

Treasury
Customs and Excise Division

Sanctions Notice 11

European Union Sanctions

Burma / Myanmar



July 2006
(updated to 31 May 2018)



Isle of Man
Government

Reilts Ellan Vannin

About this Notice

This Notice draws attention in convenient form to the Orders and Regulations made under the European Communities (Isle of Man) Act 1973 which place financial sanctions on Burma/Myanmar.

This Notice provides guidance on certain aspects only of the Orders and Regulations, and should be read in conjunction with those Orders and Regulations.

This Notice replaces former Notice 7 (which previously dealt with sanctions in relation to Burma/Myanmar) and all previous editions of this Notice.

The Treasury has appointed its Customs and Excise Division to act for the purpose of enforcing financial sanctions against Burma/Myanmar. Accordingly, certain powers have been delegated by the Treasury to the Division.

Any list of persons subject to the sanctions may be found at:
http://www.hm-treasury.gov.uk/fin_sanctions_index.htm

NOTE: Currently there is no list of persons or entities subject to financial sanctions.

Enquiries concerning this Notice should be addressed to the address given below and marked for the attention of the Sanctions Officer.

Enquiries may also be made by—

- Facsimile transmission (01624 661725)
- Email (customs@gov.im)
- Telephone (01624 648138)

The address for any enquiries or applications relating to this Notice is—

The Sanctions Officer
The Treasury
Customs and Excise Division
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

This Notice is provided for information purposes only, and its contents should not be taken as a definitive statement of the law. You are advised to seek independent legal advice if you believe you are affected by anything contained in this Notice.



Isle of Man
Government

Reilrys Ellan Vannin

For further information on sanctions in general, including how to deal with false positives, or when sanctions are lifted or persons delisted, see Sanctions Notice 26.

Sanctions Notice 32 deals with the granting of licences.

These Notices, and other information about sanctions and export and trade controls, may be found at -

<https://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/sanctions-and-export-control/>

Direction

The Customs and Excise Division, as agent for the Treasury, **directs** that any funds held for or on behalf of the individuals or entities named in the published lists having effect in the Island must not be made available, except under the authority of a licence in writing from the Treasury.

Any funds should be blocked or frozen and the details reported to the Financial Intelligence Unit.

All persons in business or a profession in the Island, including financial institutions, **must** check whether they maintain any account, or otherwise hold or control funds or economic resources, for individuals or entities included in the lists and, if so, they should freeze the account, funds or economic resources and report their findings to the Financial Intelligence Unit.

Any person, entity or body with information that would facilitate compliance with the sanctions Regulation(s) **must** supply such information to the Financial Intelligence Unit and co-operate in any verification of the information.

Reports of accounts and amounts frozen should be made using THEMIS; however, if you do not have access to this reporting system, you should use the appropriate form on the FIU website.

Financial Intelligence Unit contact details

Financial Intelligence Unit
PO Box 51
Douglas
Isle of Man
IM99 2TD

Telephone: +44 1624 686000

Email: fiu@gov.im

Introduction

1. In May 1996 the EU adopted a Common Position that expressed concern at continuing human rights violations in Burma/Myanmar, and the lack of progress towards democratisation. The Common Position has been renewed regularly since then.
2. ...
3. ...
4. On 26 April 2004 the EU adopted Council Regulation (EC) No. 798/2004, replacing the previous Regulation No. 1081/2000. This Regulation included a freeze of funds and banned the provision of finance or financial assistance relating to military activities.
5. In June 2004, new regulations came into operation in the Isle of Man, implementing Council Regulation (EC) No. 798/2004 and its revised list of persons who were subject to financial sanctions—
 - Burma/Myanmar (Freezing of Funds and Economic Resources) Regulations 2004
 - Burma/Myanmar Sanctions (Sale, Supply, etc of Goods) Regulations 2004

This list was capable of being updated, with omissions and additions, from time to time.

6. ...

-
7. On 25 October 2004 the EU adopted Council Regulation (EC) No. 1853/2004/EC, which strengthened the restrictive measures in place.

The new Regulation extended the measures to include a prohibition on making financial loans or credits available to, and on acquiring or extending a participation in, certain state-owned enterprises.

The list was capable of being updated, with omissions and additions, from time to time.

8. ...

9. On 29 May 2006, the EU adopted Council Regulation (EC) No. 817/2006 that replaced the earlier 2004 Regulation. This was applied in the Isle of Man with effect from 21 June 2006, and the Burma/Myanmar Sanctions Regulations 2006 were enacted to provide for offences, penalties and information-gathering powers.

10. For the purposes of the various EU Regulations, "funds" is defined as meaning—

financial assets and economic benefits of any kind, including (but not limited to) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders, and other payment instruments; deposits with financial institutions or other entities, balances on accounts, debts and debt obligations; securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts); interest, dividends or other income on value accruing from or generated by assets; credit, rights of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export financing.

The definition is therefore drawn so broadly as to include virtually all forms of asset, actual or potential. Therefore, persons should assume that any dealings with persons or entities that might be included in the list may be prohibited.

11. ...

- 11A. On 25 February 2008 the EU adopted a further Regulation, Council Regulation (EC) No. 194/2008, which broadened the scope of existing restrictions on investment and broadened the categories of persons targeted by the freezing of funds and economic resources. It also provided for new restrictive measures concerning certain imports from, exports to and investments in Burma/Myanmar, targeting its timber industry and certain extractive industries. This Regulation replaced Council Regulation (EC) No. 817/2006.

- 11B. This new EU Regulation was applied and implemented in the Island by means of—

- the European Communities (Burma/Myanmar Sanctions) (Application) Order 2008, and
- Burma/Myanmar Sanctions Regulations 2008

- 11C. Any person who makes funds available to any person or entity who is listed, or who knowingly and intentionally acts to circumvent the controls imposed by the Regulations is guilty of an offence.

- 11D. No funds should be made available, directly or indirectly, to or for the benefit of any of the persons who were listed.

- 11E. On 29 April 2008, the EU renewed and strengthened sanctions against Burma and Myanmar by means of Commission Regulation (EC) No. 385/2008, which amended Regulation No.

194/2008/EC and repealed 817/2006/EC.

- 11F. On 14 August 2009, the EU adopted Commission Regulation (EC) No. 747/2009.
- 11G. In June 2010 the Export Control (Burma) Order 2008, as amended to 2010, was applied in the Island. This created further offences and penalties for breaches of Council Regulation (EC) No. 194/2008 involving the provision of technical or financial assistance relating to military activities, internal repression equipment, and supplies of logging, timber and certain mining equipment.
- 11H. On 30 September 2010 the European Union (Burma/Myanmar Sanctions) (Amendment) (Application) Order 2010 applied in Island law Council Regulation No. 408/2010/EU which amended Council Regulation No. 194/2008/EC. The amendments allowed for exemptions from sanctions for certain humanitarian and development projects and programmes.

At the same time, the Burma/Myanmar Sanctions (Amendment) Regulations 2010 [SD 862/10] amended the associated Regulations to reflect the changes made by Council Regulation No. 408/2010/EU.

- 11J. On 12 April 2011 the EU renewed and amended its sanctions regime by means of Council Decision 2011/239/CFSP, extending it to 30 April 2012. On 19 April 2011, Commission Implementing Regulation (EU) No. 383/2011 made further amendment of the sanctions imposed by Regulation 194/2008.
- 11K. On 9 December 2011, the European Union (Burma/Myanmar Sanctions) (Application) (Amendment) Order 2011 [SD 1070/11] applied Council Regulation (EU) No. 1083/2011 in the Isle of Man. The applied Regulation renewed EU sanctions imposed in respect of Burma/Myanmar.
- 11L. On 21 September 2012, the European Union (Burma-Myanmar Sanctions) (Suspension) Order 2012 applied in Island law Council Regulation (EU) No. 409/2012 and, together with the Burma-Myanmar Sanctions (Suspension) Regulations 2012, had the effect of suspending the operation of most of the sanctions measures against Burma/Myanmar until 30 April 2013 in recognition of certain positive developments in that country. An arms embargo remained in place.
- 11M. On 16 May 2013, the European Union (Myanmar-Burma Sanctions) Order 2013 [SD 0171/13] applied in Island law Council Regulation (EU) No 401/2013, which repealed and replaced Council Regulation (EC) No 194/2008. **The new Council Regulation had the effect of finally repealing most of the financial and trade sanctions that had been in place.** However, an arms embargo remained in place, together with prohibitions and restrictions concerned with an embargo on equipment that might be used for internal repression. The embargoes included prohibitions on the provision of financial or technical assistance connected with such goods.

On 28 August 2013, the Export Control (Burma Sanctions) Order 2013 was applied in Island law to provide for the enforcement in the Island of the trade sanctions against Burma/Myanmar which remained in place following the repeal and replacement of Council Regulation (EC) No 194/2008 by Council Regulation (EU) No 401/2013. The new Regulation retained restrictions imposed in respect of Burma/Myanmar in relation to the sale, supply, export or transfer of equipment that might be used for internal repression, as well as prohibitions on the provision of technical assistance in relation to military activities and equipment that might be used for internal repression. Breach of the continuing prohibitions and restrictions would constitute offences under either the Order or the Customs and Excise Management Act 1986, and render a person convicted of such offences liable to a fine, imprisonment or both.

Persons to which the sanctions apply

12. The EU and Island Regulations apply to any person within the Island, any person who is a national of any Member State including British nationals, and any body incorporated or instituted under the law of the Island.

Applications for permissions and licences

13. Applications for written permission required by the Regulations should be made to the Sanctions Officer at the Customs and Excise Division. Contact details are given on page 2 of this Notice.

The Treasury will consider on a case by case basis applications to debit Designated Funds accounts or to make funds available to designated persons other than as permitted by this Notice.

All applications need to be made in writing to the Treasury at the address given on page 2 of this Notice.

All licences issued by the Treasury will be in writing.

Other measures in place against Burma/Myanmar

14. Sanctions in place against Burma/Myanmar include—
 - an arms, munitions and military equipment embargo,
 - a ban on the provision of technical training or assistance connected with arms, munitions or military equipment, including financing or financial assistance connected with military activity, and
 - a ban on the supply of equipment that might be used for internal repression or terrorism.

15. ...

15A. ...

Freezing of funds on suspicion

16. If the Treasury considers that there are reasonable grounds to suspect that funds are being held by or on behalf of a designated person, it can direct that those funds are not to be made available to any designated person. Any such direction will be given in writing. It is an offence under the Order to contravene such a direction.

Requirements to provide information

17. The Treasury or any other person authorised by the Treasury, such as the Financial Intelligence Unit can serve a written notice on anyone to whom the measures apply, requiring them to furnish them with any information in their possession or control, or produce any document in their possession or control, for the purpose of allowing the Treasury to ensure compliance with, or detect evasion of, the sanctions.
18. Failure to furnish such information or documents without reasonable excuse is an offence. Providing false information is also an offence, as is providing false information for the purposes of obtaining a licence (or failing to comply with any condition of the licence).

19. If you have any queries regarding trade or financial sanctions you should contact the Sanctions Officer at the address shown on the face of this Notice.
20. Regardless of whether any entity and/or person is named on any list issued by the Treasury, if any person or institution suspects that funds of any customer or client is or may be used for a criminal act, or is the proceeds of crime, or is or may be used for facilitating or providing material support for acts of terrorism, they should report their suspicions immediately to the Financial Intelligence Unit (FIU).

Details of changes made to this Notice and relevant lists

21. ...
22. ...
23. Notice amended to take account of the application and implementation in the Island of Council Regulation (EC) No. 194/2008.
24. New paragraph 11E inserted re Commission Regulation (EC) No. 385/2008.
25. New paragraph 11F inserted 17 August 2009.
26. On 28 June 2010, new paragraph 11G regarding the Export Control (Burma) Order 2008 inserted.
27. New paragraph 11H added with effect from 6 October 2010.
28. New paragraph 11J re Council Decision 2011/239/CFSP and Commission Implementing Regulation (EU) No. 383/2011 inserted.
29. New paragraph 11K added with effect from 1 January 2012.
30. New paragraph 11L, notifying suspension of most sanctions measures until 30 April 2013, added on 2 October 2012.
31. New paragraph 11M, re Council Regulation (EU) No 401/2013 and the Export Control (Burma Sanctions) Order 2013 inserted 15 August 2013.
32. Paragraphs 2, 3, 8, 11J, 15, 15A, 21 and 22 omitted. Paragraphs 4, 5, 7, 9, 11A, 11C, 11D, 11F, 14 and 20 amended. Note that no general sanctions list of affected persons or entities currently exists added on page 2.
33. New "directions" substituted on page 4, and reference to FCU in paragraph 20 amended, 25 November 2015.
34. Mention of Sanctions Notices 26 and 32 added on page 3, 10 March 2017.
35. On 3 August 2017, amendments made to make clear that not only financial institutions are subject to reporting requirements of the sanctions.
36. Various amendments to make clear that reporting of frozen accounts or breaches of sanctions must be made to the Financial Intelligence Unit, 3 April 2018.
37. Privacy Notice added, 31 May 2018.

Isle of Man Customs and Excise Website

Amendments to these sanctions will be advised by means of news releases which will be published on the official Isle of Man Government website at <http://www.gov.im/>

The Isle of Man Customs and Excise website will contain details of all current sanctions, news releases and links to relevant lists <http://www.gov.im/treasury/customs/>

Privacy Notice

The Treasury collects information about you in order to administer taxation and carry out other functions for which it is responsible (e.g. National Insurance, customs and excise duties, property rates, social security benefits, state pensions and legal aid etc.), and for the detection and prevention of crime.

Whilst that information will primarily be provided by you, where the law allows we may also get information about you from other organisations, or give information about you to them. This may be to check the accuracy of the information provided, prevent or detect crime or protect public funds in other ways. These organisations may include other government departments, the police and other agencies.

To find out more about how we collect and use personal information, contact any of our offices or visit our website at: <https://www.gov.im/about-the-government/departments/the-treasury/privacy-notice/>

Published by:
Isle of Man Customs & Excise Division
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

Telephone: (01624) 648100

Email: customs@gov.im

Website: www.gov.im/customs

This document can be provided in large print or audio tape on request

© 2018. The contents are the property of the Treasury and should not be copied without its permission.



Isle of Man
Government

Reiltys Ellan Vannin