

OFAC

Office of Foreign Assets Control

BURMA SANCTIONS PROGRAM

This document is explanatory only and does not have the force of law. Executive Orders 13047, 13310, 13448, 13464, 13619, 13651 and the implementing regulations pertaining to Burma (31 C.F.R. Part 537) contain the legally binding provisions governing the sanctions. This document does not supplement or modify the Executive orders or the regulations.



Updated September 9, 2015

Contents

I. INTRODUCTION..... 3

II. OVERVIEW OF AUTHORITIES 3

III. PROHIBITIONS 4

IV. AUTHORIZATIONS..... 4

V. PENALTIES..... 6

SANCTIONS AGAINST BURMA

I. INTRODUCTION

The Burma sanctions program implemented by the Office of Foreign Assets Control (OFAC) began in May 1997 when the President, in Executive Order (E.O.) 13047, determined that the Government of Burma (then ruled by a military junta) had committed large-scale repression of the democratic opposition in Burma, and declared a national emergency with respect to the actions and policies of that government. Several subsequent Executive orders have been issued to modify the scope of and take additional steps with respect to the national emergency declared in E.O. 13047. In May 2012, the President and the Secretary of State announced that the United States would begin easing certain financial and investment sanctions on Burma in response to the historic reforms taking place there. Since July 2012, the U.S. Government has taken various actions in response to the reforms in Burma.

II. OVERVIEW OF AUTHORITIES

On May 20, 1997, the President issued [E.O. 13047](#) pursuant to, *inter alia*, Section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104-208), the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA), and the National Emergencies Act (50 U.S.C. 1601 et seq.) (NEA). In E.O. 13047, the President declared a national emergency with respect to the Government of Burma and prohibited new investment in Burma by U.S. persons.

On May 21, 1998, OFAC issued the Burmese Sanctions Regulations implementing E.O. 13047. See [31 C.F.R. Part 537](#) (the “Regulations”).

On July 28, 2003, the President signed into law the [Burmese Freedom and Democracy Act of 2003](#) (Public Law 108-61, 50 U.S.C. 1701 note) (BFDA), which imposed sanctions on Burma’s then-ruling military junta. To implement the BFDA, including its ban on the importation into the United States of products of Burma, and to take additional steps with respect to the national emergency declared in E.O. 13047, the President issued [E.O. 13310](#) on the same day, July 28, 2003. E.O. 13310 blocks all property and interests in property of the persons listed in its Annex and of persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, to meet the criteria set forth in E.O. 13310. E.O. 13310 also prohibits the exportation or reexportation, directly or indirectly, to Burma of financial services from the United States or by a U.S. person, wherever located.

On October 18, 2007, the President issued [E.O. 13448](#), pursuant to, *inter alia*, IEEPA and the NEA, expanding the scope of and taking additional steps with respect to the national emergency declared in E.O. 13047 and blocking all property and interests in property of the persons listed in its Annex and of persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to meet the criteria set forth in E.O. 13448.

On April 30, 2008, the President issued [E.O. 13464](#), pursuant to, *inter alia*, IEEPA and the NEA, taking additional steps with respect to the national emergency declared in E.O. 13047 and blocking all property and interests in property of the persons listed in its Annex and of persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to meet the criteria set forth in E.O. 13464.

On July 29, 2008, the President signed into law the [Tom Lantos Block Burmese JADE \(Junta’s Anti-Democratic Efforts\) Act of 2008](#) (Public Law 110-286, 50 U.S.C. 1701 note) (JADE Act), which, among other things, imposed sanctions on certain categories of persons enumerated in the JADE Act, and amended the BFDA importation ban 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.

On July 11, 2012, the President issued [E.O. 13619](#), pursuant to, *inter alia*, IEEPA and the NEA, modifying the scope of the national emergency declared in E.O. 13047 and blocking all property and interests in property of persons determined by the Secretary of the Treasury, in consultation with or at the recommendation of the Secretary of State, to meet the criteria set forth in E.O. 13619.

On August 6, 2013, in light of the expiration of the ban on the importation of Burmese-origin goods contained in the BFDA, the President issued [E.O. 13651](#) pursuant to, *inter alia*, IEEPA and the NEA, revoking the provisions of E.O. 13310 that implemented the BFDA's ban on importing Burmese-origin goods. However, due to continuing concerns with respect to labor and human rights in specific sectors, E.O. 13651 reinstated the prohibition on 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 that was originally imposed by the JADE Act, which amended the BFDA. As a result of the revocation in E.O. 13651 of the general prohibition in E.O. 13310 on importing Burmese-origin goods, imports of such goods, other than jadeite, rubies, or articles of jewelry containing jadeite or rubies, are no longer prohibited and no longer require an OFAC license. See [Burma FAQs](#) for additional details. In addition, in Executive Order 13651, the President waived the sanctions described in section 5(b) of the JADE Act, including prohibitions applicable to transactions involving the State Peace and Development Council (SPDC), or entities owned, controlled, or operated by the SPDC. Accordingly, the financial and blocking sanctions related to the SPDC in section 5(b) of the JADE Act no longer apply.

On June 30, 2014, OFAC amended the Regulations to implement E.O. 13448, E.O. 13464, E.O. 13619, and E.O. 13651. Due to the extensive nature of these amendments, OFAC reissued the Regulations in their entirety. Several key authorizations easing financial and investment sanctions on Burma that had been contained in web General Licenses 16, 17, and 19 and published on OFAC's website were incorporated into the reissued Regulations and are located in 31 C.F.R. §§ 537.529, 537.530, and 537.531, respectively. See [31 C.F.R. Part 537](#) for more details.

The names of persons listed in the Annexes or designated pursuant to these Executive orders, whose property and interests in property are therefore blocked, are published in the Federal Register and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the OFAC identifier "[BURMA]." The SDN List is accessible through the following page on OFAC's website: <http://www.treasury.gov/SDN>.

This fact sheet is a broad summary of the sanctions as of the date of publication. For an updated list of authorities and sanctions please refer to OFAC's website at:

<http://www.treasury.gov/resource-center/sanctions/Programs/pages/burma.aspx>

III. PROHIBITIONS

Unless otherwise authorized or exempt, transactions by U.S. persons, or in or involving the United States, are prohibited if they involve transferring, paying, exporting, withdrawing, or otherwise dealing in the property or interests in property of an entity or individual listed on the SDN List. The property and interests in property of an entity that is 50 percent or more owned, whether individually or in the aggregate, directly or indirectly, by one or more blocked persons are also blocked, regardless of whether the entity itself is listed on the SDN list. For details, please see: http://www.treasury.gov/resource-center/sanctions/Documents/licensing_guidance.pdf.

Although the broad importation ban on products of Burma originally imposed by E.O. 13310 has been revoked, 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 is prohibited by E.O. 13651.

Other prohibitions imposed by the Burma Executive orders described in Section II above continue to apply. They are not detailed here, however, because OFAC has issued broad general licenses, described in Section IV below, that authorize certain otherwise prohibited transactions, provided that all criteria of the applicable general license are met.

PROCEDURES TO REQUEST RECONSIDERATION FROM THE SDN LIST

An individual or entity on the SDN List may seek to be delisted, including based on evidence that the circumstances resulting in the designation no longer apply, by submitting a written request to OFAC. OFAC investigates and assesses such requests on a case-by-case basis, taking into consideration the facts and circumstances specific to each individual or entity, as reflected in the evidence presented and other information available to OFAC. The procedures governing delisting from the SDN List are outlined in [31 C.F.R. § 501.807](#).

IV. AUTHORIZATIONS

GENERAL LICENSES

OFAC may authorize certain types or categories of activities and transactions, which would otherwise be prohibited with respect to Burma, by issuing a general license. General licenses may be published in the Regulations or on OFAC's website. Several of these key authorizations are as follows:

EXPORTATION OR REEXPORTATION OF FINANCIAL SERVICES: Pursuant to the authorization in 31 C.F.R. § 537.529, the exportation or reexportation of financial services to Burma, directly or indirectly, from the United States or by a U.S. person, wherever located, is authorized subject to certain limitations. This authorization does not authorize, in connection with the provision of security services, the exportation or reexportation of financial services, directly or indirectly, to the Burmese Ministry of Defense, including the Office of Procurement; any state or non-state armed group including the military; or any entity in which any of the foregoing own a 50% or greater interest. This provision also does not authorize the exportation or reexportation of financial services, directly or indirectly, to any person whose property and interests in property are blocked under the Burma sanctions program, except that transfers of funds pursuant to 31 C.F.R. § 537.529 are authorized even though they may involve transfers to or from an account of a blocked financial institution, subject to certain limitations.

TRANSACTIONS INVOLVING CERTAIN BLOCKED BANKS: Pursuant to the authorization in 31 C.F.R. § 537.531, U.S. persons may conduct most transactions – including opening and maintaining accounts and conducting certain other financial services – with the following four blocked Burmese banks: Asia Green Development Bank, Ayeyarwady Bank, Myanmar Economic Bank, and Myanmar Investment and Commercial Bank.

However, U.S. persons generally remain prohibited from dealing with other blocked banks, including Myanmar Foreign Trade Bank, Myawaddy Bank, and Innwa Bank, with the exception of funds transfers to or from these banks for transactions authorized by a license issued under the Regulations and consistent with 31 C.F.R. § 537.404(b).

Special Measures: As a result of authorizations included in the amended Regulations (as issued on June 30, 2014), the special measures against Burma imposed under Section 311 of the USA PATRIOT Act do not apply to the operation of correspondent accounts for Asia Green Development Bank, Ayeyarwady Bank, Myanmar Economic Bank, and Myanmar Investment and Commercial Bank, or to transactions that are conducted through such accounts, provided the transactions are authorized pursuant to the Burmese Sanctions Regulations, 31 C.F.R. Part 537. This does not affect any obligation of U.S. financial institutions processing such transactions to conduct enhanced due diligence under Section 312 of the USA PATRIOT Act.

NEW INVESTMENT: Section 537.530 of the Regulations authorizes U.S. persons to engage in new investment in Burma, subject to certain limitations and conditions. Consistent with 31 C.F.R. § 537.530, U.S. persons may also approve, finance, facilitate, or guarantee new investment by foreign persons provided such new investment is not pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that (a) is entered into with the Burmese Ministry of Defense, state or non-state armed groups (which includes the military), or entities owned 50 percent or more by any of the foregoing, or (b) involves a transaction, directly or indirectly, with any person blocked under the Burma sanctions program.

Reports: Any U.S. person (both individuals and entities) engaging in new investment in Burma must report to the State Department in compliance with the requirements set forth in the State Department's "Reporting Requirements on Responsible Investment in Burma," available at: www.HumanRights.gov/BurmaResponsibleInvestment.

For a current list of all general licenses relating to the Burma sanctions program, please see 31 C.F.R. Part 537, Subpart E, and visit: ecfr.gov and <http://www.treasury.gov/resource-center/sanctions/Programs/pages/burma.aspx>.

SPECIFIC LICENSES

OFAC considers on a case-by-case basis applications for specific licenses to authorize transactions that are neither exempt nor covered by a general license. Requests for a specific license must be submitted to OFAC's Licensing Division. Such license requests may be submitted using any of these three methods:

- Online: <http://www.treasury.gov/resource-center/sanctions/Pages/licensing.aspx>
- Fax: (202) 622-1657
- U.S. mail: Assistant Director for Licensing, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220

V. PENALTIES

Civil monetary penalties of up to the greater of \$250,000 or twice the amount of the underlying transaction may be imposed administratively against any person who violates, attempts to violate, conspires to violate, or causes a violation of these Executive orders or the Burmese Sanctions Regulations. Upon conviction, criminal penalties of up to \$1,000,000, imprisonment for up to 20 years, or both, may be imposed on any person who willfully commits or attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of these Executive orders or the Burmese Sanctions Regulations.

This document is explanatory only and does not have the force of law. Please see particularly Executive Orders 13047, 13310, 13448, 13464, 13619, and 13651, the Regulations, and other applicable laws and regulations for legally binding provisions governing the sanctions. This document does not supplement or modify these Executive orders, laws, or regulations.

The Treasury Department's Office of Foreign Assets Control (OFAC) administers a number of U.S. economic sanctions programs. OFAC sanctions programs can range from being comprehensive in nature, such as a program that blocks the entire government of a country and includes broad geographically-based trade restrictions, to being fairly limited, such as a program that targets only specific individuals and entities. Some programs both target particular individuals and entities and prohibit types of transactions. It is therefore important to review the details of any given sanctions program to understand its scope. It is also important to note that although a program may be targeted, the prohibitions in such programs on dealings with individuals and entities whose property and interests in property are blocked are very broad, and they apply regardless of where the targeted person is located. The names of individuals and entities that are designated or identified as blocked by OFAC are incorporated into OFAC's list of Specially Designated Nationals and Blocked Persons (SDN List), which includes over 6,000 names of persons whose property and interests in property are blocked. Note, however, that the SDN List is not a comprehensive list of all such entities and individuals. The property and interests in property of an entity that is 50 percent or more owned, whether individually or in the aggregate, directly or indirectly, by one or more blocked persons are also blocked, regardless of whether the entity itself is listed on the SDN List.

Please note that OFAC maintains other sanctions lists that may have different prohibitions associated with them. See the "[Sanctions Programs and Country Information](#)" page for information on specific programs and other Treasury sanctions lists. Because OFAC's programs are constantly changing, it is very important to check OFAC's web site on a regular basis. You may also wish to sign up for updates via OFAC's Email Notification System, to receive notifications regarding changes to OFAC's sanctions programs. For additional information about these programs or about sanctions involving Burma please contact:

OFFICE OF FOREIGN ASSETS CONTROL
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220
www.treasury.gov/ofac
202/622-2490