

CLIENT ALERT

U.S. Further Relaxes Burmese Sanctions with New and Expanded General Licenses, SDN Removals

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In advance of Secretary of State John Kerry's visit to Burma/Myanmar, the Obama Administration announced further relaxations of financial sanctions against the country on Tuesday, May 17. This move signals the administration's support of Burma's economic growth and recognition of its recent democratic elections, while maintaining some elements of the sanctions to maintain pressure on designated individuals to incentivize further reforms. The further easing of U.S. sanctions against Burma significantly removes barriers to trade that remained after the first waves of sanctions relaxations in 2012 and 2013. Although new opportunities have been created by these revisions, companies seeking to enter the Burmese market nevertheless should continue to carefully evaluate business partners to ensure compliance with U.S. law generally and with anti-corruption/anti-bribery laws specifically.

Specifically, OFAC amended the Burmese Sanctions Regulations (BSR) by adding or modifying the following general licenses (GLs) to authorize:

- **Transactions related to U.S. persons residing in Burma:** This new GL authorizes U.S. persons living in Burma to engage in a number of transactions that would otherwise be prohibited, such as purchasing goods or services for personal use, and engaging in the payment of living expenses. This GL is designed to assist U.S. persons living in Burma, who are already authorized to travel to or from Burma pursuant to Section 537.210(c) of the BSR.
- **Trade-related transactions:** To encourage banks and companies to engage in longer term trade and financing projects within Burma and more broadly facilitate trade with and throughout the country, OFAC permanently extended and incorporated into the BSR (Section 537.532) GL 20, originally issued in December 2015. Section 537.532 authorizes certain transactions ordinarily incident to exports to or from Burma that are otherwise prohibited by the BSR (*e.g.*, because they transit through a port owned by a Specially Designated National (SDN)). The new extended GL further expands the authorization by permitting intra-company transactions. These are in addition to the previously authorized import/export transactions.
- **Banking Services:** OFAC substantially expanded existing authorizations related to financial services. First, it removed two Burmese financial institutions from the SDN List (Myanma Economic Bank (MEB) and Myanma Investment and Commercial Bank (MICB)). This de-listing also resulted in the removal of restrictions from the Yangon Stock Exchange, which is 50 percent or more owned by MEB and therefore had been designated by "operation of law" pursuant to OFAC's "50 Percent Rule." Second, OFAC added the remaining two major financial institutions – Innwa Bank and Myawaddy Bank – to its existing GL 19 (now incorporated in the regulations at Section 537.531) which authorizes financial services with these institutions. The net effect of these authorizations is to authorize U.S. persons to conduct most financial services related transactions with each of the major financial institutions in Burma. As OFAC has clarified in simultaneously issued Frequently Asked Questions, the major lingering restrictions on the Burmese financial industry include the (a) conditions associated with the provision of financial services to non-SDN Burmese banks, (b) continued requirement to block currently blocked assets of SDNs, and (c) prohibition on "new investment" with SDN Burmese banks.

- **Sanctions Removals:** In addition to removing MEB and MICB from the SDN List, OFAC delisted the Myanmar Foreign Trade Bank and seven state-owned enterprises: the Co-operative Export-Import Enterprise (CEIE), the Myanmar Gem Enterprise (MGE), the Myanmar Timber Enterprise, (MTE), the Myanmar Pearl Enterprise (MPE), and three mining enterprises.

Simultaneously, OFAC added six Burmese companies to its SDN List. These companies are all 50 percent or more owned by existing Burmese SDNs – either Asia World or Steven Law – and therefore OFAC considers them to have already been sanctioned pursuant to its “50 Percent Rule” and is adding the entities to the SDN List to assist U.S. persons to comply with the existing requirement. Specifically, OFAC added the following to the SDN List: Asia Mega Link Co., Ltd.; Asia Mega Link Services Co., Ltd., Pioneer Aerodrome Services Co., Ltd., Green Asia Services Co., Ltd, and Global World Insurance Company Limited. These designations underscore the continued need for diligence to verify that counterparties are not owned by SDNs when doing business in the Burmese economy.

Although OFAC’s new relaxations also did not alter the pre-existing reporting requirements for U.S. persons who are undertaking or facilitating new investment in Burma, the State Department is reportedly considering raising the reporting threshold from \$500,000 to \$5,000,000. A final decision will be released publicly over the next several weeks.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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