



DEPARTMENT OF THE TREASURY OFFICE OF PUBLIC AFFAIRS

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Treasury Department Designates Burma and Two Burmese Banks to be of “Primary Money Laundering Concern” and Announces Proposed Countermeasures Under Section 311 of the USA PATRIOT Act

Fact Sheet

Overview:

The Treasury Department today announced the designation of Burma and two Burmese banks, Myanmar Mayflower Bank and Asia Wealth Bank, to be of “primary money laundering concern.” In conjunction with this designation, Treasury announced a notice of proposed rulemaking that would require U.S. financial institutions to terminate correspondent accounts involving Burmese financial institutions, subject to certain specified exemptions. Correspondent accounts involving the two specific banks that have been designated would have to be terminated without exception.

Background:

Section 311

- Title III of the USA PATRIOT Act amends the anti-money laundering provisions of the Bank Secrecy Act (BSA) to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism.
- Section 311 authorizes the Secretary of the Treasury – in consultation with DOJ, the State Department, and appropriate Federal financial regulators – to designate a foreign jurisdiction, institution, class of transactions, or type of account to be of “primary money laundering concern,” and to require U.S. financial institutions to take certain “special measures” against the primary money laundering concern.
- These special measures could range from enhanced recordkeeping or reporting requirements to a requirement to terminate correspondent banking relationships with the designated entity and are meant to provide Treasury with a range of options to most effectively target specific money laundering and terrorist financing concerns.

Financial Action Task Force (FATF)

- Established in 1989, the FATF is the premier international body dedicated to the fight against money laundering and terrorist financing. FATF sets international standards in the areas of money laundering and terrorist financing, and seeks to ensure global compliance with those standards.
- Among the FATF's most important and successful initiatives is the Non-Cooperative Countries and Territories (NCCT) process. Through the NCCT process, the FATF identifies and takes action against countries that fail to implement comprehensive anti-money laundering regimes. Once a country is placed on the NCCT list, FATF members inform their respective financial institutions of the designation. If the designated jurisdiction continues to fail to take appropriate remedial action after a period of time, FATF then calls upon its members to impose additional countermeasures.
- FATF has called on members to impose countermeasures only three times – in the cases of Ukraine, Nauru, and now Burma. In each instance, the U.S. has designated the jurisdiction a “primary money laundering concern” under Section 311.

For further information on the FATF, please go to www.fatf-gafi.org.

Burma's Anti-Money Laundering System

In June 2001 Burma was placed on the FATF NCCT List for its lack of basic anti-money laundering provisions and weak oversight of its banking system. Following up on this designation by the FATF, in April 2002, FinCEN issued an advisory to U.S. financial institutions advising that enhanced scrutiny be given to all transactions involving Burma. In taking these actions, FATF and FinCEN cited to the following significant, structural deficiencies in the Burmese anti-money laundering system:

- Burma lacked a basic set of anti-money laundering laws and regulations.
- Money laundering was not a criminal offense for crimes other than drug trafficking in Burma.
- The Burmese Central Bank had no anti-money laundering regulations for financial institutions.
- Banks licensed by Burma were not legally required to obtain or maintain identification information about their customers.
- Banks licensed by Burma were not required to maintain transaction records of customer accounts.
- Burma did not require financial institutions to report suspicious transactions.
- Burma had significant obstacles to international co-cooperation by judicial authorities.

In June 2002, Burma responded to this international pressure by enacting an anti-money laundering law that purportedly addressed some of these deficiencies. The necessary regulations required for its effective implementation, however, are not in place. As a result, the Burmese anti-money laundering law is ineffective and unenforceable, and cannot be regarded as effectively remedying the identified deficiencies.

As a result of Burma's lack of progress, on October 3, 2003, the FATF called upon its member jurisdictions to impose additional countermeasures on Burma as of November 3, 2003.

Myanmar Mayflower Bank and Asia Wealth Bank

The U.S. has information that two Burmese banks - Myanmar Mayflower Bank and Asia Wealth Bank - are controlled by and used to facilitate money laundering for such groups as the United Wa State Army – among the most notorious drug trafficking organizations in Southeast Asia. The Burmese government has failed to take any regulatory or enforcement action against these financial institutions, despite their well-known criminal links.

The designations of Myanmar Mayflower Bank and Asia Wealth Bank are independent from the designation of Burma as a jurisdiction, and represent the first time that the Treasury Department has used its authority under Section 311 against a foreign financial institution.

Effect of Application of Section 311

The designation of Burma is intended to deny Burmese financial institutions access to the U.S. financial system through correspondent accounts. Thus, the proposed rule would prohibit U.S. financial institutions from establishing or maintaining any correspondent account for, or on behalf of, a Burmese financial institution. This prohibition would extend to any correspondent account maintained by a U.S. financial institution for any foreign bank if the account is used by the foreign bank to provide a Burmese financial institution indirect access to the U.S. financial system. In such a case, the U.S. financial institution would be required to ensure that the account no longer is used to provide such access, including, if necessary, terminating the correspondent relationship. The proposed rule does provide for limited exemptions, referred to as general licenses, in order to allow for financial services to be provided consistent with those permitted by Treasury's Office of Foreign Assets Control's Burma sanctions program.

A list of the general licenses can be found at www.treas.gov/offices/eotffc/ofac/sanctions/snactguide-burma.html

Myanmar Mayflower Bank and Asia Wealth Bank are covered by the general Burma designation and proposed rule. Treasury, however, has taken independent action in order to reinforce the importance of termination of relationships with these two institutions, and to ensure that no exemptions are available for them. The designation of these two institutions will remain in place until it is demonstrated that they have severed their links with narcotics trafficking organizations. Under this designation transactions would not be permitted with Myanmar Mayflower Bank and Asia Wealth Bank under the limited exemptions that apply to other Burmese financial institutions.