

U.S. Business Advisory and New Sanctions Issued One Year after Military Coup

February 3, 2022

In recent actions, the U.S. government continues its incremental pressure campaign against the military regime controlling Burma (Myanmar).

BUSINESS ADVISORY

On January 26, 2022, the U.S. Departments of Treasury, State, Commerce, Homeland Security, Labor and Office of U.S. Trade Representative issued a joint advisory (“Advisory”) to the business community regarding the risks of doing business in Burma (Myanmar), particularly related to corruption and human rights abuses.

The Advisory also highlights Burma’s significant money laundering risks (*i.e.*, encountering proceeds of crime or furthering criminal activity) including gaps in its implementation of an effective anti-money laundering (“AML”) and counter financing of terrorism (“CFT”) framework for financial institutions. In 2020, the Financial Action Task Force (“FATF”) identified Burma on its list of jurisdictions under increased monitoring, and the advisory speculates that money laundering-related risks have likely increased over the previous year.

The Advisory further discusses heightened risks in certain industries of concern:

- **State-Owned Enterprises (SOEs):** The Advisory cites a recent OECD report that corruption, child and forced labor, surveillance and other human rights abuses were disproportionately higher in Burmese industries, including the oil and gas, mining, postal, energy, and transportation and logistics sectors, because of the heavy involvement of state and military entities in those sectors.
- **Gems and Precious Metals:** The Advisory notes that, in addition to reports of child labor and other associated human rights abuses, Burma’s gems and precious stones industry is controlled in large portion by Myanmar Economic Holdings Public Company Limited (“MEHL”) and Myanmar Economic Corporation Limited (“MEC”), SOEs controlled by the military and already specially designated nationals

(“SDNs”) under E.O. 14014. Other concerns include the involvement of politically exposed persons (“PEPs”) and SOEs in the sector and widespread corruption and insufficient AML controls throughout.

- **Real Estate and Construction:** The Advisory cautions that the military has significant influence over the Burma real estate market as owners, lessors and sellers of properties within the country.
- **Arms, Military Equipment and Related Activity:** The Advisory reports that the U.N. General Assembly has called for an end to the sale of arms to Burma but that many former suppliers have yet to enact an arms embargo restricting future sales. In the United States, the Commerce Department’s Bureau of Industry and Security (“BIS”) has amended the Export Administration Regulations (“EAR”) several times to restrict the regime’s access to certain U.S. “dual-use” items and prohibiting U.S. persons from providing “support” for any “military-intelligence end use” or “military-intelligence end user” in Burma.

The Advisory recommends heightened due diligence when conducting business in or involving Burma, with a particular focus on the risks noted above.

SANCTIONS

On January 31, 2022, the day before the one-year anniversary of the regime’s overthrow of Burma’s democratically elected government, the U.S. Department of Treasury Office of Foreign Assets Control (“OFAC”) designated another seven individuals and entities connected to Burma’s military regime pursuant to Executive Order (“E.O.”) 14014. The designations were taken in coordination with the United Kingdom and Canada.

Among the newly designated individuals are several senior members of the regime’s law enforcement apparatus:

- **Thida Oo**, the Union Attorney General;
- **Tun Tun Oo**, the Chief Justice of Burma’s Supreme Court; and
- **Tin Oo**, the Chairman of the Anti-Corruption Commission (“ACC”).

OFAC also targeted individuals and entities that have provided financial support to Burma’s military regime:

-
- **KT Services & Logistics Company Limited (“KTSL”)**, which leases a port to a commercial enterprise controlled by the regime; and
 - **Jonathan Myo Kyaw Thaung**, the CEO of KT Group and Director of KTSL.

The final designations relate to the defense sector and persons providing arms and equipment to Burma’s military:

- **Directorate of Procurement of the Commander-in-Chief of Defense Services (“Army”)**, who is responsible for the purchase of arms and equipment for use by the Burmese military;
- **Tay Za**, the owner of multiple companies known to provide equipment and services, including arms, to the Burmese military and a prior member of the May 2021 high-ranking Burmese military delegation to Russia; and
- **Htoo Htet Tay Za** and **Pye Phyo Tay Za**, who are sons of Tay Za and are instrumental to Tay Za’s business dealings in support of the Burmese military.

More information on the advisory can be found [here](#), and information on the OFAC designations can be found [here](#) and [here](#).

* * *

Please do not hesitate to contact us with any questions.



Satish M. Kini
Partner, Washington, D.C.
+1 202 383 8190
smkini@debevoise.com



Robert T. Dura
Counsel, Washington, D.C.
+1 202 383 8247
rdura@debevoise.com



Catherine Morrison
Law Clerk, New York
+1 212 909 6849
ccmorrison@debevoise.com