

Annex 1

Types of Entities	Application Notes
<p>Listed entities. A foreign entity listed on the Entity List, MEU List, or in SDN designations in § 744.8(a)(1), including any branch or sales office that is not legally distinct from the listed entity.</p>	<ul style="list-style-type: none"> — These entities are currently subject to Entity List, MEU List, and § 744.8 restrictions under the ‘legally distinct’ standard and will continue to be subject to such restrictions under the Affiliates rule. — These requirements applied to all addresses of these entities located in the destination under which the entities were listed. — Prior to this IFR, there were three entities on the Entity List that were subject to a worldwide license requirement. — Because of the changes made in this IFR, the requirements for all listed entities on the Entity List, MEU List, and the requirements in § 744.8 will now apply to all foreign countries. — For example, an entity listed on the Entity List under China has a sales office in Malaysia. Prior to this IFR, the sales office in Malaysia of the listed Chinese entity was not included within the scope of the Entity List license requirements, unless BIS listed that Chinese sales office in Malaysia also on the Entity List or there was information that the item was intended for the listed Chinese entity.
<p>Foreign affiliates of listed entities that meet the Affiliates rule. Foreign affiliates of listed entities owned 50 percent or more, directly or indirectly, by one or more listed entities on the Entity List, MEU List, or an SDN identified in § 744.8(a)(1) or by one or more entities subject to restrictions based upon ownership.</p>	<ul style="list-style-type: none"> — These entities meet what is described in this IFR as the Affiliates rule and are subject to the license requirements and other restrictions under the Entity List, MEU List, or § 744.8. — This is an expansion of the Entity List, MEU List, and § 744.8 license requirements that is needed to protect U.S. national security and foreign policy interests because of the diversion concerns with these entities. — These requirements apply to all foreign countries regardless of under which destination the listed entity or entity’s owners are listed. — These requirements apply to all foreign countries regardless of under which destination

	<p>the listed entity or entity's owners are listed.</p> <ul style="list-style-type: none"> — This IFR adds a TGL that temporarily authorizes (i) exports, reexports, or transfers (in-country) to or within any destination in Country Group A:5 or A:6 when a party to the transaction is a non-listed foreign affiliate of a listed entity that is owned 50 percent or more, directly or indirectly, individually or in aggregate, by one or more listed entities on the Entity List or MEU List, or entities subject to Entity List or MEU List restrictions based upon their ownership, and (2) exports, reexports, or transfers (in-country) to or within any destination other than Country Group E:1 or E:2 when a party to the transaction is a non-listed foreign affiliate of a listed entity that is owned 50 percent or more, directly or indirectly, individually or in aggregate, by one or more listed entities on the Entity List or on the MEU List, or entities subject to Entity List or MEU List restrictions based upon their ownership; and such party to the transaction is a joint venture with a non-listed entity headquartered in the United States or Country Group A:5 or A:6 that is not owned 50 percent or more, directly or indirectly, individually or in aggregate, by one or more listed entities on the Entity List or on the MEU List or entities subject to Entity List or MEU List restrictions based upon its ownership. The TGL expires on December 1, 2025.
<p><i>Foreign affiliates of listed entities owned by listed entities where percentage of ownership cannot be determined (unresolvable Red Flag entities).</i></p> <p>Foreign affiliates of listed entities that have some direct or indirect ownership by listed entities on the Entity List, MEU List, or by SDNs in § 744.8(a)(1), but the exporter, reexporter, or transferor cannot determine whether the listed entity ownership meets the Affiliates rule.</p>	<ul style="list-style-type: none"> — The Entity List, MEU List, and § 744.8 requirements are enforceable on a strict liability basis, so “knowledge” is not required to trigger these end-user requirements under the EAR, although “knowledge” is a factor that is considered when determining penalty calculations for a violation of the EAR. — By adding a requirement to resolve the red flag to §§ 744.11 and 744.21, BIS is informing the public that when an exporter, reexporter, or transferor has “knowledge” that a foreign entity has one or more direct or indirect owners that are listed on the Entity List or MEU List, it has

	<p>an affirmative duty to determine the percentage of ownership of those listed entities and if that is not possible, to obtain a license from BIS if required under the Entity List or MEU List based on the requirements for the listed owner or owners of that foreign entity, unless a license exception is available.</p> <ul style="list-style-type: none"> — Because of diversion concerns to listed entities, including concerns about listed entities obfuscating their ownership stakes in foreign affiliates of listed entities as a method to evade Entity List or MEU List license requirements, this IFR specifies that the exporter, reexporter or transferor must resolve the Red Flag or obtain a license from BIS prior to proceeding with the export, reexport, or transfer (in-country), unless a license exception is available.
<p><i>Foreign companies where there is no “knowledge” that the foreign entity is owned by a listed entity.</i></p>	<ul style="list-style-type: none"> — BIS advises exporters, reexporters, and transferors to exercise due diligence as part of their internal compliance programs with such foreign companies because as noted in the previous row, the Entity List, MEU List, and § 744.8 requirements are enforceable on a strict liability basis. — This means that exporters, reexporters, and transferors are responsible if they engage with a foreign entity that is in fact owned 50 percent or more by a listed entity on the Entity List, MEU List, or an SDN designation under § 744.8, or by entities subject to restrictions based upon their ownership. — Accordingly, exporters, reexporters, and transferors have an affirmative responsibility to know the ownership of the foreign companies that are parties to a transaction. — Exporters, reexporters, and transferors must adopt a risk-based compliance program to assist them in complying with these requirements. — Supplement No. 3 to Part 732—BIS’s “Know Your Customer” Guidance and Red Flags is an EAR regulatory resource that assists exporters, reexporters, and transferors in developing their

	compliance programs.
<i>U.S. entities owned by listed entities.</i>	— This IFR does not impose restrictions, as the Affiliates rule established in this IFR applies only to foreign companies, nor does it limit any compliance obligations that may exist under other provisions of the EAR or under the regulations of other agencies.