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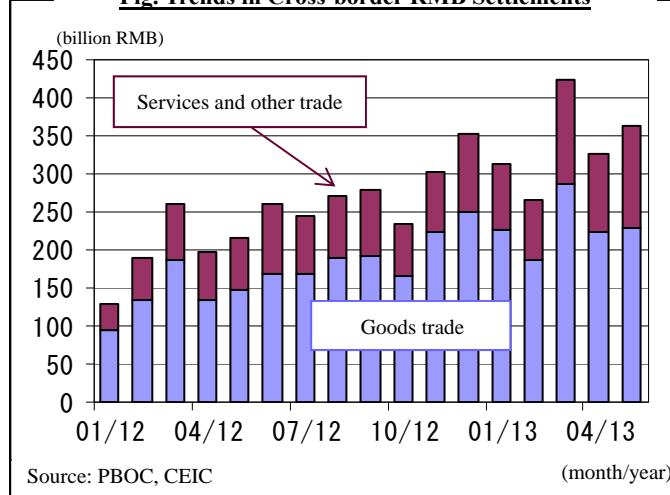
People's Bank of China simplifies the procedures for cross-border RMB settlement and removes approval requirement for outbound lending in RMB

On July 5, 2013, the People's Bank of China (PBOC) issued the [Circular on Simplifying the Procedures for Cross-border RMB Business and Improving the Relevant Policies](#) (Yinfa [2013] No. 168; hereinafter referred to as "Circular No. 168"), with immediate effect. The key provisions of the Circular are intended to promote the liberalization of capital account transactions and the internationalization of the RMB, including the **simplification of the procedures for cross-border RMB settlements under the current account** and the **removal of the approval requirement for outbound lending in RMB**.

□ Simplification of RMB settlement procedures extended nationwide

With the promulgation of the [Circular on Certain Issues Concerning the Administration over the Enterprises Engaging in RMB Settlement of Goods Exports](#) (Yinfa [2012] No. 23; hereinafter referred to as "Circular No. 23") in March 2012 and the [Letter on the Focused-supervision List of Enterprises in RMB Settlement for Goods Exports](#) (YinBanHan [2012] No.381) in June 2012, which opened up cross-border RMB settlements under the current account to all domestic enterprises except those included on the

"priority attention list of enterprises that engage in RMB settlement of goods exports," PBOC branches introduced various measures in an attempt to simplify the relevant procedures¹.

Fig. Trends in Cross-border RMB Settlements

¹ In Shanghai, for example, banks selected enterprises to pilot the simplified procedures on the basis of the criteria laid down by the PBOC, processing direct settlements only with the submission of a "Receipt/Payment Explanation for Cross-border RMB Settlement," and undertaking ex-post reviews on a periodic basis.

With the promulgation of Circular No. 168, these simplified procedures are standardized across the nation. All domestic enterprises, with the exception of those on the priority attention list, may execute cross-border RMB settlements subject to the presentation of a **business voucher (e.g., an import/export agreement, the relevant customs declaration, etc.)** or a **“Receipt/Payment Explanation for Cross-border RMB Settlement”** to their bank (Article 1, Paragraph 1). The priority attention list was updated to coincide with the publication of Circular No. 168, with the number of listed enterprises increasing to 12,120 from 9,502 the previous year. Enterprises on the priority attention list are able to execute cross-border RMB settlements, but such transactions are subject to more rigorous scrutiny. It should be noted that listed enterprises are not permitted to retain their RMB export proceeds overseas (Circular No. 23, Article 4).

Selection criteria for inclusion

on the “priority attention list of enterprises that engage in RMB settlement of goods exports”

- ✓ Having committed such acts as export tax rebate fraud, tax evasion, falsifying VAT invoice or receiving a falsified VAT invoice in the previous two years;
- ✓ Having been put on file for investigation by taxation and public security authorities due to suspicion of tax evasion, export tax rebate fraud, falsifying VAT invoice or receiving a falsified VAT invoice in the previous two years;
- ✓ Having engaged in smuggling and committed other serious violations of custom regulations in the previous two years;
- ✓ Having committed relatively serious violations of the rules for financial regulation in the previous two years;
- ✓ Having committed relatively serious violations of the laws and regulations on foreign trade in the previous two years; and
- ✓ Having committed other relatively serious violations of laws in the previous two years.

(Circular No. 23, Article 2)

In addition, to encourage domestic banks to expand their cross-border RMB trade financing services, the PBOC explicitly specifies that banks may now offer cross-border assignment services for RMB bonds issued by enterprises for trade financing purposes (Circular No. 168, Article 3).

☐ Move to allow enterprises to apply directly to banks for outbound lending in RMB

In the past, domestic enterprises were required to obtain PBOC approval on outbound lending in RMB on a case-by-case basis, but they will now be permitted to apply directly to banks. Circular No.168 allows outbound lending in RMB using the RMB cash pooling scheme among affiliates (Article 3, Paragraph 1), and allows the interest rate, term and purpose of such lending to be agreed between the lender and borrower within reasonable bounds (Article 3, Paragraph 4).

Domestic enterprises are required to open a special RMB deposit account with a bank for the purpose of outbound lending in RMB, and must process the lending through such account and arrange to collect principal and interest payments (Article 3, Paragraph 3). Note that the collected amount “shall not exceed the aggregate amount of the

principal, interest, domestic income tax, relevant expenses and other reasonable income” (Article 3, Paragraph 5).

❑ Explicit provision made for the provision of cross-border RMB guarantees by domestic enterprises

Circular No. 168 provides for the handling of special deposit accounts in respect of domestic enterprises issuing RMB bonds overseas (Article 4, Paragraph 1). It clearly states that interest on such special accounts shall be paid in accordance with the benchmark deposit rate published by the PBOC, and that the funds procured through bond issuance shall be used within the range stated in the bond prospectus. The issuance of RMB bonds overseas is subject to regulatory approval and certain conditions must be met, but it has the merit of enabling enterprises to raise funds in offshore RMB (or CNH) at lower interest rates than those in mainland China.

The Circular also allows for the provision of cross-border RMB guarantees on overseas borrowings (Article 5; the so-called “overseas loan under domestic guarantee” business). Provision is also made for the use of RMB retained overseas to make payment for the performance of guarantee obligations.

*

A provisional translation of Circular No. 168 together with the original Chinese document is presented below for further reference.

Naoki Tsukioka, Advisory Division, Mizuho Corporate Bank (China), Ltd.

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(Provisional Translation)

People's Bank of China
Yinfa [2013] No. 168
Circular on Simplifying the Procedures for Cross-border RMB Business
and Improving the Relevant Policies

The Shanghai Head Office of the PBOC, all branches and operation offices of the PBOC, as well as PBOC central branches at the provincial capital and quasi-provincial capital levels, China Development Bank, policy banks, state-owned commercial banks and joint-stock commercial banks, and the Postal Savings Bank of China:

For the purpose of improving the efficiency of cross-border RMB settlement and facilitating the use of RMB for the settlement of cross-border transactions by banking financial institutions (hereinafter referred to as “banks”) and enterprises, the PBOC gives notice of matters relating to the simplification of the procedures for cross-border RMB business and the improvement of the relevant policies as follows.

1. Cross-border RMB settlement services under the current account

- (1) Domestic banks may execute cross-border RMB settlement procedures directly on the basis of the three principles of “know your customer,” “know your business” and “due diligence,” subject to the presentation by enterprises (other than those on the “priority attention list of enterprises that engage in RMB settlement of goods exports”) of a business voucher or a “Receipt/Payment Explanation for Cross-border RMB Settlement.”
- (2) Where enterprises need to deposit funds for RMB settlements under the current account automatically, domestic banks may carry out the necessary deposit procedures first before examining the relevant trade transaction to verify the authenticity.
- (3) Domestic banks are to be encouraged to expand their cross-border RMB trade financing services. Domestic banks may offer cross-border assignment services in respect of cross-border RMB trade finance assets.
- (4) When handling cross-border RMB settlement service procedures under the current account for enterprises on the “priority attention list of enterprises that engage in RMB settlement of goods exports,” domestic banks shall, in accordance with the principles established by the *Letter of the People's Bank of China, the Ministry of Finance, the Ministry of Commerce, the General Administration of Customs, the State Administration of Taxation, and the China Banking Regulatory Commission on the*

Focused-supervision List of Enterprises in RMB Settlement for Goods Exports (YinBanHan [2012] No. 381), undertake rigorous screening to verify the authenticity of such business. All PBOC branches may send copies of the “priority attention list of enterprises that engage in RMB settlement of goods exports” that are registered in their area to banks under their jurisdiction, and may use such list internally.

2. Cross-border clearing operations for bank card RMB accounts

- (1) Interbank cross-border clearing operations for bank-card RMB account-related transactions shall be handled by bank-card clearing institutions that were established in China and are qualified to engage in RMB business (hereinafter referred to as “domestic bank-card clearing institutions”), and shall be processed through overseas RMB clearing bank or domestic agent bank channels.
- (2) Following overseas consumption or cash withdrawal via RMB-denominated bank cards issued by domestic banks, the domestic issuing bank shall settle the transaction in RMB with a domestic bank-card clearing institution, and the domestic bank-card clearing institution shall settle with the overseas payee institution in RMB or foreign exchange.
- (3) Following domestic consumption or cash withdrawal in RMB via bank cards issued by overseas banks, the domestic payee institution shall settle the transaction in RMB with the domestic bank-card clearing institution, and the domestic bank-card clearing institution shall settle with the overseas issuing bank in RMB.
- (4) Information on cross-border RMB receipt and payment relating to the interbank cross-border clearing operations of bank-card RMB account-related transactions shall be standardized and reported by domestic bank-card clearing institutions via such domestic settlement bank to the Cross-border RMB Receipt and Payment Information Management System.
- (5) Bank-card cross-border RMB clearing operations are to be handled pursuant to the aforementioned rules. The provisions of Article 6 of PBOC Announcement No. 16 [2003], Article 6 of PBOC Announcement No. 8 [2004], and Articles 3, 4 and 17 of the *Circular of the People’s Bank of China on Relevant Issues on Handling Personal RMB Business between Banks in Mainland China and Banks in Hong Kong and Macao* (Yinfa [2004] No. 254) on RMB bank-card clearing operations for individuals shall not be newly enforced.

3. Outbound lending services in RMB by domestic non-financial institutions

- (1) Domestic non-financial institutions may apply to domestic banks for outbound lending settlement services in RMB. Domestic non-financial institutions with equity ties or ultimately controlled by the same parent company, and exercising regional headquarters' or investment management functions for member institutions, may apply to domestic banks for RMB cash pooling whereby such domestic non-financial institutions may lend to their overseas affiliates using the RMB cash pooling model.
- (2) Domestic banks may provide the cross-border RMB settlement services having reviewed the application documents for outbound lending in RMB submitted by domestic non-financial institutions.
- (3) Domestic non-financial institutions that are developing an outbound lending services in RMB shall, pursuant to the *Administrative Rules for RMB Bank Settlement Accounts* (PBOC Decree [2003] No. 5) and other provisions on the administration of bank settlement accounts, apply to domestic banks to open a special RMB deposit account, and shall use such account exclusively for outbound lending in RMB.
- (4) The interest rate, term and purpose of outbound lending offered by domestic non-financial institutions shall be determined through consultations between the lender and borrower in light of generally accepted commercial principles and within reasonable bounds.
- (5) Outbound lending in RMB are without fail to be returned in RMB to the original special RMB deposit account, and the collected amount shall not exceed the aggregate amount of the principal, interest, domestic income tax, relevant expenses and other reasonable income.
- (6) Banks are to perform their information reporting obligations seriously, and shall report information on the receipt and payment of cross-border RMB, information on cross-border credit and loan financing operations and other relevant information to the Cross-border RMB Receipt and Payment Information Management System, accurately and without delay. Where domestic non-financial institutions are offering cross-border RMB guarantee services, information on such cross-border RMB guarantees shall also be reported.

4. Overseas issuance of RMB bonds by domestic non-financial institutions

- (1) Domestic non-financial institutions may, pursuant to the *Administrative Rules for RMB Bank Settlement Accounts* (PBOC Decree [2003] No. 5) and other provisions on the administration of bank settlement accounts, apply to domestic banks to open a special RMB deposit account, and, with the consent of the PBOC, may use such account exclusively for the deposit of the proceeds of bond issues paid in from overseas. The interest on such accounts shall be paid in accordance with the benchmark deposit rate

published by the PBOC. The account funds shall be used strictly within the range stated in the bond prospectus, and shall not be diverted to other purposes.

- (2) Where RMB bonds issued overseas involve RMB payments and/or the repayment of principal and interest, domestic banks shall report the relevant information on the receipt and payment of cross-border RMB to the Cross-border RMB Receipt and Payment Information Management System, accurately and without delay. Where domestic non-financial institutions are offering cross-border RMB guarantee services, information on such cross-border RMB guarantees shall also be reported.
5. Domestic non-financial institutions may, pursuant to the *Property Law of the People's Republic of China*, the *Guarantee Law of the People's Republic of China* and other relevant laws and regulations, provide cross-border RMB guarantees. Upon the performance of overseas guarantee obligations using RMB by domestic non-financial institutions, domestic banks may execute the necessary RMB settlement procedures having verified the authenticity of the underlying transactions, and shall report the relevant information to the Cross-border RMB Receipt and Payment Information Management System. Domestic non-financial institutions may use RMB funds retained overseas to make direct payment for the performance of guarantee obligations.
6. Where domestic agent banks are extending the lending limit of the RMB accounts of overseas participating banks by up to one year, the loan-to-value ratio shall not exceed 3 percent of the year-end balance of RMB deposits held by such domestic agent bank in the preceding financial year.
7. The correspondent RMB accounts opened by overseas participating banks with domestic agent banks, may be used for fund transfers between RMB accounts opened by overseas participating banks with overseas RMB clearing banks as required for settlement. Overseas RMB clearing banks may transfer funds between RMB clearing accounts opened in China as required for settlement.
8. All PBOC branches are to make full use of the Cross-border RMB Receipt and Payment Information Management System, perform effective information monitoring and analysis, carry out periodic off-site inspections of the legal compliance of bank and enterprise cross-border RMB operations, and carry out on-site inspections upon actual demand, so as to effectively prevent risk. Where banks are found to be in violation of the relevant rules and regulations, such banks shall be required to rectify such violation within a prescribed deadline.
9. This Circular shall become effective on the date of promulgation. Where there is any inconsistency between the provisions of this Circular and the relevant rules and regulations, this Circular shall prevail. PBOC

branches that are PBOC central branches at the quasi-provincial capital level and above shall disseminate this Circular to the PBOC branches, foreign-invested banks and regional corporate financial institutions under their respective administration.

Any problems encountered during the execution of this Circular are to be reported to the second monetary policy department of the PBOC without delay.

People's Bank of China

July 5, 2013

(中国語原文)

中国人民银行
银发〔2013〕168号
关于简化跨境人民币业务流程和完善有关政策的通知

中国人民银行上海总部，各分行、营业管理部，省会（首府）城市中心支行、副省级城市中心支行，国家开发银行、各政策性银行、国有商业银行、股份制商业银行，中国邮政储蓄银行：

为进一步提高跨境人民币结算效率，便利银行业金融机构（以下简称银行）和企业使用人民币进行跨境结算，现就简化跨境人民币业务流程和完善有关政策等事项通知如下：

一、关于经常项下跨境人民币结算业务

- （一）** 境内银行可在“了解你的客户”、“了解你的业务”、“尽职审查”三原则的基础上，凭企业（出口货物贸易人民币结算企业重点监管名单内的企业除外）提交的业务凭证或《跨境人民币结算收/付款说明》，直接办理跨境结算。
- （二）** 企业经常项下人民币结算资金需要自动入账的，境内银行可先为其办理入账，再进行相关贸易真实性审核。
- （三）** 鼓励境内银行开展跨境人民币贸易融资业务。境内银行可开展跨境人民币贸易融资资产跨境转让业务。
- （四）** 出口货物贸易人民币结算企业重点监管名单内的企业办理经常项下跨境人民币结算业务时，境内银行应按《中国人民银行办公厅 财政部办公厅 商务部办公厅 海关总署办公厅 国家税务总局办公厅 银监会办公厅关于出口货物贸易人民币结算企业重点监管名单的函》（银办函〔2012〕381号）确定的原则，严格进行业务真实性审核。人民银行各分支机构可将在本地区注册的出口货物贸易人民币结算企业重点监管名单发送给辖区内银行内部使用。

二、关于银行卡人民币账户跨境清算业务

- （一）** 银行卡人民币账户内交易的跨行跨境清算业务，应由在境内设立的具有人民币业务资格的银行卡清算机构（以下简称境内银行卡清算机构），通过境外人民币业务清算行或境内代理银行渠道办理。
- （二）** 在境外使用境内银行发行的银行卡的人民币账户消费或提取现钞后，境内发卡银行应以人民币与境内银行卡清算机构清算，境内银行卡清算机构以人民币或外币与境外收单机构清算。

- (三) 在境内使用境外银行发行的银行卡的人民币账户消费或提取人民币现钞后，境内收单机构应以人民币与境内银行卡清算机构清算，境内银行卡清算机构应以人民币与境外发卡银行清算。
- (四) 银行卡人民币账户跨行跨境清算业务涉及的人民币跨境收付信息，由境内银行卡清算机构通过其境内结算银行统一向人民币跨境收付信息管理系统报送。
- (五) 银行卡人民币跨境清算业务按上述规定办理，中国人民银行公告〔2003〕第16号第六条、中国人民银行公告〔2004〕第8号第六条、《中国人民银行关于内地银行与香港和澳门银行办理个人人民币业务有关问题的通知》（银发〔2004〕254号）第三、四、十七条关于个人人民币银行卡清算事宜的相关规定不再执行。

三、关于境内非金融机构人民币境外放款业务

- (一) 境内非金融机构可向境内银行申请办理人民币境外放款结算业务。具有股权关系或同由一家母公司最终控股，且由一家成员机构行使地区总部或投资管理职能的境内非金融机构，可使用人民币资金池模式向境内银行申请开展人民币资金池境外放款结算业务。
- (二) 境内银行应在认真审核境内非金融机构提交的人民币境外放款业务申请材料后，为其办理跨境人民币结算业务。
- (三) 开展人民币境外放款业务的境内非金融机构应按照《人民币银行结算账户管理办法》（中国人民银行令〔2003〕第5号发布）等银行结算账户管理规定，向境内银行申请开立人民币专用存款账户，专门用于人民币境外放款。
- (四) 境内非金融机构向境外放款的利率、期限和用途由借贷双方按照商业原则，在合理范围内协商确定。
- (五) 人民币境外放款必须经由放款的人民币专用存款账户以人民币收回，且回流金额不得超过放款金额及利息、境内所得税、相关费用等合理收入之和。
- (六) 银行应认真履行信息报送职责，及时准确地向人民币跨境收付信息管理系统报送人民币跨境收付信息、跨境信贷融资业务等相关信息。若涉及人民币跨境担保业务，还需报送人民币跨境担保信息。

四、关于境内非金融机构境外发行人民币债券

- (一) 境内非金融机构可按《人民币银行结算账户管理办法》(中国人民银行令〔2003〕第5号发布)等银行结算账户管理规定,向境内银行申请开立人民币专用存款账户,专门用于存放经人民银行同意从境外汇入的发债募集资金。该账户的存款利率按人民银行公布的活期存款利率执行,资金应当严格按照在债券募集说明书约定的使用范围内使用,不得挪作他用。
- (二) 境外发行人民币债券涉及人民币汇入或还本付息的,境内银行应及时准确地向人民币跨境收付信息管理系统报送人民币跨境收付信息。若涉及人民币跨境担保业务,还需报送人民币跨境担保信息。

五、境内非金融机构可以按照《中华人民共和国物权法》、《中华人民共和国担保法》等法律规定,对外提供人民币担保。境内非金融机构对外担保使用人民币履约时,境内银行进行真实性审核后,为其办理人民币结算,并向人民币跨境收付信息管理系统报送相关信息。履约款项也可由境内非金融机构使用其境外留存的人民币资金直接支付。

六、境内代理银行对境外参加银行的人民币账户融资期限延长至一年,账户融资比例不得超过该境内代理银行人民币各项存款上年末余额的3%。

七、境外参加银行在境内代理银行开立的人民币同业往来账户与境外参加银行在境外人民币业务清算行开立的人民币账户之间,因结算需要可进行资金汇划。各境外人民币业务清算行在境内开立的人民币清算账户之间,因结算需要可进行资金汇划。

八、人民银行各分支机构要充分利用人民币跨境收付信息管理系统,做好信息监测分析,定期对银行和企业跨境人民币业务开展情况依法进行非现场检查监督,并根据实际需要进行现场检查,防范风险。发现银行违反有关规定的,应要求银行限期整改。

九、本通知自发布之日起施行。与本通知不一致的有关规定,以本通知为准。请人民银行副省级城市中心支行以上分支机构将本通知转发至辖区内人民银行各分支机构、外资银行和地方法人金融机构。

执行中如遇问题,请及时报告人民银行货币政策二司。

中国人民银行
2013年7月5日