



BPE Global Hot Topic – October 2017

Proscribed Party Screening and the Entity List

For the June Hot Topic, I tackled the subject of restricted party screening from the perspective of being in the trenches, and promised my next Hot Topic would cover what other companies do to resolve “close matches”. As luck would have it I was at BIS Update two weeks ago and attended a session called “Proscribed Party Screening and the Entity List – Frequently Asked Questions”.

Joseph Cristofaro, the BIS Chair of the End-user Review Committee (ERC) lead the panel, and I have a few nuggets worth sharing regarding tackling and resolving matches to proscribed parties on the Entity List.

During the initial introduction to the session the ERC suggested when receiving a match notification start by asking yourself:

1. Is my party on a U.S. Government proscribed party list?
2. If I found it on the Consolidated Screening List, which agency, and which list is my party actually on?

Answers to the questions above will allow you to determine what action you will need to take if the entity is an actual match.

Next, determine why the party was listed on the proscribed list and what the actual impact of the listing is. Is there a prohibition/sanction, a supplemental license requirement, or a “[Red Flag](#)”?

It is good to take a step back and be sure your party is an actual match to the party on the Entity List. Remember the Entity List includes all types of “persons” such as Individuals, firms, government agencies, associations, and organizations. The biggest frustration we all have in resolving matches is that the Entity List does not include detailed identifying information. Duplication of names is common for individuals, and similar names occur for firms/businesses.

When you have determined that your party is a match to a party on the “Entity List”, here are some key things to remember:

- The Entity List consists of Non-U.S. persons only
- The export, re-export and/transfer (in country) of EAR items (commodities, software and technology) to listed entities is subject to specific license requirements and review policies
- The list includes persons who have acted, or pose a threat to act, contrary to U.S. national security and/foreign policy interests
- The list informs the public of licensing requirements and review policies for each entity

The ERC encourages you to do targeted research and obtain all the additional information you can on the individual or company you are doing business with versus the Entity List match. The best tool is spending time searching the Internet based on whatever information you do have. For an individual check their employment history online. For a business, find their business registration information. Dig deep, and do your due diligence. Using a credit reporting tool, or other risk-diligence analytics tool, can make all the



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difference. Resolving a close match or determining a true match both take time and effort. Document what you find, and be prepared to defend it.

The one thing is to remember is that entities are subject to Entity List requirements regardless of their location. The ERC continually modify entries to include known locations for parties on the Entity List. Another challenge that all companies face is translation issues, where the Federal Register publishes only in Roman alphabet. BIS ERC shared that they may possess in their database the original language information, so exporters are encouraged to check with them. There are certainly cases where this might be helpful!

Some interesting facts:

- BIS has published nine Entity list rules since 2016, with 67 entities added, 13 entities removed, and ten entries modified
- Currently there are approximately 1000 entities in 40 countries on the Entity List
- Approximately one third of the Entity List consists of individuals with no identifying information, just locations
- Affiliation with a listed entity is considered a [“red flag”](#)

The ERC Office have received over 350 Entity List inquiries over the past two years. Have you ever contacted the ERC Office? All Entity List-related inquiries are routed directly to the Department of Commerce, BIS, Office of the End-user Review Committee, and the ERC contact information is included in each Entity List-related rule in the Federal Register. The ERC chair encouraged contact of staff for end-user and entity list questions. The purpose of the ERC Office is to assist exporters, identify revisions /corrections to the consolidated list and Entity list, and helps BIS identify aspects of the Entity List that may need further explanation, or clarification. The ERC Office can be reached at ERC@bis.doc.gov or 202-482-5991.

Did you know you can also request an entity be removed from the Entity List? (See EAR 744.16(e)). The ERC will review and vote upon all requests for removal (Unanimous consent is required.) If approved for removal the BIS Deputy Assistant Secretary of Export Administration will notify the impacted entity of the outcome, and the removal will be published via Federal Register. Although there is no time limit for the BIS part of the review, the ERC review is done within 30 days. Also, if your request is denied, there is no limit on the number of requests that may be submitted.

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