

MAS NOTICE 1116

9 July 2013

Last revised on 1 August 2014

(Refer to endnotes for history of amendments)

NOTICE TO MERCHANT BANKS
MAS ACT, CAP 186

FOREIGN EXCHANGE CONVERSION IN CHINA VIA THE RENMINBI CLEARING BANK FOR THE SETTLEMENT OF ELIGIBLE CROSS-BORDER TRADE

Introduction

1 This Notice is issued pursuant to section 28(3) of the MAS Act (Cap. 186) [“the Act”] and applies to all merchant banks approved under section 28 of the Act, which are participating merchant banks.

2 A participating merchant bank shall comply with the requirements set out in this Notice when conducting foreign exchange conversion in China via the Renminbi Clearing Bank for the settlement of eligible cross-border trade.

Definitions

3 In this Notice –

“Authority” means the Monetary Authority of Singapore established under section 3 of the Act.

“chief executive”, in relation to a participating merchant bank, means any person, by whatever name described, who –

- (a) is in direct employment of, or acting for or by arrangement with, the participating merchant bank; and
- (b) is principally responsible for the management and conduct of the business of the participating merchant bank.

“China” means mainland China;

[MAS Notice 1116 (Amendment) 2013]

“eligible cross-border trade” means a transaction for the sale or purchase of goods where –

- (a) the transaction is made with a trading partner located in China; or
- (b) the goods are delivered to or from China.

[MAS Notice 1116 (Amendment) 2013]

“financial year” has the same meaning as in section 4(1) of the Companies Act (Cap.50).

“foreign exchange conversion” refers to the exchange of Renminbi for other currencies and vice versa.

“participating merchant bank” means any merchant bank which has entered into an agreement with a Renminbi Clearing Bank for the provision of Renminbi clearing and settlement services.

“People’s Bank of China” refers to the central bank of the People’s Republic of China.

“Renminbi” means the official currency of the People’s Republic of China.

“Renminbi Clearing Bank” refers to a bank in Singapore which the People’s Bank of China has appointed as a clearing bank for Renminbi in Singapore.

Eligible Cross-Border Trade

4.1 A participating merchant bank shall not conduct foreign exchange conversion in China via a Renminbi Clearing Bank, other than for any payment to settle an eligible cross-border trade in accordance with paragraph 5.2 and the payment for insurance and freight charges, if any, for an eligible cross-border trade.

4.2 A participating merchant bank may only conduct foreign exchange conversion in China via a Renminbi Clearing Bank for any payment to settle an eligible cross-border trade –

- (a) in the case of a purchase of goods, not more than three (3) months before the payment is due by the participating merchant bank; and
- (b) in the case of a sale of goods, not more than three (3) months after payment of the goods is due to be received by the participating merchant bank.

Verification of Eligible Cross-Border Trade and Retention of Records

5.1 A participating merchant bank shall develop and implement appropriate internal policies, procedures and controls to verify that a foreign exchange conversion which it conducts satisfy the requirements set out in paragraph 4.

5.2 A participating merchant bank shall ensure that the policies, procedures and controls referred to in paragraph 5.1 shall include verification of an eligible cross-border trade by reviewing the following documents, where applicable –

- (a) customs declarations;
- (b) relevant export or import documents, such as the bill of lading, warehouse receipts and delivery orders;
- (c) financial documents, such as letters of credit and guarantees;
- (d) commercial documents, such as sales contract and trade invoice; and
- (e) documents evidencing insurance and freight charges for the eligible cross-border trade.

5.3 A participating merchant bank shall complete the verification of the eligible cross-border trade prior to conducting foreign exchange conversion in China via the Renminbi Clearing Bank for the purpose of the settlement of that trade, except where the payment to settle the eligible cross-border trade is made before the delivery of goods to or from China.

5.4 In the case where the payment to settle an eligible cross-border trade is made before the delivery of goods to or from China, a participating merchant bank shall complete the verification of the eligible cross-border trade as soon as practicable after the delivery of the goods.

5.5 Notwithstanding paragraphs 5.2 to 5.4, a participating merchant bank does not need to conduct verification in the manner set out in paragraph 5.2 where the participating merchant bank is of the reasonable view that the requirements in paragraph 4 will be satisfied, after reviewing, including but not limited to the following –

- (a) the profile and where applicable, the business model, of a customer¹;
- (b) the track record of the eligible cross-border trades made by the customer²; and
- (c) the business relationship of the participating merchant bank with the customer³.

5.6 A participating merchant bank shall prepare, maintain and retain for a period of five (5) years from the date of verification or review, as the case may be, documentation in respect of –

¹ E.g. for listed companies, the customer has been listed on a major stock exchange for a reasonable period; for other companies, the customer's business model is reasonably commensurate with the eligible cross-border trades conducted.

² E.g. the customer has conducted eligible cross-border trades with China for a reasonable period.

³ E.g. the participating merchant bank has an established business relationship with the customer and has no reason to doubt or be concerned about the veracity of the eligible cross border trades.

- (a) the verification of eligible cross-border trade pursuant to paragraphs 5.2 to 5.4; or
- (b) the review of a customer pursuant to paragraph 5.5.

Reporting

6.1 *[Deleted by MAS Notice 1116 (Amendment) 2014]*

6.2 A participating merchant bank which conducts foreign exchange conversion in China via a Renminbi Clearing Bank during its financial year shall –

- (a) cause its internal auditor at the end of the financial year to carry out an audit of the internal policies, procedures and controls in respect of the verification of eligible cross-border trade during that financial year;
- (b) submit to the Authority a report by the internal auditor, not later than three (3) months from the end of that financial year, containing the following:
 - (i) a statement by the internal auditor on whether the participating merchant bank has complied with the requirements set out in this Notice; and
 - (ii) findings and recommendations, if any, by the internal auditor on the participating merchant bank's internal policies, procedures, controls and any other areas of weaknesses to ensure compliance with the requirements in this Notice; and
- (c) ensure that a copy of the report prepared by the internal auditor is presented to the chief executive of the participating merchant bank as soon as practicable.

6.3 A participating merchant bank which did not conduct foreign exchange conversion in China via a Renminbi Clearing Bank during its financial year shall –

- (a) cause its internal auditor at the end of the financial year to verify that the participating merchant bank did not conduct foreign exchange conversion in China via a Renminbi Clearing Bank during that financial year; and
- (b) submit to the Authority a statement by the internal auditor, not later than three (3) months from the end of that financial year, as to whether the participating merchant bank conducted any foreign exchange conversion in China via a Renminbi Clearing Bank during that financial year.

7 This Notice shall take effect on 9 July 2013.

Endnotes on History of Amendments

1. MAS Notice 1116 (Amendment) 2013 dated 22 October 2013.
2. MAS Notice 1116 (Amendment) 2014 dated 1 August 2014.

Annex 1

[Deleted by MAS Notice 1116 (Amendment) 2014]