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**CBM ISSUES EXEMPTIONS TO FOREIGN CURRENCY CONVERSION APPROVAL AND CONVERSION REQUIREMENT**

Following regulations issued by the Central Bank of Myanmar (the “CBM”) requiring the conversion of foreign currency earned or held by Myanmar persons (see <http://kcyangon.com/wp-content/uploads/2022/04/Issue-No.-64-CBM-Instruction-FC-Account.pdf> and <http://kcyangon.com/wp-content/uploads/2022/04/Issue-No.-65-2022-UTL-Law-and-CBM-Instruction-6-2022.pdf>), a letter was issued on April 20, 2022 that specifically exempts the following from the operation of these regulations:

- Foreign direct investments conducted with the approval of the Myanmar Investment Commission (the “MIC”);
- Investments operating in Special Economic Zones;
- Diplomats of embassies established in Myanmar, and their families, and foreign employees working at such embassies who are of similar rank to diplomats;
- Employees of United Nations and UN Organizations in Myanmar, and Myanmar citizens holding UN’s laissez-passer document;
- Foreign employees working at development agencies in Myanmar;
- Employees at International Development Organizations (i.e. International Red Cross, ILO) and Development Agencies; and
- State-owned and citizen-owned airlines.

The identification of the above persons and entities as exempted means that the conversion into Myanmar Kyats of foreign currency earned by them from both trade and non-trade activities or held by them in on-shore foreign currency accounts prior to 3 April 2022 will not apply.

Specifically with respect to “foreign direct investments” conducted with the approval of the MIC, the letter does not clarify whether the exemption applies to entities holding an MIC investment permit only, or whether those holding an MIC investment endorsement are also covered. This also means that “internal persons” who do not have such MIC investment approval and receive payment in foreign currency, even from an otherwise exempt entity such as those operating under an MIC approval, will not benefit from the exemption and will thereby have such foreign currency converted into Myanmar kyat in accordance with the CBM’s original instruction.

The letter also requires bank holding Authorized Foreign Exchange Dealer Licenses to properly conduct Know-Your-Customer (KYC) and Customer Due Diligence (CDD) procedures when processing foreign currency and related transactions to ensure that all foreign exchange requirements and exemptions are properly implemented.

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Transaction records are required to be submitted to the CBM and banks are made directly responsible for any breach in satisfying extant foreign exchange regulations.

Because of the obligations imposed on such banks, it is suggested for the Myanmar persons covered by the exemption to coordinate with their banks to understand how such banks will apply these foreign exchange requirements and exemptions in fact.

It also appears that the list is not intended to be an exclusive enumerated of exempted entities, as the CBM may continue to issue subsequent lists of exempted persons or entities.

## About Kelvin Chia Yangon (KCY)

KCY has been in active operation in Myanmar since 1995, currently with offices in Yangon and Mandalay. KCY is the firm of choice for those seeking to navigate Myanmar’s fast-changing and complex regulatory landscape, a jurisdiction in which KCY has gained in-depth legal expertise from the numerous transactions it has handled.

### Our main practice areas

Foreign Investments | Incorporation and Company Maintenance | General Corporate and Commercial | Due Diligence | Mergers and Acquisitions | Joint Ventures and Production Sharing Agreements | Investment Funds | Energy/Oil and Gas | Natural Resources/Mining | Banking | Project and Project Financing | Manufacturing | Education | Agriculture | Real Estate | Infrastructure | Construction | Telecommunications | Compliance / Regulatory | Licensing and Permits | Labour and Employment | Immigration | Taxation | Insurance | International Arbitration | Intellectual Property | Special Economic Zones

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