary or appropriate to carry out the purposes and intent of this Agreement.

13.8 Costs

Each Party shall bear its own costs in relation to the negotiation and preparation of this Agreement.

13.9 Severability

If any provision of this Agreement is held by a court to be unlawful, void or unenforceable, it shall be deemed to be deleted from this Agreement and shall be of no force and effect and this Agreement shall remain in full force and effect as if such provision had not originally been contained in this Agreement. In the event of any such deletion the Parties shall negotiate in good faith in order to agree the terms of a mutually acceptable and satisfactory alternative provision in place of the provision so deleted.

13.10 Governing Law

The validity, construction and performance of this Agreement shall be governed by the laws of the Republic of South Africa.

SIGNED by the Parties and witnessed on the following dates and at the following places respectively:

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SIGNED at _____ on _____ 2024

For and on behalf of:

**THE SOUTH AFRICAN
RESERVE BANK**

By: _____

Governor Lesetja
Kganyago

SIGNED at Johannesburg on 02 June 2024

For and on behalf of:

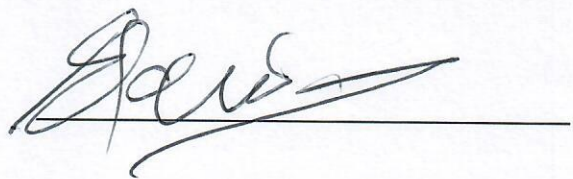
**THE GOVERNMENT OF THE
REPUBLIC OF SOUTH
AFRICA REPRESENTED BY
THE NATIONAL TREASURY**

By: _____

Name: Minister Enoch

Godongwana

Title: Minister of Finance



SCHEDULE

PART A

AGREEMENT IN THE FORM OF EXCHANGE OF LETTERS

[To be placed on the letterhead of the Reserve Bank]

Minister of Finance
40 Church Square
Pretoria
0002

Dear Minister,

BALANCE ON THE GFECRA, THE ESTIMATED ADEQUACY LEVEL AND THE CONTINGENCY RESERVE REQUIREMENTS

1. We refer to the GFECRA Settlement Agreement dated [●] ("Agreement") between the Reserve Bank and the National Treasury. This notice is made in terms of clause 5.3 of the Agreement. Unless otherwise defined herein, capitalised terms used in this notice shall have the meaning assigned to them in the Agreement.
2. The Reserve Bank hereby confirm to the National Treasury, for the financial year 2024/25, as follows:
 - 2.1 that the opening balance on the GFECRA is R [●].
 - 2.2 The required GFECRA buffer is R [●].
 - 2.3 The new contingency reserve requirements are [●].
3. Accordingly, R [●] should be appropriated to meet the contingency requirements. The balance on the GFECRA of R [●] will permanently be distributed to the National Treasury.

4. The Reserve Bank proposes that if this letter is acceptable to the National Treasury, this letter and confirmation shall together constitute a Schedule to the Agreement between the Parties, which shall become effective on the date of the National Treasury's reply.

Yours faithfully,

[•]

By: _____

Authorised Representative

PART B
AGREEMENT IN THE FORM OF EXCHANGE OF LETTERS

[To be placed on the letterhead of the National Treasury]

The Governor
South African Reserve Bank
(Address)

Dear Governor,

**BALANCE ON THE GFECRA, THE ESTIMATED ADEQUACY LEVEL AND THE
CONTINGENCY RESERVE REQUIREMENTS**

1. We refer to the GFECRA Settlement Agreement dated [●] ("Agreement") between the Reserve Bank and the National Treasury. This letter is made in terms of clause 5.3 of the Agreement. Unless otherwise defined herein, capitalised terms used in this notice shall have the meaning assigned to them in the Agreement.
2. *The National Treasury hereby accepts settlement of the balance of the GFECRA.*
3. In respect of the contingency reserve requirements, the Minister of Finance will introduce a Money Bill before Parliament to enable the transfer of R [●], credited from the National Revenue Fund.
4. The National Treasury hereby accept that your letter and this reply, together shall constitute a Schedule to amend the Agreement between the Parties, and shall become effective on the date of this letter.

Yours faithfully,

[●]

By: _____

Authorised Representative