

Locke Lord QuickStudy: Commerce Issues Rule to Secure Semiconductor Supply Chains ?

Locke Lord LLP

WRITTEN BY

[Ryan Last](#)

On October 13, 2023, the U.S. Department of Commerce's Bureau of Industry and Security ("BIS") issued a new rule to update general authorizations for Samsung and SK Hynix, two semiconductor companies headquartered in the Republic of Korea with semiconductor fabrication facilities in the People's Republic of China ("PRC"). Due to newly enacted U.S. sanctions, exports and deemed exports of U.S. technology and goods to these factories in the PRC for the manufacture of semiconductors would otherwise require a specific license. This new rule provides Samsung's and SK Hynix's PRC facilities with Validated End-Users ("VEUs") status. VEUs can apply for, and after national security review and approval by the U.S. government, obtain a general authorization to acquire certain items rather than seeking multiple individual licenses. The new rule also amends the list of eligible items that may be exported, reexported or transferred (in-country) to these companies under the VEU authorization.

The BIS believes that these and other companies play a critical role in the global semiconductor supply chain and that the new rule will facilitate a secure and transparent supply chain, particularly for memory chips.

The BIS established the VEU program in 2007 to protect U.S. national security interests by permitting entities in eligible destinations, currently the PRC and India, that pass a rigorous interagency review and agree to ongoing compliance obligations, to import from the U.S. certain items under a general authorization rather than seeking multiple individual licenses. VEU participants are required to maintain substantial recordkeeping and reporting and be subject to ongoing review to ensure compliance. VEU applications are reviewed based on a variety of national security factors including technology levels, end customers, compliance plans, and other information.

U.S. companies with facilities in the PRC that manufacture sensitive materials such as semiconductors and certain other dual use and military goods may want to consider seeking VEU authorization.

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.