

United States Significantly Expands Burma Sanctions, By Targeting Military Holding Companies

March 30, 2021

As a further response to the February 1, 2021 military coup in Burma, on March 25, 2021, the Treasury Department's Office of Foreign Assets Control ("OFAC") **announced** additional sanctions on Burmese entities, designating two military holding companies—Myanma Economic Holdings Public Company Limited ("MEHL") and Myanmar Economic Corporation Limited ("MEC")—pursuant to **Executive Order 14014** ("E.O. 14014").¹ According to OFAC, MEHL and MEC are entities through which the Burmese military controls large segments of the country's economy, including trading, natural resources, alcohol, cigarettes, and consumer goods. The imposition of sanctions against these entities, which extend as well to their majority-owned subsidiaries, represents a significant escalation of the U.S. sanctions response to the coup.

We provide below a brief overview of the relevant sections of E.O. 14014, as well as the OFAC designations and related general licenses and responses to Frequently Asked Questions ("FAQs").

Overview of E.O. 14014

Issued on February 10, 2021, E.O. 14014 authorizes blocking sanctions implemented by the Treasury Department that can be used to target a broad range of persons connected to and responsible for the February 1, 2021 military coup in Burma. Section 1(a) of the order blocks all property and interests in the property of persons determined by the Secretary of the Treasury, in consultation with the Secretary of State:

- to operate in the defense sector of the Burmese economy or any other sector of the Burmese economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State;
- to be responsible for or complicit in, or to have directly or indirectly engaged or attempted to engage in, any of the following:
 - actions or policies that undermine democratic processes or institutions in Burma;
 - actions or policies that threaten the peace, security, or stability of Burma;
 - actions or policies that prohibit, limit, or penalize the exercise of freedom of expression or assembly by people in Burma, or that limit access to print, online, or broadcast media in Burma; or
 - the arbitrary detention or torture of any person in Burma or other serious human rights abuse in Burma;
- to be or have been a leader or official of:
 - the military or security forces of Burma, or any successor entity to any of the foregoing;

¹ Executive Order 14014, "Blocking Property With Respect to the Situation in Burma" (February 10, 2021).

- the Government of Burma on or after February 2, 2021;
- an entity that has, or whose members have, engaged in any activity described in subsection (a)(ii) of this section relating to the leader's or official's tenure; or
- an entity whose property and interests in property are blocked pursuant to E.O. 14014 as a result of activities related to the leader's or official's tenure;
- to be a political subdivision, agency, or instrumentality of the Government of Burma;
- to be a spouse or adult child of any person whose property and interests in property are blocked pursuant to E.O. 14014;
- to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of any person whose property and interests in property are blocked pursuant to E.O. 14014; or
- to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, the military or security forces of Burma or any person whose property and interests in property are blocked pursuant to E.O. 14014.

All property and property interests of persons determined to be subject to the order that are or come within the United States or the possession or control of a U.S. person are blocked, and U.S. persons are prohibited from engaging in transactions involving the designated persons except as authorized by OFAC or exempt. These prohibitions extend as well to any entity that is 50 percent or more owned, individually or in the aggregate, by one or more of the sanctioned persons. Individuals sanctioned pursuant to E.O. 14014 are also subject to a ban on entry into the United States.

E.O. 14014 is broad in scope, and grants OFAC the discretion and authority to respond quickly with further sanctions targeting a wide range of individuals and entities as the situation in Burma develops.

Sanctions Designations

Notwithstanding the broad authorities provided for by E.O. 14014, OFAC's previous designations under the order have been relatively narrow in scope, though symbolic of the U.S.'s willingness to use sanctions to address the undermining of democracy abroad. In separate actions, OFAC targeted:

- The leaders of the coup and three military-controlled entities involved in gem trading;²
- Individuals appointed to Burma's State Administrative Council following the coup;³
- The adult children of the leader of the coup and several companies they control; and⁴
- Military officials and units involved in repression of protestors against the coup.⁵

By contrast, the imposition of sanctions against MEHL and MEC is likely to have more substantial practical consequences for the Burmese economy and more significant compliance implications for U.S.

² ["United States Targets Leaders of Burma's Military Coup Under New Executive Order"](#) (February 11, 2021).

³ ["United States Targets Members of Burma's State Administrative Council following Violence against Protestors"](#) (February 22, 2021),

⁴ ["United States Targets Family Members Profiting from Connection to Burmese Coup Leader"](#) (March 10, 2021).

⁵ ["United States Targets Burmese Military Forces for Repression of Pro-Democracy Protests"](#) (March 22, 2021).

and non-U.S. persons that continue to do business in Burma. Under OFAC's 50 percent rule, the sanctions extend to entities that are 50 percent or more owned by MEHL or MEC, even though such entities are not listed on OFAC's List of Specially Designated Nationals and Blocked Persons ("**SDN List**"). Companies doing business in Burma, particularly in the specific sectors identified by OFAC as dominated by these two entities, should conduct appropriate due diligence on their counterparties' ownership structures to assess whether the sanctions may apply.

General Licenses

In connection with the designations of MEHL and MEC, OFAC also issued four new general licenses (each, a "**Burma GL**") and published **two new responses** to FAQs. The Burma GLs authorize the following:

- **Official Business of the United States Government.** **Burma GL 1** authorizes all transactions and activities prohibited under E.O. 14014 that are for the conduct of the official business of the United States Government by employees, grantees, or contractors.
- **Official Activities of International Organizations and Entities.** **Burma GL 2** authorizes all transactions and activities prohibited by E.O. 14014 that are for the conduct of the official business of specified international organizations and entities.⁶
- **Certain Transactions in Support of Non-Governmental Organizations' ("NGOs") Activities.** **Burma GL 3** authorizes transactions by NGOs ordinarily incident and necessary to humanitarian projects dedicated to meeting basic humanitarian needs, democracy-building, education, non-commercial development projects directly benefiting the Burmese people, and environmental protection. Authorized transactions include processing and transfers of funds; payment of taxes, fees, and import duties; and purchase or receipt of permits, licenses, or public utility services.
- **Wind-Down Transactions.** **Burma GL 4** authorizes transactions and activities ordinarily incident and necessary to the wind-down of operations, contracts, or other agreements involving MEC, MEHL, or any entity in which MEC or MEHL owns, whether individually or in the aggregate, directly or indirectly, a 50 percent or greater interest. The authorization is valid through 12:01 a.m. eastern daylight time on **June 22, 2021**. New FAQ 883 clarifies that while GL 4 is in effect, wind-down transactions may be processed through the U.S. financial system or involve U.S. persons, as long as the transactions comply with the terms and conditions in GL 4. OFAC encourages persons who are unable to complete wind-down transactions by June 22 to contact the agency for further guidance.

Looking Forward

As of March 30, 2021, over 500 people, including civilians, have been killed by Burmese military forces since the February 1 coup. With no apparent pathway to resolving the conflict within Burma, additional sanctions are likely, and the U.S. may become increasingly willing to target broader sectors of the Burmese economy that it views as providing significant economic benefits to the Burmese military regime. U.S. and non-U.S. companies that continue to do business in Burma should be mindful of both current and future sanctions risks, and take steps to ensure that transactions subject to U.S. jurisdiction are consistent with applicable sanctions.

⁶ New FAQ 882 provides additional guidance on United Nations constituent organizations covered by the authorization in GL 2.

If you have any questions regarding the matters covered in this publication, please contact any of the lawyers listed below or your regular Davis Polk contact.

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