

Commerce Extends U.S. Export Control Restrictions to Affiliates of Parties on the Entity List

by Lawrence Ward, Dave Townsend, Justin T. Huff, T. Augustine Lo, and Paula Ortiz Cardona

On September 29, 2025, the U.S. Department of Commerce Bureau of Industry and Security (“BIS”) announced it was extending restrictions imposed by its Entity List and its Military End User (“MEU”) List to organizations affiliated with parties appearing on those lists. In addition, BIS extended restrictions to parties who are 50% or more owned by certain entities on the U.S. Department of the Treasury Office of Foreign Assets Control (“OFAC”) Specially Designated Nationals (“SDN”) and Blocked Persons List (the “SDN List”).

Long-standing BIS guidance previously stated that organizations 50% or more owned by parties on the Entity List were not considered subject to the restrictions that applied to their owners. Now, both U.S. and foreign companies that provide parties outside of the United States with goods, software, and technology that are subject to the Export Administration Regulations (“EAR”) must confirm whether the recipient is 50% or more owned by an entity or entities that are on the Entity List, MEU List, or the SDN List.

This BIS change will increase due diligence requirements for companies whose items are subject to the EAR, complicate compliance burdens for companies globally, and likely will result in a greater number of license requests to BIS.

Summary of Change.

As a result of the BIS interim final rule (“IFR”), the following EAR changes have been made:

- Any organization 50% or more owned by a party or parties on the Entity List is subject to restrictions under the Entity List;
- Any organization 50% or more owned by a party or parties on the MEU List is subject to restrictions under the MEU List;
- Any organization 50% or more owned by a party or parties on the SDN List, if the party or parties on the SDN List is designated by OFAC for specified reasons, are subject to restrictions under the EAR.

Related People

- Lawrence Ward
- Dave Townsend
- Justin T. Huff
- T. Augustine Lo
- Paula Ortiz Cardona

Related Capabilities

- Government Enforcement & Corporate Investigations
- Corporate Governance & Compliance
- International Trade

BIS requires an export license for any item subject to the EAR to be provided to most organizations on the Entity List, although some Entity List entries more narrowly restrict only specified items. Among other items, U.S.-origin items and items from the United States are considered subject to the EAR. Under the IFR, the EAR restrictions imposed under the Entity List now apply to organizations majority owned by one or more entities on the Entity List.

Likewise, the EAR restricts specified items subject to the EAR to parties on the MEU List. The IFR extends the MEU List restrictions to those parties who are majority owned by organizations listed in Supplement Number 7 of EAR Part 744. In addition, the EAR restricts any item subject to the EAR to those on the SDN List, and who OFAC lists under certain specified sanctions programs. As a result of the IFR, those pre-existing EAR restrictions now apply to majority-owned affiliates of companies on the MEU or SDN Lists.

In the IFR, BIS also warned the public that non-U.S. parties with significant minority ownership by, or ties to, an Entity List entity, MEU List entity or SDN are considered a diversion risk, and subject to heightened due diligence expectations under the EAR. The EAR employs a broad knowledge standard – including not only positive knowledge or substantial certainty but also an awareness of a high probability of a circumstance's existence or future occurrence – so companies will need to use heightened due diligence efforts to ensure compliance with the rule change.

Effective Date.

The IFR changes went into effect on September 29, 2025. However, with respect to entities located in or who are joint ventures with organizations in countries listed in Country Group A:5 or A:6 of the EAR, BIS provides a temporary general license (TGL) permitting certain transactions with such organizations through November 28, 2025. The TGL also is available for certain joint ventures with U.S. companies.

Removal or Modification Requests.

BIS has added a process for companies subject to the rule change to request removal or modification. Details about the removal or modification process – and how decisions will be made – are scant. Any foreign entity that is owned, directly or indirectly, individually or in the aggregate, 50% or more by one or more Entity List entities (or subject to other license requirements/restrictions) based on their ownership may request that its Entity List owner's entry listing be modified to exclude the requester.

Compliance Implications.

Companies engaging in transactions – including in-process transactions – subject to the EAR will need to re-assess whether those transactions now require a BIS export license. In particular, the IFR significantly expands the scope of the Entity List restrictions and undoubtedly will require companies to stop or refuse many transactions that previously

relied on BIS's non-application of the 50% rule. Additionally, in their compliance programs, many U.S. exporters previously relied on an end user certification from affiliates of Entity List entities to ensure compliance with the EAR. Because of the impact of the IFR on such affiliates, U.S. exporters should be proactive in reviewing those prior certifications to determine the immediate impact on their supply chain and customer network.

Routine screening also should be re-assessed to apply the new BIS 50% rule, in addition to OFAC's longstanding 50% rule. OFAC clarified in 2014 that it applied the 50% rule to any company majority owned by persons or companies on the SDN List. Compliance teams now need to implement screening changes to avoid transactions with entities 50% or more owned by parties on the Entity or MEU Lists. Neither the OFAC nor the BIS 50% rule uses a "control" standard but both agencies view control as a red flag that certainly could impute knowledge of a potential violation on an exporter.