

外匯管制與貿易進口付匯核銷管理

Foreign exchange control and the administration of import payments

中國法律對資本賬項下資金流動實施管制，未經過外匯管理部門批准，人民幣與外匯不可以自由兌換。對經常賬項下的貿易進口付彙實施有條件的兌換管制措施，進口單位付彙需要事前備案和事後審查（同樣，貨物出口商收到外匯必須全部彙入境內，未經過批准，不可以將外匯留在境外）。

The PRC law imposes control over the movements of funds under the capital account. RMB and foreign currency are not freely convertible in the absence of administrative approval by the State Administration of Foreign Exchange (the SAFE). The conversion of RMB to foreign currency for import payments under the current account is permitted subject to certain conditions to be met. The importing company should file the records before importation and submit the required information after the importation to the local office of the SAFE. (Equally export collections must be brought back to China and cannot be kept outside China in the absence of approval from the SAFE.)

經批准的經營進口業務的企業(以下簡稱進口單位)，以通過銀行購彙或從現匯帳戶支付的方式，向境外支付有關進口商品的貨款、預付款、尾款等(以下簡稱進口付彙)，除了在保稅區和出口加工區等特殊經濟區域以外，應當辦理核銷手續。這裏有兩個問題：購彙和核銷。第一，法律不允許外幣在中國境內流通。內銷業務只能以人民幣訂立合同，收入全部是人民幣，在有需要進口貨品的時候，進口單位可以用人民幣向銀行購買外匯，對一般進口貿易來說，人民幣是可以完全兌換的，但完全兌換不等於自由兌換，有關交易需要接受外匯管理部門監管。第二，核銷的目的是要由外匯管理部門核實進口單位對外付彙的真實性，核實對外付彙的同時有價值對應的貨物進入境內。對外付彙分為可以對外付彙和不可以對外付彙兩種情況。一般進口貿易交易屬於可以對外付彙的情況。一般來說，法律不允許對外付彙而沒有相應等值貨物進口，或者有進口貨物的情況但是發生了不應該對外付彙的情況，例如有暫時進口貨物、境外供應商提供的無代價抵償貨物、進口來料加工貨物的情況下對外付彙。

The companies that have obtained approval to carry on import trades (the importer) and that make payment for imports purchase, make advance payment, or pay the balance of import purchase to non-resident suppliers either using its own foreign currency or buying foreign currency from the bank (referred to as “import payments” hereafter), should complete the verification procedures, with the exception for enterprises created in special economic areas including the free trade zone and the export processing zone. There are two issues here. First, the PRC law does not permit the circulation of foreign currency within China. All the sales contracts must be denominated in RMB and sales proceeds are in RMB. Where the importer needs to make payments for purchases, it can buy the required foreign currency from the bank. In respect of import trading, RMB is fully convertible. However full convertibility is not free convertibility. Legal rules are in place under which the local SAFE has the power to supervise the import transactions. Second, verification means the local SAFE needs to verify whether the transactions are genuine and whether there are any imports into China with the corresponding amount. Outward remittances for import are classified as the allowed category and the disallowed category. Import payments

fall under the allowed category. The PRC law in general does not permit payments in the absence any imports with equal amounts, or given that the goods has been imported, but the payments should not be made. These will happen for goods imported temporarily, the goods supplied as compensation under import contracts, or the goods imported for export processing with the materials supplied by the foreign party under the export processing agreement.

國家外匯管理局負責所有進口付彙的核銷、檢查和管理，並對進口單位和外匯指定銀行進行監督、檢查。外匯指定銀行應當向所在地外匯局報送核銷單及有關報表，對外付彙的進口單位應當向所在地外匯局辦理進口付彙核銷報審手續。進口付彙管理有兩種核銷方式：貨到匯款項下的進口付彙，和不屬於貨到匯款項下的進口付彙。貨到匯款項下的進口付彙由外匯指定銀行在憑正本進口貨物報關單(付彙核銷專用聯)辦理進口付彙的同時視為辦妥核銷手續；不屬於貨到匯款項下的進口付彙（信用證、托收、預付貨款及其它結算方式）由進口單位憑“貿易進口付彙核銷單”、“進口付彙備案表”、正本進口貨物報關單直接向外匯局辦理核銷報審手續。“貿易進口付彙核銷單”（以下簡稱核銷單）系指由國家外匯管理局制定格式、有順序編號、進口單位填寫、外匯指定銀行審核並憑以辦理進口付彙的憑證。一份核銷單只可憑以辦理一次付彙。

The SAFE has the legal authority for the verification, examination and administration of all import payments, and the authority for supervision and examination of the business operations of the importers and the banks designated to do foreign currency business. The designated banks should submit to the local SAFE information relating to verification and the reports. The importers should complete the verification procedures at the local office of SAFE. The import verification procedures are divided into two modes: payment against import shipment and payments not against import shipment. In respect of payment against import shipment, the import verification procedure is deemed to have been completed upon the presentation of the original copy of customs import declaration (for import verification use only) to the designated bank. In respect of payment not against import shipment (letter of credit, collections, advance payment and other payment modes), the importer should submit the following documents to the local SAFE in order to complete the import verification procedures: import payment verification note, import payment record filing form, and the original customs import declaration form. The “import verification note” (the verification note) is designed by the SAFE, pre-printed with numbers, to be completed by the importer before importation, and the documentation for the designed bank to check and process import payments. Each copy of the verification note is valid for use once only.

根據國家外匯管理局《貨到匯款項下貿易進口付彙自動核銷管理規定》的通知（彙發[2004]82號），辦理進口付彙核銷業務流程如下：

- 第一，進口單位經商務部或其授權單位批准或備案取得進出口權，並取得中國電子口岸 IC 卡；
- 第二，進口單位持有關材料向註冊所在地外匯局申請辦理列入“對外付彙進口單位名錄”；
- 第三，外匯局審核無誤後，為進口單位辦理“對外付彙進口單位名錄”手續；

- 第四，進口單位付彙或開立信用證前，判斷是否需到外匯局辦理“進口付彙備案表”手續。如需要持有關材料到外匯局辦理進口付彙備案手續，領取進口付彙備案表；如不需要進口單位持有關材料到外匯指定銀行辦理開證或購彙手續；
- 第五，進口單位在有關貨物報關後一個月內到外匯局辦理進口核銷報審手續。但是，貨到付款結算方式的進口付彙除外。

According to the notice in “the Administrative Procedure for the Automatic Verification of Foreign Currency Payments Against Import Shipment” (Hui Fa [2004] 82) as issued by the SAFE, the following procedures should be followed:

- (1) the importer should obtain the approval to become a foreign trader or complete the registration procedure as foreign trader and get the IC card for access to the government Electronic Port system;
- (2) the importer should submit the required documentation and apply to local SAFE to get included in the “List of Companies Making Import Payment in Foreign Currency” (the List) kept by the local SAFE;
- (3) the local SAFE will include the importer into the List after checking that the documents received from the importer are in order;
- (4) before making import payment in foreign currency or opening letters of credit, the importer makes the judgment whether it is required to complete the procedures for record filing for import payments. If yes, it should get a record filing form from the local SAFE. Otherwise, it can apply for letter of credit or make payment at the designated bank directly; and
- (5) the importer should apply to the local SAFE to complete the verification procedures for import payment one month after the import declaration date, except that the payment is made against import shipment.

《貿易進口付彙核銷監管暫行辦法》（97彙國發字第01號）第6條規定，不在名錄上的進口單位不得直接到外匯指定銀行辦理進口付彙。進口單位應當憑以下材料到所在地外匯局辦理列入“對外付彙進口單位名錄”手續：1、對外經貿部（委、廳）的進出口經營權的批件；2、工商管理部門頒發的營業執照；3、技術監督部門頒發的企業代碼證書；4、外匯登記證（外商投資企業）。進口單位應持下列材料到銀行辦理開證或購付彙手續：進口單位填寫進口付彙核銷單；進口付彙備案表（如需）；進口合同、發票；正本進口貨物報關單（適用貨到付款方式）。

According to clause 6 in the document “the Tentative Administrative Measures for the Verification of Import Payments for Trading Transactions” (97 Hui Guo Fa Zi No. 01), the importer who has not been included into the “List of Companies Making Import Payment in Foreign Currency” cannot buy the foreign currency for import payments at the designated bank. Before importation takes place, the importer should submit the following information to the local SAFE to complete the inclusion procedure: (1) the Approval Certificate; (2) the business license; (3) the organization code certificate; and (4) foreign exchange registration. The importer should produce the following information to the bank in the application for opening letters of credit or making purchases of foreign currency: import verification note as completed by the

importer; record filing form for import payment (if required); import contract, invoices; and the original copy of import declaration (applicable to payment against import shipments).

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