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Newly Issued General License Authorizes Additional U.S. Economic Activity in Burma

On February 22, the Office of Foreign Assets Control (OFAC) at the U.S. Department of the Treasury issued General License 19 to authorize additional U.S. economic activity in Burma. General License 19 furthers the process, begun in July 2012, of easing of U.S. economic sanctions against Burma. Less than one year ago, U.S. persons and companies were subject to significant restrictions on business operations in Burma. According to the OFAC release, General License 19:

...allows individuals, companies, and financial institutions to conduct most transactions – including opening and maintaining accounts and conducting a range of other financial services – with four of Burma’s major financial entities: Myanmar Economic Bank, Myanmar Investment and Commercial Bank, Asia Green Development Bank, and Ayeyarwady Bank. This action will give U.S. companies and non-governmental organizations greater access to some of the largest Burmese banks and allow these financial entities to access the U.S. financial system.

General License 19 is subject to specific limits. Most significantly, the license does not authorize any “new investment” in Burma—broadly defined as any agreement related to the economic development of natural resources in Burma. The term “new investment” as referenced in General License 19 excludes the entry into, performance of, or financing of a contract to sell or purchase goods, services, or technology unless such contract includes the economic development of resources in Burma.

Further, General License 19 does not authorize the importation into the United States of jadeite or rubies mined or extracted from Burma, or of articles of jewelry containing jadeite or rubies mined or extracted from Burma. The license also does not authorize transactions involving any person other than Asia Green Development Bank, Ayeyarwady Bank, Myanmar Economic Bank, and Myanmar Investment and Commercial Bank whose property and interests in property are blocked pursuant to the Burmese Sanctions Regulations. All property and interests in property blocked pursuant to the Burmese Sanctions Regulations remains blocked, and U.S. persons may not transact with those persons or entities included on the list of Specially Designated Nationals pursuant to the Burmese Sanctions Regulations.

In addition, the license does not authorize, in connection with the provision of security services, the exportation or re-exportation of financial services, directly or indirectly, to the Burmese Ministry of Defense, including the Office of Procurement; any state or non-state armed group; or any entity in which any of the foregoing own a 50 percent or greater interest.

As a result of General License 19, the special measures against Burma imposed under Section 311 of the USA PATRIOT Act no longer 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. General License 19 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.

Bottom Lines:

1. General License 19 will allow U.S. persons and companies to maintain accounts at the four specified Burmese banks. This will, in turn, make it easier for U.S. companies to conduct business operations in Burma.
2. Investment by U.S. persons and companies in extractive projects in Burma remains prohibited without a specific license from OFAC. Burmese-origin jadeite and rubies may not be imported into the U.S., either alone or in articles of jewelry, without OFAC approval.
3. Absent a specific license from OFAC, U.S. persons and companies remain prohibited from transacting with any person or entity included on the list of Specially Designated Nationals pursuant to the Burmese Sanctions Regulations.
4. U.S. persons and companies remain restricted in the provision of security services to any Burmese government entity, including the Ministry of Defense.

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