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GENERAL TIMELINE AND SUMMARY OF ISSUANCES ON MYANMAR FOREIGN CURRENCY LIMITATIONS

1. GENERAL TIMELINE

The following is a general timeline summarizing the issuances of the Central Bank of Myanmar (the “CBM”) limiting foreign exchange dealings in Myanmar.

Date	Notification/Instruction	Effect
3 April 2022	Notification No. 12/2022	<ul style="list-style-type: none">Requires conversion of foreign currency income received from abroad of internal residents within one business day,Imposes requirement for Foreign Exchange Supervisory Committee’s approval for outward remittances,Requires conversion of existing foreign currency balances, subject to further instruction.
3 April 2022	Order No. 4/2022	Expands upon Notification No. 12/2022, and stipulates that the exchange rate for conversion of foreign currency income of internal residents being received into Myanmar at 1850 Kyats per 1 US Dollars.
5 April 2022	Order No. 5/2022	Stipulates that the Union Government and Union Ministries are exempted from the requirements stipulated under Notification No. 12/2022.
5 April 2022	Order No. 6/2022	Provides specific requirements for banks holding Foreign Exchange Authorized Dealer License (“AD Banks”) to assess for different inward remittances of foreign currency prior to conversion into Myanmar Kyats, and requires a service charge of 3 Kyats per 1 US Dollars to be collected by AD Banks for

		processing of approved outward remittances.
20 April 2022	Instruction Letter FE-1/69	Grants exemptions from Notification 12/2022 for the following: <ul style="list-style-type: none"> • Foreign direct investments conducted with approval of Myanmar Investment Commission, • Investments operating in Special Economic Zones, • Diplomats and similar ranked foreign staffs at embassies, • UN employees at UN Organizations in Myanmar, and laissez-passer holding Myanmar citizens, • Foreign staffs at development agencies in Myanmar, • Foreign staffs at international organizations, international non-governmental organizations, and development agencies, • State-owned/citizen-owned international airlines
26 April 2022	Order No. 7/2022	Grants exemptions to exporters and importers under the China-Myanmar Border Trade Program and the Thai-Myanmar Border Trade Program.
13 July 2022	Instruction Letter FE-1/744(Ka)	Instructs AD Banks to inform their clients to negotiate with offshore lenders to temporarily suspend repayments of offshore loans
15 July 2022	Instruction Letter FE-1/754	Instructs conversion by 18 July 2022 of foreign currency held in the accounts of local companies with up to 35% foreign ownership.
5 August 2022	Notification No. 36/2022	Provides for exporters receiving export proceeds to retain foreign currency up to 35% of the export proceeds received (see Item 2, below).
10 August 2022	Order No. 11/2022	Prescribes a band for the sale, purchase or exchange of foreign currency at +/- 0.3% (further discussed in Item 3, below).
16 August 2022	Instruction Letter FE-1/PaKa/1957	Specifies the allowable uses of foreign currency income received by the entities exempted from Notification No. 12/2022 (further discussed in Item 4, below).

26 August 2022	Instruction Letter FE-1/PaKa/2071	Allows the exporters to utilize 35% of the export earnings retained as foreign currency for their own use, or to sell them to third-parties, including AD Banks, and to process trade-related payments abroad without the approval of the FESC (see Item 5, below).
30 August 2022	Notification No. 39/2022	Allows non-residents to use foreign currency income remitted into Myanmar for their own use or to sell such foreign currency to third persons (whether to AD Banks or otherwise) (see item 6, below).

2. **CBM NOTIFICATION ON CONVERSION OF EXPORT PROCEEDS**

Subsequent to the issuance of Notification No. 12/2022 on 3 April 2022 that first provided for the extant foreign currency restrictions (see above), the CBM issued Notification No. 36/2022 on 5 August 2022 that covers the conversion of export proceeds received by exporters into Myanmar. This Notification allows exporters to retain in foreign currency up to 35% of the export proceeds received in their respective foreign currency accounts.

3. **CBM Instruction on Threshold Range for Sale, Purchase or Exchange of Foreign Currency**

On 10 August 2022, the CBM issued Order No. 11/2022 that required holders of licenses to deal with foreign currency (*i.e.*, Authorized Foreign Exchange Dealer License, Money Changer License and Remittance Business License) to complete any sale, purchase or exchange of foreign currency only within the specified range of +/-0.3% range from the applicable CBM Reference Rate.

4. **CBM Issues Instruction to Foreign Exchange Authorized Dealer License Holder Banks on Usage of Foreign Currency by Exempted Entities from Notification No. 12/2022**

On 16 August 2022, the CBM instructed banks holding Foreign Exchange Authorized Dealer Licenses (“AD Banks”) that entities previously exempted from Notification No. 12/2022, such as the foreign direct investments operating with an approval from the Myanmar Investment Commission (“MIC”) and investments inside the special economic zones to allow such exempted persons to (a) utilize foreign currency earnings received from abroad for their own use; or (b) to sell such foreign currency earnings to third persons (whether to AD Banks or otherwise).

The CBM instruction also including the following, which explained the foreign currency transactions that can be undertaken by entities exempted from Notification No. 12/2022:

1. For exempted companies, organizations, individuals’ foreign currency earnings from abroad, they are allowed to sell 100% of off-shore earnings to any entity (that is, whether AD Banks or otherwise);
2. For companies, organizations or individuals that have purchased foreign currency from exempted entities under Item 1, above, they are allowed to use such purchased foreign



currency for their own use, or to sell such foreign currency to an AD Bank within 30 days from the date of the purchase if they are unable to self-use such foreign currency;

3. For self-usage of foreign currency that involves cross-border transactions whether by exempted entities or entities that have purchased such foreign currency from exempted entities, AD Banks must complete such cross-border transactions only with the approval of the Foreign Exchange Supervisory Committee (the “FESC”).

5. **CBM Issues Instruction on Usage of Foreign Currency from Export Earnings**

Subsequent to the issuance of the Notification No. 36/2022 relating to the conversion of 65% of the export earnings received by exporters (see Item 2, above), the CBM issued Instruction Letter No. FE-1/PaKa/2071 (“**Export Earnings Instruction Letter**”) on 26 August 2022 that clarified that the 35% export earnings not required to be converted to Myanmar Kyat and may be transacted for the export-earner’s own use, or to sell such foreign currency to third persons (whether to AD Banks or otherwise).

The Export Earnings Instruction Letter also provides that for trade-related payments only, AD Banks are allowed to process the exporters’ foreign currency requests involving the 35% that may be maintain in foreign currency if (a) it involves a self-use transaction of the exporter, (b) a transfer to third persons (whether to AD Banks or otherwise); or (c) to remit out of Myanmar even without the approval of the FESC after confirming that such remittance will comply with the AD Bank’s procedures, and extant CBM notifications, instructions and directives. The Export Earnings Instruction Letter also allows AD Banks to process without FESC approval any outbound payments for imports requested by companies that have purchased foreign currency from the export proceeds of exporters, upon confirmation that all relevant documentation and evidence relating to the import payment have been satisfied.

However, for non-trade related off-shore payments, the Export Earnings Instruction Letter requires AD Banks to submit any such remittance for the approval of the FESC and to apply the following assessment scheme:

1. For repayment of offshore loan principal and interest, AD Banks are to assess whether the proposed repayment is in accordance with the loan repayment schedule approved by the CBM,
2. For remittances of profits and dividends, AD Banks are to assess whether the initial inward remittance of capital was reported to the CBM, the company’s profit and loss statements, directors’ resolution on repatriation of dividends or profit, and evidences of tax payments,
3. For service fee payments, the AD Banks are to assess the relevant service agreement, invoice and relevant documents,
4. For remittances relating to expenses such as travel expenses, medical expenses, tuition fee, conference fee, AD Banks are to assess the individual or the company’s identity, purpose of remittance, as well as other related evidences for the proposed remittance.

6. **CBM Issues Instruction on Usage of Foreign Currency Income of Non-resident Citizens**

On 30 August 2022, the CBM issued Notification No. 39/2022 allowing foreign currency income of non-resident citizens remitted to Myanmar to be utilized by such non-resident citizens for their own use or to sell such foreign currency to third persons (whether to AD Banks or otherwise). Notably, however,

such non-resident citizens must transact such foreign currency within 21-days from remittance and if not transacted within this period must thereby be sold to the AD Bank. At the same time, parties who purchased such foreign currency from the non-resident citizen may not resell the purchased foreign currency, except to AD Banks, or otherwise use such foreign currency for their own use, also within the same 21-day period starting from initial inward remittance of such funds into Myanmar

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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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