

# Developments in sanctions targeting Myanmar

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Following the military coup in Myanmar on February 1, 2021, the U.S., UK and EU have imposed a range of sanctions targeting individuals and entities affiliated with the Burmese military.

## U.S. sanctions developments

Following the military coup in Myanmar on February 1, 2021, U.S., UK and EU Governments have threatened to reconsider sanctions that had previously been lifted in connection with Myanmar's transition to democracy. On February 12, 2021, President Joe Biden issued Executive Order 14014, blocking the property of certain individuals and entities deemed to be involved in overturning Burmese democracy. Additional sanctions designations targeting persons affiliated with the Burmese military (Tatmadaw) have been issued by the Office of Foreign Assets Control (OFAC) in the weeks since then, including sanctions targeting the military's primary economic holding companies. It is widely expected that additional sanctions may follow, targeting the military and affiliated businesses. These new and possibly forthcoming sanctions are likely to impact any activities or dealings in Myanmar and/or with Burmese clients, and any entities with activities in or connected to Myanmar should carefully assess related risks. Please contact the A&O U.S. sanctions team (see the Related people section), if you have any questions or concerns.

All of the targeted individuals and entities are subject to asset-freezing sanctions in the U.S., and U.S. persons are effectively prohibited from engaging in any transaction with or for the benefit of any of these targets, or their property and interests in property. This includes any entities that are owned, 50% or more, by any of the designated targets. Any transaction involving these targets, their property, or interests in property that has any connection to the United States (including, e.g., any payment in USD) is cause for concern. As discussed further below, non-U.S. persons transacting with these targets also risk incurring sanctions designations themselves.

# Executive Order 14014 authorizes sanctions against any person (individuals or entities) determined by the U.S. government:

- To operate in the defense sector of the Burmese economy (or other sectors to be identified later);
- To be responsible for or complicit in, or engaged or attempted to engage in (directly or indirectly):
  - Actions or policies that undermine democratic processes or institutions in Myanmar;
  - Actions or policies that threaten peace, security, or stability in Myanmar;
  - Actions or policies that prohibit, limit, or penalize freedom of expressions or assembly in Myanmar, or limit access to print, online, or broadcast media; or
  - The arbitrary detention or torture of people in Burma, or any other serious human rights violation.
- To be or have been a leader or official of:
  - The military or security forces of Myanmar;
  - The government of Myanmar on or after February 2, 2021; or
  - An entity that has, or whose members have, engaged in any of the activities listed above, or which has been sanctioned under this executive order.
- To be a political subdivision, agency, or instrumentality of the Government of Myanmar (defined broadly to include the Central Bank of Myanmar and any person owned or controlled by, or acting for or on behalf of, the Government);
- To be a spouse or child of any person targeted by sanctions under this executive order;
- To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of any person targeted by sanctions under this executive order;
- To be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, the Burmese military or security forces, or any target of sanctions under this executive order.

Pursuant to Executive Order 14014, any person deemed by the U.S. government to meet the criteria above could become sanctioned at any time. The potential risk of secondary sanctions is likely to be of particular concern to many non-U.S. financial institutions and corporates, as Executive Order 14014 authorizes sanctions targeting any non-U.S. person that transacts with any sanctions targets designated pursuant to Executive Order 14014. In other words, any person that transacts with Burmese sanctions targets that were designated under Executive Order 14014 may themselves become targeted by the same asset-freezing sanctions. This applies both to those persons targeted already and any forthcoming designations.

To date, OFAC has targeted a range of high-ranking Burmese military officials and close associates, as well as certain entities connected to the military. Of particular note were the designations on March 25, 2021 of the military's main business conglomerates: Myanmar Economic Holdings Public Company Limited (MEHL) and Myanmar Economic Corporation Limited (MEC). OFAC concurrently issued several general licenses, authorizing certain wind-down periods for pre-existing transactions with MEHL and MEC until June 22, 2021, as well as transactions relating to certain NGO work in Myanmar and official business of the U.S. Government and certain international organizations. MEHL and MEC have pervasive holdings and are engaged in a wide range of economic activities in Myanmar, and all persons with dealings with the country should carefully review any potential connections to these entities.

## EU and UK sanctions developments

Having condemned the military takeover, the UK and EU have now extended their sanctions on Myanmar.

The EU and the UK maintain targeted sanctions regimes against Myanmar. In general terms, those sanctions restrict the supply of arms and related materiel of all types, the provision of funding in relation to military activities, equipment which might be used for internal repression, dual-use goods and technology, and equipment, technology or software intended primarily for use in the interception of internet or telephone communications. Additionally certain persons are targeted by asset freezes, including, importantly, in respect of the UK, MEHL and MEC, which engage in extensive commercial activities in Myanmar. The EU and the UK have also targeted numerous natural persons linked to the Tatmadaw.