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U.S. Government Permits New Investment in Burma

The U.S. government recently eliminated its longstanding ban on new U.S. investment in Burma. U.S. companies wishing to explore investment opportunities in Burma remain subject, however, to a number of compliance and reporting requirements.

On July 11, 2012, the U.S. Treasury Department's Office of Foreign Assets Control (OFAC) issued two General Licenses (GL) permitting (1) the export of financial services to Burma and (2) new U.S. investment with non-military entities in that country.

The new GLs restrict new investment or certain financial dealings with the Burmese Ministry of Defense, any armed group in Burma (including the military), or any entity owned by one of these groups. In addition, a number of Burmese individuals or entities remain designated as prohibited persons or Specially Designated Nationals (SDN). U.S. individuals and entities remain prohibited from dealing with any SDNs.

New investment in Burma over \$500,000 in aggregate will be subject to certain reporting requirements administered by the U.S. Department of State. The preliminary version of the reporting regulations requires U.S. entities to disclose the following details with regard to their activities:

- operations in Burma;
- policies and procedures with respect to human rights in Burma;
- certain payments made to Burmese government entities; and
- investment of any amount initiated with Myanmar Oil and Gas Enterprise (MOGE).

Although these reporting requirements must still receive inter-agency approval before becoming final, we recommend that U.S. companies wishing to engage in new investment in Burma review the preliminary reporting requirements and use them as a guide to begin determining future information collection and disclosure obligations.

Despite the recent easing of sanctions on Burma, a number of important restrictions remain:

- The U.S. State Department continues to maintain a nearly comprehensive ban on imports of Burmese products into the United States.
- U.S. products remain subject to the Export Administration Regulations (EAR), which limit the export of certain U.S.-origin goods, services, and technology to Burma.
- Any imports or exports involving Burma, Burmese individuals or entities, or Burmese products should only proceed after careful analysis to determine whether the proposed transaction is prohibited or requires further U.S. government authorization.

Any U.S. person or entity wishing to do business in Burma, or with Burmese nationals, should also continue to screen all individuals, intermediaries, and entities involved in Burma-related transactions, as well as the transaction as such, against all of the most up-to-date relevant U.S. government lists of designated and sanctioned individuals and transactions, including OFAC's SDN List.

The pervasive involvement of the Burmese military in the Burmese private sector will continue to complicate any potential transactions with Burma, and it is important to note that the U.S. government could impose additional sanctions at any time. Given the fluid nature of the Burmese reform process, any exports or provision of services to Burma, or activities with any individual or entity doing business with Burma, should be undertaken with great caution and careful review of current economic sanctions and export controls.

This *GT Alert* was prepared by **Kara Bombach** and **Cy Brennan**. Questions about these regulatory changes, or other export controls or U.S. sanctions matters, can be directed to the [Greenberg Traurig's Export Controls Group](#).

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