

Yinfa No. 329 [2021], Notice of the People's Bank of China and the State Administration of Foreign Exchange on Issues Concerning Supporting New Forms of Offshore International Trade

To the People's Bank of China ("PBC") Shanghai Head Office, branches, operation management offices, and central sub-branches in capital cities of provinces (autonomous regions) and sub-provincial cities; the branches and administrative offices of the State Administration of Foreign Exchange ("SAFE") in all provinces, autonomous regions, and municipalities directly under the Central Government and the SAFE branches in Shenzhen, Dalian, Qingdao, Xiamen, and Ningbo; China Development Bank, all policy banks, state-owned commercial banks, Postal Savings Bank of China, and joint-stock commercial banks:

This Notice is hereby issued in accordance with the *Law of the People's Republic of China on the People's Bank of China* and the *Regulations on Foreign Exchange System of the People's Republic of China* to further liberalize and facilitate foreign trade and promote the healthy, sustainable innovation and development of new forms and models of foreign trade. The specifics are given below.

- I. Banks are encouraged to optimize financial services to make it easier for honest and law-abiding enterprises to settle cross-border payments arising from new forms of bona fide and compliant offshore international trade.

In this Notice, "new forms of offshore international trade" refers to trade between residents and non-residents of China in which goods do not enter or exit China's (first-line) customs borders or are excluded from the customs statistics, including but not limited to offshore resale, global sourcing, overseas contract manufacturing, and overseas procurement for construction contracts.

- II. Banks are to establish business rules, strengthen internal management, implement customers classification, and improve their services in view of the characteristics of the new forms of offshore international trade. Specifically, banks should:
 1. improve their internal control systems for the new forms of offshore international trade, including enhancing customer due diligence, optimizing transaction review, implementing post-transaction monitoring and management, and strengthening internal oversight;
 2. accurately establish the identity of the customers engaging in new forms of offshore international trade and their business models; internally and regularly assess and classify the risk of each customer based on its creditworthiness, compliance, and risk control capacity; and conduct penetrating review on the customers themselves, the nature of their business, and their related transactions;

3. focus on supporting new forms of offshore international trade based on the innovation and development of the real economy and the transformation and upgrade of the manufacturing industry as well as the integrity and modernization of industries and supply chains.
- III. In processing cross-border funds settlement for new forms of offshore international trade, banks are to determine, at their own discretion but in line with the rules of “substance over form,” “know your customer,” “know your business,” and “customer due diligence,” the types of trade documentations it requires for its review according to the following rules:
1. The trade is genuine, lawful, and commercially rational and logical.
 2. Due review does not find the parties to have falsified or fabricated a transaction of a new form of offshore international trade for speculation and arbitrage, unlawful shifting of funds, or bank loan fraud.
- IV. Banks are required to report balance of payments and submit data to the RMB Cross-Border Payment and Receipt Management Information System (RCPMIS) in a timely, complete, and accurate manner in accordance with the *Regulations on Reporting Balance of Payments Statistics, Measures for the Administration of the RMB Cross-border Payment and Receipt Management Information System* (Yinfa No. 126 [2017]), *Notice of the General Administration Department of People’s Bank of China on Optimizing the Information Submission Procedures of the RMB Cross-Border Payment Management Information System* (Yinbanfa No. 188 [2013]), and other applicable provisions. For new forms of offshore international trade which are listed under trade in services in the reporting of balance of payments and data submission through RCPMIS, “new offshore” should be noted in the remarks section.
- Banks are to keep relevant trade documentations, customer due diligence files, and post-transaction monitoring and management documents on file for five years for future examination. The relevant enterprises are to keep relevant trade documentations on file for five years for future examination.
- V. Payments and receipts for the same offshore resale transaction should in general be processed by the same bank in the same currency (either a foreign currency or RMB). Where this is not feasible, the bank may directly settle the payments and receipts upon verifying that the trade is genuine and lawful, after which it should note “special offshore resale” in the remarks section during reporting of foreign-related payments and receipts and data submission through RCPMIS, and report the transaction to the local SAFE branch within five business days of processing the transaction.
- VI. Banks should effectively control risks at the source by strengthening background check on trades. Any bank that, in the course of transaction processing, monitoring and management, and internal oversight, suspects an enterprise to be falsifying or

fabricating trade or engaging in loan fraud or other types of abnormal activities, should promptly report the situation to the local PBC branch and SAFE branch and, in accordance with its internal control protocols, adjust the enterprise's risk classification and conduct rigorous review of any of its subsequent cross-border funds settlement transactions. In respect of enterprises in the B and C categories for foreign exchange administration of trade in goods, cross-border funds settlement for new forms of offshore international trade is governed by the applicable rules of the SAFE.

- VII. Multinational corporations that possess sound internal controls and bona fide needs for offshore resale transactions may, in accordance with the requirements and procedures of *Regulations on the Centralized Operation and Management of Cross-Border Capital of Multinational Companies* (Huifa No. 7 [2019]), apply for centralized payment and receipt and net settlement services under current account for such transactions.
- VIII. The PBC and SAFE will supervise and administer the cross-border funds settlement services for the new forms of offshore international trade. Any violator of this Notice or the rules on cross-border funds settlement will be penalized in accordance with Articles 39 to 49 of the *Regulations on Foreign Exchange System of the People's Republic of China*.
- IX. The PBC branches and SAFE branches are to strengthen the sharing of information with other government departments. They are required to, with a view to "promoting innovation and inclusiveness while exercising prudence," closely monitor the innovations and development of new forms of offshore international trade, proactively address market concerns, and guide banks to offer more convenient trade and investment services.

This Notice takes effect on January 24, 2022. Where there is any inconsistency between Article 24 of the *Regulations on the Centralized Operation and Management of Cross-Border Capital of Multinational Companies* and this Notice, this Notice prevails. Any issue arising from the implementation of this Notice should be promptly reported to the PBC and SAFE.

People's Bank of China

State Administration of Foreign Exchange

December 23, 2021