

People's Bank of China and Five Other Departments Issue “Notice on Further Optimizing Cross-border RMB Policies to Support Stabilizing Foreign Trade and Foreign Investment”

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On January 4, 2021, six departments including the People's Bank of China (PBOC) issued a “Notice on Further Optimizing Cross-border RMB Policies to Support Stabilizing Foreign Trade and Foreign Investment” (Yinfa [2020] No. 330, hereinafter “Notice No. 330”). The notice will take effect on February 4, 2021 and aims to comprehensively optimize the management of cross-border RMB.

Key Takeaways

- **The use of cross-border RMB overseas lending will be promoted by changing the currency conversion factor.**
- **Restrictions will be relaxed on the use of cross-border RMB income from capital items (capital, overseas loans, etc.). For example, entrusted loans will be available for affiliate companies.**
- **RMB bank settlement accounts of overseas institutions will be able to receive RMB funds remitted from overseas accounts with the same name.**

1. Background of the Policy

Over the years, there have been numerous discrepancies between cross-border RMB and foreign currency supervision/management policies. Moreover, many of the existing cross-border RMB-related policies are relatively outdated and are not suitable for the current environment. On September 18, 2020, six departments including the PBOC published a draft notice for soliciting comments and opinions. On January 4, 2021, they formally issued Notice No. 330.

Notice No. 330 revises the nine existing regulations related to cross-border RMB to further optimize cross-border RMB management (see Fig. 1).

[Fig. 1] Relevant Regulations Revised by Notice No. 330

No	Issue Date	Issue No.	Regulation
1	2004-10-28	Yinfa [2004] No. 254	Circular on Issues on Handling Personal RMB Business between Mainland Banks and Banks in Hong Kong and Macao
2	2009-7-3	Yinfa [2009] No. 212	Regulations for the Implementation of the Administrative Measures for the Cross-Border RMB Settlement Pilot Project
3	2011-10-13	PBOC Announcement [2011] No. 23	Measures for the Administration on RMB Settlement in Foreign Direct Investment
4	2012-2-3	Yinfa [2012] No. 23	Circular on Issues Concerning the Administration of Enterprises Settling Exports of Goods in RMB

5	2012-6-14	Yinfa [2012] No.165	Circular on Clarifying the Operational Rules of RMB Account Settlement for Foreign Direct Investment
6	2012-7-26	Yinfa [2012] No. 183	Circular on Opening and Using RMB Bank Settlement Account for Foreign Institutions
7	2014-11-1	Yinfa [2014] No. 324	Circular on Centralized Management of Cross Border RMB Funds for MNCs
8	2016-11-26	Yinfa [2016] No. 306	Circular on Further Clarifying the RMB-denominated Outbound Loan Business of the Domestic Enterprises
9	2017-1-11	Yinfa [2017] No. 9	Circular on Implementing Macro-Prudential Management of Comprehensive Cross-border Financing

2. Details of the Regulation

Notice No. 330 is intended to optimize the management of cross-border RMB related business in 15 primary areas (see Fig. 2).

[Fig. 2] Cross-Border RMB-Related Business Optimized by Notice No. 330			
No.	Cross-Border RMB Business Area	Overview	Remarks
1	RMB overseas lending	1) RMB overseas lending that is repaid in advance is no longer included in the upper limit of the company's overseas lending balance. 2) Non-RMB overseas lending will have a currency conversion factor applied in order to encourage enterprises to use more RMB.	RMB is favored over foreign currencies.
2	Domestic reinvestment by FIEs	Recipients are no longer required to open a relevant deposit account.	
3	Foreign direct investment (reinvestment of dividends, acquisitions, equity transfers)	Recipients are no longer required to open a relevant deposit account.	
4	Remittance of funds from NRAs of overseas institutions with the same name	The non-resident account (NRA) of an overseas institution can be used to receive RMB funds remitted from overseas accounts with the same name.	
5	Cross-border RMB centralized collection and payment arrangements under the current account	A domestic company designated as a host company by its multinational enterprise group can open RMB bank settlement accounts in remote areas to handle cross-border RMB collection and payment arrangements under the current account.	
6	Cross-border RMB settlement services	Support will be provided for cross-border RMB payments to ensure the execution of cross-border RMB settlement	

	for high-quality foreign contracted projects	services for high-quality foreign contracted projects.	
7	Cross-border RMB settlement for Hong Kong and Macao residents	Domestic banks can open personal RMB bank settlement accounts for Hong Kong and Macao residents, which are used to receive funds from accounts under the same name within a daily limit of RMB 80,000 per person.	
8	Convenient financial services for trade and investment by superior companies	Domestic banks can make cross-border RMB settlements for trade in goods and trade in services and handle RMB income from capital items of superior companies, based on their cross-border RMB settlement declarations or payment/receipt instructions.	Conveniences in RMB that were inferior to those in other currencies have been optimized.
9	Use of RMB income from capital items	Entrusted loans can be used for affiliate companies.	
10	Foreign loans	1) Multiple foreign loan accounts can be opened for a single RMB foreign loan. 2) One foreign loan account can be used for multiple RMB foreign loans under the same name. 3) RMB foreign loan accounts can be opened in remote areas. 4) RMB foreign loans can be repaid at a bank other than the one where the RMB foreign loan account is opened.	
11	Cross-border RMB settlement services for market entities related to new trade formats including cross-border e-commerce	Domestic banks can provide cross-border RMB settlement services under current accounts for market entities related to new trade formats such as cross-border e-commerce based on the electronic trading information.	
12	Adjustments to the requirements for business handling and review based on commerce system reforms	Reports and certificates for processing traders, which were necessary for handling cross-border RMB business and issued by departments affiliated with the Ministry of Commerce (MOFCOM), are no longer required.	
13	Electronic review of documents	An electronic payment/receipt instruction can be used as a cross-border RMB settlement declaration.	
14	Key supervision list	The key supervision list of enterprises making settlements of exports of goods in RMB will be replaced by a “cross-border RMB business key supervision list.”	
15	Cross-border RMB settlement with personal current accounts	Conveniences will be increased in the cross-border receipt and payment of legitimate income including personal salaries.	—

More details about the measures highlighted in bold in the table above are given below.

➤ **RMB Overseas Lending**

[Fig. 3] RMB Overseas Lending	
Changes	<ul style="list-style-type: none"> ✓ The formula for the balance of a company's overseas loans will be changed to the following. Balance of a company's overseas loans = $\sum(\text{RMB and non-RMB overseas lending balance}) + \sum(\text{non-RMB overseas lending balance}) \times \text{currency conversion factor}$ ✓ Amounts of RMB cross-border loans repaid before the due date are not included in the balance of overseas lending. ✓ The currency conversion factor will be adjusted from 0 to 0.5.
Key points	<ul style="list-style-type: none"> ✓ RMB overseas lending is given a higher limit to give it preference over foreign currencies. ✓ The limit for existing non-RMB overseas loans may be raised as well.
Estimations	<p>Example 1: Company A provides an RMB overseas loan at RMB 30 million. Company A's overseas lending balance = 30 million + 0×0.5 = RMB 30 million</p> <p>Example 2: Company B provides a USD overseas loan worth RMB 30 million. Company B's overseas lending balance = 30 million + 30×0.5 = RMB 45 million</p> <p>Conclusions:</p> <ul style="list-style-type: none"> ✓ The lending quota for RMB overseas loans is 1.5 times that of non-RMB loans. ✓ The lending quota for corporate overseas loans is 30% of the owners' equity (net assets) in the last audit report. If a company extends all its overseas loans in RMB, it can extend overseas loans worth 30% of its net assets. On the other hand, if the company extends all its overseas loans in foreign currencies, it can extend overseas loans worth 20% of its net assets.
Remarks	<p>On January 5, 2021, the PBOC and the State Administration of Foreign Exchange (SAFE) announced that they would raise the lending quota for corporate overseas loans from 30% to 50% of net assets (without mentioning when the new quota will take effect). Once the new quota has officially taken effect, a company can extend overseas loans worth 50% of its net assets if it extends all its overseas loans in RMB. On the other hand, if the company extends all its overseas loans in foreign currencies, it can extend overseas loans worth 33.33% of its net assets.</p>

➤ **Domestic Reinvestment by FIEs**

[Fig. 4] Domestic Reinvestment of FIEs	
Changes	<ul style="list-style-type: none"> ✓ If an FIE (including investment and non-investment FIEs) makes a domestic reinvestment with RMB income from capital items, the invested enterprise is not required to open a deposit account for RMB capital and the use of funds is subject to the relevant regulations (see Fig. 8).
Key points	<ul style="list-style-type: none"> ✓ Investments in RMB are favored over those in foreign currencies. ✓ If an FIE makes a domestic reinvestment with non-RMB income from capital items, the invested company is required to open a bank account for non-RMB capital.

➤ Foreign Direct Investment (Reinvestment of Dividends, Acquisitions, Equity Transfers)

[Fig. 5] Foreign Direct Investment (Reinvestment of Dividends, Acquisitions, Equity Transfers)

Changes	<ul style="list-style-type: none"> ✓ If an overseas investor uses its income from domestic RMB profits for domestic reinvestment, it is not required to open a deposit account for the RMB reinvestment funds or for the invested company’s RMB capital, however it is required to comply with relevant regulations regarding the use of funds (see Fig. 8). ✓ If an overseas investor acquires a domestic enterprise in RMB to establish an FIE or make RMB payments to a domestic FIE’s Chinese shareholders for its equity transfer, each Chinese shareholder concerned is not required to open a bank account for RMB acquisition or a deposit account for RMB equity transfer.
Key points	<ul style="list-style-type: none"> ✓ Investments in RMB are favored over those in foreign currencies. ✓ Non-RMB profits cannot be used for domestic reinvestment.

➤ Remittance of funds from NRAs of overseas institutions with the same name

[Fig. 6] Remittance of funds from NRAs of overseas institutions with the same name

Changes	<ul style="list-style-type: none"> ✓ The RMB bank settlement accounts of overseas institutions can receive RMB funds remitted from overseas accounts with the same name, but the RMB funds remitted from overseas cannot be exchanged into foreign currencies unless otherwise stipulated.
Key points	<ul style="list-style-type: none"> ✓ Investments in RMB are favored over those in foreign currencies. ✓ Although domestic non-RMB accounts of overseas institutions can receive non-RMB funds remitted from overseas accounts with the same name, deposits in their domestic non-RMB accounts shall be included in the balance of domestic banks’ foreign loans. On the other hand, deposits in RMB bank settlement accounts of overseas institutions shall not be included in the balance of foreign loans. The RMB in the account is subject to onshore interest rate and can be transferred to term deposits.

➤ Convenient Financial Services for Trade and Investment by Superior Companies

[Fig. 7] Convenient Financial Services for Trade and Investment by Superior Companies

Changes	<ul style="list-style-type: none"> ✓ Domestic banks can directly provide superior companies with relevant cross-border RMB services in accordance with the “three principles of financial services,” based on the payment/receipt declaration of cross-border RMB settlements or payment/receipt instructions by superior companies. ✓ Relevant cross-border RMB services including cross-border RMB settlements for trade in goods and trade in services, and RMB income from capital items (capital for foreign direct investment, cross-border loans and funds raised for listing on overseas stock markets, etc.) is used in compliance with the law in China.
Key points	<ul style="list-style-type: none"> ✓ Conveniences in cross-border RMB transactions that were inferior to those in other currencies have been optimized. ✓ Measures for the convenient use of cross-border RMB will be tested in pilot free trade zones before they are adopted nationwide.

➤ Use of RMB Income from Capital Items

[Fig. 8] Use of RMB Income from Capital Items

Changes	<p>Domestic institutions are subject to the following restrictions as to what RMB income from capital items is used for (capital for foreign direct investment, cross-border loans and funds raised for listing on overseas stock markets, etc.).</p> <ul style="list-style-type: none"> ✓ RMB income cannot be used directly or indirectly for spending which is irrelevant to corporate management or prohibited by the Chinese laws and regulations. ✓ Unless specifically stipulated otherwise, RMB income cannot be used directly or indirectly for securities investment. ✓ Unless otherwise specifically approved in the scope of management, RMB income cannot be used for loans to non-affiliated companies. ✓ RMB income cannot be used for the construction or purchase of non-self-use real estate. (Excludes real estate companies.)
Key points	<ul style="list-style-type: none"> ✓ Conveniences in cross-border RMB transactions that were inferior to those in other currencies have been optimized. ✓ RMB income from capital items can be used for entrusted loans to affiliated companies.

➤ Foreign Loans

[Fig. 9] Foreign Loans

Changes	<ul style="list-style-type: none"> ✓ Multiple RMB deposit accounts can be opened for a single RMB foreign loan. ✓ An RMB deposit account can be used for receipts and payments of funds for multiple RMB foreign loans under the same name. ✓ RMB deposit accounts for foreign loans can be opened in remote areas. ✓ The principal and interest of an RMB foreign loan can be repaid at a bank other than the one where the RMB foreign loan account is opened. ✓ The enterprise and financial institution must use the same currency for withdrawal and repayment of overseas RMB loans, but different currencies for withdrawal and repayment can be used on contracts to accommodate real-world needs.
Key points	<ul style="list-style-type: none"> ✓ Conveniences in cross-border RMB transactions that were inferior to those in other currencies have been optimized. ✓ Cross border RMB financing will be made more convenient.

3. Impact on Enterprises

With the release of Notice No. 330, RMB has become preferred over foreign currencies in some areas (e.g. overseas lending) and conveniences in RMB that were inferior to those in foreign currencies have been optimized in other areas (e.g. use of RMB income from capital items). Notice No. 330 is expected to further narrow the gap in differences of management policies between cross-border RMB and foreign currencies, and to enable enterprises to use the currency that they choose.

For the selection of currencies, however, there are more to be considered besides the management policies, such as foreign exchange rates, financing costs, currencies designated by business partners at home and abroad, and the balance and management workload of foreign currency positions held by individual group companies. Therefore, it is recommended that companies select currencies favorable to their own needs based on comprehensive comparison and engage in a variety of cross-border transactions.

We will continue to follow up on related information and provide further updates as they come.

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