

US Further Liberalizes Burma Sanctions

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On May 17, 2016, the US Department of Treasury's Office of Foreign Assets Control (OFAC) further eased the sanctions on Burma by issuing and expanding general licenses and removing certain parties from the Specially Designated Nationals and Blocked Persons List (SDN List).

The general licenses are included as amendments to the Burmese Sanctions Regulations (BSR) and take effect on May 18, 2016. The authorizations in the general licenses are intended to support trade, facilitate the movement of goods, allow certain transactions related to US individuals and allow most transactions involving designated financial institutions. The delisting of seven state-owned enterprises and three state-owned banks from the SDN List is effective as of May 17, 2016. Certain sanctions remain in place to incentivize further democratic reforms and maintain pressure on targeted Burmese parties and the military. Consistent with the objective of these remaining sanctions, on May 17, 2016, OFAC identified as blocked and added to the SDN List six companies due to their ownership by SDNs.

Amendments to OFAC's Burmese Sanctions Regulations

Financial Institutions

Effective May 18, 2016, OFAC revised an existing general license that authorizes US persons¹ to engage in most transactions involving designated financial institutions in Burma, including opening and maintaining accounts and conducting a range of other financial services, subject to certain limitations. This authorization, which previously existed for Asia Green Development Bank and Ayeyarwardy Bank, has been extended to two other designated financial institutions in Burma, Innwa Bank and Myawaddy Bank. However, unless specifically unblocked, all property and interests in property blocked as of May 17, 2016 remain blocked.

US persons are not prohibited from engaging in transactions with unblocked Burmese banks. This includes transferring funds to or from, opening and maintaining an account at and entering into new investment with, an unblocked Burmese bank. As a result of the delisting actions on May 17, 2016, Myanmar Economic Bank, Myanmar Foreign Trade Bank and Myanmar Investment and Commercial Bank are no longer blocked. Myanmar Economic Bank and Myanmar Investment and Commercial Bank were previously included on the general license authorizing transactions with certain designated Burmese financial institutions.

¹ US persons are defined as US citizens or permanent residents (wherever located), entities organized under US law (including foreign branches), and persons located in the United States.

Trade-Related Authorizations

Effective May 18, 2016, OFAC has incorporated previously-issued General License 20 into the BSR. This authorization permits transactions involving blocked parties ordinarily incident to the exportation to or from Burma of goods, technology or non-financial services, provided the exportation is not to, from, or on behalf of a blocked party. This authorization was intended to address issues where certain infrastructure, such as ports and toll roads, were owned by blocked parties and were therefore off limits for otherwise authorized activity.

As part of the incorporation into the BSR, OFAC also expanded this authorization, which now further permits transactions involving blocked parties that are ordinarily incident to the movement of goods within Burma, provided the goods are not being sent to, from or on behalf of a blocked party. This includes transactions such as transporting goods from a warehouse in Burma for further distribution to retail outlets in Burma.

Personal Transactions for US Persons

In the BSR, effective May 18, 2016, OFAC further authorized personal transactions related to US persons residing in Burma. This authorization permits US persons to undertake transactions otherwise prohibited under the BSR that are ordinarily incident to US person individuals residing in Burma (such as paying rent and other living expenses and buying goods and services for personal use). This complements the existing exemption in the BSR for travel to or from Burma and should increase opportunities for direct engagement between US and Burmese persons.

Changes to SDN List

SDN List Removals

As of May 17, 2016, OFAC removed seven state-owned enterprises and three state-owned banks from the SDN List, as follows:

State-Owned Enterprises

- Myanmar Timber Enterprise
- Myanmar Pearl Enterprise
- Myanmar Gem Enterprise
- No. 1 Mining Enterprise
- No. 2 Mining Enterprise
- No. 3 Mining Enterprise
- Co-Operative Export-Import Enterprise

State-Owned Financial Institutions

- Myanma Economic Bank
- Myanmar Foreign Trade Bank
- Myanma Investment and Commercial Bank

SDN List Additions

OFAC identified as blocked and added to the SDN List six companies that it determined are owned 50 percent or more by Steven Law or Asia World Co. Ltd., as follows:

- Asia Mega Link Co., Ltd.
- Asia Mega Link Services Co., Ltd.
- Pioneer Aerodrome Services Co., Ltd.
- Green Asia Services Co., Ltd.
- Global World Insurance Company Limited
- Shwe Nar Wah Company Limited

Remaining Sanctions Targeting Burma

As a result of the May 17, 2016 actions, the remaining sanctions targeting Burma have been significantly reduced.

Generally, unless authorized or exempt, US persons remain prohibited from dealing with blocked persons, including persons on the SDN List, as well as any entity owned in the aggregate, directly or indirectly, 50 percent or more by one or more blocked parties. Despite the May 17 actions, a number of Burmese parties remain on the SDN List.

The BSR continue to prohibit the importation into the United States of any jadeite or rubies mined or extracted from Burma and any articles of jewelry containing jadeite or rubies mined or extracted from Burma.

Limited OFAC restrictions remain on dealings with the designated Burmese financial institutions covered by the partial authorization described above. First, transactions with such financial institutions still may not involve other blocked parties not included in the general license. US persons also remain prohibited from engaging in new investment with or in such designated financial institutions. Finally, a prohibition remains on the exportation or reexportation of financial services in connection with the provision of security services, directly or indirectly, to the Burmese Ministry of Defense, any state or non-state armed group or any entity 50 percent or greater owned by such parties.

The reporting requirement also remains in effect for US persons engaging in investment in Burma, which currently applies to new investment exceeding US\$500,000. The Department of State is proposing to change the reporting threshold from US\$500,000 to US\$5,000,000. The proposed change is currently undergoing administrative review. In addition, US persons undertaking any new investment pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with Myanma Oil and Gas Enterprise (MOGE) will continue to have an obligation to notify the Department of State of such investment.

With certain sanctions targeting Burma still in place, companies doing business in Burma should monitor closely the remaining measures, and any further developments, to ensure compliance. Penalties for noncompliance can be severe.

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