CLIENT ALERTS & INSIGHTS

New BIS "Affiliates Rule" Compliance Date is November 10 Unless Suspended by U.S.-China Truce

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Key Takeaways

- BIS's new Affiliates Rule, currently set to take effect November 10, 2026, expands export control restrictions under the EAR to companies owned or controlled by parties on certain restricted party lists.
- The rule increases compliance obligations and enforcement risk for companies with international operations, particularly those with sourcing, distribution, or customer connections involving China.
- This is an opportunity to review screening procedures, update trade compliance programs, and enhance diligence on foreign suppliers, customers, and distributors to maintain compliance and defend against enforcement.

A new party screening requirement will soon impact compliance of international dealings unless the U.S. Department of Commerce's Bureau of Industry and Securities ("BIS") issues a second extension of its effective date. BIS currently remains on track to implement and enforce its new Affiliates Rule as of November 10, 2026. Our team alerted clients after BIS announced the Affiliates Rule last year with an initial effective date of September 29, 2025. It later postponed implementation to November 10 of this year in a Federal Register notice published on November 12, 2025 (90 FR 50857).

The Affiliates Rule updates the Export Administration Regulations ("EAR") to prohibit export trade with companies that are directly or indirectly owned or controlled by parties that appear on the BIS Entity List and its Military End User List. The Affiliates Rule has the effect of expanding EAR compliance obligations and enforcement risk while also harmonizing the new BIS ownership and control restrictions with similar rules enforced by the Department of Treasury's Office of Foreign Assets Control ("OFAC"). OFAC administers and enforces a "50% Rule" that prohibits dealings with companies that are owned directly or indirectly fifty percent or more by sanctioned parties. The Affiliates Rule closes an enforcement policy gap between sanctions and export controls restrictions.

The geopolitical implication of the Affiliates Rule is that it serves as a tool in the White House's arsenal to further its policy objectives with China. In recent years, China persons and entities have been increasingly listed on the Entity List. More strikingly, the list of restricted defense end users on BIS's Military End User List applies only to China entities. The Affiliates Rule will advance U.S. policy vis-a-vis China and reduce the risk of export control circumvention by blocked parties. Whether the Affiliates Rule will go into effect in November depends on impacts from the recently announced extension of the U.S.-China Trade Truce through 2027. The "truce" reduces certain tariffs imposed by both countries and establishes AI communication safety measures. It is possible that the Affiliate Rule will be again suspended as part of these ongoing negotiations although, as of today, the November 10 compliance date remains.

All companies with international dealings are subject to higher regulatory compliance obligations and enforcement risks today than in the past, which will remain true even if the effective date of the Affiliates Rule is again suspended. The best practice is to use this moment for periodic review and updating of company risk assessments, supplier and customer onboarding protocols, trade compliance policies and procedures, and personnel awareness training. At its most basic level, this is a reminder that screening non-U.S. suppliers, customers, and distributors is an essential high-impact tool for conducting due diligence on supply chain relationships and preparing valuable evidence for defending against future government enforcement efforts.

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