



fn inc

Attorneys Notaries Conveyancers

1st Floor, 2 Albury Park, Albury Road, Dunkeld West, 2196. Docex 11 Hyde Park. t +27 11 560 7100 f +27 11 759 7960. Stellenbosch Office: t +27 82 287 3173

---

## **TRUSTS AND FOREIGN COMPANIES**

A foreign trust must firstly be registered with the Master of the High Court, and letters of authorisation issued to the trustees, before land can be registered into the name of such trust (See RCR24 of 2009).

In the same vein before a land can be registered into the name of a foreign trust, the necessary registration and letters of authorization must be issued (See section 8 of the Trust Property Control Act 57 of 1988 read with RCR17 of 2016).

### **What is the position with foreign companies?**

Section 23 of the Companies Act 71 Of 2008 provides that an external company (a foreign company carrying on business which includes non-profit activities within the republic of South Africa) must register with the commission within 20 business days after it begins to conduct business (or non-profit activities) in the RSA

A foreign company must be regarded as conducting business in RSA if that foreign company is:

1. is a party to one or more employment contracts within the Republic;
- or
2. subject to subsection (section 2A), is engaging in a course of conduct, or has engaged in a course or pattern of activities within the Republic over a period of at least six months, such as would lead a person to reasonably conclude that the company intended to continually engage in business or non-profit activities within the Republic

Section 2A of the Companies Act provides that a foreign company must not be regarded as conducting business activities (or non-profit activities) solely on the grounds that the foreign company is or has engaged in one or more of the following:

- holding meetings in RSA or conducting any of its internal affairs in RSA
- establishing or maintaining a bank account in RSA
- establishing or maintaining offices or agencies in RSA
- creating or acquiring debt in RSA or any mortgages (or security interest) in property in RSA
- securing or collecting debt in RSA or enforcing any mortgage in RSA
- acquiring any interest in property in RSA

Depending therefore on the factual circumstances, an external company may need to register with the commission, but there is no need to do so solely because the company is acquiring property in RSA or acts as mortgagee or mortgagor in respect of a loan

*Although care has been taken to ensure the accuracy of the above information, FN Inc and its members, employees, agents and representatives cannot be held liable for any loss suffered, as a result of the use of this information.*

*Updated June 2017*