

## Latest US Export Control Reforms Impact Companies in the Military Electronics Industry

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On July 1, 2014, the U.S. government issued the latest in a series of ongoing reforms to the U.S. export controls on defense articles, defense services and “dual-use” items (*i.e.*, items that have both civilian and military applications). The latest changes affect a broad range of items that previously had been categorized as “military electronics” under the International Traffic in Arms Regulations (ITAR). These items include microwave monolithic integrated circuit (MMIC) power amplifiers and discrete microwave transistors, certain radar and sonar systems, sensors and related parts, components, technology, software and services.

The latest changes to the U.S. export controls have a number of important implications for companies that sell or otherwise engage in transactions involving the affected items. In some cases, companies will no longer need to register with and apply for export licenses from the agency that enforces the ITAR — the U.S. State Department’s Directorate of Defense Trade Controls (DDTC). Instead, these companies may be required to re-classify their items and abide by the export restrictions and licensing requirements contained in the Export Administration Regulations (EAR) enforced by the U.S. Commerce Department’s Bureau of Industry and Security (BIS). Still other companies may need to rapidly get up to speed on new ITAR and EAR requirements that affect their products.

In the short term, these changes will require affected companies to devote significant resources to updating their export control compliance policies and procedures and to ensuring that they have correctly classified their products and services under the ITAR and EAR. Over the long term, the new rules may lead to cost savings for companies that are able to take advantage of license exceptions and other provisions found in the EAR that are not available under the ITAR.

The new rules become effective on December 30, 2014, following a 180-day transition period. With a goal of eventually removing additional electronic items from the ITAR, DDTC and BIS have also invited comments on potential nonmilitary uses (such as Wi-Fi and cellular networks) of certain MMICs, discrete microwave transistors, and passive bi- and multistatic radar systems. Such comments are due no later than September 2, 2014.

Failure to comply with the EAR and ITAR (including the new rules) can result in significant civil and criminal penalties as well as restrictions on a violator’s ability to export and participate in government contracts. Given the extent and complexity of the new rules and the compliance risks involved, U.S. exporters, their overseas partners and investors in affected industries should ensure that they have appropriate compliance measures in place. We encourage you to contact any of the attorneys listed here or your regular Skadden contact with any questions specific to your situation or business.

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