

(ii) An investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-5)) that is an open-end company (as defined in section 5 of the Investment Company Act (15 U.S.C. 80a-5)) and that is registered, or required to register, with the Securities and Exchange Commission pursuant to that Act.

(3) *Burmese financial institution* means the following:

(i) Any foreign bank, as that term is defined in § 103.11(o), chartered or licensed by Burma, including branches and offices located outside Burma; and

(ii) Any other person organized under the law of Burma, including branches or offices located outside of Burma, who conducts as a business one or more of the following activities or operations on behalf of customers:

(A) Trading in money market instruments;

(B) Trading in exchange, interest rate, and index instruments;

(C) Trading in transferable securities; or

(D) Trading in commodity futures or options.

(b) *Requirements for covered financial institutions*—(1) *Prohibition on correspondent accounts*. A covered financial institution shall terminate any correspondent account that is established, maintained, administered, or managed in the United States for, or on behalf of, a Burmese financial institution.

(2) *Prohibition on indirect correspondent accounts*. (i) If a covered financial institution has or obtains knowledge that a correspondent account established, maintained, administered, or managed by that covered financial institution in the United States for a foreign bank is being used by the foreign bank to provide banking services indirectly to a Burmese financial institution, the covered financial institution shall ensure that the correspondent account is no longer used to provide such services, including, where necessary, terminating the correspondent account; and

(ii) A covered financial institution required to terminate an account pursuant to paragraph (b)(2)(i) of this section:

(A) Shall do so within a commercially reasonable time, and shall not permit the foreign bank to establish any new positions or execute any transactions through such account, other than those necessary to close the account; and

(B) May reestablish an account closed pursuant to this paragraph if it determines that the account will not be used to provide banking services

indirectly to a Burmese financial institution.

(3) *Exception*. The provisions of paragraphs (b)(1) and (2) of this section shall not apply to a correspondent account provided that the operation of such account is not prohibited by Executive Order 13310 and the transactions involving Burmese financial institutions that are conducted through the correspondent account are limited solely to transactions that are exempted from, or otherwise authorized by regulation, order, directive, or license pursuant to, Executive Order 13310.

(4) *Reporting and recordkeeping not required*. Nothing in this section shall require a covered financial institution to maintain any records, obtain any certification, or report any information not otherwise required by law or regulation.

Dated: November 19, 2003.

William F. Baity,

Acting Director, Financial Crimes Enforcement Network.

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DEPARTMENT OF THE TREASURY

31 CFR Part 103

Imposition of Special Measures Against Myanmar Mayflower Bank and Asia Wealth Bank as Financial Institutions of Primary Money Laundering Concern

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: On November 18, 2003, the Secretary of the Treasury designated Myanmar Mayflower Bank (Mayflower Bank) and Asia Wealth Bank, both Burma banks, as financial institutions of primary money laundering concern pursuant to 31 U.S.C. 5318A, as added by section 311 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001. The Department of the Treasury, acting through FinCEN, is issuing this proposed rule to impose special measures against these two institutions.

DATES: Written comments on the notice of proposed rulemaking must be submitted on or before December 26, 2003.

ADDRESSES: It is preferable for comments to be submitted by electronic mail because paper mail in the Washington, DC area may be delayed.

Comments submitted by electronic mail may be sent to

regcomments@fincen.treas.gov with the caption in the body of the text, "Attn: Section 311—Designation of Burmese Banks." Comments also may be submitted by paper mail to FinCEN, P.O. Box 39, Vienna, VA 22183, Attn: Section 311 Special Measures Regulations (Burmese Banks). Please submit comments by one method only. Comments may be inspected at FinCEN between 10 a.m. and 4 p.m., in the FinCEN reading room in Washington, DC. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354-6400 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT:

Office of the General Counsel, Department of the Treasury, (202) 622-1927; the Executive Office for Terrorist Financing and Financial Crimes (Treasury) (202) 622-0470; or the Office of Chief Counsel (FinCEN), (703) 905-3590 (not toll free numbers).

SUPPLEMENTARY INFORMATION: The Secretary of the Treasury has designated Myanmar Mayflower Bank (Mayflower Bank) and Asia Wealth Bank to be financial institutions of primary money laundering concern under 31 U.S.C. 5318A, as added by section 311(a) of the USA PATRIOT Act (Pub. L. 107-56).

Treasury, acting through FinCEN, is also proposing the imposition of special measures authorized by section 5318A(b)(5). The special measures imposed under this section would prohibit certain U.S. financial institutions from maintaining correspondent or payable-through accounts in the United States for, or on behalf of, Mayflower Bank and Asia Wealth Bank. This prohibition extends to correspondent or payable-through accounts maintained for other foreign banks when such accounts are used to provide banking services to the two named Burmese banks indirectly.

Additionally, the Secretary designated the jurisdiction of Burma as a jurisdiction of primary money laundering concern. By a separate proposed rule, Treasury and FinCEN are proposing a special measure to prohibit certain U.S. financial institutions from maintaining correspondent or payable-through accounts for, or on behalf of, any Burmese financial institution. The special measure in this notice would prohibit certain U.S. financial institutions from establishing, maintaining, administering, or managing correspondent or payable-through accounts for, or on behalf of, Myanmar Mayflower Bank or Asia Wealth Bank, notwithstanding any