

23 July 2021

THAILAND

Newsletter

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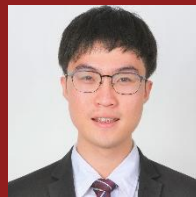
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Thailand: Updates on Exchange Control Guidelines

This article provides a summary of the guidelines on the remittance of funds in foreign currency and the latest scheme issued by the Bank of Thailand ("BOT") for a Non-Resident who opens a Non-Resident Baht account in Thailand.

Remittance of foreign currency

1. Requirements for inward remittances

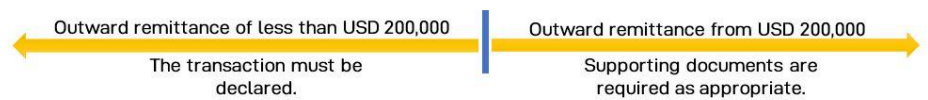
There are no limitations on the amount or restrictions on the purpose for which the funds are to be remitted into Thailand. However, the person receiving foreign currency equivalent to USD 1 million or above is required to repatriate such funds immediately and sell those funds to authorized agents of the BOT (e.g., commercial banks), or deposit the funds into a foreign currency account opened with an authorized bank within 360 days of the day of receipt. The person receiving foreign currency must notify the BOT of the transaction through the authorized bank where those funds are sold or deposited.

2. Requirements for outward remittances

Outward remittance can be generally made through authorized agents, usually commercial banks. However, if the purpose of the remittance is restricted under the exchange control rules (restrictions are referred to as the "negative list" as detailed below), the person remitting funds must obtain prior approval from the BOT by submitting supporting documents through an authorized agent.

Transaction amount thresholds

If the purpose of the transaction is not on the negative list and the amount of the remittance is more than USD 200,000, the authorized agent will require supporting documents. Which supporting documents may be required is at the discretion of the authorized agent, who will consider the underlying transaction (e.g., underlying agreements, invoices, evidence of purchase price). For remittances of less than USD 200,000, the authorized agent will require the person remitting funds to declare the transaction without the requirement of supporting documents.



However, in practice, authorized agents may request supporting documents regardless of the transaction amount. The transactions are processed as a matter of formality rather than based on stringent considerations for approval.

Transaction negative list

The negative list for remittances of funds specified in the Notification of the Bank of Thailand Re: The Currency Exchange Officer Re: Requirements and Procedures on Currency Exchange (as amended), that require BOT approval, is as follows:

1. remittances of funds for investment in a business that does not relate to securities in a foreign country, purchasing immovable assets in a foreign country, or remittances of funds with no obligation for remittance and the amount of funds remitted exceeds the amount specified by law;
2. remittances of funds for the purchase or exchange of foreign currency with a person residing in a foreign country;
3. remittances of funds for payment of derivative transactions or providing proceeds as security for financial transactions such as securities borrowing and lending;
4. remittances of funds for deposit into the remitter's account opened in a foreign country;
5. remittances of funds for financial products;
6. remittance of funds for digital assets as defined in Digital Asset Decree B.E. 2561 (2018);
7. remittances of funds for gold that is not imported into Thailand;
8. remittances of funds for repayment of loans which are not remitted into Thailand and are used for the purpose of the negative list, or a loan which is exempted from being repatriated;
9. remittances of funds borrowed from an authorized agent or a Thai resident in Thai Baht to person residing outside of Thailand, with the exception of a person residing in the Republic of Vietnam or neighboring countries of Thailand, and only for the purpose of trading in Thailand or such countries;
10. remittances of funds for repayment of debts under credit cards or debit cards, and such debt does not fall within the positive list; and
11. remittances of funds for investment in securities in a foreign country.

Outward remittances have stringent compliance criteria. As such, investors should consider pre-consultation with the BOT prior to remitting funds from Thailand to other countries for investment purposes.

Non-resident Qualified Company

A non-resident may open a Thai Baht currency account with a Thai authorized bank as a Non-Resident Baht Account (NRBA), which is subject to an end-of-day outstanding limit of 200 million Baht per Non-Resident, for each type of account.

Non-Resident Qualified Company Scheme

In January 2021, the BOT announced the "Non-Resident Qualified Company (NRQC)" scheme that permits NRQCs to have more flexibility in undertaking foreign exchange transactions against the Baht with onshore financial institutions. The scheme does not require NRQCs to comply with the capped amount of the end-of-day balance of Baht 200 million. Moreover, an NRQC can engage in foreign exchange or Thai Baht transactions, including derivatives transactions, with onshore financial institutions to manage currency risks related to Thai baht exposure arising from eligible underlying transactions in Thailand without having to provide proof of the underlying purpose for each transaction.

To be eligible for the above benefits, an NRQC must apply for permission from the BOT, meeting specified criteria, as follows:

1. must be qualified as non-resident (NR) under the original notification relating to measures to prevent Thai Baht speculation;
2. must not operate any financial or gold related businesses, except for offshore treasury centre businesses; and
3. has one of the following criteria:
 - had or will have obligations to make payments or receive payments in Thai Baht to/from Thai residents arising from commercial transactions or investments in Thailand as an underlying activity, which includes hedging currency exchanges related to Baht for its trading, services, or investments in Thailand; or
 - hedging currency exchanges relating to Baht for other non-residents that possess the qualifications in items 1 and 2 above, and such non-resident had or will have obligations to make payments or receive payments in Baht to/from Thai residents arising from the purpose of such underlying transaction.

The eligible investment in Thailand does not include investments in securities and other financial instruments except for direct investment by holding shares in a juristic person of 10% or more.

Over the past few years, the Thai government has reacted to difficulties foreign investors have had in Thailand in remitting foreign funds in and out of the Kingdom. However, restrictions on the remittance of funds outward remain, and many financial institutions continue to follow internal practices that may constitute supplemental requirements other than what the law has prescribed. Investors to and from Thailand should be aware of foreign exchange remittance policies of the government and financial institutions/agents.

If you have any questions in relation to the issues raised in this briefing, please contact the authors in the left-hand column.

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