

Locke Lord QuickStudy: BIS Announces Additional Export Control Restrictions Against Russia and Belarus Targeting Shell Companies and Business Software

Locke Lord LLP

WRITTEN BY

Ryan Last

Effective as of June 12, 2024, the U.S. Department of Commerce's Bureau of Industry and Security ("BIS") announced several additional export control restrictions and related actions against Russia and Belarus to further degrade their ability to continue the war against Ukraine. The restrictions imposed serve as an action against those entities which have supported the Russian military industrial base and other activities contrary to U.S. national security and foreign policy interests, as well as others involved in the support of Russia's military capabilities.

The key actions include the following:

Further Restricting Software Exports

The new BIS rule imposed additional restrictions on the export, reexport, or transfer (in country) of certain types of business software, which now includes enterprise management software and design software even if not specifically identified on the Common Control List ("CCL"). The new rule specifies that a license is required to export, reexport, or transfer to or within Russia or Belarus any EAR99-designated (general use) software including:

- Enterprise resource planning (ERP);
- Customer relationship management (CRM);
- Business intelligence (BI);
- Supply chain management (SCM);
- Enterprise data warehouse (EDW);
- Computerized maintenance management system (CMMS);
- Project management software;
- Product lifecycle management (PLM);
- Building information modeling (BIM);
- Computer aided design (CAD);
- Computer-aided manufacturing (CAM); and
- Engineering to order (ETO).

The license requirements also include software updates. U.S. person providers should review automatic updates to exported software to prevent deemed exports of unlicensed software. The restrictions do not apply to humanitarian efforts such as entities exclusively operating in the medical or agricultural sectors. The new rules will go into effect on September 10, 2024.

Restricting Trade in More Items Destined to Russia and Belarus

BIS has added over 500 additional Harmonized Tariff System (HTS) codes that now require a license for export, reexport, or transfer to Russia and Belarus. Those codes include license requirements for several riot control agents. Remaining trade with Russia is effectively limited to humanitarian, agricultural and medical sectors. BIS retains the right to revoke or suspend the availability of license exceptions for actors aiding in the evasion of export controls.

Reducing License Exception Eligibility for Certain Consumer Goods

BIS has narrowed the scope of License Exception Consumer Communication Devices (CCD) to exclude items such as printers, computer mice, and battery chargers.

Cracking Down on Restricted Product Diversions Through Shell Companies

BIS has created a new regulatory framework that identifies addresses on the Entity List that present a high risk of involvement in unlawful diversion. This new tool creates another barrier for shell companies to find a corporate service provider that is willing to lend the use of their address for unlawful trade. To date, BIS added eight addresses in Hong Kong to the Entity List and warned that any company that uses the addresses identified in the new rule, as a Purchaser, Intermediate Consignee, Consignee, or End-User will be faced with restrictions on their ability to engage in transactions subject to the Export Administration Regulations (“EAR”). Effective immediately, the entities with the addresses listed must acquire licenses for export of all items on the CCL and Supplement No. 7 of the EAR.

Additions to the Entity List

Five entities in Russia and China are being added to the Entity List, restricting exports, reexports, and transfers (in-country) involving these entities:

- Shenzhen Daotong Intelligent Aviation Technology Co., Ltd (Autel), located in China, has been involved in the shipment of controlled items to Russia since Russia’s invasion of Ukraine as well as acquiring and attempting to acquire U.S.-origin items applicable to unmanned aerial vehicles to be used by Chinese military entities.
- Volgogradpromproyekt (VPP), located in Russia, has been involved with, contributes to, and supports the Russian military and defense actors and has sold a variety of chemicals for use in the activities of companies of concern.
- Three companies located in China, Advantage Trading Co. Ltd, Duling Technology (HK) Ltd, and FY International Trading, are added to the Entity List for procuring components, including U.S.-origin components that are used to develop and produce Shahed-series UAVs which have been used by Russia in Ukraine.

Temporary Denial Orders

In the new rule, BIS introduced two new Temporary Denial Orders (“TDO”) against two Russian procurement networks that it claimed were facilitating exports of aircraft parts to Russia through third countries in violation of U.S. export controls. As protective administrative measures, TDOs cut off not only the right to export items subject to the EAR from the U.S., but also the ability to receive or participate in exports from the United States or reexports of items subject to the EAR. The two TDOs include:

1. A TDO against Turboshaft FZE, Treetops Aviation, Black Metal FZE, Timur Badr, and Elaine Balingit, for their involvement in exporting aircraft parts to Russia in violation of BIS export controls. Badr, through his companies Turboshaft FZE, Treetops Aviation, and Black Metal FZE, and with Balingit’s assistance, exported more than 500 shipments, at least some of which consisted of aircraft parts, to Russia. The Russian recipients included an arm of Siberian Airlines, a company itself subject to a TDO.
2. A TDO against Skytechnic, Skywind International Limited, Hong Fan International, Lufeng Limited, Unical dis Ticaret Ve Lojistik JSC, Izzi Cup DOO, Alexey Sumchenko, Anna Shumakova, Branmir Salevic, and Danijela Salevic. Their transnational scheme to circumvent BIS export controls allowed for the export of approximately 260 shipments, containing mostly aircraft parts, to Russia. The Russian recipients included Pobeda Airlines, a Russian aviation company also subject to a TDO.

Restricting Distributors and Transhippers

BIS informed over 130 U.S. distributors of these new restrictions on known suppliers to Russia. Focusing on disrupting the flow of U.S. and foreign-produced electronic components to Russia through intermediaries, BIS plans more extensive targeting of foreign companies that supply U.S. restricted goods to Russia. Many non-U.S. manufacturers operate on U.S. technology, software or tooling making them subject to U.S. jurisdiction.

Conclusion

This paper is intended as a guide only and is not a substitute for specific legal or tax advice. Please reach out to the authors for any specific questions. We expect to continue to monitor the topics addressed in this paper and provide future client updates when useful.

RELATED INDUSTRIES + PRACTICES

- [Corporate](#)
- [International](#)
- [Sanctions + Trade Controls](#)