



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 16 - 8 January 2016

Dear Readers,

Welcome to a new edition of our newsletter.

1. Payments in USD

It is not on the homepage of the Central Bank, but according to the Myanmar Times (<http://tinyurl.com/jabqw5w>), the Central Bank has re-issued, on 3 January 2016, an instruction from May 2015 as “people didn’t abide by it.”

In this instruction (Letter No. MaBaBha - 1/111 (FEMD)/(904/2015), the Central Bank requests “the relevant ministries and region and state government organizations to direct, as necessary, their sub-organizations, related government organizations and private businesses and organizations to make payments in Myanmar kyats and refrain from specifying the price for making sales or purchases or providing services in a foreign currency.”

The wording of this instruction is not very clear, but our understanding of the Central Bank’s policy as follows:

(a) Payments by bank transfer

Domestic and inbound payments by bank transfer in foreign currency are not restricted. Restrictions exist with regard to outbound payments: Such payments are only possible for certain purposes, such as the repatriation of profits, the repayment of a Central Bank-approved loan and the transfer of up to USD 10,000 for travel expenses or medical expenses.

(b) Cash payments

Section 8 of the Foreign Exchange Management Law (2012) technically prohibits domestic cash payments in foreign currency: “The domestic payment and transfer with/of foreign currency ... shall only be done through a foreign exchange dealer license holder.”

However, according to paragraph 15 of the Foreign Exchange Management Regulation (2014), “a domestic resident can possess, for up to six months from the date of receipt, USD 10,000, or other types of foreign currency in an equivalent amount, if obtained legally by this person. If the foreign currency is not used within six months, it shall be sold to, and exchanged by, foreign exchange dealer license holders at the market price or deposited in a bank account.”



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 16 - 8 January 2016

Although a gray area, our position at least so far has been that cash payments up to USD 10,000 are tolerated, but this may not be the policy of the Central Bank any more.

2. Translation of the Foreign Exchange Management Regulation

In this context: Foreign exchange control is governed by the Foreign Exchange Management Law and the Foreign Exchange Management Regulation. An English translation (not ours) of the Foreign Exchange Management Law can be found here: <http://tinyurl.com/zkdj5sw>; we have included an English translation of the Foreign Exchange Management Regulation in this newsletter.

3. More clarity on the financial stability of local banks?

Myanmar Citizens Bank is listed on the Yangon Stock Exchange and therefore publishes its financial reports on its homepage: <http://www.mcb.com.mm>. So does First Private Bank in preparation for its listing: <http://www.firstprivatebank.com.mm>. AYA Bank also has financial reports on its homepage, but the last one is for the financial year 2014/2015.

Other banks (at least those where we checked) do not publish their financial reports online (maybe they do it offline - the Financial Institutions Law e.g. obliges banks to publish their financial statements in at least one widely read newspaper and exhibit them in a conspicuous place in each branch -, but this would make the reports much more difficult to come by).

This lack of transparency with regard to the financial stability of local banks is of concern to local investors (who cannot use foreign banks) and foreign investors (who now may use foreign banks with a branch in Myanmar, but have to rely on local banks in some cases, e.g. as security agent or as guarantor for a local business partner).

On 9 December 2016, the Central Bank directed banks to “arrange, for the public, for the publication of the audited financial statements on the bank’s website or another significant place at the bank” (<http://tinyurl.com/jlxjgrn>). Let’s see - maybe we will see a few more financial statements online?

In the end, however, local banks are deeply distrusted in Myanmar, and this distrust may only disappear (or, who knows, may be confirmed) if local banks invite reputable credit rating agencies to assess their creditworthiness.



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 16 - 8 January 2016

4. More import restrictions to come?

In order to stop the slide of the kyat's value against the dollar (although the kyat has actually recovered a bit over the last few days), the Central Bank appears to be lobbying the Ministry of Commerce to stop the import of "luxury items" after the Ministry has already restricted the import of cars (<http://tinyurl.com/icl7bna>).

5. No more power cuts in Yangon by summer?

According to the Minister for Electric Power, Industry and Transportation of Yangon Region, there will be no more power cuts in Yangon by summer due to a 300MW power station being built in Seikkyi/Khanaungto Township and a power station ship capable of generating 300MW coming to Thilawa Terminal (<http://tinyurl.com/h96pcmc>). The interesting bit is at the end of the article: The (Union) Ministry of Electric Power and Energy appears to lose Ks. 470 billion annually subsidizing electricity, and this amount is to increase to Ks. 900 billion this year with the two new power generation facilities. This shows how heavily electricity is subsidized, and illustrates the need for power producers to have strong government guarantees.

6. Market access and tenders

- (a) **Yangon Region to get second special economic zone, with a new international airport and access to a deep-sea port:** <http://tinyurl.com/jnbe9n4>. The Union Government seems to have approved the project, and construction is set to start in 2018. Much like the Thilawa SEZ is JICA's project, this one appears to be KOICA's. The project will cover three southern townships - Dala, Kawhmu and Kungyangon. The new seaport will be located in Kungyangon's Letkokkon town and connected to Dala and the new SEZ by a six-lane road. A new airport is needed as "there is no more space to extend Yangon International Airport, and Hanthawaddy International Airport is too far away from Yangon City." Then - why build Hanthawaddy International Airport...?
- (b) **Surge in fuel oil shipping from Singapore:** In spite of what some are saying, Myanmar's economy is growing, and the fact that shipping oil to Myanmar is a profitable and growing business proves it: <http://tinyurl.com/hl4y9h2>
- (c) **Insurance sector definitely to be opened to foreign companies in 2017:** <http://tinyurl.com/jk9j57o>
- (d) **Draft e-government master plan published:** <http://tinyurl.com/h5uam3g> - The Ministry of Transport and Communications published its e-government master plan on 6 January 2017. Scroll down to page 30 and read what the Ministry wants to do - it is quite specific.

- 3 -



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 16 - 8 January 2016

We are sure that this will present ample opportunities for suppliers of software and hardware as well as individual consultants.

- (e) **Investment rules:** We actually wanted to use this space to report on the rules implementing the new Myanmar Investment Law, but - no, they are not out yet, although the MIC issued a notification that applications under the old laws will not be accepted any more after 31 December 2016...
- (f) **Tenders:**
 - (aa) **Yangon City Development Committee:** Installation, operation and maintenance of street furniture items and the exclusive right to advertise on them (<http://tinyurl.com/zrgdeey>)
 - (bb) **Myanma Oil and Gas Enterprise:** Purchase of several pieces of equipment (<http://tinyurl.com/j7twutl>, <http://tinyurl.com/zhg69v6>, <http://tinyurl.com/j8lf26x>).
 - (cc) **Department of Rural Development:** (i) International procurement specialist and (ii) international road and bridge advisor: <http://tinyurl.com/jtxddxt> (The project is World Bank funded.)
 - (dd) **Myanma Petroleum Products Enterprise:** Purchase high-speed diesel: <http://tinyurl.com/hby5kd4>.

We trust that you will find this newsletter useful and hope that you will enjoy reading it. We wish you a Happy New Year!

Sebastian Pawlita
Managing Director

Nyein Chan Zaw
Director



Press review (22 December 2016 – 8 January 2017)

- Central Bank issues reminder on kyat use: <http://tinyurl.com/jabqw5w>
- Resource ministry plans reduction in export-eligible timber: <http://tinyurl.com/jyok73t>
- JICA updates its 2040 Yangon master plan: <http://tinyurl.com/zvrmcm3> (One should note that JICA's plan is just one of several - others seem to be drawn up by KOICA, Agence Française de Développement and UK's Department for International Development, and it is not clear yet which projects will be included in the official 2040 master plan of the Yangon Region government.)
- First Private Bank cleared for listing: <http://tinyurl.com/grs2bh2>
- Three major car manufacturers to open factories in Yangon: <http://tinyurl.com/hefqxeh>
- Gas export earnings slump: <http://tinyurl.com/gng5jrt>



Foreign Exchange Management Regulation

- CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED -

The Republic of the Union of Myanmar

Central Bank of Myanmar

Notification

Number 7/2014

(30 September 2014)

Foreign exchange dealer license holders [*could also be translated as "foreign currency business license holders", but "foreign exchange dealer" is the translation used by the Central Bank*] that operate a foreign currency business for their customers, or that operate their own foreign currency business, shall comply with the following regulation issued by the Central Bank under the authority of Section 45 subsection (a) of the Foreign Exchange Management Law.

Chapter (1)

Names and Definitions

1. This regulation shall be called the Foreign Exchange Management Regulation.
2. The terms in this regulation shall have the meaning as prescribed in the Foreign Exchange Management Law. Besides, the following terms shall have the meaning below.
 - (a) **Permissible transaction** means a transaction that is permitted if there is permission of the Central Bank of Myanmar or according to this regulation.
 - (b) **Documentary evidence** means documentary evidence that is requested, by the foreign exchange dealer license holder, from a customer in connection with a transaction in order to classify a transaction as permissible.

Chapter (2)

The functions and obligations of foreign exchange dealer license holders

3. Foreign exchange dealer license holders shall, in order to do their business thoroughly, request and scrutinize documentary evidence referred to in any paragraph of this regulation that is relevant to trading or the immediate or in-advance purchase and sale of foreign currency. The documentary evidence shall, for the purposes below, be the most relevant evidence in



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 16 - 8 January 2016

internationally recognized commercial or accounting procedures and internationally recognized trading or legal procedures.

- (a) Scrutinizing and approving the category, class and characteristic of the relevant foreign currency businesses.
 - (b) Obtaining, scrutinizing and approving evidence that the applicant is genuine, and the application by domestic residents to pay and transfer foreign currency to residents abroad is genuine. Acquiring, scrutinizing and approving evidence that the application by foreign residents to pay and transfer foreign currency to domestic residents is genuine.
 - (c) Obtaining, scrutinizing and approving evidence as to the required time to put the accounts together and the amount of money regarding the payment and transfer of foreign currency according to the above paragraph (b).
 - (d) Recording personal data of persons who are involved in the payment and transfer of foreign currency.
4. A foreign exchange dealer license holder shall, if there is an official agreement in writing between domestic residents and residents abroad, comply with the items prescribed in paragraph 3 and also obtain, scrutinize and approve the following documentary evidence when performing a payment and transfer of foreign currency.
- (a) Original agreement in writing personally signed by the relevant persons or their representatives.
 - (b) Documents related to such payment and transfer; these documents should support, from the point of view of accounting procedures, trading or legal procedures, the payment and transfer, and should be usable as additional evidence for the payment and transfer.
 - (c) Supplementary or additional documents, such as the relevant purchase order, delivery notice, receipt for goods, shipping document or other title documents of different types, contractual documents for transportation costs, money transfer records, insurance documents, permits, licenses and other documentary evidence related to the payment and transfer.
 - (d) As minimum requirement, the original agreement and the supplementary or additional documents have to be scrutinized according to the provisions of paragraph 3 sub-



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 16 - 8 January 2016

paragraph (a), (b), and (c) in order to know whether the payment and transfer of foreign currency is done correctly.

5. When the foreign exchange dealer license holder performs the payment and transfer of foreign currency - unless there is no agreement in writing between the domestic resident and the resident abroad -, the documentary evidence requested by us [*“by us”*: *literal translation*] according to this regulation should be capable of serving as additional or supplementary documents for the purpose of the provision of paragraph 4 (b) notwithstanding the provisions of paragraph 3. Such additional or supplementary documents are recognized as minimum requirement, and [*the foreign exchange dealer license holder*] shall scrutinize the major requirements in the above paragraph 3 (a), (b), (c) and (d) with regard to the relevant foreign currency businesses.
6. If a foreign exchange dealer license holder cannot obtain original documentary evidence as prescribed in paragraphs 3, 4, and 5, it may obtain a certified true copy, or documentary evidence sent by fax or an electronic system.
7. If a foreign exchange dealer license holder doubts the purpose and characteristics of the customer when performing a foreign currency business, it shall submit this case to the Central Bank of Myanmar for it to decide.
8. A foreign exchange dealer license holder shall:
 - (a) After the payment and transfer of foreign currency is performed, clearly write “the payment and transfer of foreign currency is done” on, and personally sign, the documentary evidence which was submitted by the customer, and return it to the customer.
 - (b) Maintain a certified copy [*of the documentary evidence*] as prescribed in sub-paragraph (a) for at least 5 years so that the Central Bank of Myanmar can scrutinize it.
 - (c) Always scrutinize and confirm that the payment and transfer as prescribed in sub-paragraph (a) is from or to a current account or a capital account.
9. A foreign exchange dealer license holder shall, in accordance with the directives of the Central Bank and separated in the respective currencies, record the amount of foreign debt that it has to repay, maintain the foreign currency amount prescribed by the Central Bank from time to time, and record the foreign currency balance resulting from the calculation of all types of foreign currency.



Chapter (3)

Bank account of a domestic resident

10. A foreign exchange dealer license holder that buys and sells foreign currency shall comply with the following when issuing a domestic foreign currency bank account to a domestic resident.
 - (a) Only foreign currency that was obtained legally, or that was exchanged and bought through a permissible transaction, shall be credited to the bank account.
 - (b) *[The foreign exchange dealer license holder]* shall only debit, in accordance with the directives of the Central Bank of Myanmar issued from time to time and in accordance with this regulation, the account in order to convert *[foreign currency]* into kyats for making a domestic payment, and to pay residents abroad in a permissible transaction.
11. A domestic resident shall obtain permission from the Central Bank when this person opens a foreign currency bank account abroad in accordance with the provisions of section 14 of the Foreign Exchange Management Law.
12. A person having a bank account abroad according to paragraph 11 shall monthly submit a financial statement to the Central Bank.
13. A foreign exchange dealer license holder that buys and sells foreign currency is able to open an account with a bank abroad and shall submit a report about opening the bank account and its balance in accordance with the forms and period specified by the Central Bank.
14. If a foreign exchange dealer license holder gives a loan to a domestic resident, this shall only be done after the reasonable scrutinizing of satisfying evidence that the borrower has regular foreign currency income commensurate with the loan amount. Furthermore, the giving of the loan shall comply with the directives, procedures and standard rates specified by the Central Bank.
15. A domestic resident can possess, for up to six months from the date of receipt, USD 10,000, or other types of foreign currency in an equivalent amount, if obtained legally by this person. If the foreign currency is not used within six months, it shall be sold to, and exchanged by, foreign exchange dealer license holders at the market price or deposited in a bank account.

Chapter (4)



Bank account of a resident abroad

16. A foreign exchange dealer license holder that buys and sells foreign currency does not have to obtain permission in advance from the Central Bank in order to provide a foreign currency bank account to a resident abroad into which the following currencies can be deposited.
- (a) Foreign currency which has entered the country through a transfer from a legal bank account abroad.
 - (b) Foreign currency for which kyats were sold and exchanged if the kyats were earned within the country by a resident abroad in accordance with a permissible transaction under this regulation.
17. A foreign exchange dealer license holder that buys and sells foreign currency can debit the bank accounts prescribed in paragraph 16 only in the following cases.
- (a) Repayment in foreign currency to another resident abroad or legal transfer to a legal bank account of another resident abroad in accordance with a permissible transaction under this regulation.
 - (b) Exchanging the received foreign currency into kyats in accordance with a permissible transaction under this regulation.
18. A foreign exchange dealer license holder that buys and sells foreign currency does not have to obtain permission in advance from the Central Bank in order to provide a current kyat account which can only be credited with a kyat amount obtained from the sale and exchange of foreign currency prescribed in paragraph 16. Residents abroad can pay, through a foreign exchange dealer license holder, a domestic resident or a resident abroad in kyat by bank transfer.

Chapter (5)

Payment and transfer in current transactions [literally, "normal transactions"]

19. A foreign exchange dealer license holder that buys and sells foreign currency can make payment for imports on behalf of customers after the customers have provided the following evidence.
- (a) Delivery notice issued by the seller of the goods.
 - (b) Export documents or customs declaration provided to the recipient of the goods, issued by the Customs Department, stating that the goods have arrived.



- (c) Other required evidence.
20. A foreign exchange dealer license holder that buys and sells foreign currency can use an internationally accepted payment system to which the customers have agreed for performing a payment and transfer of foreign currency.
21. A foreign exchange dealer license holder that buys and sells foreign currency can provide short-term bank loans including commercial financing to customers in accordance with the banking procedures of the Central Bank and the provisions of this regulation in order to assist in an international financial payment and transfer.
22. A foreign exchange dealer license holder that buys and sells foreign currency can allow advance payments for goods and services after scrutinizing whether, and being satisfied that, the payment and transfer is permissible in accordance with the provisions of this regulation.
23. A foreign exchange dealer license holder that buys and sells foreign currency can approve requests to make advance payments for goods and services only if the customers clearly show the reasons for making advance payments backed up by documentary evidence as follows in accordance with international standards for making advance payments.
- (a) The order for goods or services is a special order.
- (b) It is a customary procedure [*i.e., it is customary to make advance payments*].
- (c) The order can only be confirmed by making an advance payment.
- (d) Paying in advance has the incentive of a discount.
24. A foreign exchange dealer license holder that buys and sells foreign currency shall make daily records of approved advance payments and submit them to the Central Bank and the Customs Department within the working day following the day of approval.
25. If there are requests to make advance payments which are not backed up by strong evidence for making the advance payment, [*the foreign exchange dealer license holder*] shall operate as follows:
- (a) The foreign exchange dealer license holder that buys and sells foreign currency shall forward the requests to make advance payments which are not backed up by strong evidence to the Central Bank.



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 16 - 8 January 2016

- (b) The Central Bank can approve the requests to make advance payments after scrutinizing and finding the documentary evidence to be genuine.
- 26. A foreign exchange dealer license holder that buys and sells foreign currency can, based on documentary evidence, perform a payment and transfer of foreign currency in association with registered patents for inventions, trademarks, rights to do a business and/or intellectual property.
- 27. A foreign exchange dealer license holder that buys and sells foreign currency can, after scrutinizing the following items, transfer and pay, from the country to a destination abroad, USD 10,000 or other types of foreign currency in an equivalent amount for travel expenses abroad, medical expenses, educational and examination fees, admission fees for a conference or seminar, and living expenses of a family member or family members abroad.
 - (a) Reasonable explanation of the occasion of the expenses and evidence of the status of the company or individual domestic resident (national registration card).
 - (b) Documentary evidence regarding the submitted expenses.
- 28. A foreign exchange dealer license holder that buys and sells foreign currency can approve *[payments]*, in accordance with the provisions of this regulation, after scrutinizing the documentary evidence related to the actual costs for product exhibitions held by domestic companies.
- 29. A foreign exchange dealer license holder that buys and sells foreign currency shall report to the Central Bank if there is a request to make a transfer or payment of more than USD 10,000 or other types of foreign currency in an equivalent amount with respect to the items prescribed in paragraph 27.
- 30. The Central Bank can approve requests under paragraph 29 after scrutinizing the documentary evidence.
- 31. A foreign exchange dealer license holder that buys and sells foreign currency can, when foreign investors, submitting documentary evidence, request the payment and transfer of a profit or a profit share or interest, approve the payment and transfer after having satisfied itself that the investments brought into Myanmar to which the payment and transfer is related was reported to the Central Bank and the documentary evidence is genuine.
- 32. A foreign exchange dealer license holder that buys and sells foreign currency can, after scrutinizing documentary evidence that the tax due was paid, make the transfer if foreign



employees request to transfer their income to a destination abroad provided that the income was obtained legally in the country.

33. A foreign exchange dealer license holder that buys and sells foreign currency shall scrutinize whether documentary evidence of investments under the Foreign Investment Law and the Special Economic Zones Laws is in conformity with the provisions of the Foreign Investment Law and the Special Economic Zones Law, and whether documentary evidence of investments under the Myanmar Companies Act is in conformity with the provisions of the Myanmar Companies Act if the investments are unrelated to the Foreign Investment Law and the Special Economic Zones Law.
34. A foreign exchange dealer license holder that buys and sells foreign currency shall cooperate with law-enforcement agencies to investigate and instruct with regard to operations by customers that cause suspicion of a permissible transfer being done dishonestly.

Chapter (6)

Transfer and receipt in relation to a current account [*literally, "normal account"*]

35. A foreign exchange dealer license holder that buys and sells foreign currency shall check whether exporters have received payments for exports within six months from the date that the goods were shipped according to the proof of shipment.
36. A foreign exchange dealer license holder that buys and sells foreign currency shall check whether exporters have received payments for export with the following:
 - (a) An export notice submitted by the exporter, which includes the export price and the shipping time confirmed by the exporter.
 - (b) The [*expected*] date on which [*the exporter*] will receive the export payments.
37. A foreign exchange dealer license holder that buys and sells foreign currency shall:
 - (a) Request an export notice which includes the export price and the shipping time confirmed by the Customs Department.
 - (b) Scrutinize whether the approved transfer and receipt of foreign currency is genuine by comparing the original export notice confirmed by the Customs Department with the export payments actually received.



38. A foreign exchange dealer license holder that buys and sells foreign currency shall immediately report to the Central Bank, attaching its own assessment, if the exporter has not received the export payments within the period specified in the export notice.
39. *[A foreign exchange dealer license holder that buys and sells foreign currency]* shall, if the exporter does not receive the export payments within the period permitted by the Central Bank, submit the case to the Central Bank for the Central Bank to assess it; the Central Bank shall transfer the case to the relevant governmental departments and law-enforcement agencies.
40. A foreign exchange dealer license holder that buys and sells foreign currency shall make sure that the exporter, after having received export payments, transfers the bank account to a bank with a foreign exchange dealers license in Myanmar according to this regulation.
41. A foreign exchange dealer license holder that buys and sells foreign currency can credit, to the exporter's kyat account, kyats from the sale and exchange of foreign currency prescribed in paragraph 35 at the current exchange rate. After scrutinizing the documentary evidence and checking according to this regulation, the balance of such kyats can be used to purchase foreign currency again.
42. When a foreign exchange dealer license holder that buys and sells foreign currency transfers or receives *[foreign currency]* in connection with current accounts, it shall do so only after scrutinizing the documentary evidence and confirming that the foreign currency transferred or received does not belong to capital accounts *[literally, "large account"]*.
43. When a foreign exchange dealer license holder that buys and sells foreign currency transfers and receives foreign currency from abroad to/in the country, it shall do so only after scrutinizing and confirming that such transfer and receipt is not done by domestic residents or nominees.
44. A foreign exchange dealer license holder that buys and sells foreign currency shall, if the owners of the bank accounts do not sell and convert their foreign currency for/into kyats, assume them to be account holders according to paragraph 10, and comply with paragraph 10.

Chapter (7)

Functions of the capital account of a domestic resident

45. A foreign exchange dealer license holder that buys and sells foreign currency shall submit, to the Central Bank, the application it received for the payment and transfer of foreign investment, except for foreign currency operations up to USD 10,000 per person or other types of foreign currency in an equivalent amount.



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 16 - 8 January 2016

46. A domestic resident desiring to make a foreign investment directly or indirectly shall report, to the Central Bank, the types of investment such as direct investment into businesses, portfolio investments, other investments or investments in real estate, and the amount of the invested money, and related information.
47. A domestic resident who made investments as prescribed in paragraph 46 before this regulation was enacted or who performed other businesses abroad before this regulation was enacted shall report to the Central Bank without delay in accordance with the provisions of this regulation.
48. When a domestic resident executes documents with respect to obtaining loans, borrowing or obtaining loans by other means from abroad, this person shall ask for permission in advance in accordance with directives issued by the Central Bank from time to time.
49. When a domestic resident asks for permission in advance from the Central Bank for loans from abroad under paragraph 48, this person shall submit the loan agreement and other relevant documents in accordance with directives issued by the Central Bank from time to time.
50. If the submission by a domestic resident of the loan agreement and other relevant documents for obtaining loans from abroad under paragraph 48 is incomplete, this person shall completely submit the objective for obtaining the loan, the terms and conditions for repaying the loan and other specifics in accordance with the directives issued by the Central Bank from time to time.
51. Every time a domestic resident desires to receive loans from abroad under paragraph 48, this person shall confirm that the interest is based on the market price.
52. A foreign exchange dealer license holder that buys and sells foreign currency shall *[make the transfer to]* repay the debt and pay the interest after scrutinizing and confirming that permission from the Central Bank was genuinely obtained for the loan based on the provisions for obtaining loans from abroad under paragraph 48.
53. A foreign exchange dealer license holder that buys and sells foreign currency shall report to the Central Bank if the following financial organizations are requesting to invest abroad:
 - (a) Commercial banks and finance companies *[literally: "loan-giving organizations"]*
 - (b) Organizations that make investments:
 - (1) Insurance companies
 - (2) Pension funds



- (3) Investments made by investment [*literal translation*] or through collected funds.
54. A foreign exchange dealer license holder that buys and sells foreign currency can, after scrutinizing the documentary evidence as to whether the payment and transfer is permissible, perform the following foreign currency transfers from abroad to the country and from the country to a destination abroad at the request of an individual domestic resident if the amount used per year is not more than USD 10,000 or other types of foreign currency in an equivalent amount.
- (a) Gifts
 - (b) Donations
 - (c) Repair and maintenance fees
 - (d) Inheritances
 - (e) Cash from the transfer of real estate
 - (f) Other types of financial support or monetary aids except the financial support or monetary aids which are granted by the Union Government.
55. A foreign exchange dealer license holder that buys and sells foreign currency can act only after obtaining permission from the Central Bank if someone requests a unilateral transfer or payment of more than USD 10,000 or other types of foreign currency in an equivalent amount under paragraph 54.
56. A foreign exchange dealer license holder that buys and sells foreign currency can act only after obtaining permission from the Central Bank if companies request a payment and transfer prescribed in paragraph 54.

Chapter (8)

Functions of the capital account of a resident abroad

57. Every time foreign investors bring funds which are required [*in the sense of: required by law or government regulations*] for an investment from abroad into the country, they shall submit, to the Central Bank, evidence that the transfer was done by bank transfer through a foreign exchange dealer license holder that buys and sells foreign currency.



58. Documentary evidence in connection with investments shall be in accordance with the provisions of the Foreign Investment Law, Special Economic Zones Law and Myanmar Companies Act.

Chapter (9)

Importing and exporting cash and financial instruments

59. Importing and exporting cash shall be done as follows:
- (a) A foreign exchange dealer license holder that buys and sells foreign currency shall request permission from the Central Bank to import and export cash.
 - (b) The Central Bank can approve the request after scrutinizing the documentary evidence.
60. When a domestic resident or resident abroad leaves Myanmar or arrives in Myanmar, he/she shall declare to the Customs Department whether he/she carries more than USD 10,000 or other types of foreign currency in an equivalent amount or postal orders, cheques, drafts, traveller cheques, letters of credit, bills of exchange or promissory notes for an equivalent amount.
61. A resident abroad can carry, to a destination abroad, his/her foreign currency and financial instruments if the amount is not higher than the amount that he/she had taken to Myanmar.

Chapter (10)

Reports in connection with foreign currency operations

62. A foreign exchange dealer license holder shall report, to the Central Bank, all operations regarding the foreign currency business in accordance with the terms and conditions of the license.
63. When a foreign exchange dealer license holder submits a report under paragraph 62, it shall submit all values of any types of foreign currency to the Central Bank. The types of the reports and their contents shall be specified in an order, notification and directives issued by the Central Bank from time to time.

Chapter (11)

General



64. An electronic debit card or credit card, and other electronic or online payments and transfers shall comply with electronic banking rules, the mobile directive and this regulation.
65. When an electronic card holder requests a foreign exchange dealer license holder to credit [*i.e., top up*] the card, the foreign exchange dealer license holder shall do so after scrutinizing and approving under the provisions of this regulation.
66. When a domestic resident is on a long or short trip for business, on duty or in another case, he/she can carry jewelry abroad with a value not exceeding 10 million kyats if he/she undertakes, to the Customs Department, to bring the jewelry back when returning to Myanmar.
67. A temporary Myanmar resident can take his/her jewelry back with the permission of the Customs Department after declaring it to the Customs Department when leaving Myanmar.
68. A foreign exchange dealer license holder can only use foreign currency for a payment and transfer, from abroad to the country or from the country to a destination abroad, of foreign currency regarding a current account, and for a payment and transfer, from abroad to the country or from the country to a destination abroad, of foreign currency regarding a capital account.
69. Without documentary evidence, a foreign exchange dealer license holder can make payments and transfers only in kyats; payments in kyats can also be made with the permission of the Central Bank. [*Translator's note: We have not understood the original sentence.*]
70. A foreign exchange dealer license holder can provide opportunities for the prevention of the risk of money-loss to a domestic resident based on the following conditions.
 - (a) Importers: shall provide, to the foreign exchange dealer license holder, approved documentary evidence, such as completion of scrutinizing the condition for paying foreign currency and actual existence of the business/company, risk prevention plan for payment within the specified period.
 - (b) Exporters: shall provide, to the foreign exchange dealer license holder, approved documentary evidence, such as completion of scrutinizing the condition for repaying foreign currency and actual existence of the business/company, risk prevention plan for repayment within the specified period.
71. A foreign exchange dealer license holder shall perform a transaction of securities exchange certificates within the country and abroad in accordance with the provisions of the Securities Exchange Certificates Transaction Law, and Rule.



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 16 - 8 January 2016

72. A foreign exchange dealer license holder shall comply with the Central Bank of Myanmar Law, Foreign Exchange Management Law, Anti-Money Laundering Law, Anti-Terrorism Law and the provisions of a rule and the regulations, orders, notifications, directives and procedures under any laws in force.

Kyaw Kyaw Maung

Chairman
Central Bank of the Union of Myanmar