



# The Bottom Line

APRIL 2022 | VOL. 129

## CAUTION ABOUT DOING BUSINESS WITH MYANMAR ISSUED

### Summary

The military control of Myanmar exacerbates the risk of violations of money laundering and forced labor statutes for companies doing business there.

### Background

Since gaining independence from the United Kingdom in 1948, Myanmar (formerly Burma) has been embroiled in the longest civil war in history, with ethnic groups fighting the country's military rulers, known as the Tatmadaw. The conflict continued until a series of political, economic, and administrative reforms enacted between 2011-2015 led to the release of pro-democracy leader Aung San Suu Kyi and other political prisoners, the establishment of the National Human Rights Commission, new labor and currency laws, and freedom of the press. In November of 2020, the party of Aung San Suu Kyi won an overwhelming 396 out of 476 seats in Myanmar's parliament, after which the former military government under Min Aung Hlaing alleged election fraud and seized control. Suu Kyi and former President Win Myint were arrested in pre-dawn raids. The Tatmadaw declared a state of emergency for one year.

On February 1, 2021, Myanmar's military overthrew the country's democratically elected civilian government, reestablishing complete military rule. The military has unjustly arrested the democratically elected government leaders, cut off utilities and travel, and committed severe human rights abuses and other abuses against individuals, including violently suppressing peaceful protests. Additionally, the military regime targeted the labor union movement, arrested numerous union leaders and members, and declared 16 labor unions illegal. Further, the coup and subsequent abuses committed by the military have fundamentally changed the direction of the economic and business environment in Myanmar. The modest gains achieved since the country held its first parliamentary elections in 2011 have been reversed, resulting in a more opaque business environment in which the military can draw from multiple sources of revenue to support its operations without civilian oversight.

### Current Status

According to the UN Fact-Finding Mission in 2018: No business enterprise active in Myanmar or trading with or investing in businesses in Myanmar should enter into an economic or financial relationship with the security forces of Myanmar, in particular the Tatmadaw, or any enterprise owned or controlled by them or their members, until and unless they are restructured and transformed as recommended by the Mission.

The U.S. Departments of State, the Treasury, Commerce, Labor, Homeland Security, and the Office of the U.S. Trade Representative have issued an advisory to inform businesses and individuals of the heightened risks associated

with doing business in the country, and in particular with the military regime. The military regime's government is undermining democratic processes and the rule of law, facilitating corruption, and committing significant human rights abuses; these actions exacerbate risks to foreign businesses and individuals operating in Myanmar or providing financial services to local businesses.

Myanmar lacks the necessary government regulation and oversight and the strong banking and financial sector to adequately monitor money laundering risks in the real estate, development, and construction sectors.

Despite initiatives to address child labor, the U.S. Department of Labor has determined that Myanmar has made no advancement because it demonstrates a practice of being complicit in the use of forced child labor.

Businesses and individuals with potential exposure to the military regime, possibly through involvement in operations or supply chains, must conduct appropriate due diligence. Otherwise, they risk engaging in conduct that may expose them to significant reputational, financial, and legal risks, including violations of U.S. anti-money laundering laws and sanctions.

### Impact

The multi-agency advisory suggests the following resources:

- The UN "Guiding Principles on Business and Human Rights"
- The Organization for Economic Cooperation and Development (OECD) "Guidelines for Multinational Enterprises"
- The International Labour Organization (ILO) publication, "Combating Forced Labour: A Handbook for Employers and Business,"

to provide guidance for heightened due diligence in high-risk regions like Myanmar and factors to be considered in determining appropriate action, including whether and how to responsibly end relationships when a business lacks the leverage to prevent or mitigate adverse impacts.

### RESOURCES

[Risks and Considerations for Businesses and Individuals with Exposure to Entities Responsible for Undermining Democratic Processes, Facilitating Corruption, and Committing Human Rights Abuses in Burma \(Myanmar\)](#) (U.S. Treasury Department)

[Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar](#) (Human Rights Council)

[UN Guiding Principles on Business and Human Rights](#) (United Nations)

[OECD Guidelines for Multinational Enterprises](#) (Organization for Economic Cooperation and Development)

[Combating Forced Labour: A Handbook for Employers & Business](#) (International Labor Organization)