

# WorldECR

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# OFAC issues new GL for Burma exports

The U.S. Treasury's Office of Foreign Assets Control ('OFAC') has issued a new general licence ('GL') for certain Burma-related transactions.

The GL states that unless otherwise prohibited by previous regulations, the exportation to or from Burma 'of goods, technology, or non-financial services are authorized, provided the exportation is not to, from, or on behalf of a person whose property and interests in property are blocked'.

In addition, it allows U.S. financial institutions to 'unblock and return transactions blocked on or after 1 April 2015 that would have qualified as authorized had they been engaged in pursuant to the authorization in the general license'.

At the same time, OFAC has reiterated its commitment to support U.S. and Burmese trade: '[T]his general license is an effort to calibrate the impact of our Burma sanctions and to support the ongoing flow of trade with Burma.



New general licence permits certain exports to Burma and the unblocking of some previously blocked transactions.

Supporting Burma's economic development – including the encouragement of normal trade with non-sanctioned businesses in Burma – is a key foreign policy goal.'

Commenting on the GL, Peter Kucik from Inle Advisory Group, a specialist consultant in Myanmar investment, told *WorldECR*: 'The U.S. government has been a proponent of U.S.

businesses entering and increasing trade and economic ties with Myanmar, and General License 20 is intended to make sure that sanctions impediments do not negatively impact trade and undermine that intention. The U.S. government has already said it would likely consider an extension of the licence in several months. Term limitations in licences

are not uncommon, and they give the government the opportunity to review or adjust an authorisation as necessary, but with advance notice so that such action is not a surprise. That said, the six-month timeframe may justifiably be causing some concern with respect to longer term trade finance.'

Edmund Sim, a Myanmar expert with Appleton Luff in Singapore, added: 'This general licence helps resolve ambiguity regarding the import-export trade in goods with Myanmar (Burma). That ambiguity had led banks to reject trade financing for those transactions. Although this move has been anticipated for a while, the limited duration of the general licence – six months – indicates that a more permanent general licence could be linked to continued political reform in the country.'

#### Further information is at

[https://www.treasury.gov/resource-center/sanctions/Programs/Documents/burma\\_gl20.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/burma_gl20.pdf)

<https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20151207.aspx>

## NYDFS rule: bank executives to certify existence of compliance systems

On 1 December, New York governor Andrew M. Cuomo proposed new regulations aimed at strengthening the state's ability to fight terrorist financing, sanctions violations, and money laundering.

The proposed rule, published in the *New York Register* on 16 December, sets out 'the required attributes of a Transaction Monitoring and Filtering Program' and requires a 'Certifying Senior Officer...of Regulated Institutions ... to file Annual Certifications...regarding compliance by their institutions' with these new standards.

Public comments will be accepted through 17 February, 2016. Instructions for submitting comments may be found at: <http://www.dos.ny.gov/info/register/instruct.htm>

The point of contact for 'data, views, and arguments' on this proposal is: [Gene.Brooks@dfs.ny.gov](mailto:Gene.Brooks@dfs.ny.gov).

The new rule stems from recent anti-money laundering ('AML') and sanctions investigations by the New York State Department of Financial Services ('NYDFS'), which found 'serious shortcomings in the transaction monitoring and

filtering programs' at financial institutions, as well as 'a lack of robust governance, oversight, and accountability at senior levels of these institutions...'

The proposed rule requires that financial institutions maintain both a 'transaction monitoring program' to guard against AML-related risks and a 'watch list filtering program' to screen against sanctions and other, similar lists, and sets out minimum requirements for each.

Additionally, the rule for the first time would require the chief compliance officer or functional equivalent of each financial institution to sign and submit an annual certification to NYDFS by 15 April of each year, attesting to the institution's compliance with these requirements.

The proposed regulations are at:

<http://www.dfs.ny.gov/about/press/pr1512011.htm>

Cari Stinebower, James 'JJ' Saulino  
Crowell & Moring