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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 537

Burmese Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final Rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending the Burmese Sanctions Regulations to add a general license authorizing certain transactions related to U.S. persons residing in Burma. OFAC is also incorporating a general license authorizing certain transactions incident to exports to and from Burma that has, until now, appeared only on OFAC's website on the Burma sanctions page, and expanding this authorization to allow certain transactions incident to the movement of goods within Burma that otherwise would be prohibited. Finally, OFAC is expanding and updating another existing authorization allowing most transactions involving certain blocked financial institutions.

DATES: Effective: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury’s Office of Foreign Assets Control: Assistant Director for Licensing, tel.: 202-622-2480, Assistant Director for Regulatory Affairs, tel.: 202-622-4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490; or the Department of the Treasury’s Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202-622-2410.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC’s website (www.treasury.gov/ofac). Certain general information pertaining to OFAC’s sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202-622-0077.

Background

On June 30, 2014, the Department of the Treasury’s Office of Foreign Assets Control (OFAC) amended and reissued in their entirety the Burmese Sanctions Regulations, 31 CFR part 537 (the “Regulations”), to implement Executive Order 13448 of October 18, 2007, “Blocking Property and Prohibiting Certain Transactions Related to Burma,” Executive Order 13464 of April 30, 2008, “Blocking Property and Prohibiting Certain Transactions Related to Burma,” Executive Order 13619 of July 11, 2012, “Blocking Property of Persons Threatening the Peace,

Security, or Stability of Burma,” and Executive Order 13651 of August 6, 2013, “Prohibiting Certain Imports of Burmese Jadeite and Rubies” (79 FR 37106).

Following Burma’s peaceful and competitive elections in 2015, the U.S. Government is taking additional steps to support Burma’s political reforms and broad-based economic growth.

Transactions related to U.S. persons residing in Burma. OFAC is adding a general license in section 537.525 to authorize certain transactions related to maintenance of U.S. persons residing in Burma, including payment of living expenses and acquisition of goods or services for personal use. This general license complements the existing exemption in section 537.210(c) of the Regulations for travel to or from Burma, including maintenance within Burma, such as payment of living expenses and acquisition of goods or services for personal use.

Trade-related transactions. In December 2015, OFAC issued and made available on its website General License No. 20, a six-month general license authorizing certain transactions ordinarily incident to exportations to or from Burma of goods, technology, or non-financial services that are otherwise prohibited by the Regulations and unblocking certain previously blocked transactions. Today, OFAC is amending the Regulations by adding section 537.532 to incorporate that general license, to remove its six-month time limitation, and to expand this authorization to allow additional transactions incident to the movement of goods within Burma.

Banking services. In February 2013, OFAC issued and made available on its website General License No. 19, and subsequently added this authorization to the Regulations at section

537.531, authorizing most transactions, including opening and maintaining accounts and conducting other financial services, involving four of Burma's major financial institutions that were then included on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List): Asia Green Development Bank, Ayeyarwady Bank, Myanmar Economic Bank (MEB), and Myanmar Investment and Commercial Bank (MICB). In an action coordinated with these regulatory amendments, OFAC has delisted two of these financial institutions, MEB and MICB. As a result of that action, transactions involving these two institutions are no longer prohibited and therefore do not require an OFAC license. Accordingly, OFAC is amending section 537.531 to remove their names. At the same time, to further support Burma's broad-based economic growth, OFAC is adding two other Burmese financial institutions, Innwa Bank and Myawaddy Bank, to the general license at section 537.531, thereby authorizing most transactions involving those institutions.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the “Reporting, Procedures and Penalties Regulations”). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505-0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 537

Administrative practice and procedure, Banks, Banking, Blocking of assets, Credit, Burma, Exportation, Exports, Foreign Trade, Investments, Loans, New investment, Securities, Services, Specially Designated Nationals.

For the reasons set forth in the preamble, the Department of the Treasury’s Office of Foreign Assets Control amends 31 CFR part 537 as set forth below:

PART 537—BURMESE SANCTIONS REGULATIONS

1. The authority citation for part 537 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Sec. 570, Pub. L. 104–208, 110 Stat. 3009; Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1701 note); Pub. L. 110–286, 122 Stat. 2632 (50 U.S.C.

1701 note); E.O. 13047, 62 FR 28301, 3 CFR, 1997 Comp., p. 202; E.O. 13310, 68 FR 44853, 3 CFR, 2003 Comp., p. 241; E.O. 13448, 72 FR 60223, 3 CFR, 2007 Comp., p. 304; E.O. 13464, 73 FR 24491, 3 CFR, 2008 Comp., p. 189; E.O. 13619, 77 FR 41243, 3 CFR, 2012 Comp., p. 279; E.O. 13651, 78 FR 48793, 3 CFR, 2014 Comp., p. 324; Determination No. 2009–11, 74 FR 3957, 3 CFR, 2009 Comp., p. 330.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

2. Add § 537.525 to read as follows:

§ 537.525 Certain transactions related to U.S. persons residing in Burma authorized.

(a) U.S. persons are authorized to engage in transactions in Burma ordinarily incident to the routine and necessary maintenance within Burma, including payment of living expenses and acquisition of goods or services for personal use, of U.S. person individuals who reside in Burma.

(b) Nothing in this section authorizes transactions related to employment of a U.S. person by a person whose property and interests in property are blocked pursuant to § 537.201(a).

Note to § 537.525: See § 537.210(c) for an exemption for transactions ordinarily incident to travel to or from Burma, including maintenance within Burma, such as payment of living expenses and acquisition of goods or services for personal use.

3. Amend § 537.531 by revising the section heading, revising paragraphs (a), (b), and (d), and revising the Note to § 537.531 to read as follows:

§ 537.531 Certain transactions involving Asia Green Development Bank, Ayeyarwady Bank, Innwa Bank, and Myawaddy Bank authorized.

(a) Except as provided in paragraphs (b) through (f) of this section, all transactions involving Asia Green Development Bank, Ayeyarwady Bank, Innwa Bank, and Myawaddy Bank are authorized.

(b) This section does not authorize transactions involving any person whose property and interests in property are blocked pursuant to § 537.201(a) other than Asia Green Development Bank, Ayeyarwady Bank, Innwa Bank, and Myawaddy Bank.

* * * * *

(d) This section does not authorize any new investment, as defined in § 537.311, including in or with Asia Green Development Bank, Ayeyarwady Bank, Innwa Bank, or Myawaddy Bank.

* * * * *

Note to § 537.531: As a result of the authorization contained in this section, the special measures against Burma imposed under Section 311 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001 (Pub. L. 107-56) (USA PATRIOT Act) do not apply to the operation of correspondent accounts for Asia Green Development Bank, Ayeyarwady Bank, Innwa Bank, and Myawaddy Bank, or to transactions conducted through such accounts, provided the transactions are authorized pursuant to this part, and therefore fall within the exception set forth in 31 CFR 1010.651(b)(3). This section 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. See 31 CFR 1010.610(c).

4. Add § 537.532 to subpart E to read as follows:

§ 537.532 Certain transactions incident to exportations to or from Burma authorized; certain transactions incident to the movement of goods within Burma authorized.

(a) Certain transactions incident to exportations to or from Burma authorized. Except as provided in paragraph (c), all transactions otherwise prohibited by §§ 537.201 and 537.202 that are ordinarily incident to an exportation to or from Burma of goods, technology, or non-financial services, as defined in paragraph (f) of this section, are authorized, provided the exportation is

not to, from, or on behalf of a person whose property and interests in property are blocked pursuant to § 537.201(a).

(b) Unblocking of certain property previously blocked as part of a transaction incident to an exportation to or from Burma authorized. U.S. financial institutions, as defined in § 537.320, are authorized to engage in all transactions necessary to unblock and return property blocked as part of a transaction on or after April 1, 2015 that would have qualified as authorized had it been engaged in under paragraph (a) of this section. U.S. financial institutions unblocking property pursuant to this section must submit a report to the Department of the Treasury, Office of Foreign Assets Control, Attn: Sanctions Compliance & Evaluation Division, 1500 Pennsylvania Avenue N.W., Annex, Washington, DC 20220 within 10 business days from the date such property is unblocked. Such reports shall include the following:

(1) A copy of the original blocking report filed with OFAC pursuant to § 501.603(b)(1) of this chapter;

(2) The date the property was unblocked;

(3) If applicable, the amount unblocked;

(4) The name of the party to whom the blocked property was returned; and

(5) A reference to this general license as the legal authority under which the property was unblocked and the blocked property was returned.

(c) Paragraphs (a) and (b) of this section do not authorize:

(1) The unblocking of any property or interests in property that were blocked pursuant to § 537.201(a) prior to April 1, 2015.

(2) A U.S. financial institution to advise or confirm any financing by a person whose property and interests in property are blocked pursuant to § 537.201(a).

(d) Certain transactions incident to the movement of goods within Burma authorized.

Except as provided in paragraph (e) of this section, all transactions otherwise prohibited by §§ 537.201 and 537.202 that are ordinarily incident to the movement of goods within Burma are authorized, provided the goods are not being sent to, from, or on behalf of a person whose property and interests in property are blocked pursuant to § 537.201(a).

(e) Paragraph (d) of this section does not authorize:

(1) The unblocking of any property or interests in property that were blocked pursuant to § 537.201(a).

(2) A U.S. financial institution to advise or confirm any financing by a person whose property and interests in property are blocked pursuant to § 537.201(a).

(f) For the purposes of this section, the term non-financial services means all services other than those listed in § 537.305.

Note to § 537.532: See § 537.529 for a general license authorizing the exportation or reexportation of financial services to Burma.

Dated: May 13, 2016

John E. Smith

Acting Director, Office of Foreign Assets Control.

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