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Financial Crimes Enforcement Network

FinCEN Advisory

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Transactions Involving Burma (Myanmar)

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Banks and other financial institutions operating in the United States are advised to give enhanced scrutiny to all financial transactions originating in or routed to or through Burma, or involving entities organized or domiciled, or persons maintaining accounts, in Burma. The need for such enhanced scrutiny is discussed in the remainder of this Advisory.

Burma is a developing, agrarian country ruled by a military regime. It has a population of approximately 41 million people. Burma's economy is heavily dependent upon agriculture, light industry and transport. The state controls substantial activity in energy, other heavy industry, and the rice trade. According to the 2001 International Narcotics Control Strategy Report ("INCSR"), issued by the U.S. Department of State, Burma's economy continues to be vulnerable to drug money laundering because of its under-regulated financial system, weak anti-money laundering regime, and policies that facilitate the funneling of drug money into commercial enterprises and infrastructure investment.

The counter-money laundering regime embodied in the legal, supervisory, and regulatory systems of Burma suffers from serious systemic problems as follows: `

- Burma lacks a basic set of anti-money laundering provisions.
- Money laundering is not a criminal offense for crimes other than drug trafficking in Burma.
- The Burmese Central Bank has no anti-money laundering regulations for financial institutions.
- Banks licensed by Burma are not legally required to obtain or maintain identification information about their customers.
- Banks licensed by Burma are not required to maintain transaction records of customer accounts.
- Burma does not require financial institutions to report suspicious transactions.

These deficiencies, among others, have caused Burma to be identified in June 2001 by the Financial Action Task Force on Money Laundering (the "FATF") as non-cooperative "in the fight against money laundering." The FATF, created at the 1989 G-7 Economic Summit, is a 31 member international group that works to combat money laundering.

Burma is considering legislative changes that could remedy at least some of the deficiencies described above. Nonetheless, the legal, supervisory, and regulatory systems of Burma at present create significant opportunities and tools for the laundering and protection of the proceeds of crime, and allow criminals who make use of those systems to increase significantly their chances to evade effective investigation or punishment. Burma's absence of sufficient supervisory or enforcement mechanisms aimed at preventing and detecting money laundering increases the possibility that transactions involving Burmese financial institutions and accounts will be used for illegal purposes.

Thus, banks and other financial institutions operating in the United States should give enhanced scrutiny to any transaction originating in or routed to or through Burma, or involving entities organized or domiciled, or persons maintaining accounts, in Burma. A financial institution subject to the suspicious transaction reporting rules contained within 31 C.F.R. Part 103, and in corresponding rules of the federal financial institution supervisory agencies, should carefully examine the available facts relating to any such transaction to determine if such transaction requires reporting in accordance with those rules. Institutions subject to the Bank Secrecy Act but not yet subject to specific suspicious transaction reporting rules should consider such a transaction with relation to their reporting obligations under other applicable law.

It should be emphasized that the issuance of this Advisory and the need for enhanced scrutiny does not mean that U.S. financial institutions should curtail legitimate business with Burma.

To dispel any doubt about application of the "safe harbor" to transactions within the ambit of this Advisory, the Treasury Department will consider any report relating to a transaction described in this Advisory to constitute a report of a suspicious transaction relevant to a possible violation of law or regulation for purposes of the prohibitions against disclosure and the protection from liability for reporting of suspicious transactions contained in 31 U.S.C. 5318(g)(2) and (g)(3).

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