

## CLIENT MEMORANDUM

# United States Further Eases Sanctions on Myanmar to Facilitate U.S. Trade and Investment

May 19, 2016

## AUTHORS

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On May 17, 2016, the U.S. Department of the Treasury further eased sanctions for Myanmar, still officially known in the United States as Burma, to encourage additional U.S. trade and investment. At the same time, President Obama renewed the national emergency, first declared by President Clinton in 1997, that provides the authority for the remaining U.S. sanctions for Myanmar pursuant to the International Emergency Economic Powers Act (“IEEPA”). The United States took these steps in the wake of the landmark election of Aung San Suu Kyi's National League for Democracy party this past November, a continued move toward Myanmar's peaceful transition to a democratically-elected government.

The U.S. Department of the Treasury's Office of Foreign Assets Control (“OFAC”) took several steps to authorize transactions in Myanmar and allow additional trade and investment by U.S. persons:

- OFAC removed seven state-owned enterprises (Myanmar Timber Enterprise, Myanmar Pearl Enterprise, Myanmar Gem Enterprise, No. 1 Mining Enterprise, No. 2 Mining Enterprise, No. 3 Mining Enterprise, and Co-Operative Export-Import Enterprise) and three state-owned banks (Myanma Economic Bank, Myanmar Foreign Trade Bank, and Myanma Investment and Commercial Bank) from the Specially Designated Nationals and Blocked Persons List (“the SDN List”). The banks' appearance on the SDN List previously prohibited any transactions with these banks by U.S. persons unless exempt or licensed. U.S. persons may now generally conduct transactions with these entities.

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- OFAC broadly authorized access to banking services within Myanmar by removing two state-owned financial institutions from the SDN List, and extending a general license for banking services to two additional private banks. Accordingly, most transactions, including opening and maintaining accounts and conducting a range of other financial services, with Asia Green Development Bank, Ayeyarwady Bank, Innwa Bank, and Myawaddy Bank are authorized. These steps effectively authorize most banking transactions with Myanmar financial institutions.
- OFAC extended indefinitely “General License 20,” which authorizes transactions ordinarily incident to exports to and from Myanmar involving individuals or companies that appear on the SDN List. OFAC also expanded the authorization to cover transactions with SDNs ordinarily incident to moving goods within Myanmar, including moving goods from warehouses to retail outlets for further distribution throughout the country.
- OFAC added a general license allowing U.S. persons living in Myanmar to conduct transactions that are ordinarily incident to living in the country. The license authorizes paying for rent, living expenses, and other personal goods and services, making living in Myanmar easier for U.S. individuals.

To incentivize further democratic reforms and maintain pressure on targeted individuals and entities and the military, the President renewed the national emergency pursuant to IEEPA, thereby preserving his authority to maintain prohibitions on certain transactions in Myanmar.

- The sanctions continue to prohibit U.S. persons from engaging in any transaction involving an SDN, or any entity owned 50 percent or more by one or more SDNs. OFAC identified and added to the SDN List six companies that are more than 50 percent owned by Steven Law and Asia World, both of whom have been on the SDN List since 2008. These six companies are Asia Mega Link Co., Ltd., Asia Mega Link Services Co., Ltd., Pioneer Aerodrome Services Co., Ltd., Green Asia Services Co., Ltd., Global World Insurance Company Limited, and Shwe Nar Wah Company Limited.
- U.S. persons investing over \$500,000 in Myanmar must still file an annual report with the U.S. Department of State. The report must outline a range of policies and procedures with respect to the investment, including human rights, labor rights, land rights, community consultations and stakeholder engagement, environmental stewardship, anticorruption, arrangements with security service providers, risk and impact assessment and mitigation, payments to the government, investments with the Myanma Oil and Gas Enterprise, and contact with the military or non-state armed groups. However, the Department of State is in the process of revising the reporting threshold from \$500,000 to \$5 million.
- Because of the continuing concerns about the state of the jade and ruby mining industries in Myanmar, importing Myanmar jade and ruby into the United States remains prohibited.

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By taking steps to ease sanctions on Myanmar while renewing the national emergency pursuant to IEEPA, the United States continues to encourage expanded U.S. trade and investment in Myanmar, while maintaining pressure for further reforms in Myanmar to address the role of the military, human rights conditions, and the business practices of those who remain on the SDN List. Companies operating in Burma should ensure that they are familiar with the restrictions that remain in place, conduct sufficient due diligence on business partners in Myanmar, and remain vigilant regarding U.S. policy concerns and potential changes to U.S. sanctions.

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May 19, 2016

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