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Briefing: Revocation of Foreign Exchange Acceptor and Holder Licenses and Banking and Finance in Myanmar

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Revocation of Foreign Exchange Acceptor and Holder Licence ("FEAH Licence")



Revocation of FEAH Licence

What is the FEAH Licence?

- 1 of the 3 main types of licences in relation to foreign exchange issued by CBM under the Foreign Exchange Regulation Act (1947)
- Issued to “*private individual, organization who earned foreign currencies such as travel and tours companies, hotels, private companies, gems and jewellery business, restaurants and souvenir shops*”
- a licence to receive (and hold) foreign currency bank notes (cold hard cash), up to a maximum ceiling; excess must be placed in a dedicated foreign currency bank account

Revocation of FEAH Licence

The revocation

- In October 2015, the CBM announced the revocation of FAH Licences previously issued to the following enterprises:
 - hotels
 - travel agencies
 - restaurants
 - duty free shops
 - airlines
 - hospitals
 - freight forwarders
 - telecom companies
 - express delivery services
 - apartments
 - supermarkets
 - souvenir shops
 - golf clubs
 - Myanmar Economic Holdings Ltd
 - enterprises engaged in:
 - insecticides and pesticides
 - beverages and alcohol
 - media
 - lacquer wares
 - silk wares
 - funeral services
 - “other companies/industries”

Revocation of FEAH Licence

Why the revocation?

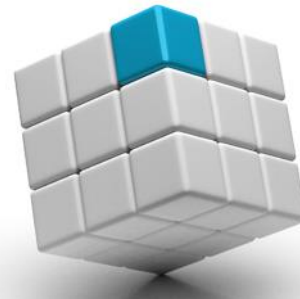
- To control “dollarisation” of the Myanmar economy
 - CBM’s concern that artificial demand for USD will further destabilise the Kyat
- To reduce the use of cash by encouraging domestic debit cards and credit cards, internal payment cards and on-line payment systems
- To protect the Myanmar Kyat by promoting use of the Kyat in payment of goods and services
- To limit the bypassing of the local financial system

Revocation of FEAH Licence

What now? Implications for your business in Myanmar

- Under the Foreign Exchange Management Act (2012), foreign currency bank accounts may be opened with banks licensed as Authorised Dealers
- What to do with your current physical holdings of foreign currency?
 - only up to USD10,000 in physical cash may be held in hand
 - cash in excess of USD10,000 must be placed into the banking system
- Comprehensive and clear regulations on the compulsory use of Kyat in domestic transactions is lacking

Banking Law in Myanmar: Regulatory and Supervisory Framework



Banking Law in Myanmar

General overview of laws

- Central Bank of Myanmar Law revised in July 2013
 - made CBM an independent institution
 - gave CBM control of monetary policy and exchange rate policy
- Recently repealed Financial Institutions of Myanmar Law 1990, now replaced by the Financial Institutions Law 2016
- Foreign Exchange Management Law passed in August 2012
 - introduces the managed float system
- CBM rules and regulations

Financial Institutions Law 2016

Potential liberalisation

- Application procedures for foreign banks provided in greater detail
- Capital and reserve requirements prescribed for not only domestic banks, but also branches or subsidiaries of foreign banks
- Indication of the further liberalisation, potentially wider product/service offerings in the future

Financial Institutions Law 2016

Single Borrower Limit

- Single borrower limit is maintained at 20% of the bank's capital
- The CBM may prescribe additional limits for banks' unsecured, partially secured and secured financial exposures

Financial Institutions Law 2016

Banks' obligation to impose more stringent checks?

Section 58 of the Financial Institutions Law 2016

- (a) Every bank shall ensure that it has established and maintained:
 - (1) adequate internal policies, practices and procedures relating to the granting of credit facilities, making of investments and the management of the loan and investment portfolio; and
 - (2) adequate internal policies, practices and procedures for evaluating the quality of assets and the adequacy of loans loss provisions and loan loss reserves.

Financial Institutions Law 2016

Removal of restrictions in relation to secrecy

- Amendments to the “duty of secrecy” provisions
- Financial institutions in Myanmar allowed to register as PFFIs for FATCA purposes
- Banks may disclose customer information:
 - customer’s consent to be given for the disclosure of customer information
 - where such information is required for a commercial transaction to assess the customer’s creditworthiness relating to such transaction

Transfer of Funds

- Previously restricted by the Foreign Exchange Regulation Act (1947)
- Foreign Exchange Management Act (2012)
 - “Ordinary transactions” may be made freely
 - Payments to be made in connection with foreign trade, other ongoing business including services, ordinary short-term banking and credit facilities;
 - Payments to be made as interest on loans and as net income from other investments;
 - Payments in a reasonable amount to amortize loans and depreciate direct investment;
 - Reasonable remittance for family expenses
 - In practice, Central Bank still approves loans obtained from off-shore institutions

Transfer of Funds

- Under the Foreign Investment Law (2012) - Foreign Investor has the right to repatriate the following funds:
 - foreign capital that he is “entitled” to;
 - foreign currency permitted for withdrawal by the MIC;
 - net profit after deducting all taxes and the relevant funds from the annual profit
 - legitimate balance, after causing payment to be made in respect of taxes and after deducting in the manner prescribed, living expenses incurred for himself and his family, out of the salary and lawful income obtained by the foreign staff during performance of service in the Union;
- Amount remitted must be approved by MIC based on reports

Financing in Myanmar



Debt Financing in Myanmar

- **Myanmar Banks**

- State-owned (4) and Private banks (24)
- Weak financial capabilities
- Generally take immovable property or gold as security

- **Foreign Banks**

- 9 foreign bank licences awarded
- Second round of licences underway
- Loans from off-shore foreign banks still require approval from CBM

Debt Financing in Myanmar

Debt Financing in Myanmar

- Onshore loan
- Offshore loan

Debt Financing in Myanmar

- **Onshore Loan**
 - Local Banks
 - Kyats only
 - Fixed interest rate – 13%
 - Security options – full
 - Licensed Foreign Banks (total of 9)
 - US\$ and Kyats
 - Interest - not fixed for USD
 - Security Options – limited

Debt Financing in Myanmar

- **Offshore Loan**

- Offshore banks or foreign shareholders
- CBM approval required
- MIC approval also required for company operating under MIC permit
- Two to three months or more

Alternative Sources of Financing in Myanmar

Equity

- Shareholders' loans
- Capital markets: public listing on the new Yangon Stock Exchange
 - only Myanmar companies allowed to participate
 - no JV companies or foreign citizens are allowed

Questions?



Thank You

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