

Client Alert

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OFAC Lifts Longstanding Trade Sanctions Against Burma: Imposes Sanctions on Certain Burmese Persons

The Office of Foreign Assets Control (“OFAC”) of the U.S. Department of the Treasury has issued two general licenses authorizing transactions with Burma. The actions were taken in response to the historic reforms that have taken place in the country over the last year. A general license allows the specified types of transactions to take place without case-by-case review by OFAC.

General License 16 authorizes exports, or re-exports from third countries, of U.S. financial services to Burma. General License 17 authorizes new investments in Burma. Both types of transactions had been blocked for some time, and continue to be blocked with respect to the Ministry of Defense or any state or nonstate armed group. Persons or entities with aggregate investments in Burma above \$500,000 will need to provide certain information on the investments to the Department of State.

The regime of sanctions against Burma does not and has not prohibited exports of goods or services other than financial services to Burma. Such transactions may not have been feasible, however, because of the impact on payment, insurance and other necessary arrangements resulting from the ban on exports of financial services. Thus, in addition to benefiting financial institutions directly, General License 16 may facilitate the export of other goods and services to Burma.

In parallel with OFAC’s issuance of General Licenses 16 and 17, President Obama has issued an executive order authorizing OFAC to block transactions with persons found to be threatening the peace, security or stability of Burma. This is in keeping with a trend in U.S. trade sanctions to broaden the scope of the Specially Designated Nationals (“SDN”) list maintained by OFAC. Historically, U.S. trade sanctions targeted import and export trade with particular countries, such as Iran or Cuba. Increasingly, however, U.S. trade sanctions have prohibited transactions with persons or entities on the SDN. These prohibitions apply not just in a specific country but worldwide, including in the U.S. In addition, persons, groups or entities can be added to the SDN under sanctions programs that are not country-specific, such as sanctions against terrorists or narcotics traffickers. As a result, and as the Burma sanctions illustrate, an effective trade sanctions compliance program involves more than refraining from transactions with a limited list of sanctioned countries, but may also need to include comparing customer and other lists against the SDN.

William F. Young
wyoung@hunton.com

Djordje Petkoski
dpetkoski@hunton.com

David A. Higbee
dhigbee@hunton.com

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