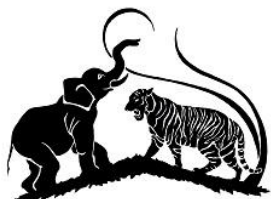


CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED

Points that export business owners must know and comply with regarding export earnings

Export business owners must know the following information regarding export earnings as there have been cases where companies and company directors were subject to legal proceedings and blacklisting because some exporting companies remained on the list of export *[earnings]* to be deposited within the specified time, this being due to unawareness of updated information regarding exports, due to the company having delegated all export processes to agents and some of the company's employees who had another company export under this company's name, or due to a failure to do procedures to clear the list with the bank although the export earnings had already been deposited in the bank:

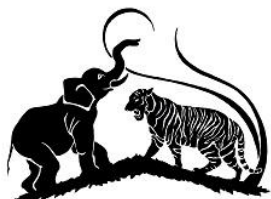
- (a) The exporter must apply for an export license through Trade Net 2.0 of the Ministry of Commerce. The company must submit the export license, goods type, sales contract, and goods value, etc., to the Customs Department for the export declaration (ED).
- (b) After the ED is issued, the relevant documents are examined by the Customs Department at the time of loading. The shipping line that loaded the relevant goods will issue a bill of lading.
- (c) Section 38-B Foreign Exchange Management Law (FEML), regulation 35 Foreign Exchange Management Regulations (FEMR), and Notification No. 27/2023 of the Central Bank of Myanmar dated 25 December 2023 provide that the exporter "shall deposit the foreign currency without fail in the exporter's bank account within 30 days from the date of export if the export is to Asian countries, and within 60 days if the export is to countries other than Asian countries". Failure to deposit may be prosecuted according to section 42-A FEML and, on conviction, be punished with imprisonment for a term not exceeding 1 year, or with fine, or with both.
- (d) The EDs sent from the Custom Department's MACCS system are being examined by the Central Bank's Foreign Exchange Management System (FEMS) as to whether the export earnings are deposited after the export is made within 30 days in case of exports to Asian countries and within 60 days in case of exports to countries outside Asia, starting from the date of the issuance of the ED number by the Customs Department.
- (e) Concerning the companies and ED lists identified by the FEMS system for which no export earnings have been deposited within the specified time after exporting, the Central Bank compiles a list for each bank and sends these lists to the AD licensed banks. AD licensed banks contact the relevant exporter companies and set a deadline for clearing the list.
- (f) A list of companies that have not cleared their lists by the specified deadline is compiled and they are notified to repatriate their export earnings within the specified time, and if they do not



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comply, the Ministry of Commerce and relevant organisations related to export earnings are notified so that the export/import business owner certificate may be temporarily suspended and necessary action taken.

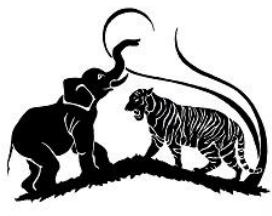
- (g) Action task force teams, consisting of members from organisations related to export earnings, are contacting companies in Yangon, Nay Pyi Taw, and Mandalay that have not repatriated export earnings within the specified time and are working with AD licensed banks to encourage the repatriation of export earnings. The Ministry of Commerce suspends the export/import business owner registration certificates (*Pa Tha Ka*) of persons who do not attend meetings between companies and the action task force teams and of persons who do not clear their lists within the time specified in a signed undertaking.
- (h) Furthermore, the Central Bank sends a list to the Ministry of Home Affairs so that action may be taken against companies that do not repatriate export earnings, companies remaining on the FEMS list for not having cleared their list with the bank despite having repatriated export earnings, and companies that cannot be contacted for list clearance.
- (i) Furthermore, companies and company directors who fail to repatriate export earnings by the specified deadline are blacklisted.
- (j) Companies must submit in a timely manner together with documents to the Central Bank matters where export earnings repatriation is not required for various reasons, such as the re-export of imported goods to the country where they were purchased due to insufficient quality or damage that must be repaired, the re-export of goods to the country from where they were imported due to the delivery of the wrong items, etc., the value of export tonnage not loaded on the vessel, or the quantity and value of goods that are damaged before they reach the buyer. Only after the company submits a request with relevant documents will the Central Bank conduct necessary examinations and, if validated, remove the amount from the export earnings list.
- (k) If a company is blacklisted, this may result in economic difficulties, such as restrictions on banking and financial services for the company and the company's directors, being banned from entering/exiting Myanmar, loss of confidence among international investors, and the loss of the right to participate in state-related businesses. There may also be legal and reputational harm, such as legal proceedings and the loss of public trust. There may be effects on the company's market value, the company may face long-term difficulties in the future and employees may lose confidence.
- (l) To have the blacklisting removed, the company must deposit with the relevant bank all export earnings from the most recent export period to be repatriated within the specified time, in addition to the export earnings to be deposited for the blacklisting period that remain on the list,



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and carry out all processes until the list is cleared. An application must be submitted to the Central Bank with the bank's endorsement that these processes have been carried out.

- (m) The Central Bank examines whether there are any export earnings that remain to be repatriated, notifies DICA to examine whether the directors of the applying company are also directors of other companies, examines whether other companies of which these persons are directors according to DICA's report also have export earnings that remain to be repatriated, examines whether the fines imposed by the court were paid if the company was subject to legal proceedings, and if there are no export earnings remaining to be repatriated, sends a notice to the Ministry of Home Affairs to remove the blacklisting. Other related departments also remove the blacklisting according to their own procedures.
- (n) Companies that do not repatriate export earnings within the specified time are blacklisted after a series of steps that involve the bank making contact to clear the list, collaboration with organisations related to export earnings to encourage the repatriation of export earnings, and legal proceedings.
- (o) After the relevant AD licensed bank notified your company of the receipt of export earnings, the bank will clear the ED list and the export earnings will count as repatriated only after your company replied to and notified the relevant bank for which ED the export earnings were received. Therefore, companies must, when export earnings are received by the relevant bank, visit the bank as soon as possible with documents such as ED, sales contract, invoice and B/L, to specify for which ED the money received by the bank is so that the ED list may be cleared.
- (p) If there is, when clearing the list at the relevant bank, a discrepancy between the amount of money and the ED, sales contract, invoice, B/L, etc., the export earnings will remain on the list of export earnings to be repatriated. Therefore, companies cannot simply assume that export earnings were deposited when money was deposited. When export earnings are received, the list must be cleared at the bank with relevant documents as soon as possible, and when clearing the list at the bank, the documents must be complete and accurate.
- (q) If there is a discrepancy between the export-related information in the ED and the information on the export earnings received, the company must request permission from the Central Bank through the bank to be allowed to make amendments and to be allowed to keep variations.
- (r) Banks will receive ED lists from the Customs Department when it receives EDs from its MACCS system, separated according to the relevant bank mentioned in the ED. In cases where some EDs do not mention the bank name, the ED list is only cleared at the bank where the money is first received. Therefore, it is mandatory to mention the bank name in the ED.



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- (s) If the bank mentioned in the ED is different from the bank where you wish to receive the money, you must go through the “bank name change” procedure at the relevant banks. The Central Bank of Myanmar conducts the “bank name change” procedure within 1 working day.
- (t) Therefore, export business owners must repatriate export earnings within the specified time, which is 30 days if exporting to Asian countries and 60 days if exporting to countries outside Asia, and visit the bank to specify which ED the export earnings are for so that the list may be cleared as soon as possible.

Central Bank of Myanmar

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:

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