

INTERAGENCY TECHNOLOGY PROTECTION STRIKE FORCE TO "ATTACK TOMORROW'S NATIONAL SECURITY THREATS TODAY"

On February 16, 2022, the U.S. Department of Justice ("DOJ") and the U.S. Department of Commerce ("Commerce") launched the [Disruptive Technology Strike Force](#) (the "Strike Force") under the leadership of the DOJ's National Security Division and Commerce's Bureau of Industry and Security ("BIS"). The Strike Force's mission is to safeguard American technology from foreign adversaries and other national security threats.

The Strike Force will operate in 12 metropolitan regions across the United States and include experts from the U.S. Federal Bureau of Investigations and the Department of Homeland Security to investigate potential violations of export control laws with the aim to block illegal transfer of sensitive technologies to key U.S. foreign competitors and adversaries such as, Iran, North Korea, Russia and the People's Republic of China.

The [press release](#) highlights the threats to U.S. national security from specific advanced technologies, including supercomputing and exascale computing, artificial intelligence, advanced manufacturing equipment and materials, quantum computing, and biosciences. Such advanced technologies can be used by adversaries to enhance their military capabilities or support mass surveillance programs. The Strike Force is a joint effort to address these risks by focusing on investigating and prosecuting those companies that fail to comply with U.S. export controls.

MORE FORCE BEHIND THE STRIKES

The Strike Force is a continuation of two trends: (1) the linking of the technology trade to national security; and (2) a formal "whole of government" approach to investigations and enforcement.

The U.S. Government in recent years has increasingly focused its efforts on bringing enforcement actions to protect American intellectual property and technology, and to safeguard U.S. supply chains. Only four months ago, BIS imposed new export controls on advanced computing and semiconductor components on an interim final basis, with most rules having immediate effect during the period allowed for industry comment (read our briefing [here](#)). Similarly, last summer, the Financial Crime Enforcement Network and BIS issued a joint

alert urging financial institutions to increase vigilance for Russian and Belarusian export control evasion attempts (read our briefing [here](#)).

This Strike Force is just the latest example of joint government agency initiatives announced in the last 12 months. The DOJ and U.S. Department of Labor signed a Memorandum of Understanding in March 2022, "aimed at strengthening enforcement against illegal mergers." The DOJ and the U.S. Department of Treasury launched also in March 2022, a "Multilateral Russian Oligarch Task Force," which they (DOJ and Treasury) followed up with in September 2022, with a report "setting out the agencies' respective legislative, regulatory, and policy recommendations and priorities on the regulation of digital assets." More recently, in October 2022, U.S. Treasury's Office of Foreign Assets Control, BIS, and the U.S. Department of State issued a joint alert on "Impact of Sanctions and Export Controls on Russia's Military-Industrial Complex."

SO WHAT'S NEXT AND WHAT DOES THIS MEAN FOR COMPANIES?

The launch of the Strike Force should be taken as a further notice that the U.S. government is devoting significant resource as a national priority to identify, investigate and prosecute violations of the U.S. export control laws which have broad extraterritorial effect. The multiplier effect of the Strike Force, including government focus and allocation of resources, means companies should be prepared for more requests, more investigations, and likely visits from the Strike Force. The involvement of DOJ may result in more criminal (in addition to administrative/civil) enforcement actions. Consistent with [recent DOJ corporate enforcement guidance](#), there should be no doubt that the Strike Force will be looking to hold accountable companies that, with the benefit of hindsight, are deemed to have not adequately invested in compliance to manage their risks or that choose not to follow the rules, given the threat that their conduct brings to U.S. national security. The potential emphasis on high-profile enforcement in a highly technical area comes notwithstanding concerns raised by industry in its comments submitted to BIS's interim final rule regarding what was considered by some as unprecedented complexity and lack of clarity.

Our Clifford Chance team includes multi-disciplinary lawyers who are experienced in working with leading companies in relation to their export controls compliance strategies. Our team stands ready to address any questions that might arise as companies navigate through the ever-growing government oversight and anticipated increase in export controls-related investigations and enforcement.

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