

# Locke Lord QuickStudy: U.S. Commerce Department Coordinates Efforts With OFAC to Counter National Security Threats

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The U.S. Commerce Department's Bureau of Industry and Security ("BIS") introduced a significant final rule on March 20, 2024, intending to fortify national security. This rule amendment enhances restrictions under the Export Administration Regulations ("EAR") for individuals and entities listed under fourteen sanctions programs administered by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"). These OFAC programs, identified on the List of Specially Designated Nationals and Blocked Persons ("SDN List"), include Russia's aggression in Ukraine, terrorism and narcotics trafficking.

The rule extension imposes stringent export, reexport, and transfer controls under the EAR on individuals and entities blocked under the specified OFAC sanctions programs. The rule extension demonstrates BIS' collaboration and coordination with OFAC to thwart designated foreigners from accessing resources that could imperil U.S. national security and foreign policy interests.

An important aspect of this rule extension is the consolidation of existing SDN-related EAR restrictions into a single section, enhancing clarity and efficiency. By centralizing these EAR provisions, the government aims to streamline oversight of transactions involving items subject to the EAR, effectively complementing OFAC's measures to target violative financial transactions.

The rule significantly broadens the scope of EAR license requirements by including items subject to the EAR for individuals and entities blocked under eleven OFAC-administered sanctions programs. It also tightens restrictions on the availability of license exceptions for transactions involving certain items related to two OFAC-administered programs.

The amendment further eliminates outdated provisions and introduces structural and technical changes to streamline the regulatory framework. These adjustments are designed to enhance the effectiveness of export controls to safeguard national security interests in coordination with OFAC's financial controls by aligning export controls with OFAC sanctions.

## Preparing for Compliance

As companies navigate these revised regulations, proactive measures can facilitate compliance with the amended EAR provisions:

- **Stay Informed:** Regularly monitor updates from BIS and OFAC regarding sanctions programs and export control regulations. Subscribe to relevant newsletters and bulletins to receive timely information.
- **Conduct Comprehensive Screening:** Utilize tools like the Commerce Department-maintained Consolidated Screening List to identify individuals and entities listed under sanctions programs. Implement robust screening procedures for all business partners, customers, and transactions.
- **Enhance Internal Controls:** Review and strengthen internal compliance policies and procedures to ensure adherence to export control regulations. Train employees on updated requirements and establish mechanisms for ongoing monitoring and review.
- **Maintain Detailed Records:** Establish comprehensive record-keeping practices to document compliance efforts and transaction details. Maintain records of due diligence conducted, license applications, and any communications with regulatory authorities.

Taking proactive steps to understand and implement these revised regulations will assist U.S. persons and others subject to U.S. laws to mitigate compliance risks and navigate the evolving landscape of export controls. Compliance not only safeguards against legal penalties but also strengthens the company's reputation and fosters trust among stakeholders.

## 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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