

## OFAC Announces Burma Sanctions in Response to Coup

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**February 16, 2021 –** On February 10, 2021, President Biden issued a much-anticipated executive order in response to the military coup in Burma that occurred on February 1, 2021. On February 11, pursuant to that executive order, the U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC) designated certain individuals and entities controlled by the Burmese military deemed responsible for the coup. Concurrently, the U.S. Department of Commerce, Bureau of Industry and Security (BIS) implemented a series of restrictions on exports of sensitive items to Burma's Ministry of Defense, Ministry of Home Affairs, armed forces, and security services, while the United States Agency for International Development (USAID) shifted \$42.4 million in funding from programs benefitting the Government of Burma.

### Background

On February 1, 2021, the Burmese military overthrew the country's democratically elected government in a coup d'état, detaining its civilian leadership, shutting down the country's internet, and seizing control of the Burmese government. The actions came immediately prior to what would have been the swearing-in of Burma's newly elected Parliament, formalizing the results of the country's November 8, 2020 general election, which was a landslide victory for civilian leader Aung San Suu Kyi over her military-backed challenger.

In response, the Biden Administration announced a series of actions against persons and entities associated with the coup, demanding that the Burmese military "immediately restore power to the democratically elected leadership, end the state of emergency, release all those unjustly detained, and respect human rights and the rule of law, including by ensuring peaceful protesters are not met with violence."

### Targeted Sanctions

The Biden administration designated 10 individuals and three entities for their association with the military apparatus responsible for the coup. These were:

- Six members of the National Defense and Security Council, including Commander-in-Chief of the Burmese military forces Min Aung Hlaing and Deputy Commander-in-Chief of the Burmese military forces Soe Win, who were “directly involved in the coup,” and were designated pursuant to the new executive order for being foreign persons who are or were “leaders or officials” of the “military or security forces of Burma.”
- Four members of the State Administration Council, including the Minister of Defense, General Mya Tun Oo, and the Minister for Transport and Communications, Admiral Tin Aung San, who were appointed after the coup to their positions by the Burmese military.
- Three Burmese gem companies, which were wholly owned subsidiaries of a large conglomerate run by the Burmese military, 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.

As expected, the U.S. did not resort to broad comprehensive sanctions of the past, which can be difficult to undo and carry broader harm for the fragile economy, but the Executive Order leaves open the possibility of more wide-reaching restrictions. The sanctions target elements of the military and, importantly, their business interests. Secretary of State Blinken explained in a [press statement](#) that “[t]hese designations specifically target current or former members of the military who played a leading role in the overthrow of Burma’s democratically-elected government. They do not target the economy or people of Burma, and we have gone to great lengths to ensure we do not add to the humanitarian plight of the Burmese people.”

The Burma Executive Order nevertheless offers a range of options for the United States if it later chooses to adopt a more aggressive approach. Among the foreign persons that could be targeted, but have not yet, include:

- Those responsible for or complicit in, or to have directly or indirectly engaged or attempted to engage in actions or policies that “threaten the peace, security, or stability of Burma,” or that “prohibit, limit, or penalize the exercise of freedom of expression or assembly by people in Burma, or that limit access to print, online, or broadcast media in Burma.”
- Leaders or officials of “the Government of Burma on or after February 2, 2021.”
- Any “political subdivision, agency, or instrumentality of the Government of Burma.”

### **Targeted Export Restrictions**

In parallel to OFAC designations, BIS imposed a [series of restrictions](#) on exports of sensitive items to the Burmese military and security services. Effective as of February 11, 2021, BIS will:

- Apply a presumption of denial for items requiring a license for export and reexport to Burma’s Ministry of Defense, Ministry of Home Affairs, armed forces, and security services.
- Revoke certain previously issued licenses to these departments and agencies which have not been fully utilized.
- Suspend certain license exceptions previously available to Burma as a result of its current Country Group placement under the Export Administration Regulations (EAR), including Shipments to Country Group B countries (GBS) and Technology and Software under restriction (TSR).
- Assess additional actions, including possible Entity List additions, adding Burma to the list of countries subject to the EAR’s military end use and end user (MEU) and military intelligence end use and end user (MIEU) restrictions, and downgrading Burma’s Country Group status in the EAR.

BIS’s actions, as with OFAC’s, target Burma’s military and security services, rather than aim more broadly at exports to Burma as a whole. The Department of Commerce [explained](#) that “[b]y taking immediate action to prevent the Burmese military from benefiting from access to sensitive U.S. technology, we are sending a direct message that the United States stands with the people of Burma and their lawful democratic institutions.”

### **Redirected Humanitarian Aid to Burmese People**

In keeping with its efforts to target those responsible for the coup, but lessening the adverse impact on the Burmese people, the Biden Administration shifted \$42.4 million in USAID assistance from projects that benefit the Government of Burma to programs that "support and strengthen civil society and the private sector." The Administration will also continue to support the Burmese people with approximately \$69 million for programs that provide "direct benefits to sustain and improve the health of the people of Burma, including efforts to maintain democratic space, foster food security, support independent media, and promote peace and reconciliation in conflict-affected regions."

This latter step may be critical to building a multilateral consensus for future sanctions actions targeting the military-led government.

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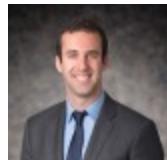
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