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BRIEFING

BIS Suspends Affiliates Rule Until January 10, 2027

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Today, the U.S. Department of Commerce's Bureau of Industry and Security ("**BIS**") announced that it would extend the suspension of its "Affiliates Rule" until January 10, 2027. The suspension was set to expire on November 9, 2026.

The Affiliates Rule would extend restrictions on a foreign entity included on the BIS Entity List and related restriction lists (a "**Listed Person**") to the foreign entities in which the Listed Person owns at least a 50% interest. The original suspension came amid industry feedback and retaliatory Chinese export control measures, factors that will continue to be relevant as the new suspension period progresses.

For now, the renewed suspension maintains the status quo: The Affiliates Rule remains suspended but could come into effect at a later date. If reinstated, the Affiliates Rule would extend existing export controls restrictions to a new wave of entities affiliated with Listed Persons, posing heightened compliance and reputational-risk considerations for businesses engaged in the export of items subject to U.S. controls.

Key issues

1 The Suspended BIS Affiliates Rule, If Reinstated, Would Expand the Reach of the Entity List and Related Export Control Restrictions

2 U.S.-China Relations Will Continue to Play a Part in the Future of the Affiliates Rule

3 What Businesses Need to Know

The Suspended BIS Affiliates Rule, If Reinstated, Would Expand the Reach of the Entity List and Related Export Control Restrictions

(a) On September 30, 2025, BIS published an interim final rule entitled "Expansion of End-User Controls To Cover Affiliates of Certain Listed Entities"— the Affiliates Rule. The agency then issued a final rule on November 10, 2025. Two days later, it suspended the rule for a year, until November 9, 2026.

(b) The Affiliates Rule would extend existing export restrictions on three categories of Listed Persons to the entities in which they own at least a 50% interest, whether directly or indirectly, individually or in the aggregate. The three categories are those listed (i) on the BIS Entity List, (ii) on the Military End-User ("**MEU**") List, and (iii) as Specially Designated Nationals ("**SDNs**") under specified sanctions regimes.

(c) The suspension of the Affiliates Rule maintains the status quo: Only persons explicitly included on the Entity List or the MEU list, or as SDNs under certain authorities are subject to the resulting export restrictions. For example, inclusion on the Entity List or MEU List triggers heightened or prohibitive licensing requirements for the export of certain items subject to the U.S. Export Administration Regulations to the listed entity. Beyond legal restrictions, listing also creates reputational risk and compliance disincentives for transactions that may not be directly prohibited under the restrictions incident to listing.

(d) If the Affiliates Rule comes into effect on January 10, 2027, these restrictions—and the reputational and compliance disincentives that come with them—will apply to a listed entity's network of direct or indirect subsidiaries in which it holds a qualifying 50% interest.

(e) BIS has identified the principal purpose of the Affiliates Rule as targeting "diversionary schemes, such as the creation of new foreign companies to evade Entity List restrictions." The Affiliates Rule thus aims, in part, to extend Entity List restrictions to the diversionary subsidiaries that Listed Persons may have set up to avoid the restrictions upon them, rather than requiring BIS to identify and list each new subsidiary individually.

U.S.-China Relations Will Continue to Play a Part in the Future of the Affiliates Rule

(a) Following BIS's initial announcement of the Affiliates Rule in 2025, China responded to BIS's initial announcement of the Affiliates Rule in 2025 with its own set of export controls. These included restrictions on Chinese exports of a range of critical materials to the United States, such as rare earth minerals.

(b) BIS's decision to suspend the Affiliates Rule came on the heels of these responsive measures from China and subsequent bilateral negotiations between the two countries.

(c) In the time since both the United States and China suspended their respective measures, the two nations have held a series of trade summits, including most recently in September 2026. The negotiations have led to the institution of a U.S.-China Board of Trade to facilitate ongoing negotiations.

(d) Given that a large portion of the entities on the Entity List and MEU List are China-based, the Affiliates Rule would significantly expand the reach of U.S. export controls against Chinese companies and will continue to be a front-of-mind issue for the two countries as trade negotiations proceed.

What Businesses Need to Know

1. **Compliance**: Although the suspension means that there are no new restrictions with which businesses with operations subject to U.S. export controls must comply, companies can continue preparing for the potential implementation of the Affiliates Rule by altering their compliance programs and increasing the risk-based due diligence that they conduct on transaction counterparties. Specifically, the Affiliates Rule would put the onus on companies to investigate whether Listed Persons own a 50% or greater interest in a potential counterparty, as the Entity and MEU Lists will no longer be exhaustive lists of all restricted parties. Restricted parties could also include counterparties with which a company has historically engaged without export control risks.

2. **Exclusions**: Although the Affiliates Rule is not off the table, the Affiliates Rule would allow for case-by-case exclusions of otherwise affected parties upon a determination by the cross-agency End-User Review Committee, which is composed of representatives from the Departments of Commerce, Defense (War), Energy, State and, where appropriate, Treasury.

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