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BPE Global Hot Topic – October 2019

Doing your part to prevent nefarious activities – A “Denied Parties”, “Restricted Parties” Education

On October 9th, Department of Commerce, Bureau of Industry and Security (BIS), amended the Export Administration Regulations (EAR) by adding twenty-eight Chinese entities to the Entity List. You probably barely blinked this time because the volume, and frequency of these kinds of notices have been on the rise.

When was the last time you thought deeply about these “lists”? If you are integrated to a Global Trade Management (GTM) solution do you just presume the solution will catch the list update announcements piling up in your inbox?

You may have never dug deep into these lists unless you have a match, however you should have a good understanding of them. To start with, companies seem to interchangeably use the description of these lists as “Restricted Party Lists” and “Denied Party Lists”. This is actually a little confusing, as the U.S. Government does publish a [“Denied Persons List”](#). The Denied Persons List consists of a list of individuals and entities that have been denied export privileges. Any dealings with a party on this list that would violate the terms of the party’s denial order is prohibited. The caveat here is, that this list is not meant to stand alone. It should be used in combination with the Export Administration Regulations (EAR) including the Unverified List (BIS), Entity List (GPO), Specially Designated Nationals List (Treasury), Debarred List (State) and Nonproliferation Sanctions List (State).

Do not stop once you’ve checked the above lists though. In addition to the EAR, there are other lists to consider – would your company want to do business with a company or person on an FBI Department of Justice list, or on the List of Unauthorized Banks, or Drug Enforcement Administration (DEA) or General Services Administration (GSA) list?

If you are conducting screening manually and using the U.S. government’s website on [export.gov](#) to access [“The Consolidated Screening List \(CSL\)”](#) did you know there is a limited number of “restricted party lists” loaded? Currently their website lists eleven sources for the lists their tool screens against. Most GTM providers have over 150 lists available for the U.S. alone. And, then, what about the UN lists, and the many other country lists?

If you have a global footprint you may also want to pull in government lists from the other key countries and jurisdictions that you operate in. The U.S. probably has the most prolific number of lists. But you don’t want to do business with a restricted party in Canada, China, Brazil, India, Japan, Mexico, Singapore, etc. and risk violating those countries regulations. Yes, many countries publish similar lists! And a party may be found on multiple lists. On these lists are companies and individuals that have committed serious crimes of some kind, ranging from terrorism, and weapons proliferation to drug smuggling, money laundering, and other trade violations. As trade professionals we always need to think of the reaction that



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our customers, shareholders, and investors would have to news that our company has been trading with bad people, in bad places, doing bad things.

Once you've taken a deeper dive into the restricted party lists that it makes sense for your company to screen against, the next thing to look at is how accurate is your screening result? Be worried if you rarely have a restricted party match. There is a fine line between getting too many false matches, and not getting potential matches that you should take a closer look at.

Armed with this information, I challenge you right now to take the time to take Federal Register notices of party additions, and test if and/or when the tool you are using catches these parties by name, or by address. Bad parties may have already changed their name to circumvent name matching. We find a huge variation in results between the GTM providers – sometimes that is the fault of the user having reduced sensitivity or changed base algorithms, and sometimes the GTM provider is not timely uploading new content, or there is some other issue with what data is being sourced, or how it is being input into the GTM solution. Cross-check the results against the CSL tool. Randomly pick various restricted parties from various lists and conduct periodic checks. You may find the results quite concerning. I like to say, "Don't trust, and always verify".

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