

Biden Administration Announces New Sanctions, Export Controls Following Burma's Military Coup

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On February 11, 2021, the Biden Administration created a new sanctions regime and imposed additional export restrictions in response to the recent military coup in Burma. While the new measures do not broadly prohibit doing business with Burma, they do forbid U.S. companies and individuals from engaging in transactions with several current and former military officials, as well as certain Burmese companies, and impose more stringent export controls on Burma's Ministry of Defense, Ministry of Home Affairs, armed forces, and security services.

Following the issuance of an Executive Order (EO) in response to the military coup that took place in Burma on February 1, 2021, the U.S. Treasury Department's Office of Foreign Assets Control (OFAC) sanctioned 10 individuals and three entities responsible for the coup. The sanctioned persons include six members of the National Defense and Security Council who were directly involved in the coup. OFAC also sanctioned four individuals who joined the State Administration Council following the coup, along with three organizations—Myanmar Ruby Enterprise, Cancri Gems & Jewellery Co., Ltd., and Myanmar Imperial Jade Co., Ltd.—that are wholly owned subsidiaries of a conglomerate owned or controlled by the Burmese military. U.S. persons must block, or "freeze," any assets or other property (e.g., contracts) of these sanctioned individuals and entities and submit reports to OFAC describing the blocked property. Generally, U.S. persons are banned from engaging in future dealings with the newly sanctioned persons.

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These sanctions follow the administration's announcement that it would seek to block the military from improperly accessing the more than \$1 billion in government funds held in the United States. The EO also provides broad authority to sanction additional individuals, companies, and Burmese government entities if the military refuses to change course.

In addition to OFAC's sanctions, the U.S. Commerce Department's Bureau of Industry Security (BIS) announced stringent export restrictions on sensitive items intended for Burma's Ministry of Defense, Ministry of Home Affairs, armed forces, and security services. Specifically, BIS will now apply a presumption of denial for license applications for exports and reexports to these Burmese government entities and is revoking certain existing, unexhausted licenses for these entities. BIS is also suspending some license exceptions that previously allowed certain exports to Burma, including License Exceptions GBS (Shipments to Country Group B Countries) and TSR (Technology and Software Under Restriction). The agency also noted that it is "assessing additional actions, including possible Entity List additions, adding Burma to the countries subject to the [Export Administration Regulations'] military end use and end user (MEU) and military intelligence end use and end user (MIEU) restrictions, and downgrading Burma's Country Group status in the EAR."

Prior to this week's actions, the United States had been in the process of normalizing relations with Burma, a trend that began in 2011 under the Obama Administration. In mid-2012, the U.S. government significantly eased financial and investment sanctions on the nation by allowing the export and reexport of certain financial services to, and new investment in, Burma, to "encourage further change, promote economic development, and contribute to the welfare of the Burmese people." OFAC officially terminated its broad Burma sanctions program in 2016.

Notably, the White House announcement highlights that the United States intends to work with the international community to "support the restoration of democracy and the rule of law" in Burma. It also emphasized that the United States will continue to support the people of Burma by maintaining U.S. support for programs in areas such as healthcare and civil society groups, as well as the Rohingya Muslims and "other vulnerable populations."

Wiley has unparalleled experience representing clients in trade, OFAC, and export control matters. Should you have any questions, please do not hesitate to contact one of the attorneys listed on this alert.

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