

US Sanctions on Myanmar Put International Banks in the Spotlight

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Within a few days of the Feb. 1 coup, attention focused on pressuring the military coup-makers by blocking the military's access to hard currency. There was a flurry of news about the US freezing Myanmar's account at the Federal Reserve and Singapore's banking authority stating that its checks had found "no significant funds from Myanmar companies and individuals" in Singapore banks. These statements presaged or coincided with US sanctions targeting members of the State Administration Council (SAC), their children, military enterprises and other parties that the US authorities deem responsible for the coup and the ongoing violence.

The list of sanctioned individuals and entities continues to expand. Interestingly, the SAC ruling body is now listed separately on the US Treasury's sanctions list in addition to the individual listing of council members. Unless the US Treasury clarifies that this designation of SAC does not apply to the government ministries and departments that are now acting at its behest, the implication is that the entire government is now sanctioned.

As I previously wrote in this publication [[1](#)], US sanctions prohibit not only US individuals and companies from dealing with the sanctioned parties, but also prohibit financial transactions that involve US dollars or transit the US financial system, even if the party dealing with the sanctioned party is not a US individual or entity.

The effectiveness of sanctions therefore depends greatly on compliance by international banks. Despite assured statements from Singapore banking authorities, it is almost certain that banks in Singapore, a global financial center and the source of most foreign investment in Myanmar, hold sizable deposits of sanctioned Myanmar citizens and entities. There are also reports that Singaporean banks hold sums of Myanmar's foreign reserves. Myanmar banks, including military-owned Myawaddy Bank, also have correspondent relationships with Chinese, Korean, Malaysian, Singaporean, Taiwanese and Thai banks.

In general, banks are the weak links in the sanctions regime and are some of the worst offenders, as evidenced by recent penalties of over US\$15 billion imposed on the likes of BNP Paribas and HSBC. Despite implementing compliance programs and putting "know your customer" internal systems in place to screen transactions, banks may not always have the motivation to do rigorous checks.

By now, the measures taken by those wanting to evade sanction controls are well documented. These include falsifying and manipulating financial payment documents and using intermediaries to hide the parties to the transaction. For Myanmar sanctions compliance, banks should also update their compliance programs with "negative news" research of individuals and companies known for dealings with sanctioned parties. Banks should also be vigilant about not aiding the informal remittance networks (hundi) that are widely used to transfer money in and out of Myanmar.

Sanctioned individuals and entities are considered threats to the national security and foreign policy

of the US, and consequently the US Treasury will aggressively pursue violations. Through its enforcement arm OFAC, the US Treasury has several resources to aid its work. Financial institutions may voluntarily disclose violations, possibly reducing potential penalties. OFAC also relies on information sharing with government agencies including the State Department, FBI, CIA and NSA. Whistleblowing from employees is another asset, and under federal law rewards of up to \$1.6 million may be claimed if the bank has a presence in the US.

Banks are now on notice that any failure to conduct thorough checks and properly vet sanctioned parties may be tantamount to “trading with the enemy” of the US. After the record penalties totaling \$15 billion on BNP Paribas (\$8.9 billion), HSBC (\$1.9 billion) and UBAF (\$4.1 billion), OFAC is once again aggressively taking action against financial institutions. In January 2021 alone, OFAC imposed billion-dollar penalties on Saudi Arabia-based and France-based financial institutions for conducting business in US dollars on behalf of sanctioned parties. Similar actions are expected to increase under the Biden administration.

International financial institutions are now under the spotlight and face a clear choice: either fully commit to sanctions compliance or risk crippling penalties and losing access to the US financial system.

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P.S.

- The Irrawaddy. 12 June 2021:
<https://www.irrawaddy.com/opinion/guest-column/us-sanctions-on-myanmar-put-international-banks-in-the-spotlight.html>
- John Squire is a pseudonym. He is an American attorney who specializes in US sanctions and export laws. He advises businesses on mitigating the risks of civil and criminal penalties. His views are his own.

Footnotes

- [1] Available on ESSF (article 57463), [US Sanctions Pose Huge Risks for Myanmar Businesses](#).