

Export Controls and Economic Sanctions

Wiley has one of the most experienced export controls and economic sanctions practices in the nation. Our team guides clients through the constantly evolving range of U.S. and international laws in order to grow business, expand operations, manage conflicts of laws, and remain compliant with cross-border trade regulations throughout the international marketplace.

Our team of lawyers, national security analysts, and economists regularly represents U.S. and foreign businesses, multinational corporations, and sovereign governments to navigate the complex landscape of export control, economic sanction, and national security laws. We leverage our expertise and contacts to solve complex problems through pro-business solutions that simultaneously promote economic growth and advance national security objectives. We are recognized and trusted in the United States and internationally to address a range of administrative, regulatory, public policy, and litigation concerns arising out of U.S. and foreign legal regimes. Our team includes the former top-ranking U.S. government official in charge of export controls on dual-use items, who served as the Under Secretary of Bureau of Industry and Security (BIS) and Assistant Secretary for Industry & Analysis at the Commerce Department. Wiley's entire export control team works closely with U.S. government agencies, the White House, members of Congress, foreign export controls regulators, and authorities in international jurisdictions to effectuate meaningful export control rules for commodities, military and defense items, nuclear items, emerging and foundational technologies, complex information technology (IT), cloud computing, and encryption systems.

Our extensive expertise includes:

Dual-Use, Military, Defense, and Nuclear Controls:

- Export Administration Regulations (EAR) including Entity List designations administered by the U.S. Department of Commerce's BIS;
- Antiboycott regulations administered by BIS's Office of Antiboycott Compliance (OAC);
- International Traffic in Arms Regulations (ITAR) administered by the U.S. Department of State's Directorate of Defense Trade Controls (DDTC);
- Items administered by U.S. Department of Justice's (DOJ) Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF);
- Export control deliberations coordinated through interagency teams comprised of the Departments of Defense, State, Commerce, Energy, NRC and Treasury; and

- Overarching national security priorities, which are coordinated through the White House's National Security Council and National Economic Council.

Multilateral Export Control Regimes: Including the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies; Missile Technology Control Regime (MTCR); Australia Group governing the Chemical Weapons Convention and the Biological and Toxin Weapons Convention; and the Nuclear Suppliers Group.

U.S. and International Sanctions Programs: Including sanctions adopted by the United Nations Security Council (UNSC) and implemented by UN member countries, and programs administered by the U.S. Office of Foreign Assets Control (OFAC) and the U.S. Department of State; sanctions regulations adopted by the European Council and implemented by European Member States; and sanctions promulgated by the Chinese government and administered by the Ministry of Foreign Affairs (MFA).

International Emergency Economic Powers Act (IEEPA)

National Defense Authorization Act (NDAA)

Defense Production Act (DPA), including the Defense Priorities and Allocations System (DPAS)

Emerging and Foundational Technologies: We have been at the forefront of this initiative by engaging with U.S. federal agencies and lawmakers, first during the drafting and passage of the Export Control Reform Act (ECRA), and now throughout its implementation. When ECRA became law in 2018, one of its main objectives was to enhance the U.S. export control regime to address concerns regarding the exports of emerging and foundational technologies to countries of concern, including the People's Republic of China (PRC) and Russia.

Comprehensive Export Controls and Sanctions Compliance Solutions: We provide our clients with customized and effective solutions to address in-house controls and compliance investigations. Wiley's export control experience, combined with our expansive knowledge in international trade laws and practices, IT and cyber security laws, anti-boycott laws, the Foreign Corrupt Practices Act (FCPA), and anti-money laundering (AML) regulations, enables us to tailor clients' compliance responsibilities with applicable laws through in-house programs that are practical and effective for their businesses. We develop and implement streamlined export control procedures and audit in-house compliance programs for clients ranging from large, sophisticated multinational businesses, to small corporations that are unfamiliar with the governing laws. Our user-friendly tools and training materials enable clients to quickly learn, implement, and update whenever necessary a business-friendly and effective compliance program.

Export Control Enforcement and Investigations: Through internal compliance audits and investigations, Wiley's team help clients identify potential violations of export controls and economic sanctions programs, assess related liabilities, and develop mitigating and remedial strategies and measures. We have extensive expertise preparing and submitting effective voluntary disclosures of violations to government agencies and have a proven record of success in negotiating favorable solutions for clients, including the negotiation of

penalties through engagement with government authorities. In addition to resolving potential and actual violations, we successfully defend clients in administrative proceedings and litigation, including civil and criminal investigations and enforcement actions initiated by the DOJ. Supported by a robust litigation team, our track record in advocating for clients is unmatched.

Jurisdiction Classification and Licensing: In determining the appropriate regulatory regimes governing specific export transactions – whether by product, technology or end-user – we serve our clients by providing effective legal and practical assistance. This includes the preparation of submissions for commodity classification determinations, applications for commodity jurisdiction rulings, Trade Sanctions Reform and Export Enhancement Act (TSRA) authorization, and other specific authorizations and licenses. Our extensive experience with international customs laws and practices provides valuable insight in developing for outcomes that align with clients' business interests and objectives.

M&A Due Diligence and Participation in Foreign Country Markets: Our export control team and mergers and acquisition (M&A) professionals regularly assist clients in making sound decisions through due diligence reviews of export controls and sanctions matters, in order to assess risks and benefits associated with transactions, including potential successor liability issues. When M&A transactions involve foreign direct investments (FDI) in the United States, our lawyers and investment experts advise clients and appear before the Committee on Foreign Investment in the United States (CFIUS) through all stages of the CFIUS review. When engaging in FDI matters in foreign jurisdictions, our teams work with clients to navigate foreign investment laws in order to ensure compliance while maintaining maximum flexibility when operating abroad.

National Security Supply Chain: As supply chain security and resilience concerns continue to garner attention from the U.S. government as well as governments worldwide, clients have become increasingly alarmed about their own vulnerabilities. Supply chain risks may involve access disruptions caused by foreign government regulation over domestic industries and exports; demand-driven supply shortages leading to export restrictions; disruptions caused by high-threat actors; and U.S. regulation over foreign sources of supply (e.g., IEEPA-based import restrictions as well as export controls and sanctions). Wiley's team has unmatched experience to effectively address clients' needs through the identification of specific legal and regulatory risks, assessments of probability of disruptions, and the development of in-house resilience programs to mitigate risks while maximizing business' abilities to operate internationally.

Contact Us

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