

Export Compliance Best Practices

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Compliance Operations

Balance...To address all scenarios

- Processes/Procedures
 - More-specific for regular/formalized activities (e.g., trade sales)
 - Broader for less-formalized activities (e.g., technology transfer)
- Outreach and Training
 - Periodic reminders (prevention)
 - Awareness (enablement)

Thoughts on Best Practices (1)

General Practices

– Education & Awareness

- Don't be an expert on everything;
 - Focus on the parts of the regulations that are important to you
 - Local-country expertise
- Keep current on regulations
 - Share information
 - Avoid “nobody told us”
- BIS publishes advisory opinions of general interest
 - <http://www.bis.doc.gov/index.php/policy-guidance/advisory-opinions>

– Meet BIS staff

- Small set of Licensing Officers for each ECCN/subject
- Improves two-way communication

– Review/vet decisions internally

- Multiple perspectives often help to identify the key point or arrive at a better conclusion

Thoughts on Best Practices (2)

Regulatory Participation

- Don't suffer in silence!
 - Caveat: Participation is not a substitute for compliance
- Respond to requests for public comments
 - Regulatory process follows Administrative Procedures Act (APA)
- Be aware of the Technical Advisory Committees (TACs)
 - “advise the Department of Commerce on the technical parameters for export controls applicable to dual-use commodities and technology and on the administration of those controls”
 - i.e., both technical and regulatory aspects

Thoughts on Best Practices (3)

Regulatory Participation

- Raise questions to a TAC
 - Raise questions to a Licensing Officer...
 - Contact info: <http://tac.bis.doc.gov>
- Consider joining a TAC
 - When there is a significant or ongoing concern

Example Issues Raised to ISTAC

Regulatory Participation (from non-members)

Regulation change agreed

- 3A001.e.1.b, energy density of secondary cells
 - Raised from 300 W-k/kg to 350 W-h/kg

Issues still in progress, favorable prognosis

- 5E001.c.1 (data transmission) and 5E001.c.2.c (coherent optical data transmission)
 - Overlap between the controls; technical control parameter for coherent optical
- ENC threshold for satellite modems is 10 Mbps 740.17(b)(2)(i)(A)(3)
 - Data rates to consumers increasing rapidly (hundreds Mbps)

More Example Issues Raised to ISTAC

Unsuccessful Outcomes

- Deletion of 4A003.b (high-performance computers)
- Deletion of 3D003 (physics-based simulation software)
- Relaxation of Cat 5p2 encryption bit strengths
- License exceptions for 3A001b2/b3

Thank you!

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