

# US Imposes Restrictions on Burma Following Military Coup

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In response to the February 1, 2021, military coup in Burma (Myanmar),<sup>1</sup> on February 10, 2021, President Joe Biden issued Executive Order 14014 (EO 14014), “Executive Order on Blocking Property With Respect to the Situation in Burma.” On the same day, the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) designated three entities and 10 Burmese individuals, including the acting president, minister of defense, and commander-in-chief of the Burmese military forces, and added these individuals and entities to the List of Specially Designated Nationals and Blocked Persons (SDN List). The U.S. Department of Commerce’s Bureau of Industry and Security (BIS) separately imposed restrictions on exports of sensitive items to the Burmese military and other entities associated with the coup. These new sanctions and export controls — the first of the Biden administration — mark a return to restrictions on Burma following the lifting of sanctions in 2016. (See our October 14, 2016, client alert, “[After Nearly 20 Years, US Lifts Burma Sanctions.](#)”)

## Executive Order and OFAC Sanctions

EO 14014 provides the authority to impose sanctions on any foreign person determined by the secretary of the treasury, in consultation with the secretary of state, to engage in specific categories of activity. The criteria for the imposition of sanctions under EO 14014 are framed broadly, positioning the U.S. government to target a range of political and military actors in Burma, or elements of the Burmese government, without the need for new authorities. Sanctions may be imposed on those determined to engage in the following activities, among others:

- operating in the defense sector of the Burmese economy;
- operating in any other sector of the Burmese economy specifically identified by the secretary of the treasury, in consultation with the secretary of state;
- being or having been a leader or official of the military or security forces of Burma;
- being or having been a leader or official of the government of Burma on or after February 2, 2021;
- being a political subdivision, agency or instrumentality of the government of Burma;
- being responsible for or complicit in, or to have directly or indirectly engaged or attempted to engage in: actions that undermine democratic processes or institutions in Burma; actions that threaten the peace, security or stability of Burma; actions that prohibit, limit or penalize the exercise of freedom of expression or assembly by people in Burma; actions that limit access to print, online or broadcast media in Burma; or arbitrary detention or torture of any person in Burma or other serious human rights abuse;
- being a spouse or adult child of any person whose property and interests in property are blocked pursuant to EO 14014;
- being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, the military or security forces of Burma or any person whose property and interests in property are blocked under EO 14014.

As is common in sanctions-related executive orders, EO 14014 also authorizes sanctions on those determined to have materially assisted, sponsored or provided financial, material or technological support for, or goods or services to or in support of, any person sanctioned under the order.

<sup>1</sup> Although in 1989 the military government changed the country’s name to “Myanmar,” [the U.S. government continues to use the name “Burma.”](#)

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U.S. persons are generally prohibited from transacting with blocked persons, including individuals and entities sanctioned under EO 14014, unless otherwise authorized by OFAC. The same prohibitions apply by operation of law to dealings with entities owned 50% or more by one or more blocked persons. In addition, any property or interest in property of blocked individuals and entities that is in the United States or comes within the possession or control of a U.S. person must be blocked (*i.e.*, frozen).

Concurrent with EO 14014, OFAC designated 10 Burmese current and former military officials and three entities. Two of the persons, Min Aung Hlaing and Soe Win — commander-in-chief of the Burmese military forces and his deputy, respectively — were previously designated pursuant to Executive Order 13818, which authorizes sanctions against persons involved in serious human rights abuses. The three entities — Cancri Gems & Jewellery Co., Ltd., Myanmar Imperial Jade Co., Ltd., and Myanmar Ruby Enterprise — were designated by OFAC for “being foreign persons that are owned or controlled by, or that have acted or purported to act for or on behalf of, directly or indirectly, the military or security forces of Burma.”<sup>2</sup> OFAC did not, however, designate Myanmar Economic Holdings Limited (MEHL), the parent company of the three entities according to a United Nations report,<sup>3</sup> or Myanmar Economic Corporation (MEC). Both MEHL and MEC have significant holdings in various sectors of the Burmese economy and thus their current exclusion from the new sanctions is notable. Both were previously subject to OFAC sanctions during the prior Burma sanctions program.

Instead of imposing a countrywide embargo such as that in effect during the last Burma sanctions program, EO 14014 signals a potentially more targeted approach. The language of EO 14014 authorizing sanctions on sectors of Burma’s economy is similar to language in Executive Order 13662, which, in the Ukraine/Russia-related sanctions context, authorized sanctions on any person determined “to operate in such sectors of the Russian Federation economy as may be determined ... such as financial services, energy, metals and mining, engineering, and defense

and related material.” Similar language also appears in Executive Order 13850, which builds on sanctions against the Venezuelan government and authorizes designation of foreign persons determined “to operate in the gold sector of the Venezuelan economy or in any other sector of the Venezuelan economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State.”

## BIS Restrictions on Sensitive Exports

BIS separately imposed restrictions on exports of sensitive items to Burma’s Ministry of Defense, Ministry of Home Affairs, armed forces and security services. As a result, effective immediately, BIS will apply a presumption of denial for items requiring a license for export and reexport to these Burmese government departments and agencies. In addition, BIS revoked certain previously issued licenses and suspended certain license exceptions previously available to Burma, including Shipments to Country Group B countries and Technology and Software Under Restriction. Accordingly, a greater swath of products will now be restricted to Burma as BIS continues to consider other ways to impose “strong export controls” on the country pursuant to President Biden’s directive.

## Conclusion

As the situation evolves, there is a possibility that new restrictions will be imposed. Secretary of the Treasury Janet Yellen stated that “we are also prepared to take additional action should Burma’s military not change course,” and BIS indicated that it is assessing additional actions, including possible BIS Entity List designations, adding Burma to the list of countries subject to the Export Administration Regulations’ (EAR) military end-use and end-user and military intelligence end-use and end-user restrictions, and downgrading Burma’s Country Group status in the EAR. Additionally, the European Union and the United Kingdom have strongly condemned the military coup and indicated that action may be taken soon. Companies should review their business operations and relationships in Burma to evaluate any exposure to the individuals and entities sanctioned by OFAC as well as potential broader exposure to the Burmese military, economic sectors and commercial actors in Burma should sanctions be expanded in the future.

<sup>2</sup> See Treasury’s February 11, 2021, press release “[United States Targets Leaders of Burma’s Military Coup Under New Executive Order](#).”

<sup>3</sup> See the United Nations’ August 5, 2019, report “[The Economic Interests of the Myanmar Military: Independent International Fact-Finding Mission on Myanmar](#)” (p. 73-74).

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