

# **SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION**

## **Reporting Requirement for Responsible Investment in Burma OMB Number 1405-0209**

### **A. JUSTIFICATION**

1. Section 203(a)(1)(B) of the International Emergency Economic Powers Act (IEEPA) grants the President authority to, inter alia, prevent or prohibit any acquisition or transaction involving any property, in which a foreign country or a national thereof has any interest, by any person, or with respect to any property, subject to the jurisdiction of the United States, if the President declares a national emergency with respect to any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States. See 50 U.S.C. 1701 et seq.

In Executive Order 13047 of May 20, 1997, the President determined that the actions and policies of the Government of Burma, including its large-scale repression of the democratic opposition in Burma, constituted an unusual and extraordinary threat to the national security and foreign policy of the United States, declared a national emergency to deal with that threat, and prohibited new investment in Burma. In subsequent Executive Orders, the President modified the scope of the national emergency to address additional concerns with the actions and policies of the Government of Burma. In Executive Order 13448 of October 18, 2007, the President modified the emergency to address the continued repression of the democratic opposition in Burma, manifested in part through the commission of human rights abuses and pervasive public corruption. In Executive Order 13619 of July 11, 2012, the President further modified the emergency to address, inter alia, human rights abuses particularly in ethnic areas.

In response to several political reforms by the Government of Burma and pursuant to authority granted by IEEPA, the Department of the Treasury's Office of Foreign Assets Control (OFAC) issued a general license (GL 17) on July 11, 2012 authorizing new investment in Burma, subject to certain restrictions and conditions.

In order to support the Department of State's efforts to assess the extent to which new U.S. investment authorized by GL 17 furthers U.S. foreign policy goals of improving human rights protections and facilitating political reform in Burma, GL 17 requires U.S. persons engaging in new investment in Burma to report to the Department of State information related to such investment, as laid out in the "Reporting Requirements on Responsible Investment in Burma," (hereafter referred to as the "collection"). This reporting requirement is authorized by section 203(a)(2) of IEEPA, which grants the President authority to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in section 203(a)(1) of IEEPA.

The U.S. Government is committed to helping Burma's new democratically-elected, civilian-led government continue political reforms and promote economic growth and development in order to establish a peaceful, prosperous, and democratic state that respects human rights and the rule of law. Over the past two years, the Burmese government has made historic strides toward democratization, including: holding largely free and fair parliamentary election in which the democratic opposition led by Aung San Suu Kyi's National League for Democracy (NLD) won a majority in both houses of parliament, culminating in the peaceful transition to a civilian-led NLD government in April. Burma's previous and current governments have eased restrictions on media, speech, and assembly; permitted the formation and registration of trade unions; established an anti-corruption commission; and released approximately 900 political prisoners, among other reforms. This reporting requirement is designed to help support responsible investment in Burma, which will in turn help to advance the political and economic reform effort.

In the past, some foreign investment in Burma has been linked to human rights abuses, particularly in the area of natural resource development in ethnic minority regions. For example, some foreign investments have entailed acquisition and control of land in disputed ethnic minority territories exacerbating or contributing to both social unrest and armed conflict and leading to adverse community and environmental impacts. Increased military/security presence in disputed ethnic minority areas to provide security for foreign investment projects is reported to have led to seizures of farm land, involuntary relocations, forced labor, torture, summary execution, and sexual violence.

In the past, the oil and gas sector in Burma has had reported links to human rights abuses and the diversion of public funds to the military and other business associates connected with senior officials. It is widely believed that Myanmar Oil and Gas Enterprise (MOGE), Burma's national oil company with which all foreign oil and gas investors must currently partner, has in the past diverted revenue from oil and gas development to offshore accounts and worked directly with the Burmese military to develop projects in ethnic minority areas where human rights abuses were ongoing. Therefore the collection requests U.S. persons entering into new investment with MOGE to notify the Department of State within 60 days of such investment, so that the Department can track U.S. investment with MOGE and conduct targeted consultations with respondents on human rights due diligence and anti-corruption measures.

To that end, investors with more than \$5,000,000 in aggregate new investment in Burma will be required to file a report with the State Department on an annual basis. Key information that companies will report on include information regarding policies and procedures with respect to human rights, workers' rights, environmental stewardship, land acquisitions, arrangements with security service providers, and, aggregate annual payments exceeding \$10,000 to Burmese government entities, including state-owned enterprises. The information requested will assist the U.S. Government to recalibrate policies, as needed, to facilitate U.S. investment that furthers political reform and avoids contributing to corruption, conflict, and human rights abuses.

U.S. persons to whom this requirement applies will also be required to submit a second

version of the report to the U.S. Government for public release, from which information considered in good faith to be exempt from disclosure under FOIA Exemption 4 -- i.e. trade secrets or commercial or financial information that is privileged or confidential -- may be withheld. The Department of State will make this version of the report publically available in order to promote transparency with respect to new U.S. investments in Burma, a key U.S. foreign policy objective. In the past, the Department of State has found that the absence of transparency or publicly available information with respect to foreign investment activities in Burma has contributed to corruption and misuse of public funds, the erosion of public trust, and social unrest in ethnic minority areas and led to further human rights abuses and repression by the government and military.

Burmese civil society groups, particularly those representing ethnic minority communities, have requested that the Department of State make public certain information obtained through the collection on investments purportedly made for the benefit of the Burmese people, as a means of holding their own government accountable. Therefore public release of portions of this collection is aimed at providing civil society this type of information to both ensure the transparency of U.S. investment in Burma and to encourage civil society to partner with U.S. companies towards building responsible investment, which ultimately promotes U.S. foreign policy goals.

2. The Department of State will use the collection as a basis to conduct informed consultations with U.S. businesses to encourage and assist such businesses to develop robust policies and procedures to address any potential adverse human rights, worker rights, anti-corruption, environmental, or other impacts resulting from their investments and operations in Burma. The Department of State will use the collection of information about new investment with MOGE to track investment that involves MOGE and to identify investors with whom it may be beneficial to have targeted consultation on anti-corruption and human rights policies. The public, including civil society actors in Burma, may use publicly available information resulting from the collection to engage U.S. businesses on their responsible investment policies and procedures and to monitor the Burmese government's management of revenues from investment.
3. Because the reporting threshold for new investment is \$5,000,000, and the annual report pertains mostly to existing policies and procedures, the Department of State expects, given the reliance on computers not only for business but also for personal use, that much of the information requested is already maintained in respondents' electronic files. Respondents will submit the information responding to the collection to the Department of State in electronic form through the email addresses provided in the collection. The reporting requirements can be found at: <http://www.humanrights.gov/2012/07/11/burmaresponsibleinvestment/>.
4. The Department of State is unaware of any other U.S. Government requirements currently in force that is duplicative of this reporting requirement.
5. U.S. persons with aggregate investments under \$5,000,000 are exempt from this collection, partly in an effort to minimize the burden on small and medium-sized businesses that engage in new investment in Burma. In addition, U.S. persons who purchase or lease land or real property, or any rights related thereto, either under 30 acres or valued under \$5,000,000, are

exempt from reporting on the impact of land acquisition. Further, aggregate payments to any governmental entity in Burma during the reporting year that are less than \$10,000 are exempt from reporting, partly in an effort to minimize the reporting burden on small business and medium-sized businesses.

In addition, the collection is designed such that entities that do not have in place policies and procedures related to human rights, worker rights, anti-corruption, and the environment can fulfill the terms of the collection by stating that there is no information to report and including a brief explanation. This should reduce the burden on small businesses and entities, which in general are less likely to have complex human rights due diligence policies and procedures in place.

In addition, the U.S. Government intends to carry out targeted consultations with U.S. investors engaged in new investment in Burma based on responses to the collection; without knowing which U.S. persons are investing more than \$5,000,000 and what their basic policies and procedures are, the ability to carry out informed consultations would be hampered.

6. The collection will help the U.S. Government advance its foreign policy goal of facilitating transparent and responsible investment in Burma. The public report additionally meets the foreign policy goal of empowering civil society to take an active role in the economic development of resources located in their communities and to partner with companies to encourage responsible, transparent investment. Without making the appropriate information from the collection public, the U.S. Government may not be able achieve the intended “force multiplier” effect of civil society allies whose efforts to promote human rights, transparency, and responsible investment and resource management in Burma align with the President’s concerns underlying the declaration of the national emergency.
7. The collection could potentially require respondents to submit information that is a trade secret or commercial or financial information that is privileged or confidential. A respondent will be required to submit any information responsive to the collection to the Department of State in a report to the U.S. Government (the “U.S. Government Report”). The Department will not make public the information in the U.S. Government Report except to the extent authorized by law. A respondent also will be required to submit a version of its report that the Department will make publically available (the “Public Report”). For the public version of the report, the Department has instituted procedures to protect from disclosure trade secrets and confidential commercial or financial information obtained from a person that is privileged or confidential. If a respondent determines in good faith that it considers any information covered by items 1 through 8 provided in the collection to be exempt from disclosure under Freedom of Information Act (FOIA) Exemption 4, it shall take the following steps:
  - (1) It shall designate by appropriate markings such information in the U.S. Government Report, indicate which information so designated is not included in the Public Report, and provide a detailed explanation for withholding this information.

(2) The respondent's explanation must specifically identify the reasons why the information is either (a) a trade secret; or (b) commercial or financial information that is privileged or confidential, and must provide any arguments as to why the public release of the information would cause substantial harm to the competitive position of the respondent.

(3) The respondent shall include in the Public Report an acknowledgement that the respondent understands that the Public Report will be made public, and that the respondent has redacted before submission any information it considers in good faith to be exempt under FOIA Exemption 4.

The collection could require U.S. persons who enter into new investment with MOGE to report such investment to the Department of State more than quarterly if the U.S. person enters into new investment with MOGE more than quarterly. However, this is a notification requirement only and has no additional reporting requirements attached. All other information requested in the collection is due annually by July 1.

This collection does not impose record retention requirements beyond those already applicable to records relating to transactions authorized under GL 17 by 31 CFR Part 501.

8. The Department published a 60-day notice of the information collection for the Reporting Requirements for Responsible Investment in Burma on November 25, 2015. See 80 FR 73867 (NOTE: 30-day notice for comment was published in the Federal Register (81 FR 30597) on May 5, 2016 and a correction to this notice was published on May 23, 2016 (81 FR 32381)). The initial 60-day comment period for the Reporting Requirements closed on January 25, 2016. The summary of comments and rationale for the U.S. Government's decision to make changes to the Reporting Requirements is reflected below.

Overall, many commentators called for renewal of the Reporting Requirements and/or requested clarifications and interpretive guidance, which we will seek to continue to address through the Responsible Investment Reporting Requirements Frequently Asked Questions, a living document. We have responded to questions by explaining Department rationale for keeping the Reporting Requirements intact as currently drafted.

### General Comments on Reporting Requirements

#### *a. Summary of comments*

Several commentators noted the importance of keeping the Reporting Requirements in place, citing examples of how company reports have been helpful in civil society groups' engagement with companies to address human rights issues related to their investments or operations. Similarly, others noted that the outcome of the November 2015 elections likely would lead to increased foreign investment, and removing the Reporting Requirements at this time would weaken the push for transparency and responsible investment at a time when it is still very much needed.

Some commentators noted that the Reporting Requirements support the U.S. objective of more transparency under its plans to develop a National Action Plan on Responsible Business Conduct. Others noted that the type of human rights due diligence companies are required to report on under the Burma Reporting Requirements is already set out in the OECD Guidelines for Multinational Companies.

Comments from two U.S. business organizations, representing more than 200 major U.S. companies, urged that the Reporting Requirements be removed, noting that the Reporting Requirements are unnecessary as U.S. companies already adhere to high standards of corporate social responsibility, the Reporting Requirements are a deterrent to investing in Burma, and businesses from other countries are not mandated to comply with reporting requirements, putting U.S. businesses at a competitive disadvantage.

Several commentators requested overall guidance in drafting a submission in accordance with the Reporting Requirements. Many requested we add references to relevant international standards, principles, and tools throughout the report and/or as an attachment; one suggested the U.S. Government provide an appendix that outlines existing legal requirements. One comment suggested requiring certain sectors to report on additional information (e.g., timber and extractives).

Several commentators sought clarification of the terms “investment,” “operations,” and “new investment,” to determine the extent to which business activities and business relationships are covered by the Reporting Requirements.

Commentators also requested that the U.S. Government carry out spot checks or audit companies for compliance with the Reporting Requirements. In a similar vein, many commentators suggested we impose meaningful sanctions or issue letters for failure to comply with the Reporting Requirements; some commentators suggested requiring a feedback or rating system to incentivize better reporting.

Several commentators raised concerns about investors that have not complied with the Reporting Requirements and suggested the U.S. government take steps to encourage reporting. Many commentators suggested we should include penalties for failure to comply with the Reporting Requirements.

Two commentators noted the Department’s estimate of the time and cost-burden associated with reporting should be increased.

Two commentators requested that reports be made available in both Burmese and English versions.

#### *a. Response*

In response to comments received on maintaining the Reporting Requirements, the Department finds the Reporting Requirements an important tool to conduct informed consultations with U.S. businesses to encourage and assist them to develop robust

policies and procedures to address a range of impacts resulting from their investments and operations in Burma. We also believe the public reports provided by companies under the Reporting Requirements empower civil society to take an active role in monitoring investment in Burma and to work with companies to promote investments that will enhance broad-based development and reinforce political and economic reform. The Reporting Requirements are also in line with commitments made to develop the U.S. National Action Plan on Responsible Business Conduct. The President made the commitment to develop this National Action Plan to be transparent about how the United States government encourages companies to achieve high standards of responsible business conduct – and champions those that achieve such best practices. It also is meant to highlight what the United States government is doing, including with partners, to encourage an enabling environment for responsible business conduct.

In response to comments received requesting guidance to assist submitters in drafting their submissions under the Reporting Requirements, the Appendix to the Reporting Requirements will continue to provide a chart of tools, guidelines, and principles that may be relevant to the Reporting Requirements. Because one commentator requested industry and sector-specific guidance, we have responded by referencing applicable sectors in the chart provided in the Appendix.

The Frequently Asked Questions “FAQs” provide that a U.S. person engaging in new investment in Burma equal to or above the reporting threshold who fails to submit required reports is not in compliance with the conditions of the general license and may be subject to an enforcement action and possible civil and criminal penalties. Investors who are uncertain about whether their activities constitute new investment in Burma may want to err on the side of caution by submitting a report. The Department welcomes feedback on reports received through [BurmaPublicReport@state.gov](mailto:BurmaPublicReport@state.gov), however, we are not positioned to publicly post feedback.

In response to the concerns raised about how long the Reporting Requirements would be in place, we cannot predict at this juncture how long they will remain in place.

In response to comments that the estimated time and cost burden for completing the Reporting Requirements is too low; the Department would like to clarify that the reporting burden is 31 hours for respondents in the “medium” size range for the first year a respondent submits a report (21 for the first year and 11 for the second), and 11 hours every year thereafter, and 82 hours for respondents in the “large” size range the first year respondent submits a report (46 hours for the first report and 36 for the second) and 36 hours every year thereafter. The Department recognizes the number of burden hours is higher for respondents in the “large” range.

Due to time and resources constraints, the Department is not able to translate reports for companies or NGOs but encourages wide dissemination of the reports.

#### Issues of Confidentiality

*a. Summary of comments*

Commentators suggested that instead of calling for one public report and one U.S. government report, the Reporting Requirements should be amended to simply require one public report.

*b. Response*

Two reports – a public and U.S. Government (USG) report – continue to be required. The submitter should continue to indicate in the Public Report where it has excluded information that is contained in the USG Report, and explain the basis for not including such information in the Public Report. For example, submitter could state that additional information was not disclosed in the Public Report in response to a particular question because such information is a trade secret exempt from disclosure under FOIA. If the submitter does not have information to report with respect to one or more of the questions, submitter should provide a brief explanation of why. For example, the submitter could state that it is not providing a summary of its workers' rights policies because it does not have formal policies in place.

\$500,000 Threshold

*a. Summary of comments*

Some comments suggested the \$500,000 threshold be removed. Others suggested increasing the threshold in order to minimize the reporting burden on small business and medium-sized entities. Another comment suggested the Department consider introducing a reporting requirement for U.S. companies with sales above a significant sales revenue threshold.

*b. Response*

The U.S. government has agreed to raise the \$500,000 threshold to \$5,000,000 in order to minimize the reporting burden on small business and medium-sized entities to support the policy goal of encouraging inclusive economic growth. It is important to recognize that the investment amount is cumulative and the collection has been in effect for three years. Given concerns about the cost of compliance, an increase in the threshold has the potential to expand the number of companies investing in Burma and enhance U.S. economic engagement.

Direct and Indirect Investment

*a. Summary of comments*

Overall, commentators requested clarification on whether the Reporting Requirements apply to passive or equity investors; business and trading partners; direct and indirect investment; and whether they apply to joint ventures, partnerships, contractors,



subsidiaries, distributors, and supply chains. There was also a request to require the Reporting Requirements to apply to international garment and footwear brands sourcing products. One commentator noted that while it was not required to report because it engages in sourcing from third-party Burmese factories, it has done so voluntarily.

*b. Response*

We do not believe clarity was needed in the general guidance regarding direct and indirect investment. The term “new investment” is carefully defined by both statute and regulation. That is the definition US persons should consult when determining whether their investment triggers these reporting requirements. In Reporting Requirements Question 5, language details the extent of investment captured by the collection by asking submitters to state whether its policies and procedures are applied to, required of, or communicated to related entities, including but not limited to subsidiaries, subcontractors, and other business partners.

The FAQs address the type of investment that could trigger the Reporting Requirements. They provide that the Reporting Requirements do not limit disclosure obligations based on the form of an investment or the percentage equity stake held, even when other stakeholders are non-U.S. persons. In determining whether a particular investment triggers the Reporting Requirements, investors should consult the regulatory definition of “New Investment” in 31 C.F.R. 537.311.

U.S. persons whose activities in Burma constitute new investment as defined in 31 C.F.R. § 537.11 and who meet the criteria identified in the answer to question three (Who needs to report on their activities in Burma?) should read each question in the Reporting Requirements carefully and consider how best to answer each question taking into consideration the answers to questions one (What purposes do the Reporting Requirements serve?) and two (How is publicly reporting information of value to the investor submitting the information?) in the FAQs. In determining what information needs to be provided in order to provide a sufficient response to each question, investors may wish to consider a range of factors, including the size of their investment (in absolute terms and/or the percentage of the total amount invested), their relationship to other investors, and the amount of influence they maintain over the investment vehicle.

Questions 1 and 3: Contact Details

*a. Summary of comments*

Several commentators requested contact details for related entities over which submitter exercises control or influence, including Burmese business partners.

*b. Response*

We determined this is unnecessary, as contact details for the submitter will be provided and questions and comments about related entities can be posed directly to the submitter.

### Question 5: Human Rights, Worker Rights, Anti-Corruption, Environmental Policies and Procedures

#### *a. Summary of comments*

Generally, commentators sought to expand the nature of reporting in question 5. Some sought clarity on the degree to which policies and procedures apply to related entities, affiliates, and partners. Several commentators requested inclusion of a “comply or explain” provision, and for each submitter to be required to develop policies and procedures where the Department determines the submitter’s explanation is not credible. Commentators also suggested referencing relevant tools, standards, and guidelines to assist submitters in completing question 5.

Several commentators requested risk mitigation to be addressed in this section (response in Question 11). One commentator provided that land rights policies should be disclosed if a new investor is involved in extractives, tourism, agriculture, industrial, or the manufacturing sector.

#### *b. Response*

The Reporting Requirements general instructions will continue to direct submitters to report on the extent to which policies and procedures described in questions 5(a) through (d) are applied to, required of, or otherwise communicated to related entities in Burma, including but not limited to subsidiaries, subcontractors, and other business partners. The Reporting Requirements general instructions will continue to note that if a submitter does not have the information requested for any question, it should briefly explain why.

### Question 6: Arrangements with Security Providers

#### *a. Summary of comments*

One commentator noted that this reporting requirement is important because it provides one of the only sources of information about security arrangements with the Burmese army.

#### *b. Response*

We plan to keep this reporting requirement intact as it is important for the reasons articulated by the comment.

### Question 7: Property Acquisition

#### *a. Summary of comments*

Commentators argued that land confiscations for economic development are having a devastating impact on local communities, and that reports submitted pursuant to the Reporting Requirements provide valuable information on land acquisition policies.

*b. Response*

We plan to maintain this reporting requirement as it is important for the reasons articulated by the commentator. We elaborated on the importance of this reporting requirement in the FAQs. The FAQs provide that property acquisition and land use in Burma, particularly in ethnic and conflict areas, involved land seizures, forced evictions, temporary land abandonment due to conflict, and the involuntary resettlement of vulnerable populations. Property acquisition and land use for investment projects has the potential to adversely affect people using the land for homes, livelihood, or other purposes, and can inhibit return of displaced persons and refugees or result in forced evictions. Moreover, as a result of years of conflict and uprooting of communities in Burma, there may be overlapping claims to land. Due diligence may include processes for identifying and engaging with the bona fide owners (including customary owners) and/or users of the land, recognizing their rights over the land, and agreeing on appropriate redress. Resettlement should be minimized whenever possible. Investors should be aware that forced evictions may have occurred prior to the investor's involvement in the project and may have resulted in continuing land tenure disputes for which mitigation strategies should be sought. Thorough due diligence on financial/material arrangements made to compensate previous users/residents of land or other real property may also help identify those with claims for compensation and/or rights over the land, and determine whether the arrangements were fully implemented, and the entity or entities responsible for delivering compensation

Question 8: Transparency

*a. Summary of comments*

Some commentators noted that the Reporting Requirements offer a rare opportunity for the general public to know how much the government is receiving from investors.

*b. Response*

We plan to maintain this reporting requirement as it is important for the reasons articulated by the comment. We elaborated on the importance of this reporting requirement in the FAQs. The FAQs provide that information relating to payments made by investors to the Government will enable both civil society and the U.S. government to monitor revenue flows and the ways in which the Government of Burma uses revenue. It will also enable outside investors to assess risks associated with investors' financial arrangements with the Government of Burma.

Question 10: Military Communication

*a. Summary of comments*

Several commentators sought to remove the confidentiality provision. Some commentators noted the wording of “meeting” in question 10 is confusing – as the meaning of a “meeting” subject to reporting should be clarified to specifically refer to agreements, partnerships, and support conducted between a U.S. company and the military.

*b. Response*

To address a comment that information in the confidential report should be made public, we noted that items requested in questions 9 through 11 do not need to be included in the Public Report, but may be included in the Public Report if the submitter so chooses. Whenever possible, we encouraged submitters to include this information in the public report to increase transparency and access to information.

We did not modify the definition of “meeting” as we found the current definition provided sufficient clarity.

Question 11: Risk Mitigation

*a. Summary of comments*

Several comments requested that risk mitigation be publicly disclosed as part of human rights due diligence policies and practices.

Some commentators requested inclusion of a “comply or explain” provision, and for a submitter to explain when “not applicable” applies. Others sought to expand its application to entities with which the submitter has a business relationship.

*b. Response*

We note that risk mitigation information does not need to be included in the Public Report, but may be included in the Public Report if the submitter so chooses. Whenever possible, we encourage submitters to include this information in the public report to increase transparency and access to information.

9. No payment or gift has been or will be provided to any respondent.
10. The U.S. Government will not make public the information contained in the U.S. Government Report except to the extent authorized by law. Relevant legal provisions include provisions for confidentiality or nondisclosure included in the Freedom of Information Act or any other federal statutes or regulations that apply with respect to both the U.S. Government Report and the Public Report. Otherwise, no promises of confidentiality have been made to the respondent.
11. No information of a sensitive or private nature is requested in this collection.

12. Overall the reporting burden on respondents is designed to be minimal as the collection requests summaries of policies and procedures that already exist as opposed to mandating that investors develop and/or implement such policies and procedures. Therefore, if a respondent does not have such policies/procedures already in place it may respond to questions with a single sentence indicating that respondent has no information to report and include a brief explanation, or another appropriate response. In the case where respondents do have such policies/procedures in place, they shall provide a brief summary of the existing policy/procedures or due diligence conducted.

Similarly, with regard to the disclosure of payments above \$10,000 to governmental entities in Burma, it is assumed investors maintain records of payments made to Government of Burma officials and entities as a matter of routine accounting and record keeping.

The collection is likely to request one new category of information that, but for the collection, respondents would be unlikely to maintain: a brief summary of any meetings with military officials related to an investment.

Because the collection was designed to be flexible and minimally burdensome, there is a range of burden hours on the respondent likely to be correlated with the type of industry and size of the respondent's investment in Burma. For example, a U.S. person intending to open a restaurant or small hotel in Burma might not spend more than \$5,000,000 to purchase or lease land or other real property, or purchase or lease more than 30 acres of land or real property, might not have extensive contact with military officials related to its investment, might have minimal arrangements with security providers, might have a minimal number of payments to Government of Burma entities, and might only carry out a small number of consultations with local stakeholders, if any, before entering into the new investment. The reporting burden for this "small" range respondent will be zero as investments under \$5,000,000 are not subject to reporting.

Medium-sized investments that entail the purchase or lease of large plots of land or entail investment in ethnic minority or conflict areas such as but not limited to medium-sized mining operations are likely to have a larger reporting burden. For example, this type of respondent might meet with a number of military officials, might conduct multiple rounds of community and stakeholder engagement before acquiring large plots of land in areas that are sensitive and/or conflict prone, and might have existing human rights, worker rights, anticorruption, and environmental stewardship policies and procedures already in place. Information on large land acquisitions and on security arrangements, also likely to be more complex in this scenario, presumably will already be collected in some form in company records, but will have to be summarized for this collection. The reporting burden estimate for this "medium" range respondent is 31 hours in the first year respondent submits a report (21 hours for the first report and 11 for the second that year), and 11 hours every year thereafter.

The largest investments are multinational enterprises in the oil, gas, and mining industry, large scale infrastructure development, and large-scale agribusiness sectors. These companies are more likely to have complex human rights policies and procedures in place, might purchase or lease large parcels of land, might have complex arrangements with

security providers to guard mines, pipelines, and other physical infrastructure, and is the most likely to communicate with the Burmese military on a regular basis. Based on public comments received, the upper range of the “large” range respondent is estimated at 46 hours.

It is estimated that in the next three years there will be approximately 30 new investments in Burma over the \$5,000,000 threshold triggering the reporting requirement under GL 17. We estimate 10 respondents in the “medium” range at 31 burden hours the first year the respondent submits a report (21 hours for first report and 11 for the second), and 11 burden hours every year thereafter, and 20 respondents in the “large” range at 82 burden hours the first year the respondent submits a report (46 hours for the first report and 36 hours for the second) and 36 hours every year thereafter.

To determine the estimated income per hour, the Bureau of Labor Statistics (BLS), “Table 1 Summary: mean hourly earnings and weekly hours for selected worker and establishment characteristics” were reviewed (<http://bls.gov/ncs/ncswage2010.htm#overview>). The specific data table is located at <http://bls.gov/ncs/ocs/sp/nctb1475.pdf>. Average mean hourly private industry worker earnings are  $\$31.59 \times 1.4 = \$44.23$  weighted wage rate.

Table: Estimated total cost burden and estimated annual hour burden to respondents

<b>Description of the Collection Activity</b>	<b>Number of Responses Annually</b>	<b>Estimated Total Annual Burden on Respondent per Response (Hours)</b>	<b>Estimated Average Income Per Hour with Weighted Wage rate</b>	<b>Estimated Cost Burden</b>
Submission of Report	2 in the first year (180 days after \$5,000,000 threshold is reached and thereafter annually on July 1)	1,640 Annual Burden Hours for <b>Large</b> (calculated by (46 hours for first response + 36 hours for second response) x 20 respondents per year)  320 Annual Burden Hours for <b>Medium</b> (calculated by (21 hours for first response + 11 hours for second response) x 10 respondents	\$31.59 (\$44.23)	\$72,537 (1,640 x \$44.23) for large  \$14,154 (320 x \$44.23) for medium

		per year)		
Submission of Report	1 every year on July 1, after submission of first report	720 Annual burden hours for large (calculated by 36 hours per response x 20 respondents per year)  110 Annual burden hours for medium (calculated by 11 hours per response x 10 respondents per year)	\$31.59 (\$44.23)	\$31,846 (720 x \$44.23) for large  \$4,865 (110 x \$44.23) for medium
<b>Total</b>	[3]	[2790]		[\$113,402]

It should be noted that this hour burden estimate applies to the full collection as it will be submitted to the U.S. Government and does not include or calculate time spent by corporate counsel editing/redacting portions of the full report for the “public” report. This is for two reasons 1) The Public Report does not necessitate respondents to collect any new information; therefore the U.S. Government Report presents the most complete basis for estimating the PRA information collection burden; and 2) The State Department expectation is that the Public Report and the U.S. Government Report will be similar except for those circumstances in which the respondent determines in good faith that it considers certain information to be exempt from disclosure under FOIA Exemption 4.

13. As discussed in the previous question, the collection requests a summary of information that is either already a part of company policies and procedures (human rights, environmental, worker rights, and anti-corruption due diligence) or are incidental to company operations (payments made to Government entities). Therefore, the only costs associated with the collection are internal costs based on the burden hour estimates provided above. In the case of keeping records of meetings with military officials, which may not be incidental to company operations, it is estimated that the company official conducting the meeting will log and maintain a short record of the meeting using basic word processing software which any company making foreign investments over \$5,000,000 is likely to already own. Therefore, there are no anticipated additional costs to respondents to collect this information.
  
14. Total estimated annual cost to the Federal government is \$4,415. This was calculated based on the hourly rate of two GS-13 Step 1 employees, (50 hours per employee). The hourly rate is \$44.15. This work includes reviewing and analyzing public and U.S. government reports and meeting with investors and civil society regarding reports.

15. The changes to this collection from the last submission were (1) raising the aggregate threshold to \$5,000,000, and (2) changing the number of respondents from 50 to 30 given the increase in threshold. because more comments on the Reporting Requirements in this notice and comment period were received.
16. A respondent shall submit a public version of the collection that redacts before submission any information it considers in good faith to be exempt from disclosure under FOIA Exemption 4, as outlined in #7 above. Respondents will submit this public version of the report to the Department of State annually by July 1, which will then be published at state.gov.
17. No such approval is sought; the current OMB expiration date will be displayed on the instrument.
18. The Department does not seek any exception to the statement, "Certification for Paperwork Reduction Act Submissions," of DS 83-I.

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not employ statistical methods.