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Regulatory Update

US-China Trade Agreement Includes Suspension of BIS Affiliates Rule

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On Nov. 1, the [White House announced](#) that the United States has agreed to suspend for one year the implementation of a recent Department of Commerce Bureau of Industry and Security (BIS) rule extending export controls applicable to transactions involving parties restricted pursuant to the Export Administration Regulations (EAR) — a significant regulatory development on which we [previously advised](#).

BIS released the new “Affiliates Rule” on Sept. 29, which broadly expanded the applicability of export controls restrictions to subsidiaries of listed entities, effective as of the date of the announcement. However, the White House fact sheet confirms that the administration is directing the implementation of the Affiliates Rule to be suspended for one year starting on Nov. 10. This suspension was first confirmed by the U.S. government on Oct. 30 in a televised media interview by the secretary of the treasury, which came the same day as the Ministry of Commerce of the People’s Republic of China (MOFCOM) [announced the agreement](#) resulting from negotiations at the U.S.-China summit in South Korea.

Though the policy change has been officially announced by the White House, the regulations are promulgated by BIS, and those implementing the Affiliates Rule remain in force; BIS has not yet acted to officially reflect the suspension in the EAR. Companies are advised to continue efforts aimed at compliance with the Affiliates Rule until the regulations have been officially amended and, in any event, be prepared for implementation in late 2026. Indeed, given that the expanded compliance obligations imposed by the Affiliates Rule will require significant investment in compliance resources, regulatory uncertainty may only increase the compliance burden on parties involved in the export of U.S.-origin goods and technology, who must vigilantly monitor the dynamic policy and regulatory landscape.

U.S. trade policy, and more recently export control and sanctions policy, has been highly variable under the current administration. While a one-year implementation delay of the Affiliates Rule is expected to go into effect, the disconnect between the White House policy, the secretary of the treasury’s commentary and the silence from BIS imply that the result may be a patchwork of policy and regulatory implementation, akin to this administration’s stated rescission of the AI Diffusion Rule, notwithstanding the regulations still remaining in force. Furthermore, companies cannot rule out that there will be other unforeseen regulatory changes around the Affiliates Rule, given its significant impacts on U.S.-China economic relations. As a result, prudent companies should continue to develop their Affiliates Rule implementation strategy and make judgments as to its actual implementation in their compliance program as the suspension progresses.



Paul Hastings stands ready to advise our clients, as we have been doing for years, on the rapidly evolving global foreign trade policy environment and its impact on our clients.



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