

CLIENT ALERT

Early Export Control Reform Steps: BIS Proposes New Strategic Trade Authorization License Exception

Dec.09.2010

The Department of Commerce's Bureau of Industry and Security (BIS) today issued a proposed rule ([75 Fed. Reg. 76653](#)) as part of the President's Export Control Reform Initiative that, if made final, will amend the Export Administration Regulations (EAR) to create a new license exception. The proposed Strategic Trade Authorization (STA) license exception would eliminate the license requirement for exports, reexports and in-country transfers of goods and technology for which a license cannot be justified by U.S. national security and foreign policy.

Ineligible for STA treatment would be items covered by ECCNs with certain reasons for control (SS, SL, MT, and CW). STA would also not be available for exports to prohibited end-users or end-uses, or to embargoed destinations.

Exporters wishing to invoke License Exception STA would have to meet certain conditions, including furnishing the consignee with the ECCN for the exported item, using a specified destination control statement, obtaining certain written certifications from the consignee in advance of export, and complying with the Wassenaar reporting requirements set forth in section 743.1 of the EAR.

The impact of the proposed rule will vary; some exporters may well see a lighter licensing burden, while others may not be able to take advantage of it or satisfy the conditions. What is evident from this proposal is a recognition that some license requirements that now exist may not be justified by U.S. national security and foreign policy. Recognizing this is an important first step in the elimination of unnecessary licensing, and signals another positive step in the export control reform effort.

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BIS also issued today an advance notice of proposed rulemaking (ANPRM) soliciting industry input on how to make the Commerce Control List (CCL) a more clear and "positive" list, and how the CCL should be tiered consistent with the President's reform initiative ([75 Fed. Reg. 76664](#)).

The deadline for comments on both the proposed STA rule and the ANPRM is February 7, 2011.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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