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Mizuho Bank (China), Ltd.

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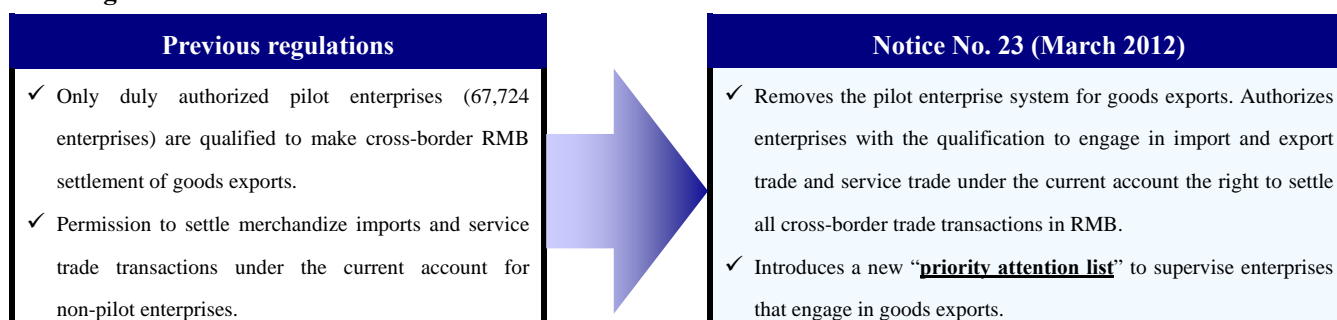
Measures to Ease the Restrictions on Cross-border RMB Settlement of Goods Exports

-Moves to remove the pilot enterprise system for goods exports-

The *Notice of the People's Bank of China on Certain Issues Concerning the Administration over the Enterprises Engaging in RMB Settlement of Goods Exports* (Yinfa [2012] No. 23; hereinafter referred to as "Notice No. 23") was recently issued by the People's Bank of China (PBC) in conjunction with the Ministry of Finance, Ministry of Commerce, General Administration of Customs, State Administration of Taxation, and China Banking Regulatory Commission. Previously, goods exports were limited to pilot enterprises that had been duly authorized by the relevant authorities. However, Notice No. 23 stipulates that enterprises with the qualification to engage in import and export business may carry out RMB settlement of goods exports. The notice **removes** the existing **pilot enterprise system for goods exports** and introduces sweeping changes to the relevant regulations. These measures give enterprises with the qualification to engage in import and export trade and service trade under the current account the right to settle all cross-border trade transactions in RMB.

However, Notice No. 23 also introduces a new "**priority attention list**" to supervise enterprises that engage in goods exports, imposing certain restrictions on enterprises deemed to be high risk, including more rigorous bank screening of settlement procedures. Due caution is also necessary since enterprises not covered by the earlier pilot program are only qualified to engage in RMB settlement of goods exports following the official release of the aforementioned "priority attention list."

Fig. 1: Measures to ease the restrictions on cross-border RMB settlement introduced with Notice No. 23



In July 2009, the Chinese government introduced a pilot program of cross-border RMB settlement covering Shanghai and four cities in the province of Guangdong (namely, Shenzhen, Guangzhou, Dongguan and Zhuhai). Initially, only selected pilot enterprises (365 enterprises) that had been duly authorized by the relevant authorities in the aforementioned five cities were qualified to engage in cross-border RMB settlement of trade transactions. Moreover, the pilot limited cross-border RMB settlement to trade with Hong Kong, Macau and the ASEAN countries, and was available only for the settlement of items classified as trade in goods by qualified pilot enterprises. However, these restrictions were gradually eased over the course of the next few years. In June 2010, the list of domestic pilot regions was expanded to include twenty provinces, centrally-administered municipalities and autonomous regions, and extended cross-border RMB settlement to trade transactions worldwide. Added to which, enterprises that engage in international trade in domestic pilot regions were permitted to settle current account transactions other than goods exports in RMB. In December that year, an additional 67,359 enterprises were added to the list of pilot enterprises for RMB settlement of goods exports. In August 2011, the government announced a series of measures aimed at easing the restrictions on cross-border RMB trade settlement, including the extension of domestic pilot regions to cover all provinces and centrally-administered municipalities in Mainland China.

Fig. 2: Major regulatory developments on cross-border RMB settlement

April 2009	<ul style="list-style-type: none"> ✓ The Standing Committee of the State Council resolves to introduce cross-border RMB trade settlement on a trial basis in five designated cities: Shanghai, Guangzhou, Shenzhen, Zhuhai and Dongguan. ✓ Offshore pilot regions are designated as Hong Kong, Macau and the ASEAN countries.
June 2009	<ul style="list-style-type: none"> ✓ The PBC and Hong Kong Monetary Authority (HKMA) sign a memorandum of understanding on cross-border RMB trade settlement.
July 2009	<ul style="list-style-type: none"> ✓ The PBC and other regulatory authorities issue and implement the “Administrative Rules” and “Regulations for Implementing the Administrative Rules” on Pilot Program of Renminbi Settlement of Cross-border Trade Transactions. Cross-border RMB trade settlement between Mainland China and Hong Kong officially commences on July 6.
December 2009 to May 2010	<ul style="list-style-type: none"> ✓ Authorization to make cross-border RMB settlement extended to transactions other than trade. ✓ Enterprises not covered by the pilot program are authorized to make cross-border RMB settlement of import trade and non-trade transactions. ✓ Foreign enterprises are permitted to open non-resident RMB bank accounts. ✓ The ban on cross-border RMB settlement for outward direct investment, overseas lending and other designated capital account transactions is lifted on a trial basis.
June 2010	<ul style="list-style-type: none"> ✓ All restrictions on offshore coverage of the pilot cross-border RMB trade settlement program are formally removed. ✓ Eighteen provinces, centrally-administered municipalities, and autonomous regions are formally added to the list of domestic pilot regions. (Beijing, Tianjin, Inner Mongolia Autonomous Region, Liaoning, Jilin, Heilongjiang, Jiangsu, Zhejiang, Fujian, Shandong, Hubei, Guangxi Zhuang Autonomous Region, Hainan, Chongqing, Sichuan, Yunnan, Tibet Autonomous Region, Xinjiang Uyghur Autonomous Region)
August 2010	<ul style="list-style-type: none"> ✓ The ban on RMB bond investment by overseas clearing banks is lifted subject to certain conditions.
December 2010	<ul style="list-style-type: none"> ✓ The PBC and other regulatory authorities issue a second list of pilot enterprises (including a total

	67,359 enterprises).
January 2011	✓ The PBC formally removes the ban on outward direct investment in RMB by domestic enterprises.
June 2011	✓ The PBC issues Notice No. 145, addressing the regulation of capital account transactions, such as RMB-denominated direct investment, on a trial basis.
August 2011	✓ Restrictions on coverage of the pilot cross-border RMB trade settlement program within Mainland China are formally removed.
October 2011	✓ The Ministry of Commerce and the PBC jointly issue regulations on RMB-denominated direct investment, marking the official launch of direct investment in RMB.
March 2012	✓ The pilot enterprise system for goods exports is removed. Enterprises with the qualification to engage in import and export business may carry out RMB settlement of goods exports now.

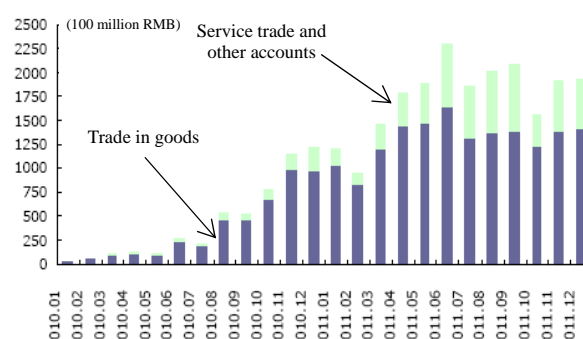
Source: Compiled by the Advisory Division based on regulations issued by the PBC and Ministry of Commerce, etc.

According to data released by the PBC, cross-border RMB trade settlements for the calendar year 2011 increased 3.1-fold over the previous year to 2.08 trillion RMB, whilst the proportion of RMB-denominated trade settlement rose by 4.4 percentage points to 6.6 percent, which suggests that China is making steady progress toward its goal of promoting the use of RMB in cross-border trade settlement.

Notice No. 23 stipulates that enterprises with the qualification to engage in import and export business may carry out RMB settlement of goods exports, and effectively removes the pilot enterprise administration system that had previously presented a major hurdle to exporters. In giving enterprises with the qualification to engage in import and export trade and service trade under the current account the right to settle all cross-border trade transactions in RMB, the recent measure is intended to introduce sweeping changes to existing regulations on cross-border RMB trade settlement.

Furthermore, the provisions on RMB settlement of goods exports differ from those applying to settlements made using a foreign currency by making them exempt from “foreign exchange verification administration” (外汇核销管理). In addition, at the time of refunding export taxes, by removing the requirement to submit a “certificate of verification and writing-off of foreign exchange payments collected for exports” (出口收汇核销单), the procedure is simplified to a certain degree¹.

Fig. 3: Trends in cross-border RMB settlements



Source: PBC

¹ Note, however, that reforms were made to the foreign exchange administration of trade in goods in December 2011 in the provinces of Jiangsu, Shandong, Hubei, Zhejiang (with the exclusion of Ningbo), and Fujian (with the exclusion of Xiamen), and the cities of Dalian and Qingdao, whereby the requirement to complete verification formalities with the foreign exchange administration authorities following receipt of foreign exchange for exports is removed in pilot regions.

Administrative Rules on Pilot Program of Renminbi Settlement of Cross-border Trade Transactions

Article 18

Cross-border trade transactions settled in renminbi by pilot enterprises are not included in the administration of foreign exchange verification, and a foreign exchange verification form is not required for customs declaration and the claiming of export tax rebates (exemption). A domestic settlement bank and an agent bank shall, as required by taxation authorities, provide relevant data and documents on the renminbi settlement service of cross-border trade transactions for a pilot enterprise in accordance with laws and regulations.

Notice of the State Administration of Taxation on Relevant Matters with Regard to the Tax Refunds (Exemptions) for Export Goods Settled in RMB in Cross-Border Trade (Guoshuihan [2009] No. 470)

1. To claim for a tax refund (exemption) for export goods settled in cross-border RMB trade, a pilot enterprise is not required to provide a certificate of verification and writing-off of foreign exchange payments collected for exports, but it shall make a separate claim to the competent tax authority; if it applies for tax refunds in respect of other goods exports at the same time, it shall mark the customs declaration form for export goods settled in RMB in cross-border trade accordingly.

In addition, under existing regulation, where foreign exchange is used in an export goods settlement, the foreign exchange received must first be deposited into a so-called “to-be-checked account” before it may be converted into renminbi and transferred out of the account. However, if the settlement is made in renminbi, the funds thus received may be deposited directly into the exporter’s renminbi bank account without passing through a “to-be-checked account,” which is more expedient for businesses.

The measures to ease the restrictions introduced by Notice No. 23 along with the merits cited above are expected to increase the volume of RMB-denominated export settlements and to increase the use of the renminbi in international trade.

However, as Europe’s sovereign debt crisis and other factors increase the level of uncertainty over the prospects for the global economy, the Chinese government continues to keep a sharp eye on cross-border fund flows and its cautious stance is unlikely to change. Accordingly, businesses will need to keep a close eye on emerging trends in monetary authority policy when formulating strategy for China.

The salient points of Notice No. 23 are outlined below for reference.

❑ Removal of the pilot enterprise administration system for RMB-denominated export goods trade

Article 1 of Notice No. 23 explicitly stipulates that enterprises with the qualification to engage in import and export business may carry out RMB settlement of goods exports. This effectively removes the pilot enterprise administration system that had previously presented a major hurdle to exporters.

Notice No. 23

1. Enterprises with the qualification to engage in import and export business in all the provinces (autonomous regions/centrally-administered municipalities) and cities with independent planning status may carry out RMB settlement of goods exports pursuant to the **Administrative Rules on Pilot Program of Renminbi Settlement of Cross-border Trade Transactions** and these Notices.

❑ Introduction of a new “priority attention list” for RMB settlement of goods exports

Article 2 of Notice No. 23 provides for the introduction of a new “priority attention list” for the enterprises that engage in RMB settlement of goods exports. It requires regional branches of the People’s government and other departments concerned to select enterprises to be included in the priority attention list based on the following criteria.

Criteria for inclusion in the “Priority attention list”

- ✓ Enterprises that have committed such acts as export tax rebate fraud, tax evasion, falsifying VAT invoice or receiving a falsified VAT invoice in the previous two years;
- ✓ Enterprises that have 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;
- ✓ Enterprises that have engaged in smuggling and committed other serious violations of custom regulations in the previous two years;
- ✓ Enterprises that have committed relatively serious violations of the rules for financial regulation in the previous two years;
- ✓ Enterprises that have committed relatively serious violations of the laws and regulations on foreign trade in the previous two years; and
- ✓ Enterprises that have committed other relatively serious violations of laws in the previous two years.

Attention is necessary, however, since an enterprise that is selected for inclusion in the “priority attention list” will be subject to certain restrictions, including tougher screening by the bank that processes its settlement transactions, and shall not be permitted to deposit the RMB funds acquired from RMB settlement of cross-border trade abroad (Notice No. 23, Article 4).

❑ Measures to ease the restrictions do not apply until the “priority attention list” has been published

Whilst Article 1 of Notice No. 23 removes the existing pilot enterprise administration system and stipulates that enterprises with the qualification to engage in import and export business may carry out RMB settlement of goods exports, Article 6 stipulates that such transactions may not be carried out **until the aforementioned “priority attention list” is formerly released**. Moreover, due caution is necessary since, **existing regulations apply until such time as the “priority attention list” is released, i.e. only enterprises on the**

pilot enterprise list are qualified to make RMB settlement of goods exports.

Notice No. 23

6. The people's governments of provinces (autonomous regions/centrally-administered municipalities) and cities with independent planning status shall submit the list of priority attention enterprises that engage in RMB settlement of goods exports to the Six Ministries and Commissions within one month of the date of promulgation of these Notices. **Upon joint examination, approval and release of the list by the Six Ministries and Commissions, and where a province (autonomous region/centrally-administered municipality) or a city with independent planning status has submitted the list, all enterprises therein with the qualification to engage in import and export business may carry out RMB settlement of goods exports pursuant to the [Administrative Rules on Pilot Program of Renminbi Settlement of Cross-border Trade Transactions](#) and these Notices. Prior to the release of the list, enterprises that have formerly been listed under the pilot program in relevant provinces (autonomous regions/centrally-administered municipalities) and cities with independent planning status may carry on their RMB settlement of goods exports.**

A provisional translation of Notice No. 23 together with the original Chinese document is presented below for further reference. Businesses are advised to check with the Chinese authorities regarding the relevant procedures. Any additional information will be reported as soon as it becomes available.

(Provisional translation)

The People's Bank of China, Ministry of Finance, Ministry of Commerce, General Administration of Customs, State Administration of Taxation, and China Banking Regulatory Commission

Yinfa [2012] No. 23

Notice on Certain Issues Concerning the Administration over the Enterprises Engaging in RMB Settlement of Goods Exports

The Shanghai Head Office of the People's Bank of China; all the branches, business management departments, and central sub-branches of the People's Bank of China in provincial capital cities (capital cities of autonomous regions) and sub-provincial cities; the financial department, commerce authorities, municipal office of the State Administration of Taxation, and banking supervision department in the provinces (centrally-administered municipalities/autonomous regions) and cities with independent planning status; Guangdong Branch, Tianjin Special Office, Shanghai Special Office, and subordinate customs of the General Administration of Customs; China Development Bank, policy banks, state-owned commercial banks and joint-stock commercial banks; and the Postal Savings Bank of China:

To further facilitate investment and trade and to improve regulatory pertinence and effectiveness, pursuant to the **Administrative Rules on Pilot Program of Renminbi Settlement of Cross-border Trade Transactions** (Announcement by the PBC, Ministry of Finance, Ministry of Commerce, General Administration of Customs, State Administration of Taxation, and China Banking Regulatory Commission [2009] No.10), these notices are hereby made in respect of the issues concerning the administration over the enterprises engaging in RMB settlement of goods exports:

1. Enterprises with the qualification to engage in import and export business in all the provinces (autonomous regions/centrally-administered municipalities) and cities with independent planning status may carry out RMB settlement of goods exports pursuant to the **Administrative Rules on Pilot Program of Renminbi Settlement of Cross-border Trade Transactions** and these Notices.
2. The PBC shall, in conjunction with the Ministry of Finance, Ministry of Commerce, General Administration of Customs, State Administration of Taxation, and China Banking Regulatory Commission (hereinafter referred to the "Six Ministries and Commissions"), supervise the enterprises that engage in RMB settlement of goods exports based on a priority attention list. The people's governments of provinces (autonomous regions/centrally-administered municipalities) and cities with independent planning status shall coordinate amongst the local departments concerned to select enterprises to be included in the priority attention list that engage in RMB settlement of goods exports based on the following criteria, and submit the list of enterprises

to the Six Ministries and Commissions for examination and approval. The Six Ministries and Commissions shall, on the basis of the list of enterprises submitted by the provinces (autonomous regions/centrally-administered municipalities) and cities with independent planning status, and in light of the needs of the departments concerned to perform their respective duties, determine the list of enterprises subject to focused supervision.

- (1) 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;
 - (2) 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;
 - (3) Having engaged in smuggling and committed other serious violations of custom regulations in the previous two years;
 - (4) Having committed relatively serious violations of the rules for financial regulation in the previous two years;
 - (5) Having committed relatively serious violations of the laws and regulations on foreign trade in the previous two years; and
 - (6) Having committed other relatively serious violations of laws in the previous two years.
3. The Six Ministries and Commissions shall, in order to perform their respective duties, strengthen supervision over enterprises and banks carrying out RMB settlement of goods exports, and fully share the list of priority attention enterprises subject to focused supervision and other relevant information so as to pool regulatory efforts for effective risk control.
 4. The PBC shall include the list of priority attention enterprises that engage in goods exports in the RMB Cross-border Receipt and Payment Information Management System. In the process of handling cross-border RMB businesses for these enterprises, banking institutions shall strengthen their examination and verification with the help of the RMB Cross-border Receipt and Payment Information Management System for effective risk control, and shall properly archive the relevant documents and materials for future reference after handling such business. The RMB funds acquired by enterprises on the priority attention list from RMB settlement of cross-border trade shall not be deposited abroad.
 5. The Six Ministries and Commissions shall undertake dynamic management of the list of priority attention enterprises that engage in RMB settlement of goods exports. The people's governments of provinces (autonomous regions/centrally-administered municipalities) and cities with independent planning status shall update the list of priority attention enterprises that engage in RMB settlement every year. The adjusted list of priority attention enterprises shall be submitted to the Six Ministries and Commissions for examination and approval by the end of January each year, which shall, pursuant to the criteria specified in paragraph 2 of these Notices, make adjustment to the list of priority attention enterprises within 60 days.
 6. The people's governments of provinces (autonomous regions/centrally-administered municipalities) and cities with independent planning status shall submit the list of priority attention enterprises that engage in RMB settlement of goods exports to the Six Ministries and Commissions within one month of the date of

promulgation of these Notices. Upon joint examination, approval and release of the list by the Six Ministries and Commissions, and where a province (autonomous region/centrally-administered municipality) or a city with independent planning status has submitted the list, all enterprises therein with the qualification to engage in import and export business may carry out RMB settlement of goods exports pursuant to the **Administrative Rules on Pilot Program of Renminbi Settlement of Cross-border Trade Transactions** and these Notices. Prior to the release of the list, enterprises that have formerly been listed under the pilot program in relevant provinces (autonomous regions/centrally-administered municipalities) and cities with independent planning status may carry on their RMB settlement of goods exports.

7. The Shanghai Head Office, all branches and operation offices of the PBC, as well as PBC central sub-branches at the provincial capital and quasi-provincial capital levels shall disseminate these Notices to the banking institutions under their respective jurisdiction.

February 3, 2012

[Commentary and provisional translation: Naoaki Sato; Advisory Division, Mizuho Bank (China), Ltd.]

中国人民银行 财政部 商务部 海关总署 国家税务总局 中国银行业监督管理委员会

银发[2012]23 号

《关于出口货物贸易人民币结算企业管理有关问题的通知》

中国人民银行上海总部，各分行、营业管理部，各省会(首府)城市中心支行，副省级城市中心支行；各省(市、自治区)、计划单列市财政厅、商务主管部门、国家税务局、银监局；海关总署广东分署、天津、上海特派办、各直属海关；国家开发银行、各政策性银行，各国有商业银行、股份制商业银行，中国邮政储蓄银行：

为进一步促进贸易、投资便利化，提高监管针对性、有效性，根据《跨境贸易人民币结算试点管理办法》(中国人民银行 财政部 商务部 海关总署 税务总局 中国银行业监督管理委员会公告[2009]第 10 号)，现就出口货物贸易人民币结算企业管理有关问题通知如下：

- 一、 各省(自治区、直辖市)、计划单列市具有进出口经营资格的企业可依法按照《跨境贸易人民币结算试点管理办法》和本通知开展出口货物贸易人民币结算。
- 二、 中国人民银行会同财政部、商务部、海关总署、税务总局、中国银行业监督管理委员会(以下简称六部委)对出口货物贸易人民币结算企业实行重点监管名单管理。

请各省(自治区、直辖市)、计划单列市人民政府协调当地有关部门根据以下标准选择需要重点监管的出口货物贸易人民币结算企业，报六部委审核。六部委在各省(自治区、直辖市)、计划单列市所报送的企业名单基础上，依据各部门履行职责的需要，确定重点监管企业名单。

- (一) 近二年内骗取出口退税、偷税、虚开或接受虚开增值税专用发票的；
- (二) 近二年因涉嫌偷税、涉嫌骗取出口退税、涉嫌虚开或涉嫌接受虚开增值税专用发票被税务机关及公安等部门立案查处的；
- (三) 近二年有走私等严重违反海关监管的行为；
- (四) 近二年有比较严重违反金融管理规定的行为；
- (五) 近二年有比较严重违反国家对外贸易法律法规的行为；
- (六) 近二年有其他比较严重的违法行为。

- 三、 六部委根据各自履行职责的需要，依法对企业和银行开展出口货物贸易人民币结算业务加强管理，充分共享包括重点监管名单等有关信息，形成监管合力，有效防范风险。

- 四. 中国人民银行将需要重点监管的出口货物贸易人民币结算企业名单录入人民币跨境收付信息管理系统。银行业金融机构在为这些企业办理各项跨境人民币业务过程中,应借助人民币跨境收付信息管理系统加强审核,切实防范风险;业务办理完毕后,应妥善保存相关文件资料备查。列入重点监管名单的企业开展跨境贸易人民币结算业务所获得的人民币资金不允许存放境外。
- 五. 六部委对需要重点监管的出口货物贸易人民币结算企业实行动态管理。各省(自治区、直辖市)、计划单列市人民政府每年更新需要重点监管的出口货物贸易人民币结算企业名单,将调整的重点监管名单于每年一月底前报六部委审核。六部委根据本通知第二条的标准在 60 天内对需要重点监管的企业名单进行调整。
- 六. 请各省(自治区、直辖市)、计划单列市人民政府在本通知下发之日起 1 个月内向六部委报送需要重点监管的出口货物贸易人民币结算企业名单。经六部委联合审核并下发名单后,已报送名单的省(自治区、直辖市)、计划单列市具有进出口经营资格的企业均可依法按照《跨境贸易人民币结算试点管理办法》和本通知开展出口货物贸易人民币结算。在名单下发前,相关省(自治区、直辖市)、计划单列市原列入试点企业名单的企业可继续开展出口货物贸易人民币结算业务。
- 七. 请中国人民银行上海总部,各分行、营业管理部,各省会(首府)城市中心支行,各副省级城市中心支行将本通知转发至辖区内银行业金融机构。

二〇一二年二月三日

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