

The Many Forms of Export Compliance Screening – Russia

If your company is only performing restricted party screening against your customers, distributor and service providers, think again. Restricted party screening is only one type of screening that should be performed in terms of export compliance. The restricted party lists are easy to access, and the International Trade Administration’s Consolidated Screening List online tool is a helpful quick way to screen an entity before engaging in any business transactions. The hard part is gathering important information about the entity that would raise red flags or concerns, especially in light of the current Russia - Ukraine conflict.

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1. Entities Identified for Additional Scrutiny

The Commerce Department’s Bureau of Industry and Security (BIS) has stepped up its enforcement efforts to thwart any transactions in support of Russian aggression towards the Ukraine by sending out “Red Flag” letters. BIS has been using Customs data to identify specific customers of U.S. companies exporting to Russia. They have been sending these “Red Flag” letters to these companies warning that they should be taking extra due diligence and increase their screening efforts in regard to shipments to Russia. BIS has also sent lists of parties located in third countries to several companies and although these companies are not restricted parties, BIS have asked them to voluntarily screen and stop doing business with these parties.

Contact us if you are interested in stepping up your red flag screening against these parties of concern.

2. Customer Certification and Best Practices Regarding Exports to Russia

BIS published a [Best Practice](#) for “Certification to Prevent Diversion to Russia of Highest Priority Items”. BIS, along with allies and partner countries, has identified forty-five Harmonized System (HS) codes covering controlled items at heightened risk of being diverted illegally to Russia because of their importance to Russia’s war efforts. Nine HS codes have been prioritized as the most significant to Russian weaponry requirements (the Highest Priority Items List). But there are forty-five HTS numbers that are of heightened risk as well. The Highest Priority Items are mostly integrated circuits, capacitors and other electronics that fall under these HTS Subheadings:

HTS Subheading:		
8542.31	8542.39	8532.21
8542.32	8517.62	8532.24
8542.33	8526.91	8548.00

The best practices provided in the guidance document include:

- Screening shipments to all parties that appear in the dataset as shipping microelectronics to Russia, and where there are hits, voluntarily stop shipping to such parties.
- Obtaining written customer certificates certification to prevent diversion of “highest priority” items to Russia. BIS has created a Best Practice regarding the certifications. This guidance provides suggestions you can implement that will give enhanced insight into the entities you're

selling to and how they intend to use your company's products, and ultimately more effectively harden supply chains to prevent Russian evasion efforts.

- Updating any follow-on distribution agreements to require that such distributors implement these same heightened due diligence measures (e.g. screening, customer certifications, and other Best Practices).

3. Red Flags for Export Shipments.

BIS developed a list of [Red Flags](#) for export shipments regardless of destination or classification. This list is a great springboard for creating a list of red flags that are specifically suited for your company and industry. For instance, BIS suggests that a red flag might be when a small bakery is ordering sophisticated computers which don't align to their business needs. There might be some real-life examples like this that can be drawn from your Sales team that could make the list more customized for your company.

When BPE Global conducts a training, we always reiterate that your company, especially customer facing employees such as the Sales team, not "self-blind". In other words, discussions and information gathered during the sales and shipment process should be encouraged to learn more about the end user, end use and ultimate destination of the shipment to avoid violations. Under the Export Administration Regulations (EAR) part 736, Prohibition 10 is "proceeding with transactions with knowledge that a violation has occurred or is about to occur". In other words, knowing a violation will occur and not acting to prevent it is a violation.

Some common red flags to consider are:

- An existing customer who did not receive exports associated with the nine HS codes prior to February 24, 2022, is exporting such items now to known transshipment points.
- Last-minute changes to transactions associated with an originator or beneficiary located in Russia or Belarus.
- A customer lacks or refuses to provide details to banks, shippers, or third parties, including about end users, intended end-use, or company ownership.
- The customer is significantly overpaying for a commodity based on known market prices.
- Payments from entities located in third countries not otherwise involved with the transactions;
- Removing government/military affiliation from website;
- Transactions associated with atypical shipping routes for a product or destination;
- IP addresses that do not correspond to a customer's reported location;
- Use of personal emails instead of company emails.

In addition, you can find more red flag lists here:

- Red Flags in [June 2022 BIS-FinCEN Alert](#);
- 12 additional Red Flags in [May 2023 BIS Alert](#);
- 13 Red Flags in the [March 2, 2023 Tri Seal Notice](#);
- 9 Red Flags in the [May 19, 2023 BIS Guidance on HS Codes of Priority](#); and
- 12 Red Flags from [BIS KYC webpage](#)

Hopefully we've shed some light on this topic. Let BPE Global know if we can help you with any of your trade compliance needs. BPE Global is a global trade consulting and training firm. Julie Gibbs is a Director of BPE Global. You can reach Julie by email at julie@bpeglobal.com or by phone at 1-415-595-8543.