The Central Bank of Myanmar ("CBM") has published a number of directives in the year 2020 many of which are aimed at supporting the banking sector in an economy that is going through complexities triggered by the pandemic. We have produced below brief summaries of each of those directives as part of our yearly roundup of CBM regulations.

YEAR IN REVIEW: DEVELOPMENTS IN BANKING REGULATIONS OF CENTRAL BANK OF MYANMAR - 2020

AUTHOR

Surath Bhattacharjee
Legal Associate
Banking and Finance

Surath is a legal advisor in the firm's Banking & Finance team. He advises international financial institutions, commercial banks and corporate borrowers in projects and inclusive finance transactions. He is registered as an advocate with the Bar Council of Delhi.

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Highlights of this note

- Revised Offshore Loan Approval Criteria
- Interest Rates Adjustments
- Bank Accounts for Foreign Investors Trading in Shares of YSX-Listed Companies
- Reduction of Minimum Cash Reserve Percentage
- Revised Liquidity Ratio Calculation
- Limitations on Accepting or Facilitating Transactions Involving Digital Currencies
- Principles For Regulating the Non-Banking Financial Sector Institutions
- Guidelines on Risk Management Practices of Banks

Revised Offshore Loan Approval Criteria

The Central Bank of Myanmar revised the offshore loan approval criteria (the "**Revised Criteria**") published on its website. The Revised Criteria distinguishes the equity commitment and debt-to-equity ratio criteria for companies that have been issued an investment permit by the Myanmar Investment Commission ("**MIC**") and those that do not hold it.

The Revised Criteria entails the following:

a) Equity Commitment: Companies that have been issued investment permit by the MIC ("**MIC Companies**") are required to bring in a minimum equity capital of USD 500,000. MIC Companies are required to bring in 80% of the equity committed by them in their MIC proposal; non-MIC companies are required to bring in USD 50,000.

b) Debt to Equity Ratio: MIC Companies are required to maintain debt to equity ratio of 4:1; non-MIC Companies are required to maintain debt to equity ratio of 3:1.

Previously, the split of requirements between MIC and non-MIC companies was not so clear.

Interest Rates Adjustments

On account of the economic stress due to the Covid-19 pandemic, the Central Bank of Myanmar issued successive directives in March and April 2020 (collectively, the "**Directives**") aimed at, inter alia, easing the debt servicing burden on resident companies.

The Directives reduced rates under the following heads (the latest rates have been produced below):

a) Bank Interest Rate: 7%

b) Minimum Interest on Savings Deposits, Savings Bonds and Maturity Deposits: 5%

c) Maximum Interest Rate on Secured and Unsecured Loans: secured loans – 10%; unsecured loans –14.5%.

(In terms of the Directives, a "**Secured Loan**" means a loan that is secured by collateral which includes, among others, the following: land and buildings, gold, jewellery, diamonds and other precious gems, savings bonds, government treasury bonds, fixed deposits, part-time deposits, mortgageable securities and negotiable instruments, pledges, loans with credit guarantee and other loans.)

Bank Accounts for Foreign Investors Trading in Shares of YSX-Listed Companies

The CBM published Directive 3/2020 on 19 April 2020 to guide authorised dealer banks ("**AD Banks**") with respect to transactions connected with trading of shares by foreign investors (both resident and non-resident) in companies listed at the Yangon Stock Exchange ("**YSX**") (in accordance with Directive 1/2020 published by the Securities Commission of Myanmar).

The AD Banks are allowed to open the following bank accounts for foreign investors:

a) Resident Kyat Account for Securities (R-KAS);

b) Non-Resident Kyat Account for Securities (N-KAS) and

c) Non-Resident Foreign Currency Account for Securities (N-FAS).

(the "**Bank Accounts**")

The Bank Accounts are permitted to be used by a foreign investor only for the purpose of transactions in connection with trading of shares in YSX-listed companies.

Obligations of a Foreign Investor:

A foreign investor is required to:

a) apply for and obtain relevant approvals prior to opening any of the Bank Accounts. It is possible that the CBM will clarify this requirement in more detail. Upon obtain-ing the approval, the foreign investor needs to submit that to the relevant AD Bank where it intends to open the Bank Account.

b) inform CBM when they bring the funds into Myanmar in order to purchase the shares of the YSX-listed company (in line with Section 27 of the Foreign Exchange Management Law and clause 57 of the Foreign Exchange Management Rules, 2014).

c) submit either by themselves or via AD Bank projected repatriation of the funds to the Central Bank of Myanmar.

The Directive also provides for certain obligations imposed on the AD Bank.

Reduction of Minimum Cash Reserve Percentage

The CBM published Directive 6/2020 on 9 April 2020 whereby it lowered the minimum cash reserve ("**MCR**") requirement (in MMK) of banks from the amount representing 5% of the total deposits of its customers to that representing 3.5%. The banks were initially required to maintain the new MCR rate for a period of six (6) months starting from 9 April 2020 and ending on 30 September 2020.

The CBM, thereafter, through Directive 10/2020 dated 22 September 2020, further extended this period by six (6) months starting from 1 October 2020 and ending on 31 March 2021.

Revised Liquidity Ratio Calculation

The CBM published Directive 7/2020 on 9 April 2020 whereby it provided that for calculating the liquidity ratio, treasury bonds with a term of one year or more shall be counted at 90% (instead of 50%) for a period of six (6) months starting from 20 April 2020 and ending on 30 September 2020.

The CBM, thereafter, through Directive 11/2020 dated 23 September 2020, further extended this period for an additional six (6) months starting from 1 October 2020 and ending on 31 March 2021.

Limitations on Accepting or Facilitating Transactions Involving Digital Currencies

The CBM published a directive on 15 May 2020 wherein it prohibited the online sale and purchase of digital currency. The directive informed the public that digital currency is not regarded as official currency in Myanmar and therefore financial institutions are prohibited from accepting or facilitating transactions involving digital currencies.

Principles For Regulating the Non-Banking Financial Sector Institutions

The CBM published Instruction No. 3/2020 on 9 July 2020 wherein it set out multiple principles for regulating institutions operating in the non-banking financial sector (collectively, the "**NBFI Sector**"). These principles to certain extent align the NBFI Sector with the banking sector, including obligations for non-banking financial institutions ("**NBFIs**") to:

a) Specify the loan amount, annual interest rate and exact repayment schedule in the loan agreement;

b) Calculate the interest rate under the outstanding loan balance; and

c) Clearly state any commission fees and other fees, if applicable.

The Instruction also provides general principles that NBFI loan agreements and the terms and conditions thereof should be clearly explained to, read and agreed by the borrowers. CBM may take disciplinary action if NBFIs do not comply with the principles of the Instruction.

Guidelines on Risk Management Practices of Banks

The CBM published the Guidelines on Risk Management Practices of Banks on 20 November 2020 (the "**Guidelines**"). These Guidelines replace CBM Directive on Credit Risk Management (No.4/2017) and shall become effective within six (6) months from 20 November 2020, i.e. mid-2021.

The Guidelines set out the following requirements for banks:

a) Put in place adequate risk management system to identify, measure, monitor and control financial and other risks listed in the Guidelines.

b) Board of directors of banks to approve bank's risk management policies and set up risk management committees.

c) Senior management officials of the bank to implement risk management systems; and with the board of directors, appoint a chief risk management officer.

d) Put in place internal controls to limit bank's overall financial and other risks, maintain records of risk decisions taken by the bank and engage internal auditor to test the functioning of the risk management system.

e) Adopt and implement stress testing framework. The CBM will publish separate guidelines on this aspect at a later stage.

f) Appoint external auditors in accordance with relevant provisions of the Financial Institutions Law, 2016.

g) Maintain adequate capital in proportion to the risk and adhere to the Capital Adequacy Regulation (Notification No. 16/2017), and

h) Report to CBM regarding their risk management policies and any changes made to such policies from time to time.

Banks failing to adhere to the Guidelines will be subject to sanctions or corrective actions and administrative penalties, as may be applicable, under S.94, S.96 and S.154 of Financial Institutions Law, 2016.

CONTACT

YANGON
Level 10, Unit 01-05, Junction City Office Tower,
Corner of Bogyoke Aung San Road and 27th Street,
Pabedan Township
T +951 9253752~756
F: +951 9253758

NAY PYI TAW
Nilar #2, Business Center, Park Royal Hotel Nay Pyi Taw,
Jade Villa no. 13/14 Hotel Zone,
Dekhina Thiri Township
T: +95 678 106089
F: +95 678 108 092