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## Banking & Finance

### CBM reduces maximum limit for international credit cards

On 7 April 2022, the Central Bank of Myanmar (“**CBM**”) issued Letter No. 42/2022 (“**Letter No. 42/2022**”) instructing domestic banks in Myanmar to readjust the maximum credit limits available for international credit cards.

By way of background, CBM allowed international credit cards to be issued to Myanmar citizens via CBM Letter 501/2013 and CBM Letter 26/2017 to facilitate retail payments and travelling overseas. CBM stipulated the monthly maximum credit limit to be US\$5,000 for international prepaid cards (MasterCard/VISA/UPI prepaid cards) and MMK5 million for international credit cards (MasterCard/VISA/UPI credit cards) depending on the income of the card user.

Further to Letter No. 42/2022, domestic banks must readjust the maximum amount limits of international cards as follows:

- US\$2,500 for the international prepaid card (MasterCard, VISA, UPI prepaid cards)
- MMK2.5 million for international credit cards (MasterCard, VISA, JCB, UPI Credit Card and international co-brand cards (MPU-UPI, MPU-JCB card)

Banks are required to submit to the CBM information on the issuance and acquiring of international prepaid cards, international credit cards and international co-brand cards every week.

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## Cybersecurity & Data Protection

### Cyber Security Bill seeks to regulate online activity and access to information

The Ministry of Transport and Communications (“**MOTC**”) has circulated a new draft Cyber Security Bill (“**Bill**”) among stakeholders for consultation. The Bill is intended to replace the Electronic Transactions Law 2004 (“**ETL**”) and sets out measures for protecting cyberspace, personal information and critical information infrastructures as well as licensing requirements for providing cyber security and digital platform services.

The Bill applies to Myanmar residents, including citizens and foreigners temporarily or permanently residing in Myanmar, and any matters of communications made with anyone either directly or indirectly with regard to cyber resources within the national cyber space. The Bill seeks to have extraterritorial applicability, noting that offences can be committed under the Bill both domestically and internationally.

The Bill was circulated for consultation in January 2022 and there is currently no clear timeline for its introduction as law. This article sets out the key highlights of the Bill at this stage.

### Power to inspect computers

The Bill provides the authorities responsible for the protection of cyberspace with the power to inspect, and intervene with, the computer or computer system of persons who are suspected of security threats, cyberattacks or cyber fraud and those related to such persons. MOTC is also empowered, with the approval of the Union Government, to temporarily control devices related to the provision of digital platform services. The Bill also requires prior approval for the establishment or use of virtual private networks (VPNs) and similar tools on networks licensed under the Telecommunications Law 2013.

### Disclosure of personal information

The term “personal information” includes any information relating to an individual which has been verified or is capable of being verified. Under the Bill, those responsible for managing and maintaining personal information require consent from the relevant individual or organisation to disclose or distribute personal information. This definition is set out in section 27A of the ETL.

### Licensing framework

Key features of the licensing framework set out in the Bill include the following:

- **Electronic certification services:** In order to validate the authenticity and integrity of an electronic or digital certificate, service providers must obtain authorisation to provide such services from the Electronic Communications Supervision Committee, together with the Cyber Security Steering Committee (“**CSSC**”).
- **Cyber security services:** An individual or entity seeking to provide cyber security services is required to apply for the approval of the CSSC through the Department of Information Technology and Cyber Security (“**DITCS**”). The Bill defines “cyber security services” as security services provided via cyber sources or similar systems or materials with regard to information technology systems.
- **Digital platform services:** The Bill requires digital platform service providers to obtain a licence from the CSSC through the DITCS. The term “digital platform service” is defined in the Bill as an over-the-top service that can provide data, information, images, voices, texts and video online by using cyber resources and similar systems or materials. A digital platform service provider with more than 100,000 users in Myanmar must:
  - store users’ data in accordance with the prescribed data classification rules;
  - register the company in accordance with the Myanmar Companies Law 2017; and
  - pay taxes in accordance with the relevant tax laws.

### Administrative and criminal liability

Failure to comply with the provisions under the Bill will attract administrative and criminal liability. Offences under the Bill are recognised as cognisable offences and punishable by imprisonment for a term ranging from one month to three years or a fine not exceeding MMK10,000,000 or both.

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## Foreign Exchange Management

### CBM stipulates only Myanmar Kyat to be used in domestic payments

In a letter dated 25 May 2022 issued to Union Ministers, Regional and State Governments and City Development Committees ("**Letter**"), the Central Bank of Myanmar ("**CBM**") notes that the use of foreign currency (primarily US Dollars) instead of Myanmar Kyat in both the public sector (by government enterprises and organisations under the respective Union Ministries (e.g. via rentals from land leases, the contribution of capital for insurance businesses and income generated from joint ventures)) and the private sector (e.g. by hotels, restaurants, international schools, souvenir shops, and landlords) may result in the wider use of foreign currency in the country, higher demand for foreign currency and the instability of the foreign exchange rate.

Via the Letter, CBM has mandated that all Union Ministers, Regional and State Governments and City Development Committees are to use only Myanmar Kyat, the national currency, for domestic transactions and payments by these bodies, their subsidiary organisations, departments and enterprises. CBM also requires all relevant Union Ministers, Regional and State Governments and City Development Committees to instruct the private enterprises under their administration and purview to transact only in Myanmar Kyat and to comply with CBM Notification No. 12/2022. They are also required to report to CBM once such instruction has been given.

With the exception of exempted transactions as provided for under CBM Notification No. 12/2022, Myanmar residents' foreign exchange earnings must be deposited with foreign exchange authorised dealer licensed banks to be converted into Myanmar Kyat within one business day upon receipt. The exemptions set out in Notification No. 12/2022 are set out in our article titled "[Central Bank of Myanmar announces exemptions to foreign currency conversion mandate](#)".

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### Myanmar establishes Foreign Exchange Supervisory Committee to oversee use of foreign currency

On 13 May 2022, the Myanmar State Administration Council published Order No. 28/2022 ("**Order**"), dated 4 April 2022, that provides for the establishment of the Foreign Exchange Supervisory Committee ("**FESC**"), its appointed members, and its functions.

The members of the FESC include Union Government Ministers, a member of the State Administration Council, the Union Auditor-General and the Chairperson of the Central Bank of Myanmar.

The Order provides that the FESC will “scrutinise and approve” the use of foreign currency required for the following purposes:

- Importation of machines, machinery needed for domestic investment and manufacturing businesses and equipment and raw materials needed for manufacturing;
- Importation of fuel, medicines, edible oil, fertilisers, insecticides and construction materials that are not available locally, which are needed for the livelihoods of the people;
- Citizens’ social matters such as going abroad for medical treatment, educational and religious purposes;
- Importation of general goods, repayment of offshore loan principals and interest, and repatriation of profits from investments; and
- Importation of luxury goods where necessary.

The FESC will also supervise matters relating to the circulation of foreign currency for domestic and international investments, manufacturing, export/import and services businesses including education and health in Myanmar.

The Order concludes with the broad provision that the FESC shall also carry out matters relating to foreign exchange supervisory activities and other duties as may be assigned.

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## **CBM exempts exporters/importers under border trade programmes with China and Thailand from foreign currency conversion requirements**

On 26 April 2022, CBM announced, via Directive No. 7/2022, that requirements relating to foreign currency conversion as set out in Notification No. 12/2022 of 3 April 2022 (“**Notification No. 12**”) will not apply to exporters and importers trading under the China-Myanmar and the Thai-Myanmar border trade programmes (“**programmes**”).

This article sets out the information provided by CBM regarding this latest exemption.

### **Summary of foreign exchange rules issued in April 2022**

CBM issued several instructions in April 2022 relating to the handling of foreign currency. The primary instruction, Notification No. 12, provides that foreign currency earned by Myanmar residents must be deposited in banks with an authorised dealer licence (“**AD banks**”) and converted into Myanmar Kyats within one working day of receipt. Directive No. 4 specifies that this conversion should be done at the rate of MMK1,850 to US\$1 with the conversion of other foreign currencies to be made at rates prescribed by CBM in that Directive.

CBM Directive No. 6/2022 later clarified that Notification No. 12 applies to Myanmar residents' incoming international transfer in foreign currency from abroad, outgoing transfer of foreign currency abroad and foreign currency held in foreign currency accounts with Myanmar banks. Directive No. 6 also provides more information on the obligations of AD banks in relation to conversion of foreign currency. Further, Myanmar residents seeking to transfer foreign currency out of the country must seek the permission of the Foreign Exchange Supervisory Committee ("**FESC**") as set out in the Directive.

Exemptions to the application of Notification No. 12 were issued on 20 April 2022 and include foreign direct investments carried out with the permission of the Myanmar Investment Commission as well as investments operating in Myanmar's Special Economic Zones.

The exemptions announced in relation to the programmes are the latest development relating to foreign exchange in Myanmar.

### **Extension of time limit to convert foreign currency**

Directive No. 7 extends the time limit for the conversion of foreign currency into Myanmar Kyat stipulated in Notification No. 12 from one day to one month for earnings obtained from border trade with China and Thailand under the programmes.

The Directive sets out the following instructions relating to banking transactions carried out for exporters/importers under the programmes:

- Designated banks are able to arrange payments in foreign currency for imports by importers under the programmes without the permission of FESC
- Export earnings must be deposited into Myanmar bank accounts as required by the Foreign Exchange Management Law and Regulations
- Exporters may utilise their export earnings once deposited in AD banks with the proviso that any remainder at the end of a period of one month from receipt must be converted to Myanmar Kyat
- Foreign currency transactions under the programmes must be reported to the Foreign Exchange Management Department ("**FEMD**") through the Border Trade Module of FEMD

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## **CBM requires foreign currency to be converted to Myanmar Kyat with exemptions**

On 3 April 2022, CBM issued a directive and a notification relating to the conversion of foreign currency income into Myanmar Kyats. Both Directive No. 4/2022 (“**Directive No. 4**”) and Notification No. 12/2022 (“**Notification No. 12**”) came into immediate effect upon their issuance.

On 5 April 2022, CBM issued Directive No. 5/2022 (“**Directive No. 5**”) and Directive No. 6/2022 (“**Directive No. 6**”) providing further information on Directive No. 4 and Notification No. 12.

Most recently, on 20 April 2022, CBM announced exemptions to the requirement to convert foreign currency as set out in Notification No. 12.

This article sets out the key provisions of these CBM issuances.

### **Banks to convert foreign currency received**

Directive No. 4 requires banks holding an authorised dealer licence (“**AD banks**”) to convert income, whether from trade or non-trade sources, received from overseas into Myanmar Kyats within one working day of the receipt of those funds. This Directive also provides that, from 4 April 2022, foreign currency can only be transferred out of Myanmar with the approval of the Foreign Exchange Management Department.

Directive No. 4 specifies that this conversion should be done at the rate of MMK1,850 to US\$1 with the conversion of other foreign currencies to be made at rates prescribed by the CBM in the Directive.

Directive No. 4 also instructs AD banks to convert foreign currency in accounts opened prior to 3 April 2022 into Myanmar Kyats.

Directive No. 5/2022 clarifies that the entirety of Directive No. 4/2022 does not apply to the accounts of the Union Government or Ministries.

### **Foreign currency earnings to be deposited and converted**

Notification No. 12 provides that foreign currency earned by Myanmar residents must be deposited in AD banks and converted into Myanmar Kyats within one working day of receipt. Directive No. 6 clarifies that Notification No. 12 applies to Myanmar residents’ incoming international transfer in foreign currency from abroad, outgoing transfer of foreign currency abroad and foreign currency held in foreign currency accounts with Myanmar banks.

Directive No. 6 also provides more information on the obligations of AD banks in relation to conversion of foreign currency, which it must complete within one business day.

No	Type of funds	Action by AD bank
1	Export proceeds	<ul style="list-style-type: none"> <li>• Transfer and deposit the foreign currency into the relevant company's account on the date of receipt</li> <li>• Convert the foreign currency at CBM's specified exchange rate and deposit the converted sum into the relevant company's Myanmar Kyat account</li> </ul>
2	Other proceeds including services	<ul style="list-style-type: none"> <li>• Transfer and deposit the foreign currency into the relevant company or individual's foreign currency account on the date of receipt</li> <li>• Convert the foreign currency at CBM's specified exchange rate and deposit the converted sum into the relevant company or individual's Myanmar Kyat account</li> </ul>
3	Inflow of funds for investment	<ul style="list-style-type: none"> <li>• Transfer and deposit funds received in foreign currency for the purposes of investment into the relevant company's foreign currency account on the date of receipt</li> <li>• Convert the foreign currency at CBM's specified exchange rate and deposit the converted sum into the relevant company's Myanmar Kyat account. Funds granted an exemption by the Foreign Exchange Supervisory Committee ("<b>FESC</b>") are not subject to this obligation</li> </ul>
4	Loan received for investment	<ul style="list-style-type: none"> <li>• Verify if CBM's permission is obtained for such offshore loan under the Foreign Exchange Management Law and the Foreign Exchange Management Regulation ("<b>FEMR</b>"). If such CBM permission has been obtained, to transfer and deposit funds received from such offshore loan into the relevant company's foreign currency account on the date of receipt</li> <li>• Convert the foreign currency at CBM's specified exchange rate and deposit the converted sum into the relevant company's Myanmar Kyat account. Funds granted an exemption by the FESC are not subject to this obligation</li> </ul>

No	Type of funds	Action by AD bank
5	Unilateral transfers for gifts, donations, maintenance cost, inheritances, receipts from transfer of real estate, aid or allowance (other than such aid or allowance permitted by the Union Government)	<ul style="list-style-type: none"> <li>Verify if CBM's permission is obtained under paragraphs 54 and 55 of FEMR. If such CBM permission has been obtained, to transfer and deposit the foreign currency received from such unilateral transfer into the relevant company's foreign currency account on the date of receipt</li> <li>Convert the foreign currency at CBM's specified exchange rate and deposit the converted sum into the relevant company's Myanmar Kyat account</li> </ul>

Directive No. 6 instructs that Myanmar residents seeking to transfer foreign currency out of the country for the following reasons must seek the permission of the FESC:

- Payment for imports (including advance payments);
- Payment for services and other costs;
- Payment for dividends and return of capital;
- Transfer for offshore investments;
- Repayment for offshore loan principals and interests; and
- Transfer for expenses as provided in paragraph 27 of the FEMR (including travel cost in connection with foreign trips, healthcare costs, educational cost and examination fees, participation in conferences and seminars, living cost of family member(s) residing abroad).

If FESC permission is obtained for the transfer of foreign currency out of Myanmar, the AD banks must sell the foreign currency to the permitted person at the exchange rate specified by CBM with service fees of MMK 1 per US\$1 collected. Exceptions may be prescribed by CBM.

#### **Exemption from foreign currency conversion requirement**

On 20 April 2022, CBM issued Letter No. FE-1/69 ("**CBM Letter**") announcing exemptions to the protocols set out in Notification No. 12.

The CBM Letter provides that the following are exempt from compliance with Notification No. 12:

- Foreign direct investments carried out with the permission of the Myanmar Investment Commission;
- Investments operating in Myanmar's Special Economic Zones;
- Foreign diplomats and their family members, as well as foreign staff of rank similar to diplomats employed by embassies in Myanmar from countries that have established diplomatic relations with Myanmar;

- Staff of the United Nations and its subsidiaries employed in Myanmar, and Myanmar citizens holding a United Nations laissez-passer document;
- Foreign staff of foreign development agencies working on aid projects in Myanmar;
- Foreign staff of diplomatic rank from international organisations (for example, the International Committee of the Red Cross and the International Labour Organization), international non-governmental organisations and development agencies (such as the Thailand International Cooperation Agency and the Japan International Cooperation Agency); and
- State-owned/citizen-owned international airlines.

Prior to conducting foreign currency transactions for those listed above, AD banks must obtain documentation proving that these businesses, entities and individuals fall within the exemption allowed by the CBM Letter. The AD banks are also required in this regard to carry out foreign currency transactions for those with exempted status only after completion of Know Your Customer (KYC) and Customer Due Diligence (CDD) processes.

#### **Reference materials**

To read our articles on the CBM notifications that were issued soon after they were announced, please click on the titles below:

- [Central Bank of Myanmar announces exemptions to foreign currency conversion mandate \(22 April 2022\)](#)
- [Central Bank of Myanmar clarifies obligations relating to foreign currency conversion \(8 April 2022\)](#)
- [Central Bank of Myanmar requires foreign currency to be converted into Myanmar Kyat \(5 April 2022\)](#)

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