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Burma

Burma, a major drug-producing country, has taken steps to strengthen its anti-money laundering regulatory regime in 2007. The country's economy remains dominated by state-owned entities, including the military. Agriculture and extractive industries, including natural gas, mining, logging and fishing provide the major portion of national income, with heavy industry and manufacturing playing minor roles. The steps Burma has taken over the past several years have reduced vulnerability to drug money laundering in the banking sector. However, with an underdeveloped financial sector and large volume of informal trade, Burma remains a country where there is significant risk of drug money being funneled into commercial enterprises and infrastructure investment. Traffic in narcotics, people, wildlife, gems, timber, and other contraband flow through Burma. Regionally, value transfer via trade is of concern and hawala/hundi networks frequently use trade goods to provide counter-valuation. Burma's border regions are difficult to control and poorly patrolled. In some remote regions active in smuggling, there are continuing ethnic tensions with armed rebel groups that hamper government control. Collusion between traffickers and Burma's ruling military junta, the State Peace and Development Council (SPDC), allows organized crime groups to function with virtual impunity. Although progress was made in 2007, the criminal underground faces little risk of enforcement and prosecution. Corruption in business and government is a major problem. Burma is ranked 179 out of 179 countries in Transparency International's 2007 Corruption Perception Index.

The Government of Burma (GOB) has addressed some key areas of concern identified by the international community by implementing some anti-money laundering measures. In October 2006, the Financial Action Task Force (FATF) removed Burma from the FATF list of Non-Cooperative Countries and Territories (NCCT). To ensure continued effective implementation of reforms in Burma, the FATF, in consultation with the relevant FATF-style regional body (FSRB), will continue to monitor developments there for a period of time after delisting. Burma is scheduled to undergo a mutual evaluation by the FSRB Asia-Pacific Group on Money Laundering in January 2008.

The United States maintains other sanctions on trade, investment and financial transactions with Burma under Executive Order 13047 (May 1997), Executive Order 13310 (July 2003), the Narcotics Control Trade Act, the Foreign Assistance Act, the International Financial Institutions Act, the Export-Import Bank Act, the Export Administration Act, the Customs and Trade Act, the Tariff Act (19 USC 1307), and the 2003 Burmese Freedom and Democracy Act (P.L. 108-61). In September and October 2007, under Executive Order 13310, the United States imposed additional sanctions on leaders of the Burmese regime, as well as key businessmen. In October

2007, Executive Order 13448 was issued. It expands the Treasury Department's existing authority to designate individuals for sanctions to include individuals responsible for human rights abuses and public corruption and individuals and entities who provide material or financial support to designated individuals or to the Government of Burma.

Burma enacted a "Control of Money Laundering Law" in 2002. It also established the Central Control Board of Money Laundering in 2002 and a financial intelligence unit (FIU) in 2003. The law created reporting requirements to detect suspicious transactions. It set a threshold amount for reporting cash transactions by banks and real estate firms, albeit at a high level of 100 million kyat (approximately U.S. \$75,000). As of May 2007, over 40,000 cash transaction reports were filed. The GOB's 2004 anti-money laundering measures amended regulations instituted in 2002-2003 that set out 11 predicate offenses, including narcotics activities, human trafficking, arms trafficking, cyber-crime, and "offenses committed by acts of terrorism," among others. In 2004 the GOB added fraud to the list of predicate offenses, established legal penalties for leaking information about suspicious transaction reports, and adopted a "Mutual Assistance in Criminal Matters Law." The 2003 regulations, further expanded in 2006, require banks, customs officials and the legal and real estate sectors to file suspicious transaction reports (STRs) and impose severe penalties for noncompliance.

The GOB established a Department against Transnational Crime in 2004. Its mandate includes anti-money laundering activities. It is staffed by police officers and support personnel from banks, customs, budget, and other relevant government departments. In response to a February 2005 FATF request, the GOB submitted an anti-money laundering implementation plan and produced regular progress reports in 2006 and 2007. In 2005, the government also increased the size of the FIU to 11 permanent members, plus 20 support staff. In August 2005, the Central Bank of Myanmar issued guidelines for on-site bank inspections and required reports that review banks' compliance with AML legislation. Since then, the Central Bank has sent teams to instruct bank staff on the new guidelines and to inspect banking operations for compliance.

In 2007, the Burmese Government amended its "Control of Money Laundering Law" to expand the list of predicate offences to all serious crimes to comport with FATF's recommendations. In July 2007, the Central Control Board issued five directives to bring more nonbank financial institutions, including dealers in precious metals and stones, under the AML/CTF compliance regime. As of August 2007, 823 STRs had been received. One case related to trafficking in persons was filed for prosecution, resulting in the convictions of one individual under the "Control of Money Laundering Law" and the Trafficking in Persons Law. In the first eight months of 2007, seven cases have been identified as potential money laundering investigations.

The United States maintains the separate countermeasures it adopted against Burma in 2004, and identified the jurisdiction of Burma and two private Burmese banks, Myanmar Mayflower Bank and Asia Wealth Bank, to be "of primary money laundering concern" pursuant to Section 311 of the 2001 USA PATRIOT Act. These countermeasures prohibited U.S. banks from establishing or maintaining correspondent or payable-through accounts in the United States for or on behalf of Myanmar Mayflower and Asia Wealth Bank and, with narrow exceptions, for all other Burmese banks. Myanmar Mayflower and Asia Wealth Bank had been linked directly to narcotics trafficking organizations in Southeast Asia. In March 2005, following GOB investigations, the Central Bank of Myanmar revoked the operating licenses of Myanmar Mayflower Bank and Asia Wealth Bank, citing infractions of the Financial Institutions of Myanmar Law. The two banks no longer exist. In August 2005, the Government of Burma also revoked the license of Myanmar Universal Bank (MUB), and convicted the bank's chairman under both the Narcotics and Psychotropic Substances Law, and the Control of Money Laundering Law. Under the money laundering charge, the court sentenced him to one 10-year and one unlimited term in prison and seized his and his bank's assets.

Burma also remains under a separate 2002 U.S. Treasury Department advisory stating that U.S. financial institutions should give enhanced scrutiny to all financial transactions related to Burma. The Section 311 rules complement the 2003 Burmese Freedom and Democracy Act (renewed in July 2006) and Executive Order 13310 (July 2003), which impose additional economic sanctions on Burma following the regime's May 2003 attack on a peaceful convoy of the country's pro-democracy opposition led by Nobel laureate Aung San Suu Kyi. The sanctions prohibit the import of most Burmese-produced goods into the United States, ban the provision of financial services to Burma by any U.S. persons, freeze assets of the ruling junta and other Burmese institutions, and expand U.S. visa restrictions to include managers of state-owned enterprises as well as senior government officials and family members associated with the regime. In September 2007, the U.S. Treasury amended and

reissued the Burmese Sanctions Regulations in their entirety to implement the 2003 Executive Order that placed these sanctions on Burma.

Burma became a member of the Asia/Pacific Group on Money Laundering in March 2006. The GOB is a party to the 1988 UN Drug Convention. Over the past several years, Burma has expanded its counter narcotics cooperation with other states. The GOB has bilateral drug control agreements with India, Bangladesh, Vietnam, Russia, Laos, the Philippines, China, and Thailand. These agreements include cooperation on drug-related money laundering issues. In July 2005, the Myanmar Central Control Board signed an MOU with Thailand's Anti-Money Laundering Office governing the exchange of information and financial intelligence. The government signed a cooperative MOU with Indonesia's FIU in November 2006.

Burma is a party to the UN Convention against Transnational Organized Crime and ratified the UN International Convention for the Suppression of the Financing of Terrorism in August 2006. Burma signed the UN Convention on Corruption in December 2005, but has yet to deposit an instrument of ratification with the UN Secretary General. Likewise, Burma signed the Treaty on Mutual Legal Assistance in Criminal Matters among Like-Minded ASEAN Member Countries in January 2006, but has yet to deposit its instrument of ratification with the Attorney General of Malaysia.

The Government of Burma has in place a framework to allow mutual legal assistance and cooperation with overseas jurisdictions in the investigation and prosecution of serious crimes. To fully implement a strong anti-money laundering/counter-terrorist financing regime, Burma must provide the necessary resources to administrative and judicial authorities who supervise the financial sector so they can apply and enforce the government's regulations to fight money laundering successfully. Burma must also continue to improve its enforcement of the new regulations and oversight of its banking system, and end all government policies that facilitate the investment of drug money and proceeds from other crimes into the legitimate economy. The reporting threshold for cash transactions should be lowered to a realistic threshold that fits the Burmese context. Customs should be strengthened and authorities should monitor more carefully the misuse of trade and its role in informal remittance or hawala/hundi networks. The GOB should ratify the UN Convention against Corruption, as well as the Treaty On Mutual Legal Assistance In Criminal Matters Among Like-Minded ASEAN Member Countries. The GOB should take serious steps to combat smuggling of contraband and its link to the pervasive corruption that permeates all levels of business and government. The GOB should criminalize the financing of terrorism.