



Dear Readers,

Welcome to a new edition of our newsletter.

1. UMFCCI guidance on restrictions of imports and the use of foreign currency

On 2 August 2023, the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) published the following guidance on its website on restrictions of imports and the use of foreign currency. This guidance takes up provisions from recent Central Bank letters, but also contains new aspects so we suppose that some consultation took place.

Among others, it seems noteworthy that interest payments on cross-border loans (but apparently not the repayment of the principal) may be made again following a [moratorium in July 2022](#).

Furthermore, free zone investors in the Thilawa SEZ do not seem to be eligible to purchase foreign currency with MMK in order to import goods, possibly because they are supposed to operate export-oriented businesses which should enable them to earn foreign currency themselves.

Criteria for the Central Bank's online trading programme in the foreign currency market

Transactions in the foreign currency market through an online trading programme between AD licensed banks and customers and among customers started on 22 June 2023 under the leadership of the Central Bank of Myanmar.

When doing online trading, the Central Bank will review the following criteria and determine in consultation with the AD licensed banks the number of companies that may trade, the exchange rate, etc.

Circumstances in which transactions are allowed are:

- (1) Purchases will only be allowed for essential goods, and for transactions for which the payment due date has been reached.
- (2) If a company wishes to purchase from more than one bank, it will be allowed to purchase from the bank to which the application was submitted for transactions for which payment is due if a different import license and ID [*import declaration*] is submitted.



- (3) If a company wishes to purchase a large amount for a single transaction, it will only be allowed to purchase the appropriate amount.
- (4) Even if a company reports every day that it wishes to purchase foreign currency, it will only be allowed to purchase depending on the amount that can be sold.

Circumstances in which transactions are not allowed are:

- (1) Import license grant date is later than the ID date.
- (2) The ID is more than 6 months old, irrespective of whether the goods require a license or they are non-license goods.
- (3) Submitting the same import license and ID again.
- (4) Import license granted or renewed in 2022.
- (5) Conducting business in the “free zone” in the Thilawa Special Economic Zone.

Factors to be reviewed are:

- (1) If payment should be made by advanced payment TT, reviewing whether there are compelling reasons for it, and obtaining case-by-case approval for submission.
- (2) Reviewing whether the ID was made within 3 months from receiving the license, and if it was made after 3 months, reviewing whether the license has been renewed.
- (3) If foreign currency should be purchased for non-license goods, reviewing against the HS codes specified by the Ministry of Transport and Communications.
- (4) If the transaction is for paying interest on a loan [*literally, “for loan interest repayment”*], reviewing against the repayment schedule approved by the Central Bank.

For transactions that have been verified to meet the above criteria, AD licensed banks shall therefore, after decidedly requesting and verifying relevant evidence, submit the transactions to the online trading platform. Trading shall be done only in the online trading



programme at the exchange rate determined in consultation. If instructions are not followed, action will be taken against AD licensed banks according to the Foreign Exchange Management Law, and AD licensed banks have been instructed to inform exporters/importers that entrepreneurs who do not trade in the online trading programme at the exchange rate determined in consultation will be notified to the Ministry of Commerce through the Central Bank so that the exporter/importer registration certificate may be cancelled.

UMFCCI

[Original in Burmese published on umfcci.com.mm on 2 August 2023.]

2. **UMFCCI guidance on selling foreign currency**

On 4 August 2023, the UMFCCI published the following guidance on its website on the sale of foreign currency earned by those that are not obliged to immediately convert it at the Central Bank rate, possibly after consultation with private banks and/or the Central Bank.

Criteria for selling foreign currency in online trading

1. In a letter dated 21 June 2023 of the Central Bank of Myanmar, it was instructed that transactions between banks and customers and between customers in the foreign currency market shall be done in the online trading programme managed by the Central Bank of Myanmar.
2. Criteria for selling foreign currency in online trading
 - (a) An exporter may sell from the export earnings the amount of exports that he is entitled to sell, irrespective of whether the export was made by sea or by border trade, with a new ED [*export declaration*] or an old ED, and irrespective of the type of currency.
 - (b) In non-trade, the foreign currency earner may sell the amount that he may use.



(Remark: *[Export earnings sold?]* within 45 days from the date of shipment in case of exports to Asian countries and within 90 days from the date of shipment in case of exports to other countries are considered *[to have been made with]* a new ED, and if these periods are exceeded are considered *[to have been made with]* an old ED.)

3. It has been announced that trading in the foreign currency market is to be done only through the online trading programme and customer-to-customer sales and sales to banks are to be made only at the online prices, and if the price negotiation and sale is done outside, measures will be taken to fine the bank and revoke its license and cancel the importer and exporter license of importers and exporters.

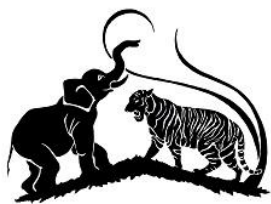
[Original in Burmese published on umfcci.com.mm on 4 August 2023.]

3. Seminar invitation: Online Sales Business Registration Order

On 4 July 2023, the Union Government under the SAC designated businesses selling online as an essential service. On 21 July 2023, the SAC's Ministry of Commerce followed suit by releasing three notifications, among them an "Online Sales Business Registration Order" covering both the sale of goods and the provision of services. The notifications require e-commerce businesses to register within 6 months and contain requirements that are not much seen elsewhere, such as the pre-registration of the goods to be sold and their country of origin. In the seminar, we will take a look at how business owners might want to react

Proposed agenda:

- What qualifies as an "online sales business" and what doesn't?
- Which businesses are in the focus of the Ministry of Commerce?
- Update on the registration form and fees
- The many obligations of an online shop owner



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- What should companies with a large assortment of goods do?
- Online sale of regulated goods – cigarettes, alcohol, telecommunication equipment, food, pharmaceuticals, cosmetics
- Online businesses and consumer protection
- Digital payment; delivery methods
- Other licenses, in particular telecommunication licenses and Central Bank approval

Date and time: Tuesday, 15th August 2023, 2:30pm – 4:00pm

Place: Rose Garden Hotel, 171 Upper Pansodan Road, Yangon

Speakers: Sebastian Pawlita, Nyein Chan Zaw

Language: English

Participation fee: MMK 25,000, payable in cash at the reception desk

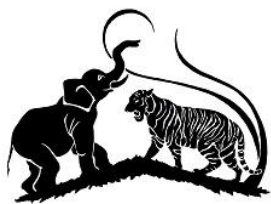
Registration: Please register by sending an e-mail to info@lincolnmyanmar.com, stating the name of your company and the names of the participants.

Suggesting a topic: If you wish us to discuss a particular topic at the seminar, please do not hesitate to include this in your registration e-mail; we will be happy to amend the agenda.

We hope that you have found this information useful.

Sebastian Pawlita
Managing Director

Nyein Chan Zaw
Director



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About Lincoln Legal Services (Myanmar) Limited

Lincoln Legal Services (Myanmar) Limited provides the full range of legal and tax advisory and compliance work required by investors. We pride ourselves in offering result-oriented work, high dependability and a fast response time at very competitive prices. Please do not hesitate to contact us:

■ Sebastian Pawlita, Managing Director

Phone: +95-9-262546284 (English)

E-Mail: sebastian@lincolnmyanmar.com

■ Nyein Chan Zaw, Director

Phone: +95-9-790488268 (Burmese)

E-Mail: nyeinchanzaw@lincolnmyanmar.com

Office address: La Pyi Wun Plaza, Room 409 (4th Floor), 37 Alan Pya Pagoda Road, Dagon Township, Yangon

Web: www.lincolnmyanmar.com