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State Administration of Foreign Exchange to Facilitate Capital Account Payments Nationwide

China Business Solution Office
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On April 14, 2020, the State Administration of Foreign Exchange (SAFE) issued the "Circular of the State Administration of Foreign Exchange on Optimizing Foreign Exchange Administration to Support Foreign-related Business Growth" (Huifa [2020] No. 8, hereinafter "Circular No. 8"), announcing a series of measures to facilitate foreign exchange operations.

Key Takeaways

- **The reform to facilitate payments under the capital account has been rolled out nationwide**
- **Deregistration of foreign loans will be delegated to banks**

1. Background of the Policy

SAFE issued Circular No. 8 in order to support enterprises in the recommencement of their business activities and to encourage high-quality foreign-related economic growth. Circular No. 8 announces a series of measures to facilitate foreign exchange operations.

2. Main Contents

As Circular No. 8 announces eight measures to facilitate foreign exchange operations, this issue of the Regulation Newsletter will detail the five measures which are of most relevance to companies.

➢ Nationwide rollout of reform to facilitate payments under the capital account

On October 25, 2019, SAFE issued a circular on the "Further Promotion of the Facilitation of Cross-border Trade and Investment" (Huifa [2019] No. 28), which declared that a pilot scheme for facilitating payments made under capital accounts would expand to the fifth batch of Pilot Free Trade Zones and the entire municipality of Shanghai. By the end of March 2020, the most of the Pilot Free Trade Zones as well as the entire Beijing and Shanghai municipalities have issued the relevant by-laws for the implementation.

Circular No. 8 rolls out this capital account payment facilitation to cover all of China. Each region is anticipated to issue relevant by-laws for the implementation of this reform.

For details on the reform to facilitate payments under the capital account, please refer to Issue No. 37 of our Regulation Newsletter: https://rmb.bk.mufg.jp/en/

➢ Waiving registration of "special foreign exchange refunding"

At the start of 2019, SAFE rolled out a pilot scheme for the "facilitation of payments under trade in goods" to the Guangdong-Hong Kong-Macau Greater Bay Area, Shanghai, and Zhejiang. One measure of this pilot scheme was removing the need to register a "special foreign exchange refunding."

Circular No. 8 rolls out this measure for waiving the registration of special foreign exchange refunding nationwide.

[Fig. 1] Special Foreign Exchange Refunding Registration Waiving	
Definition of "special foreign exchange refunding"	A foreign-exchange transfer performed for a refund in which either of the following applies: ✓ The interval between the refund date and the original payment date is more than 180 days (excluded). ✓ The refund cannot be issued via the original route due to special (i.e. extraordinary) circumstances.
Conditions for waiving registration	✓ The company is a Category A company in the list of companies receiving and paying via foreign exchange under trade in goods ✓ The amount for one refund is USD 50,000 or less.
Processing method	✓ The refund is performed directly through the financial institution without the need for prior registration with the SAFE branch. ✓ The financial institution specifies "special foreign exchange refunding" in the remarks section of the foreign-related receipts and payments declaration.

➢ **Simplifying registration management for some capital account operations**

Circular No. 8 stipulates that the handling of deregistration for certain capital account operations which fulfil the requirements will be transferred from the local SAFE branch to banks within the jurisdiction.

<table>
<tr><th colspan="3">[Fig. 2] Deregistration Duties for Capital Account Operations Delegated to Banks</th></tr>
<tr><th>Loan to be deregistered</th><th>Conditions for delegation</th><th>Delegable bank</th></tr>
<tr><td>A foreign loan with a domestic guarantee for a non-financial company</td><td>The borrower has been relieved of the responsibilities of the domestic-guaranteed loan, and the loan has not yet been executed</td><td rowspan="2">A bank within the jurisdiction of the company's local SAFE branch (foreign exchange administration department)</td></tr>
<tr><td>A foreign loan for a non-financial company</td><td>The term of the loan has ended, and the principal and interest have been collected without irregularity</td></tr>
</table>

➢ **Relaxing the requirements on exporters for paying domestic foreign-exchange loans with purchased foreign currency**

For domestic foreign-exchange loans pertaining to exports, such as outward bills for collection, companies must, in principle, repay the loan with their own foreign-currency funds or with foreign-currency funds received through the export of goods. Previous regulations stipulated that if the collection of foreign funds after exporting did not go as planned, and the company could not repay the loan with any of its own foreign-currency funds, the company could repay the domestic foreign-exchange loan by purchasing foreign currency after notifying the local SAFE branch.

Circular No. 8 relaxes these notification requirements, allowing companies to repay domestic foreign-exchange loans using foreign currency purchased by the lending bank for the company in accordance with prudent operating principles. The lending bank may notify the local SAFE branch afterward, within the first five business days of the beginning of the month.

➢ **Facilitating the use of electronic documents for foreign exchange operations**

Based on the "Circular of the State Administration of Foreign Exchange on Standardizing Reviews of Electronic Documents for Foreign Exchange Receipts and Payments under Trade in Goods" (Huifa [2016] No. 25), a company may only use electronic documents for operations relating to foreign exchange receipts and payments if the trade in goods is classified as Category A and the company has obtained the business license for at least two years. Circular No. 8 abolishes this requirement.

3. Impact on Companies

Circular No. 8 has introduced a series of measures to further facilitate foreign exchange operations for companies. Some of these facilitation measures involve the transfer of procedural duties from SAFE and its branches to banks. As the banks will handle these duties in accordance with prudent operating principles, we recommend that companies communicate sufficiently with the banks regarding the relevant operations in advance.

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