G:ENESIS

Facilitating Southern African remittance networks

An issues paper for the 2006 SADC Commonwealth Secretariat workshop on remittances

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1. INTRODUCTION

Genesis Analytics is a Johannesburg-based economics consultancy, with a wide range of experience in the field of access to finance, including the remittance market in particular. Internationally, there has been a growing focus on the role of remittances in alleviating poverty, and Genesis has examined the impact of remittance flows on sub-Saharan Africa in two separate reports:

- '*African Families, African Money*' – conducted in April 2003 for the FinMark Trust, and available on www.finmark.org.za, and
- '*Supporting Remittances in Southern Africa*' – conducted May 2005 for CGAP and the FinMark Trust, and also available on www.finmark.org.za

The intra-SADC remittance market is estimated to comprise at least R6.2bn in annual cross-border flows (or approximately US$1bn). However, much of this money travels via informal channels, to a large extent because the regulatory environment is not enabling. Barriers to the formalisation of remittances are strongest in anti-money laundering, exchange control and immigration legislation. The problems with, and possible interventions in, these legislative barriers, are discussed below.

Regional migration and remittance patterns tend to underline the urgency of the SADC Finance and Investment Protocol ("FIP") process. Regional financial integration is already a fact of life for many SADC citizens. However, the bulk of such integration is undertaken via informal channels, as integration of the formal economy still lags the economic realities.

2. PATTERNS OF MIGRATION

The quality of data available on regional migration patterns in SADC is not particularly good. For example, the South African data is only available as a flow variable (ie: the number of Botswanan immigrants in a particular month) rather than as a stock variable (ie: the total number of Botswanans at any given point). High levels of undocumented migration, as well as issues with the quality of border controls, further complicate any assessment of the official data.

In a September 2005 paper for CGAP and FinMark Trust, Genesis generated an estimate of migration from SADC to South Africa (one of the principal points of origin for SADC remittances) , which we hope will be refined by other researchers as and when the available data improves. Our estimates suggest that the bulk of migrants to South Africa are from Mozambique, Lesotho and Zimbabwe (with the Zimbabwean component subsumed into and constituting the bulk of the “other SADC” category). A majority of these migrants are undocumented. Botswana was found to be the only other significant recipient country for SADC migrants.

Destination country	Origin country								
	Botswana	**Lesotho**	**Malawi**	**Mozam-bique**	**South Africa**	**Swazi-land**	**Other SADC**	Total immigrants	% of destination country population
Botswana		1 137	1 603		13 001	243	22 554	38 538	2.5%
Lesotho	266							266	
Malawi	77							77	
Mozambique								-	
South Africa	58 458	489 862	25 083	634 997		189 599	671 863	2 069 861	4.8%
Swaziland	171							171	
Total emigrants	58 972	490 999	26 685	634 997	13 001	189 842	694 417		
% of origin country population	3.8%	26.3%	0.2%	3.4%	0.0%	16.2%	0.5%		

Table 1: Estimated migrant population, selected SADC countries

Source: Various (including Oucho et al 2000, 15 & 17 for the Botswana estimates), and Genesis calculations

2.1. PATTERNS OF REMITTING

Estimates of remittance volumes were based on estimates of migration behaviour, as very little remittance data was available from national statistical agencies and central banks. In SADC, no country tracks remittances as a separate line item in its balance of payments estimates, and the impact of remittances is thus often effectively captured in the balancing item. It can be argued that the informal nature of most remittance flows makes them particularly difficult to track. However, it is

possible for regional central banks to capture a good indication of the size of such items by using statistical techniques, should this be made a policy priority.

In order to estimate the size of remittance flows, the September 2005 paper thus relied on migration estimates, combined with estimates of the manner in which SADC migrants remit. This is shown in Table 2. The total size of cross-border SADC remittances was estimated at R6.2bn annually.

Sending country	Receiving country							
Rm	Botswana	Lesotho	Malawi	Mozam-bique	South Africa	Swaziland	Other SADC	Total
Botswana		2.59	3.65		29.64	0.55	51.42	87.87
Lesotho	0.61							0.61
Malawi	0.18							0.18
Mozambique								
South Africa	133.28	1 675.84	57.19	2 241.71		432.29	1 531.85	6 072.15
Swaziland	0.39							0.39
Total	134.46	1 678.43	60.84	2 241.71	29.64	432.84	1 583.27	6 161.19

Table 2: Estimated annual remittances, South African rand millions

Sources: Genesis calculations, various

The absolute size of these remittance flows may appear small. However, it should be remembered that remittances are an extremely targeted form of income support, flowing directly to those that are in need, when they signal that need. Where aid flows may be dissipated by administrative costs, or even corrupt abuse of funds, the vast majority of remittance flows do seem to go directly to their intended recipients. Finally, remittance flows from South Africa are, in some SADC countries, substantially larger than aid flows.

	Aid per capita (US$, 2002)	Total aid, US$m	Remittance flows (US$m, R/US$6.00)	Remittances as a % of aid
Botswana	21.9	34.3	22.4	65.4%
Lesotho	43.0	80.2	279.7	348.7%
Malawi	35.1	417.9	10.1	2.4%
Mozambique	111.6	2099.4	373.6	17.8%
Swaziland	22.7	26.5	72.1	272.0%

Table 3: Importance of remittance flows as a form of income support in SADC

Source: CIA World Fact Book, http://sima-ext.worldbank.org/query/, Genesis calculations

2.2. REMITTANCE CHANNELS

The use of formal rather than informal channels for remitting should be beneficial for the remitter, the recipient and society as a whole. Formal remittance channels should typically be more reliable, secure and transparently priced than informal

channels. Money put in the formal banking system is then available for on-lending, which reduces the "dead capital" problems which plague developing nations. Money sent via formal channels can also be measured and audited, which is useful for regulators and statistical agencies.

In order to gain a better understanding of the remittance patterns of SADC migrants, a number of focus group discussions were conducted. The focus groups were chosen as follows:

- **Domestic transfers**: two focus groups were conducted on the domestic transfer market in South Africa, one consisting of blue collar workers and the other of white collar workers.[1]
- **Cross border, same currency**: individuals resident in South Africa, but remitting to a Southern African Customs Union/Common Monetary Area ("SACU/CMA") country were interviewed. White collar and blue collar workers were interviewed separately.
- **Cross border, different currency**: individuals resident in South Africa and remitting to a SADC but non-CMA country were interviewed, in a white collar and blue collar group.
- **Taxi drivers**: taxi drivers who carried remittances, both domestically and cross-border, were interviewed.

Focus group participants were asked to complete questionnaires on their remittance behaviour as well as discuss it in the group setting. Some inconsistencies between these two forms of self-reporting were uncovered. In particular, the most popular method of transferring remittances in the questionnaires was described as bank transfers, but in the discussions, very few respondents admitted to using bank transfers, while most revealed that they had used taxi drivers and friends to remit. This kind of response pattern would be consistent with a preconception that informal methods of remitting are not as socially acceptable or aspirational as the use of formal channels. Fear of using illegal channels may also drive perceptions.

[1] Blue collar workers were the lower income/education group, and consisted mainly of labourers, domestic workers and the unemployed. The white collar worker group included a wide range of professions, such as quantity surveying, production assistants, secretaries, administrators, assistant managers and human resources officers. No formal breakdown of income and educational levels by group was collated.

Method used	Total: Number of respondents	Total: % of respondents	According to socio-economic status: White collar	According to socio-economic status: Blue collar	According to residence status: Domestic	According to residence status: Cross border
Total number of respondents	48		25	23	16	32
Friends/relatives/taxi drivers	24	50%	12	12	5	19
Post Office	17	35%	9	8	4	13
Western Union *	2	4%	2	-	-	2
Bank transfers	26	54%	18	8	14	12
ATM/debit card	4	8%	1	3	-	4
Cheque	1	2%	1	-	-	1
Internet	3	6%	-	1	2	1
Mobile phone	1	2%	-	1	-	1

Table 4: Remittance methods used according to self-completion questionnaires

Source: Uthini Research

** Western Union is not at present in operation in South Africa. These respondents had used Western Union prior to its closure or in another country.*

The focus group discussions were combined with Finscope[2] data on remittance patterns, in order to produce an estimate of how SADC remits. The resulting data suggests that more than half of cross-border remittances in SADC travel via informal channels. The relative importance of the most common remittance channels is mapped in Table 5. As shown, even on long-distance cross-border trips, wide use is still made of friends and taxi drivers, with the post office being the only formal channel that is widely used.

	International remittances: % of total flows	International remittances: Flows (Rm)
Taxi drivers	21.3%	1 309.3
Friends and/or relatives	31.9%	1 963.9
Post Office	31.9%	1 963.9
Bank - transfer, cheque or internet	5.0%	308.1
Other (including Western Union)	10.0%	616.1
Total	**100.0%**	**6 161.19**
Implied % formal remittances (assumes half of “Other” is formal)	41.9%	2 580.0

Table 5: Estimated volume of remittances via existing channels

Source: Genesis estimates

Use of informal channels is driven by a number of factors. For example, in some countries, the post office has a reputation for fraud, and thus is seldom used. If the recipient is in a remote area, with little formal infrastructure, informal methods may be the only effective means of remitting. Formal channels are also often

[2] The FinScope Africa surveys are aimed at understanding usage and attitudes towards financial services on a comprehensive and nationally representative basis. www.finscopeafrica.org

substantially more expensive, as shown in Table 6. However, much of the rationale underlying the use of informal channels (as well as a large part of the cost disparities) ultimately leads back to regulatory obstacles, as discussed below.

	Price for a R300 transfer
Domestic transfers	
Taxi driver	R 15.00
Friends/relatives	R 15.00
Post Office - money order	R 36.10
Post Office - postal order	R 24.50
Bank deposits *	R 8.28
Inter-account payments *	R 8.22
International transfers	
Taxi driver	R 30.00
Friends/relatives	R 30.00
Post Office - money order **	R 30.50
Post Office - telegraphic money order **	R 51.75
Inter-account payments *	R 167.13

Table 6: Current pricing environment

Source: Focus group discussions, bank websites and telephonic enquiries

** Averaged across major providers.*

*** Not available in all SADC countries. Where applicable, averaged across SADC countries.*

3. BARRIERS TO FORMALISATION

Three main regulatory barriers to the formalisation of remittances in SADC have been identified. These barriers function both individually and in concert to decrease the ability of remitters to access formal remittance systems, and to decrease the viability of remittance systems that have proved useful in other regions. Below, the three barriers, namely exchange controls, anti-money laundering (AML) legislation and immigration laws, are discussed. As South Africa is the principal destination country for SADC migrants, and thus the principal country of origin for SADC remittances, the discussion focuses on South African legislation. However, the discussion is also of relevance to other dispensations, particularly as international AML standards are increasingly implemented across the region.

3.1. EXCHANGE CONTROL

Although South Africa's exchange control ("excon") regulations have been loosened appreciably in recent years, they remain in force. Different exchange control rulings apply to the transactions of residents of the common monetary area ("CMA", which incorporates South Africa, Lesotho, Swaziland and Namibia) and non-residents. There are no trade and exchange restrictions between the member countries of the CMA and they form a single exchange control territory. Each CMA member has its own exchange control regulation and authorities, but in terms of the CMA Agreement, their application of exchange control must be at least as strict as that of South Africa. Thus transfer of funds from South Africa to other CMA countries does not require the approval of Exchange Control.

The problem with excon is not that it prohibits remittances. There are in fact allowance categories in the excon regulations which suit the remittance patterns of many remitters – for example, a South African resident is allowed to send gifts of R30 000 per year outside the CMA. The issue lies in the method in which exchange control is applied, and in three key areas in particular, namely identity of the remitter, the issuing of authorised dealer licenses, and the reporting system requirements.

3.1.1. IDENTITY OF THE REMITTER

The Exchange Control Regulations distinguish between residents and non-residents, as well as three additional categories, namely temporary residents, immigrants and emigrants (with the latter two not relevant for the purposes of this report).

Residents are persons, whether of a South African or any other nationality that have taken up residence, or are domiciled or registered in South Africa. This would therefore include South African citizens and permanent residents to whom South African national identity documents have been issued. A significant proportion of the cross-border remitters referred to in this report are residents. The Exchange Control Regulations place no restrictions on the access of residents to banking and other financial services in South Africa.

Non-residents are defined as persons whose normal place of residence, domicile or registration is outside the CMA. As such, they can therefore not earn income from working in South Africa, and legal economic migrants, working in South Africa and sending remittances to SADC countries, would therefore be categorised as residents rather than non-residents. Conversely, undocumented migrants working in South Africa would meet the non-resident definition.

Temporary residents are defined as "foreign nationals of countries outside the CMA who have taken up temporary residence in the Republic excluding those who are purely on temporary visits".[3] They include contract workers. To purchase foreign exchange they must provide the authorised dealer with an original and valid work permit issued by the Department of Home Affairs (see section **Error! Reference source not found.**). As far as access to banking and permissible transactions are concerned, the norm applied by Exchange Control is that "contract workers should, while they are in the RSA, be treated more or less like residents in order to avoid unnecessary administrative procedures which would have resulted from treating them as non-residents. That implies, for example, that they can keep bank accounts or obtain funds from financial institutions for the purchase of a house in the same way as a resident."[4]

There is significant anecdotal evidence that most foreigners, including those that have a legal right to work, find it difficult to open a bank account.[5] With the introduction of new anti-money laundering legislation, the onus on authorised dealers in this regard is likely to increase. Many foreign nationals will effectively find themselves excluded from appropriate financial products and services.

3.1.2. AUTHORISED DEALER LICENSES

In order to deal in foreign exchange, which is a prerequisite for providers of cross-border remittance services beyond the CMA, an institution must be awarded an authorised dealer license by the South African Reserve Bank ("SARB"). Although in

[3] Page J1 of the Exchange Control Manual.
[4] Page J1 of the Exchange Control Manual.
[5] Please note however that the focus group participants did not confirm that this was the case. We are uncertain as to the cause of this discrepancy.

the past the SARB has awarded such licenses to institutions other than banks (at the moment, two foreign exchange bureaux still hold such grandfathered authorised dealer licenses), it has decided to only award these licenses to banks going forward. This substantially limits the entry of new and innovative businesses into the remittance market.[6]

3.1.3. EXCON REPORTING SYSTEM

Each authorised dealer must report every foreign exchange transaction, regardless how small, through the SARB's Cross Border Foreign Exchange Transaction Reporting System. The reporting system is relatively expensive to install, and per-transaction reporting requirements are onerous. Data required includes:

- For the domestic party: full names, residence permit number, address, and either an email address, phone number or fax number
- For the non-resident party: full name, country code and if available, address
- The size of the transaction, both in domestic currency and in the foreign currency concerned
- The purpose of the transfer[7]

The effect of these onerous reporting requirements is ultimately to increase the transaction cost of remitting substantially, and to raise the revenue threshold at which any remitting operation can break even (as any business must be large enough to justify the investment in reporting system compliance). The extensive reporting system data requirements are similar to the data requirements of anti-money laundering systems, and have a similar impact on the ability of remitters to use the formal financial system (discussed below). It should be noted, however, that the requirement for the remitter's residence permit number effectively excludes undocumented migrants from the formal remittance system.

The withdrawal of Western Union from South Africa was largely due to problems in meeting excon requirements, and thus illustrates the impact of excon on access to formal remittance systems. On entering South Africa, Western Union had rolled out a network of kiosks in shops in areas frequented by migrants, which allowed it to quickly and cheaply establish a retail presence. However, the SARB tightened its reporting requirements while Western Union was in operation, which increased the cost to Western Union of maintaining its retail network. In response, it reduced its

[6] It is also possible for a remittance business to partner with a bank to provide foreign exchange services. However, the remittance business is then constrained by the bank's transaction systems costs, which limits its ability to innovate and compete on price. In addition, the banks are cautious about the ability of remittance businesses to adequately handle money-laundering and fraud risks. Problems faced by Western Union in dealing with such risks, during its brief period of operation in South Africa, still condition operators' expectations.

[7] Ascertained via a telephone conversation with an exchange control representative.

network from 150 outlets to just 17. The SARB then further tightened excon requirements, which further increased Western Union operating costs. The combination of increasing cost, and problems with service quality at the 17 remaining overburdened outlets eventually seems to have persuaded Western Union to withdraw from South Africa.

3.1.4. THE POST OFFICE

A curious anomaly within the exchange control framework is the position of the South African Post Office. The Post Office is empowered by law to remit money outside the country via money order, postal order "or other document authorized to be used for the purpose of so remitting money."[8] Within the CMA, the Post Office imposes no limits on the amount of money that can be remitted through its system, although the maximum size of a single transaction is R2 000. For remittances sent beyond the CMA,[9] the maximum amount that can be sent in one month per individual is R2 000.

The Post Office has consistently argued that it has a long history of sending remittances, and thus that its legal authority to be involved in the remittance business supersedes exchange control legislation, and is therefore not subject to it. Although the SARB has challenged this position from time to time, Post Office remittances are not reported via the SARB's reporting system.

3.2. ANTI-MONEY LAUNDERING

Remittances are a form of unrequited money transfer – in other words, they do not pay for a given good or service, and produce no invoice or other documentation. Unfortunately, this means that remittances are often difficult to distinguish from illegal, fraudulent or terrorist financing transactions, which are also forms of unrequited flows, with no invoicing. Anti-money laundering legislation targeted at these illicit flows may thus impact heavily on the remittance market. Whereas exchange control barriers are specific to South Africa, the prevalence and severity of AML legislation is rising internationally.

In South Africa, the principal piece of AML legislation is the Financial Intelligence Centre Act ("FICA"), which was enacted in 2002. FICA was informed by the Financial Action Task Force ("FATF") Forty Recommendations, and the recommendations of the Basel Committee on Banking Supervision. South Africa

[8] Section 46 of the Postal Act of 1958.

[9] The countries which the Post Office can send remittances to are as follows: Lesotho, Namibia, Swaziland, United Kingdom, Jersey, Northern Ireland, Botswana, Kenya, St Helena, Zambia, Brazil, Canada, Italy, Malaysia, Mauritius, Singapore, Sri Lanka and Switzerland. This includes all the countries covered in this study except Malawi and Mozambique.

has also now passed legislation to implement the FATF Nine Special Recommendations on terrorist financing. This act is known as the Protection of Constitutional Democracy Against Terrorist and Related Activities Act, Act 33 of 2004. It criminalises the financing of terrorism. For practical purposes, however, its CDD requirements are no different from that of FICA.

A key obstacle for remittance formalisation are the FICA requirements for customer due diligence ("CDD"). In terms of FICA, before a financial institution can open an account or perform a single transaction, the bank must obtain the full name, date of birth, identity number (or nationality and passport number) and residential address of the person. Personal identity must be verified against a valid South African identification document or a foreign passport, and residential address must be verified against documentation such as a utility account.

Verifying client identity in South Africa has proved extremely difficult, particularly in the low income market:

- In low income areas such as informal settlements, verifying legal permanent address can be prohibitively difficult. At least one-third of South African households do not have formal addresses: according to the most recent census (2001), 30% of the approximately 9.1 million households in South Africa live in either traditional dwellings or informal structures
- Low income consumers increasingly prepay for their utilities. This means that no water, electricity or phone bills are available to confirm residential address, as prepaid systems don't create an audit trail
- Among the poor, telephone numbers, fax numbers, and e-mail addresses are typically not available

All of these factors are also of application in other SADC markets, which suggests that the rigorous application of AML principles, such as the FATF Forty Recommendations, would be of detriment to the regional remittance market and access to finance as a whole.

To address the access to finance impact of FICA, FICA Exemption 17[10] was introduced.[11] This exemption allows banks to apply reduced CDD standards in relation to qualifying accounts. The exemption dispenses with the requirement to obtain and verify the residential address of clients, but maintains the requirement to present a South African identity document. The qualifying accounts for the exemption are those which enable the client to transfer or make payments not

[10] Government Notice R1353 issued on 19 November 2004 in GG No 27011.
[11] For a case study, see Genesis, 2004, Access to Financial Services in South Africa: A brief case study of the effect of the implementation of the Financial Action Task Force. www.finmarktrust.org.za

exceeding R5 000 per day or R25 000 in a monthly cycle (more than sufficient for the average size remittance in SADC). The balance held may never exceed R25 000. Transfers as a result of a point-of-sale payment or cash withdrawal in a CMA country are allowed, but transfers beyond the CMA are not.

Although Exemption 17 has made a valuable contribution to the access to finance environment (it has enabled the launch of the Mzansi low income bank account, for example), it does not go far enough to fully facilitate the development of the remittance market. Firstly, the value thresholds in FICA are too low, and thus exclude too many individuals. FATF suggests that the threshold for occasional and/or money transfer agent customers should be US$/€15 000, which equates to between R118 350 (R/€7.89) and R93 600 (R/US$6.24), substantially higher than both the FICA daily and monthly transaction thresholds.

Secondly, Exemption 17 still excludes undocumented migrants from the formal remittance environment, as presentation of a South African ID document remains a non-negotiable component of CDD. This effectively requires the banking system to assist the Home Affairs Department to police the immigration laws. Other dispensations (most notably the USA, which now accepts matricular cards issued by Mexican embassies as adequate forms of identification) have found ways of incorporating informal migrants into the formal banking system without breaching the spirit of AML legislation, and it would be encouraging to see South Africa adopting a similar position.

Thirdly, an account opened in terms of Exemption 17 cannot be used for cross-border transactions, except within the CMA. Thus, even if a migrant can gain access to an Mzansi account, it still can't be used for remittance purposes. Extension of Exemption 17 on these three grounds, namely value thresholds, CDD and cross-border functionality, would thus be necessary to enable improved remittance functionality.

From a wider perspective, implementation of FATF recommendations may pose further problems for the remittance market. In particular, FATF recommendation 7 requires financial institutions involved in cross-border banking and similar relationships to gather sufficient information about the respondent institution's business, reputation and quality of supervision. It must also assess the respondent institution's AML and CFT controls.

This is relevant to the remittance market, as one of the easiest ways to provide an adequate remittance distribution network is to form a partnership with a financial institution in the destination country. However, South Africa is the only FATF-compliant country in SADC and the only FATF member in Africa, which will

probably create some reluctance to rely on the KYC abilities of partner institutions.[12] This will not be the case where the partner institution is a division of the financial institutions in South Africa or another institution, such as a retailer, with whom the financial institution has a relationship in South Africa.

3.3. IMMIGRATION LAWS

Some traces of the apartheid legacy can still be seen in South African immigration law. In particular, the corporate permit system used to control the immigration (and ensure the deportation) of labour needed by farmers and miners remains in place. What is noticeably absent is any form of work permit that would allow an unskilled person to enter South Africa outside of these corporate permits. Immigrants seeking informal or temporary work in the construction or hospitality industries, or as domestic workers, are thus only able to enter the South Africa illegally. The undocumented nature of the bulk of South African unskilled migration has important consequences for the formalisation of this market.

All immigrants are prohibited from using the Mzansi account, as it requires presentation of a South African ID book. Undocumented migrants face a further barrier to the rest of the formal financial system, as they cannot provide proof of residence status. As both excon and AML regulations require this proof of residence status, the undocumented migrant is unable to either open an account or make once-off transactions to remit money cross-border. Undocumented migrants therefore cannot access formal remittance channels at all, and must make use of informal channels. the extent of illegal migration into South Africa is hard to estimate, and projections vary greatly.

[12] However, most SADC countries are members of ESAAMLG (the Eastern and Southern Africa Anti-Money Laundering Group), so some commitment to compliance with anti-money laundering proposals has been expressed.

Name of permit	Duration of stay allowed	Who applies	Description	Permit applicable to remitters?	Can permit holder work?
Visitor's	3 months. Renewable	Individual	Must have sufficient financial resources	Yes	No
Diplomatic	Variable	Foreign state	Must be a diplomat, or family or staff of a diplomat	No	No
Study	For the period of study	Individual	Must be able to pay fees and support themselves	No	Part time, practical or holiday work
Treaty	Variable	Variable	Variable	Variable	Variable
Business	2 years	Individual	Individual must be starting or investing in a business, and have sufficient capital to do so	No	Yes
Crew	Variable	Owner of the ship or individual	Crew of a ship, can't move beyond a predetermined area	No	No
Medical treatment	Variable	Individual	Individual must be able to afford treatment costs	No	No
Relative's	Variable	Individual	The citizen or resident whose relative acquires the permit must be able to support them	No	No
Work	Annual	Company & individual	Employer certifies that a qualified South African is not available	Possibly	Yes
Retired person	Four years	Individual	Must have a pension and a minimum net worth	No	Yes, in some circumstances
Corporate	Variable	Company	Company must provide guarantees to cover the possible cost of deportation. Typically for mining and farming employers, although also used by other large corporates.	Yes	Yes
Exchange	Variable	Individual	For one year if work is to be conducted (and individual is under 25), or variable for cultural exchange programs	No	Yes, in some circumstances

Table 7: South African immigration permits

Source: Sections 10-22 of the Immigration Act, 2002

4. THE SUGGESTED WAY FORWARD

The facilitation of remittances markets in SADC requires the adoption of remittance policy goals, as well as specific regulatory interventions in both South Africa and across SADC.

4.1. SUGGESTED POLICY OBJECTIVES FOR SADC MEMBER STATES

The remittance environment is an important component of wider poverty alleviation programs, and should be recognised as such by SADC states. We propose the adoption of the following policy goals by SADC member states.[13]

- Steps should be taken to maximise the flows of remittances from SADC citizens working abroad
- An enabling regulatory environment which can facilitate this should be created
- Compliance with international AML/CFT standards should be implemented in a manner that does not inhibit cross-border flows of remittances
- Competition in remittance markets should be encouraged in order to reduce costs
- The formalisation of remittance flows should be encouraged

Concrete regulatory initiatives that could be implemented in order to achieve these policy goals are listed below.

4.2. SOUTH AFRICA

Although reforms to South African immigration laws would be of use in facilitating the remittance market, such reforms would be likely to meet considerable political resistance, and thus the returns from pursuing such initiatives may be negligible. We have therefore focused on the possibility of reform in the excon and AML arenas. None of the amendments proposed require legislative (parliamentary) amendments, since all of these can be effected via subordinate legislation.

4.2.1. REMOVE EXCHANGE CONTROL REPORTING REQUIREMENTS BELOW A CERTAIN THRESHOLD

Currently only about 5% of the estimated R6 billion cross-border remittances to SADC are recorded via the SARB's reporting system. The existence of the Post Office anomaly has not hurt the country's balance of payments. We recommend

[13] Further suggestions are made in the Bank of International Settlements (2006) General principles for international remittance services. See www.bis.org

that all authorised agents be exempted from reporting transactions, which can be limited to unrequited transfers, below a certain threshold, which we suggest should be R5 000 (in line with the requirements of the current Exemption 17).

4.2.2. A LIMITED AUTHORISED DEALER LICENSE FOR THE REMITTANCE MARKET

At present, full authorised dealer licenses are limited to banks, with limited licenses available to bureaux de change. In order to encourage competition in the remittance market, we recommend the institution of a specialised limited authorised dealer license for the remittance market.

4.2.3. EXTEND EXEMPTION 17 TO SADC / AFRICA

Exemption 17 currently facilitates some forms of cross-border transfers within the CMA. We recommend that this be extended to cross-border transfers within SADC or Africa. The current exchange control dispensation allows higher levels of investment from South Africa to SADC and Africa, than to the rest of the world. This indicates that the South African government is prepared to facilitate financial flows to the rest of the continent on a preferred basis.

4.2.4. FACILITATE REMITTANCES ON PRESENTATION OF A PASSPORT ONLY

We recommend that both the Exchange Control and AML regulations be amended to facilitate access to remittance services on presentation of a valid passport alone (ie: without documentation of legal migration status). Other countries already follow a similar approach, notably the United States with Mexican migrants. Essentially, this approach would lift the onus currently placed on financial institutions to assist the Home Affairs Department in policing immigration laws.

We note that a prerequisite for migrants to use this dispensation will be the legal protection of the data supplied to the financial institution from being used by immigration authorities for prosecution.

4.3. SADC MEMBER STATES

Remittances, especially from citizens working abroad, constitute a significant and potentially growing inflow of targeted foreign exchange and development capital for most SADC countries. Facilitating these flows is therefore in the long term interest of the governments of SADC member states. The following approaches could facilitate the flows of remittances between SADC member states.

4.3.1. PURSUE FATF COMPLIANCE

The fact that South Africa is the only FATF-compliant country in SADC substantially increases the regulatory burden on South African institutions involved in cross-border transactions into SADC. Increased emphasis on gaining FATF compliance in major remittance receiving countries would therefore be of considerable benefit to the banks, many of which already have cross border operations.

Member states should implement AML/CFT regimes that do not inhibit the flows of cross-border remittances, whilst encouraging the use of formal remittance channels. The forms of informal remittance channels mostly used in Southern Africa (family and friends and taxis/ground transportation) are mostly not susceptible to registration as required by the FATF Nine Special Recommendations. Enticing these informal remitters into the formal network is therefore the only viable option.

4.3.2. BETTER DATA COLLECTION

Poor data collection makes an assessment of the problems facing migrants and remitters substantially more complicated, and may result in inadequate policy responses. It would thus be preferable to see better record keeping of rates of formal migration in SADC, including as assessment of the stock of legal migrants in situ. Statistical sampling methodologies should be employed in order to generate defensible estimates of undocumented migration and informal remittance behaviours.

4.3.3. AFFORDABILITY

The governments of member states should interact with their financial sectors to facilitate the costing of remittance services for low income migrants at affordable levels. Member states should cooperate to facilitate the development of formal low cost alternative remittance providers.

4.3.4. REGIONAL HARMONISATION

Member states should cooperate, potentially via the SADC Committee of Central Bank Governors (instrument of the FIP), to harmonise regional systems and regulations to facilitate intra-regional remittance flows.