

Top News

BIS List Shows Companies Suspected of Shipping Controlled Items to Russia

The nearly 700 companies that the Bureau of Industry and Security has flagged for potentially sending export controlled goods to Russia include foreign suppliers in China, Turkey, India and others across Asia, Europe, Africa and the Middle East, according to a list obtained by *Export Compliance Daily*.

BIS first announced in March that it had shared the names of these companies with a group of American businesses in what one official described as “red-flag” letters, warning that the foreign companies may be buying sensitive dual-use parts later found in Russian missiles and drones shot down in Ukraine.

“In light of these circumstances, we are emphasizing information to help you avoid becoming involved in illegal diversion to Russia,” the agency wrote in the letter, a copy of which was reviewed by *Export Compliance Daily*. The list of foreign suppliers was sent with the letter to companies earlier this year, though neither document has been publicly released by BIS.

None of the companies on the list is necessarily subject to added legal restrictions because they aren’t on a formal restricted party or watch list. And in the letter, BIS doesn’t instruct companies to apply for a license, though it warns that at least one of their customers, named in the attached list of foreign suppliers, “appear[s] to have shipped items” to Russia that “likely require a license.”

The [companies on the list](#) included with the red flag letters may present increased compliance risks for American firms that continue to do business with them, trade lawyers and consultants said in interviews. And while the companies aren’t yet on a formal denied party list, they could eventually be added to one, said Julie Gibbs, a trade adviser with BPE Global.

“This is a warning that says: figure something else out,” she said of the list, “because you’re going to have to figure it out at some point going forward.”

BIS didn’t respond to multiple requests for comment. But in March, without directly naming any of the companies on the list, a senior agency official urged U.S. firms to approach transactions with those foreign customers with heightened due diligence, and in some cases, possibly stop business altogether (see [2403280058](#)).

“It’s as polite as any letter could be from a U.S. government agency,” said Anthony Rapa, a trade lawyer with Blank Rome. He said the “subtext” of the letter, along with the named companies, is that “the recipient should seriously consider not dealing with them anymore.”

The list includes 684 companies, some listed multiple times under separate addresses, that BIS said have shipped controlled items of “the highest concern” to Russia, according to public customs data. Those include various electronic integrated circuits—such as memory circuits, amplifiers, processors, controllers and more—that Russia needs to make precision-guided weapons systems.

The host of companies named in the letter includes some that do business in the semiconductor industry, as well as various technology, electronics and cargo logistics firms. It includes close to 400 com-

panies with addresses in mainland China, more than 200 in Hong Kong, 50 in Turkey, and others in India, Kyrgyzstan, the United Arab Emirates and Taiwan. The list includes at least one company each with an address in South Korea, Thailand, Azerbaijan, the Netherlands, Indonesia, Singapore, Latvia, Serbia, Finland, Canada, Switzerland, Cyprus, Germany, Spain, Britain, Hungary, Israel, Italy, Kazakhstan, Sri Lanka, Lithuania, Malaysia, Poland, Seychelles, Uzbekistan, the British Virgin Islands and South Africa.

Donald Pearce, a former BIS export enforcement agent who left the agency in 2020, said he doesn't recall BIS sending out a similar list of foreign companies to American businesses when he worked for the government. He said BIS may be looking for new, "proactive" ways to stop U.S. exporters from doing business with foreign companies that aren't yet on the Entity List.

The agency, he added, is likely sending the list to companies that are "generally compliant" with U.S. export controls but that may not have realized their products were being sent to Russia. By doing so, he said, the agency was signaling that companies "probably should come in and ask us to do this, because most likely we're going to say no."

Pearce added that BIS may be conducting end-use checks on the companies to decide whether they should be placed on the Unverified List. Once on the UVL, a company can be moved by BIS to the more restrictive Entity List if the agency can't complete an end-use check of the company within 60 days.

"I think there's definitely a venn diagram here where those names end up on the Entity List," said Pearce, now a senior adviser with Torres Trade Advisory. "BIS is looking for ways that are faster, more tactical than waiting for the end-user review committee to make its decision" about adding to the Entity List

He said he would advise his clients to apply for a license before doing business with a company named in the red flag letters.

"Frankly, there's a chance they'll get it," he said. "I mean, people win the lottery all the time, right?"

The letter warns that the recipient is restricted by the Export Administration Regulations from continuing with a transaction when they have "knowledge that a violation of the EAR has occurred, is about to occur, or is intended to occur in connection with the transactions."

Michael Huneke, a lawyer with Hughes Hubbard, noted that companies could face penalties under the EAR if they follow through with an export when they know there's a "high probability" it will violate U.S. export controls.

"We're in an era of probability-driven enforcement," Huneke said. "There really can be little that's more of a high probability of evasion and diversion than your own government telling you that publicly available information indicates there's diversion to Russia."

While the letters don't impose "a legal prohibition" on the foreign supplier, "in some sense, it is now furnishing the recipient with knowledge of some bad activity regarding those companies to which BIS is privy," Rapa said. "So it could have enforcement implications later on."

Rapa noted that the red flag letters are distinct from the agency's is-informed letters, which have been used by BIS to inform specific U.S. exporters that they need a license before continuing to ship certain items (see [2310030049](#)). The agency sent those letters to some chip companies before announcing new

licensing restrictions in 2022 for exports of advanced semiconductors and chip equipment (see [2209010059](#) and [2209160025](#)).

“This red flag letter is different,” he said, adding that it’s essentially “putting the recipient on notice that those companies have been implicated” in Russia-related diversion.

“These agencies are innovating now more than ever,” he said. “I think the community’s got to stay on its toes.” — *Ian Cohen*

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Export Controls


State Dept. Progressing on Final Rule for Activities That Don’t Need Authorization

The State Department has [sent a rule](#) for interagency review that could finalize an expansion to its definition of activities that don’t count as exports, reexports, retransfers or temporary imports. The agency in 2022 proposed the changes (see [2212150028](#)), which would allow companies to avoid submitting license applications for when a foreign government’s armed forces or U.N. personnel takes a defense article out of a previously approved country, or under certain scenarios for when a foreign defense item enters the U.S. but is subsequently exported (see [2212150028](#) and [2302270026](#)). The State Department sent the final rule to the Office of Information and Regulatory Affairs June 6.

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Questions Remain About How US, EU Will Treat Legacy Chips, Panelist Says

Although the U.S. and the EU have been collaborating more closely on technology export controls and supply chain due diligence laws, there are still “massive questions” about whether those controls will

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