

Locke Lord QuickStudy: BIS Strengthens Export Controls on ?China’s Advanced Technology Capabilities

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On December 2, 2024, the U.S. Department of Commerce’s Bureau of Industry and Security (“BIS”) announced two interim final rules (collectively, the “December 2024 Rules”) (“*Foreign-Produced Direct Product Rule Additions, and Refinements to Controls for Advanced Computing and Semiconductor Manufacturing Items*” and “*Additions and Modifications to the Entity List; Removals from the Validated End-User (VEU) Program*” designed to further limit the People’s Republic of China’s (“PRC”) access to U.S. technology to further its development of advanced-node semiconductors and other technologies with significant military applications. By restricting access to U.S. tools and technologies, the BIS seeks to disrupt the PRC’s leveraging of U.S. technologies for military purposes.

Overview of the New Measures

The December 2024 Rules aim to limit the PRC’s access to critical technologies essential for advanced weapon systems, artificial intelligence (“AI”), and advanced computing. These efforts include:

- Semiconductor Manufacturing Equipment and Software Controls:** BIS is imposing new controls on 24 types of semiconductor manufacturing equipment, three types of software tools used in semiconductor production, and high-bandwidth memory (“HBM”). These controls target U.S.-origin and certain foreign-produced items under the Export Administration Regulations (“EAR”).
- Entity List Updates:** 140 new entities have been added to the BIS Entity List, along with 14 modifications, affecting PRC semiconductor fabrication facilities, equipment manufacturers, and investment companies supporting Beijing’s advanced technology goals.
- Foreign Direct Product (FDP) Rules and De Minimis Changes:** Two new FDP rules extend U.S. jurisdiction over foreign-produced items when certain PRC-related end-uses or entities are involved. A de minimis rule extends U.S. jurisdiction over foreign-produced items containing any amount of U.S.-origin integrated circuits.
- Enhanced Red Flag Guidance:** To address compliance concerns and diversion risks, BIS has introduced new red flag indicators for exporters and partners to identify potential misuse of U.S.-origin technology.
- Software and Technology Controls:** New restrictions have been applied to software keys, Electronic Computer-Aided Design software, and other technologies associated with advanced-node semiconductor design.
- Updated License Exceptions:** BIS has created a new License Exception HBM for eligible uses of high-bandwidth memory products.

Impact on the PRC’s Military-Civil Fusion Strategy

The PRC’s Military-Civil Fusion strategy presents a risk that advanced-node semiconductors and AI technologies

could be repurposed for military end-uses. The December 2024 Rules build on prior BIS actions, including those in [October 2022](#), [October 2023](#), and [April 2024](#), to address these threats.

Assistant Secretary of Commerce for Export Administration Thea D. Rozman Kendler emphasized the importance of these measures, stating, “The purpose of these Entity List actions is to stop PRC companies from leveraging U.S. technology to indigenously produce advanced semiconductors.”

Compliance and Public Feedback

The majority of the December 2024 Rules are effective immediately. Some of the December 2024 Rules will have a delayed compliance date of December 31, 2024. BIS has invited public comments on these rules to refine and enhance these regulatory measures.

Looking Ahead

The December 2024 Rules foretell a broader U.S. strategy to adopt a “small yard, high fence” approach to protecting advanced technologies. By collaborating with allies and leveraging innovative regulatory tools, BIS aims to stay ahead of evolving threats to U.S. national security.

For exporters, understanding and adhering to these new controls is critical. Companies must closely monitor updates to the EAR and ensure robust compliance programs to address the complexities of the modern geopolitical and technological landscape.

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.

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