

## Top Compliance Initiatives for 2017

This year brings some uncertainties about what your top compliance initiatives should be because of the recent election and changes to the regulations. Even the predictable government reporting requirements have changed! We hope the following list will help you get through some of the uncertainty and keep you on track this year.

**Trade Agreements and Country Relations:** President elect Trump has talked about repealing certain trade agreements such as NAFTA and rejecting the Trans Pacific Partnership Agreement (TPP). He's also threatened to be 'tough on China' and slap a 45% tariff on Chinese imports. While it can't be determined at this point what will happen, it does behoove all companies to assess what the impact of these types of changes would have on your company. You should be prepared to address your upper management with potential outcomes –probably in the form of reduced savings, added costs, etc.



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Director

**Encryption Reporting:** The changes to encryption regulation back in October of last year included changes to encryption reporting. Exporters who self-classify encryption products under 740.17(b)(1) and 740.17(e)(3) (mass market) will continue to be required to submit a self-classification report on an annual basis. Exporters do not need to report exports of 740.17(b)(1) items if they have received a CCATS for these items. Note that if no information has changed since the previous report, an e-mail must be sent stating that nothing has changed or a you can resend a copy of the previously submitted report. The annual self-classification report is due February 1st for activity during January through December of 2016.

Semi-annual reporting is required for exports to all destinations other than Canada, and for reexports from Canada for items described under paragraphs 740.17(b)(2) and 740.17(b)(3)(iii). The semi-annual ENC license exception report is also due on February 1st for activity during July 1st through December 31st of 2016. Details are available [here](#) on the Bureau of Industry and Security website.

You no longer have to worry about changes to your encryption registration since the registration requirement has been removed from the regulations.

**2017 HTS Changes:** The second item on the list is to review the changes in the 2016 harmonized tariff schedule. The USITC has posted the changes their website. Also, note this might affect the HTS reported in lieu of a Schedule B number for your export declarations. Census has posted an Add/Delete list of Schedule B numbers on their website so be sure to check this list especially if your HTS numbers were affected in the new year. You don't have much time on this one; AES will only accept 2014 Schedule B codes through the end of January.

**Destination Control Statement Update:** Starting November 15, 2016 new wording was required for your Destination Control Statement (DCS). This new wording harmonizes the DCS required under §758.6 of the Export Administration Regulations (EAR) and §123.9 under the International Traffic in Arms Regulations (ITAR) respectively. The final wording is:

*These items are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. Government or as otherwise authorized by U.S. law and regulations.*

Check your commercial invoices today to ensure the changes were actually deployed.

**Export Control Reform (ECR):** Three USML categories have yet to be addressed by ECR. That means that eighteen have been transitioned with final rules. So, you'll want to ensure any of your products that fall under these categories are fully reviewed and properly classified under the USML or the EAR. The full implementation date schedule can be found [here](#).



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**EU Dual Use List Update:** If your company exports from the EU, you'll want to review the changes to the EU Dual Use List. On September 12, 2016, the EU adopted its annual Delegated Regulation that updates the EU dual-use export control list and brings it in line with the decisions of the international non-proliferation regimes and export control arrangements in 2015. The changes were published in October, 2016 and can be found [here](#).

**Certificates of Origin:** Regardless of the future of NAFTA and other FTA's, you've probably already started requesting 2017 Free Trade Agreement (FTA) certificates or statements for programs such as NAFTA and KORUS from your suppliers. Even if the certificates or statements were issued on a blanket level, you should not use them if they are expired. If you are company that issues FTA certificates and/or statements, you will want to check with your manufacturing and procurement departments that sourcing has not or will not be changed before you issue any new 2017 blanket certificates.

**Export License Renewal:** If you utilize export licenses, you'll want to create a schedule for renewal. This is especially important for licenses from OFAC that are not driven by quantity or dollar amount. You'll want to start working at least 60 days in advance of the expiration. Hopefully you have a pulse on your Company's business and development strategies and are aware of upcoming licensing needs. If not, it's a great time to meet with the Sales and Business Development Teams to make them aware of licensing issues such as your current licensable products and new sanctions, such as against the Ukraine.

**Auditing Schedule:** Your compliance audit schedule should be established now so that you can ensure your company's divisions or business units can plan for appropriately and won't be adversely impacted. Coordinate your internal audits with your Corporate auditing team to ensure your audits don't overlap. Also include in your schedule an audit of your service providers such as your customs brokers and the freight forwarders who are filing AES declarations on your behalf. A review of their performance and compliance with your standard operating procedures should be conducted annually.

**Training Schedule:** On the same vein, you should be scheduling your trade compliance training sessions for the company. The entire company should be trained annually on general trade compliance with an emphasis on high risk areas for you company. Certain departments will require more in depth training such as Shipping and Order Management. Whether these are in-person or online trainings, the earlier you plan and coordinate with other company initiatives, the more successful you will be.

You'll also want to consider conferences and seminars for your professional development. Make sure there is a budget in place and that you organize your initiatives around these dates so you can actually attend the training sessions and not be holed up in your hotel room on conference calls and on email!

**Recordkeeping:** The next item on the checklist has to do with recordkeeping. Are there records that can move to your archives? Are there records that exceed all company recordkeeping guidelines that can be destroyed? Remember that some records need to be kept more than five years. Records such as supporting documentation for certain Drawback claims might need to be retained past the five years, even up to 11 years.

**Contract Renewals:** Lastly, you'll want to review Powers of Attorneys and other third party contracts for renewals. Ensure that if your company is renewing contracts with customers, vendors and suppliers that they are including the appropriate level of trade compliance verbiage. Contract manufacturer contracts should also have specific language regarding deemed exports and controlled technology transfers.

These are all initiatives that should be on your 2017 New Year's checklist. It seems like a lot but if you can get a jump on these initiatives, the year will go a lot more smoothly!