Office of Foreign Assets Control, Treasury

§ 537.409 Activities under pre-May 21, 1997 agreements.

Pursuant to §537.210(d), a U.S. person who is a party to a pre-May 21, 1997 agreement may enter into subsequent agreements where such agreements are pursuant to, or in exercise of rights under, the pre-May 21, 1997 agreement and are specifically contemplated by the pre-May 21, 1997 agreement, unless such subsequent agreements involve any activity prohibited by §537.201(a) with respect to any person whose property and interests in property are blocked pursuant to Executive Order 13448 of October 18, 2007 (E.O. 13448), Executive Order 13464 of April 30, 2008 (E.O. 13464), or Executive Order 13619 of July 11, 2012 (E.O. 13619), or by §537.203. The exercise of rights under a pre-May 21, 1997 agreement may include the exercise of options to extend the contract, depending on such factors as the degree of specificity with which the option to extend is described in the pre-May 21, 1997 agreement and the degree to which the party wishing to renew can enforce its decision to exercise the option, unless such exercise of rights involves any activity prohibited by §537.201(a) with respect to any person whose property and interests in property are blocked pursuant to Executive Order 13448 of October 18, 2007 (E.O. 13448), Executive Order 13464 of April 30, 2008 (E.O. 13464), or Executive Order 13619 of July 11, 2012 (E.O. 13619), or by §537.203.

§ 537.410 Contracts and subcontracts regarding economic development of resources in Burma.

Section 537.204 prohibits new investment in Burma by U.S. persons. However, pursuant to §537.530, U.S. persons may engage in new investment in Burma, provided that all conditions of that general license are satisfied. Section 537.311 defines the term new investment to include certain contracts providing for the general supervision and guarantee of another person’s performance of a contract that includes the economic development of resources located in Burma. With respect to entry into such contracts, only the following will be considered new investment in Burma:

(a) Entry into contracts for supervision and guarantee at the highest level of project management, such as entry into a contract with a development project’s sponsor or owner to become a prime contractor or general manager for a development project;
(b) Entry into subcontracts where the functional scope of the subcontractor’s obligations is substantially similar to that of a prime contractor’s or general manager’s obligations for a development project; or
(c) Entry into a contract or subcontract where the consideration includes a share of ownership in, or participation in the royalties, earnings, or profits of, the economic development of resources located in Burma.

§ 537.411 [Reserved]

§ 537.412 Investments in entities involved in economic development projects in Burma.

(a) The purchase of shares in a third-country company that is engaged in the economic development of resources located in Burma is prohibited by §537.204 where the company’s profits are predominantly derived from the company’s economic development of resources located in Burma. The purchase of such shares, however, is authorized by general license pursuant to §537.530, provided that all conditions of that general license are satisfied.
(b) If a U.S. person holds shares in an entity which subsequently engages predominantly in the economic development of resources located in Burma or subsequently derives its income exclusively or predominantly from such economic development, the U.S. person is not required to relinquish its shares. Owning such shares, and purchasing additional shares is authorized by general license pursuant to §537.530, provided that all conditions of that general license are satisfied.

§ 537.413 [Reserved]

§ 537.414 Charitable contributions.

Unless specifically authorized by OFAC pursuant to this part, no charitable contribution of funds, goods, services, or technology, including contributions to relieve human suffering, such as food, clothing, or medicine,
§ 537.415 Credit extended and cards issued by U.S. financial institutions to a person whose property and interests in property are blocked.

The prohibition in §537.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property and interests in property are blocked pursuant to §537.201(a).

§ 537.416 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to §537.201(a) has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to §537.201(a), regardless of whether the name of the entity is incorporated into OFAC’s Specially Designated Nationals and Blocked Persons List (SDN List).

§ 537.417 Importation into a bonded warehouse or foreign trade zone.

The prohibition in §537.203 applies to importation into a bonded warehouse or a foreign trade zone of the United States.

§ 537.418 Facilitating new investment.

Consistent with §537.530, U.S. persons may approve, finance, facilitate, or guarantee new investment by foreign persons provided such new investment is not pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that:

(a) Is entered into with the Burmese Ministry of Defense, state or non-state armed groups (which includes the military), or entities owned 50 percent or more by any of the foregoing; or

(b) Involves a transaction, directly or indirectly, with any person whose property and interests and property are blocked pursuant to §537.201(a).