

COUNCIL REGULATION (EC) NO 798/2004

BURMA/MYANMAR

INTRODUCTION

1. On 22 May 2000 the Council of the European Union adopted Council Regulation (EC) No 1081/2000 which, inter alia, had the effect of freezing the funds of certain individuals related to important governmental functions in Burma. All such targeted persons were listed in Annex II of that Regulation. Regulation (EC) No 1081/2000 was published in the Official Journal of the European Union on 24 May 2000 (OJ L122, p.29). The list of those targeted persons was extended by Commission Regulation (EC) No 1883/2002, Commission Regulation (EC) No 1070/2003 and Commission Regulation (EC) No 2297/2003.
2. On 26 April 2004 the Council of the European Union adopted Council Regulation (EC) No 798/2004 which amended and extended the financial sanctions imposed by Regulation (EC) No 1081/2000 and replaced that Regulation following its expiry on 29 April 2004. Amongst other things, Council Regulation (EC) No 798/2004 introduced a new definition of “funds and economic resources” and Annex III amended and extended the list of targeted persons subject to the financial sanctions regime under Regulation (EC) No 1081/2000. Regulation (EC) No 798/2004 was published in the Official Journal of the European Union on 28 April 2004 (OJ L125, p.4).
3. A copy of Regulation (EC) No 798/2004 is attached to this Notice. It may also be found on the Bank of England’s website:
<http://www.bankofengland.co.uk/sanctions>.
4. Regulation (EC) No 798/2004 applies within the territory of the Community including its airspace, on board any aircraft or any vessel under the jurisdiction of a Member State, to any person inside or outside the territory of the Community who is a national of a Member State, to any legal person, group or entity which is incorporated or constituted under the law of a Member State, or any legal person, group or entity doing business within the Community.

Definition of funds and economic resources

5. For the purposes of Regulation (EC) No 798/2004:

“funds” means financial assets and benefits of every kind, including but not limited to:

- (i) cash, cheques, claims on money, drafts, money orders and other payment instruments;
- (ii) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
- (iii) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
- (iv) interest, dividends or other income on or value accruing from or generated by assets;
- (v) credit, right of set-off, guarantees, performance bonds or other financial commitments;
- (vi) letters of credit, bills of lading, bills of sale;
- (vii) documents evidencing an interest in funds or financial resources;
- (viii) any other instrument of export-financing.

"Economic resources" means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services.

Interest and other payments

- 6. Interest or other earnings on frozen accounts, or payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to Regulation (EC) No 1081/2000 or Regulation (EC) No 798/2004 may be added to frozen accounts provided that any such interest, other earnings or payments continue to be frozen.
- 7. The prohibition against making funds or economic resources available shall not prevent the crediting of frozen accounts by financial institutions that receive funds transferred by third parties to the account of the listed person or entity, provided that any addition to such accounts is also frozen. Financial institutions are required to inform the Bank of England of any such transactions.

Targeted Accounts

- 8. All funds belonging to the persons listed in Annex III to Regulation (EC) No 798/2004, held by banks, building societies, stockbrokers, solicitors, accountants, etc. must be frozen. No funds or economic resources are to be made available directly or indirectly to or for the benefit of the listed persons.

Payments to and from targeted accounts

9. No payment or transfer may be made from a targeted account, including to another targeted account, without prior authorisation. This includes the deduction or service charges for routine holding or maintenance of frozen accounts. Loans and other forms of credit should not be made available to the listed persons. Authorisation will not normally be granted to change the ownership of a targeted account, for example by adding or deleting signatories.

Provision of information

10. All financial institutions and other bodies and persons in the UK are required to inform the Bank of England of all funds that they have frozen in accordance with Regulation (EC) No 798/2004. They must also provide the Bank of England with all relevant information necessary for ensuring compliance with Regulation (EC) No 798/2004.

Enquiries

11. Enquiries concerning any matter contained in this Notice should be addressed to the Bank of England, Threadneedle Street, London, EC2R 8AH and marked for the attention of the Financial Sanctions Unit (FSU). Enquiries may also be made by facsimile transmission (020 7601 4309), by telephone (020 7601 4768/5811/4783/4328) or by email (sanctions.unit@bankofengland.co.uk).

BANK OF ENGLAND
30 April 2004