

Notice of the State Administration of Foreign Exchange on Printing and Distributing the Measures for Evaluation of Banks' Implementation of Provisions on Foreign Exchange Administration (for Trial Implementation)

(No. 40 [2008] of the State Administration of Foreign Exchange August 27, 2008)

Branches and foreign exchange administrative departments of the State Administration of Foreign Exchange in all provinces, autonomous regions and municipalities directly under the Central Government, and branches of the State Administration of Foreign Exchange in Shenzhen, Dalian, Qingdao, Xiamen and Ningbo, and all Chinese-funded foreign exchange designated banks,

For the purposes of propelling banks to implement the provisions on foreign exchange administration, and promoting banks' compliance in business operations, the State Administration of Foreign Exchange formulated the Measures for Evaluation of Banks' Implementation of Provisions on Foreign Exchange Administration (for Trial Implementation) (see Annex, hereinafter referred to as these Measures) in accordance with the Regulation of the People's Republic of China on Foreign Exchange Administration (Order No. 532 [2008] of the State Council of the People's Republic of China), Measures for the Punishment of Illegal Financial Acts (Order No. 260 [1999] of the State Council of the People's Republic of China) and relevant provisions. You are hereby notified of the relevant issues as follows:

I. The branches and foreign exchange administrative departments of the State Administration of Foreign Exchange shall forward this Notice to their sub-branches, urban commercial banks, rural commercial banks, solely foreign-funded banks, Sino-foreign equity joint banks, branches of foreign banks, as well as rural cooperative financial institutions within their respective jurisdiction as soon as they receives it, finish the operational training to their respective sub-branches and banks within their respective jurisdiction and in strict accordance with these Measures, carry out fair and just evaluation of the banks within their respective jurisdiction.

2. All Chinese-funded foreign exchange designated banks shall forward this Notice to their respective branches, seriously comply with the relevant requirements in these Measures and handle the pertinent businesses according to laws and regulations.

3. The time period for the evaluation of banks by the State Administration of Foreign Exchange and its branches in 2008 shall be from September 1 to December 31.

If you encounter any problem during the implementation process, please timely report it to the relevant departments of the State Administration of Foreign Exchange. Contact telephone numbers: 010-68402129 (General Affairs Department), 68402464 (Balance of Payments Department), 68402282 (Current Account Management Department), 68402366 (Capital Account Management Department) and 68402050 (Supervision and Inspection Department).

Annex:

Measures for Evaluation of Banks' Implementation of Provisions on Foreign Exchange Administration (for Trial Implementation)

Article 1 For the purpose of encouraging banks to carefully implement the provisions on foreign exchange administration, and promoting banks' compliance in business operations, these Measures are formulated in accordance with the Regulation of the People's Republic of China on Foreign Exchange Administration and the Measures for the Punishment of Illegal Financial Acts and other relevant provisions.

Article 2 The State Administration of Foreign Exchange and its branches (hereinafter referred SAFE and its branches) shall evaluate banks' implementation of the provisions on foreign exchange administration on a yearly basis. The evaluation period shall be from January 1 to December 31 each year.

Article 3 The evaluation contents, approaches and criterions shall be uniformly formulated by the SAFE and its branches. The SAFE and its branches shall establish an evaluation team, which shall be responsible for the specific evaluation work.

Article 4 The evaluation contents and points:

1. Business compliance: 60 points. Evaluating whether the banks have complied with the provisions on foreign exchange administration in their handling of business.
2. Quality of data: 30 points. Evaluating whether the banks timely, accurately and completely reported and submitted relevant data, information and statements under the provisions on foreign exchange administration.
3. Internal control bylaws: 6 points. Evaluating the banks' formulation of relevant internal control bylaws as required by the provisions on foreign exchange administration, as well as their supervision and implementation thereof.

4. Other aspects: 4 points. Evaluating the banks' training and publicity of the provisions on foreign exchange administration, and their cooperation, implementation and inspection as required in the foreign exchange administration work.

For businesses to which the management power remains with the headquarters of a bank (a bank responsible for the centralized management of positions of branches of a foreign bank, a primary reporting bank or a short-term foreign debt management bank is regarded as the headquarters). Separate indicators for the evaluation of the headquarters of a bank shall not be included in the evaluation of branches of the bank.

The special businesses merely launched by some banks shall be additional items under the special evaluation by the relevant departments of the SAFE and its branches.

Article 5 An evaluation shall be made on the basis of demerit points. The SAFE or its branch shall, according to the evaluation contents and criteria as listed in Article 4 of these Measures (see Annex 1), deduct points out of the points for each item on the basis of the problems existing in banks and found during the routine supervision and by taking into account the information acquired through on-the-spot inspections.

The indicators for the corresponding businesses which a bank has not launched shall be excluded from the evaluation of the bank, but for the purpose of keeping the said bank comparable with banks which have launched the corresponding businesses, the total points of the first mentioned bank shall be adjusted by reference to the points gained under other similar indicators.

Article 6 The evaluation of banks by the SAFE and its branches shall be made on the basis of legal persons and location.

1. The SAFE shall be responsible for the evaluation of headquarters of policy banks and national commercial banks (state-owned commercial banks and joint stock commercial banks).

2. A branch of the SAFE shall be responsible for the local branches of the aforesaid banks, urban commercial banks, rural commercial banks, solely foreign-funded banks, Sino-foreign equity joint banks, branches of foreign banks and rural cooperative financial institutions.

3. The local branch of the SAFE shall be responsible for banks to which the foreign exchange administrative power is decentralized.

Article 7 The approaches for collecting evaluation results of banks are as follows:

1. All business departments of the SAFE or its branches shall compute the final evaluation points gained under each single indicator of a bank after it has got the weighted average of the actual points gained by all branches of the bank on the basis of its business volume of international payments (number of international payments declared), namely:

The result of evaluation of a single indicator of a bank = (the points gained by branch A of the bank \times the number of international payments declared + the points gained by branch B \times the number of international payments declared + ...) / (the number of international payments declared by branch A + the number of international payments declared by branch B + ...)

With regard to the common indicators for evaluation of both the headquarters of a bank and its branches, the headquarters shall be regarded as a branch, and the points gained by it and other branches shall be consolidated.

2. The evaluation team shall multiply the summation of the points gained by a bank under each single indicator by 90%, then plus the points gained by the headquarters under the separate evaluation indicators, the aggregate shall be the final evaluation result of the whole bank, namely:

Final evaluation result of the whole bank = Σ the points gained by the whole bank under each single indicator (except for the separate evaluation indicators for the headquarters) \times 90% + the points gained by the headquarters under the separate evaluation indicators

The points gained under additional items shall be separately listed in computing the final evaluation result of the bank.

Article 8 The procedures for reporting and submitting the results of evaluation of banks are as follows:

1. After a business department of the SAFE or its branch has completed an evaluation, it shall gather the results of evaluation of the branches of policy banks and national commercial banks (state-owned commercial banks and joint stock commercial banks) and submit a written statement to the corresponding business department of the SAFE or its branch at the next higher level (see Annex 2 for the statement format). The branch of the SAFE in a city under separate state planning shall directly submit to the SAFE the results of evaluation of banks within its jurisdiction and simultaneously send copies to the local provincial branch of the SAFE.

For the result of evaluation of the branches of a solely foreign-funded bank, Sino-foreign equity joint bank or urban commercial banks operating across different regions, the local branch of the SAFE shall inform in writing the branch of the SAFE of the place where the headquarters of the bank is located.

The business departments of each branch or foreign exchange administrative department of the SAFE (hereafter referred to as each branch of the SAFE) shall, prior to February 15 each year, submit to the corresponding business department of the SAFE the evaluation results of the immediately preceding year of the banks within its jurisdiction.

2. The business department of a branch of the SAFE shall submit to the evaluation team of the branch of the SAFE at the same level the consolidated results of evaluation of any single business of banks.

Article 9 The SAFE or its branch shall, on the basis of the final evaluation results, classify the evaluated banks into three categories, namely, A, B and C, and work out an overall report on the evaluation of banks' implementation of provisions on foreign exchange administration.

The evaluation team of each branch of the SAFE shall, prior to March 15 each year, submit to the evaluation team of the SAFE a report about the evaluation of the banks within its jurisdiction.

Article 10 The SAFE or its branch shall, prior to the end of March each year, notify, by proper means, each evaluated bank of the evaluation result and grade of the immediately preceding year, and where necessary, submit to the next higher level and announce the overall information about the evaluation of banks' implementation of provisions on foreign exchange administration.

Article 11 To carry out an evaluation of a bank, a branch of the SAFE shall keep the corresponding business records for 24 months.

Article 12 Where a branch of the SAFE finds any problem during evaluation, it shall timely communicate with the bank and urge it to make a rectification.

Article 13 All business departments of the SAFE shall supervise and guide the evaluation work of the branches of the SAFE at the next lower level.

Article 14 The banks newly established this year shall be evaluated as of the next year.

Article 15 The power to interpret these Measures shall remain with the SAFE.

Article 16 These Measures shall come into force as of September 1, 2008.

Annexes:

1. Contents and Criteria for Evaluation of Banks' Implementation of Provisions on Foreign Exchange Administration (for Trial Implementation)
2. Results of Evaluation of Banks' Implementation of Provisions on Foreign Exchange Administration