China Tax Alert

Issue 14, April 2019

Revisions to the Unverified List of the United States Export Administration Regulations affect Chinese companies and institutions

Regulations discussed in this issue:

- The U.S. Department of Commerce, Bureau of Industry & Security announced a rule to amend the Unverified List under the U.S. Export Administration Regulations

Background

On April 11, 2019, the Bureau of Industry & Security (BIS) announced a rule to amend the Unverified List (i.e. "UVL") under the U.S. Export Administration Regulations (EAR) which entered into force on the same day. It added and deleted dozens of companies and institutions from China, the United Arab Emirates, Malaysia, Indonesia, Finland and Russia, which included adding 37 companies, universities and research institutions from mainland China and six companies from Hong Kong, adding one additional address of one Hong Kong company currently in the UVL, and removing 3 companies and institutions from mainland China.

Main contents

According to the rule, the above Chinese companies, universities and institutions involved include:

Newly-added companies and institutions from mainland China	24 companies, from the industries of auto parts, LCD, optics, electronics, non-ferrous metals, machinery, aviation, automation, instruments, sensors, lasers, etc.; including not only manufacturing and trading companies, but also R & D centers; both Chinese and foreign invested companies.
	5 universities, and 8 research institutions of nanotechnology, high pressure technology, metrology, chemical, physics, astronomy, etc.
Companies from Hong Kong were added and updated address	7 companies, of electronics and logistics industry

Companies and institutions from mainland China were removed	1 non-ferrous metal companies, 1 university, and Yantai Salvage Bureau, under the Ministry of Transport

The main purpose of the EAR is to control the exports, re-exports, transfers (in country), deemed exports, and other transactions regarding U.S. commercial and dual-use items, software or technology within and outside the U.S. It requires that, in some instances, an exporter or transferor apply to the U.S. Department of Commerce for an export license prior to proceeding in the above transactions. However, when certain conditions are met, the export or transfer may not require an export license or a "license exception" may be applicable, so that the items may be shipped without formal a formal export license.

According to the EAR, companies and institutions added to the UVL are often because, due to various reasons, the BIS cannot verify their bona fides through end-use checks. Sometimes there may not be sufficient information to add an entity under to the Entity List under stricter controls, so the BIS may add the entity to the UVL instead.

Any party transferring items subject to the EAR (including U.S. origin items among other things) to a UVL entity may not do so unless the following apply: (a) for shipments that do not require an export license or the use of a license exception, the shipping party must first obtain a UVL statement; or (b) for shipments that require the use of a license exception, a BIS export license must be obtained. A common example is encryption items classified under Export Control Classification Number (ECCN) 5A002, which requires a BIS license for shipment to the UVL entities. These requirements may create substantial obstacles to parties dealing with those on the UVL especially when they are engaged in international trade, technology exchanges or other international business event that involve the U.S. dual-use items, software or technology.

The BIS may remove a company from the UVL if it make corrections and submit documented evidence to verify the bona fides for U.S. export controls purpose.

KPMG observation

In recent years, the U.S has tightened its export control enforcement involving Chinese companies, universities and institutions in international trade and technology exchange. This includes not only import and export trade of goods and technology, but also the M&A of relevant enterprises, assets and technology, establishing R&D institutions, participating overseas technology exchanges and training. Furthermore, China is also drafting its own Export Control Law and it has been included in the National People’s Congress (“NPC”) legislative plan in this year. It means China is also strengthening its own export control management in accordance with its own industrial development and security needs. Therefore it is necessary for companies, universities and institutions to raise their awareness regarding the export control policies and regulations of major countries around the world, and positively strengthen their compliance now.

KPMG's global Trade and Customs practice has a dedicated global export control and sanction team that provides the following services for export control regulations in major countries around the world:

- Classification of export control items and construction of the related internal control systems;
- Compliance review of export controls and the related training;
- Assistance in applying for export control licenses;
- Export control risk assessment and mitigation in cross-border M & A transactions, including transfer of original licenses, process integration, etc.;
- Export control risk assessment and mitigation in companies and universities' overseas R&D cooperation program, investment and donations, personnel exchanges and information sharing, etc.


并肩赋能
税道渠成

Contact us

Northern Region

Eric Zhou
China Trade and Customs Services
Lead Partner
Email: ec.zhou@kpmg.com
Tel: +86 (10) 8508 7610

Helen Han
Partner
Email: h.han@kpmg.com
Tel: +86 (10) 8508 7627

Eastern and Western Region

Anthony Chau
Partner
Email: anthony.chau@kpmg.com
Tel: +86 (21) 2212 3206

Dong Cheng
Partner
Email: cheng.dong@kpmg.com
Tel: +86 (21) 2212 3410

Rachel Tao
Director
Email: rachel.tao@kpmg.com
Tel: +86 (21) 2212 3473

Southern Region

Grace Luo
Partner
Email: grace.luo@kpmg.com
Tel: +86 (20) 3813 8609

Vivian Chen
Partner
Email: vivian.w.chen@kpmg.com
Tel: +86 (755) 2547 1198

Phillip Xia
Director
Email: Philip.xia@kpmg.com
Tel: +86 (20) 3813 8674

Hong Kong

Daniel Hui
Partner
Email: daniel.hui@kpmg.com
Tel: +852 2522 7815

United States

Steven Brotherton
Global Export Controls & Sanctions Lead
Principal
Email: sbrotherton@kpmg.com
Tel: +1 415 963 7861

Contact Us

For any enquiries, please send to our public mailbox: taxenquiry@kpmg.com or contact our partners/directors in each China/HK offices.

Khoonming Ho
Head of Tax,
KPMG Asia Pacific
Tel. +86 (10) 8508 7082
khoonming.ho@kpmg.com

Lewis Lu
Head of Tax,
KPMG China
Tel. +86 (21) 2212 3421
lewis.lu@kpmg.com

Beijing/Shenyang/Qingdao
Vincent Pang
Tel. +86 (532) 8907 1728
vincent.pang@kpmg.com

Tianjin
Eric Zhou
Tel. +86 (10) 8508 7610
ec.zhou@kpmg.com

Shanghai/Nanjing/Chengdu
Anthony Chau
Tel. +86 (21) 2212 3206
anthony.chau@kpmg.com

Hangzhou
John Wang
Tel. +86 (571) 2803 8088
john.wang@kpmg.com

Guangzhou
Lilly Li
Tel. +86 (20) 3813 8999
lilly.li@kpmg.com

Fuzhou/Xiamen
Maria Mei
Tel. +86 (592) 2150 807
maria.mei@kpmg.com

Shenzhen
Eileen Sun
Tel. +86 (755) 2547 1188
eileen.gh.sun@kpmg.com

Hong Kong
Karmen Yeung
Tel. +852 2143 8753
karmen.yeung@kpmg.com

Northern Region

Vincent Pang
Head of Tax,
Northern Region
Tel. +86 (10) 8508 7516
+86 (532) 8907 1728
vincent.pang@kpmg.com

Conrad TURLEY
Tel. +86 (10) 8508 7513
conrad.turley@kpmg.com

Yali Chen
Tel. +86 (10) 8508 3036
yali.chen@kpmg.com

Milano Fang
Tel. +86 (532) 8907 1724
milano.fang@kpmg.com

Tony Feng
Tel. +86 (10) 8508 7531
tony.feng@kpmg.com

Flora Fan
Tel. +86 (10) 8508 7611
flora.fan@kpmg.com

John Gu
Tel. +86 (10) 8508 7095
john.gu@kpmg.com

Rachel Guan
Tel. +86 (10) 8508 7613
rachel.guan@kpmg.com

Helen Han
Tel. +86 (10) 8508 7627
h.han@kpmg.com

Michael Wong
Tel. +86 (10) 8508 7085
michael.wong@kpmg.com

Henry Kim
Tel. +86 (10) 8508 5000
henry.kim@kpmg.com

Ruby Jiang
Tel. +86 (10) 8553 3680
ruby.jiang@kpmg.com

David Ling
Tel. +86 (10) 8508 7083
david.ling@kpmg.com

Lisa Li
Tel. +86 (10) 8508 7638
lisa.h.li@kpmg.com

Lucia Liu
Tel. +86 (10) 8508 7570
lucia.jj.liu@kpmg.com

Shirley Li
Tel. +86 (10) 8553 3758
shirley.s.li@kpmg.com

Alan O'Connor
Tel. +86 (10) 8508 7521
alan.oconnor@kpmg.com

Shirley Shen
Tel. +86 (10) 8508 7586
yinghua.shen@kpmg.com

Joseph Tam
Tel. +86 (10) 8508 7605
laiyiu.tam@kpmg.com

Joyce Tan
Tel. +86 (10) 8508 7666
joyce.tan@kpmg.com

Christopher Xing
Tel. +86 (10) 8508 7072
christopher.xing@kpmg.com

Kensuke MATSUDA
Tel. +86 (10) 8508 7034
kensuke.matsuda@kpmg.com

Irene Yan
Tel. +86 (10) 8508 7508
irene.yan@kpmg.com

Adams Yuan
Tel. +86 (10) 8508 7596
adams.yuan@kpmg.com

Jessie Zhang
Tel. +86 (10) 8508 7625
jessie.j.zhang@kpmg.com

Sheila Zhang
Tel: +86 (10) 8508 7507
sheila.zhang@kpmg.com

Tracey Zhang
Tel. +86 (10) 8508 7509
tracy.h.zhang@kpmg.com

Eric Zhou
Tel. +86 (10) 8508 7610
ec.zhou@kpmg.com

Vivian Zhou
Tel. +86 (10) 8508 3360
v.zhou@kpmg.com

Carol Cheng
Tel. +86 (10) 8508 7644
carol.y.cheng@kpmg.com

Ally Mi
Tel. +86 (10) 8508 7583
ally.mi@kpmg.com

Kenny Wang
Tel. +86 (10) 8508 7655
kenny.wang@kpmg.com

Fiona Yu
Tel. +86 (10) 8508 7663
fiona.yu@kpmg.com

Lily Zhang
Tel. +86 (10) 8508 7545
lily.l.zhang@kpmg.com

Eric Zhao
Tel. +86 (10) 8508 7493
eric.zhao@kpmg.com

Laura Xu
Tel. +86 (532) 8907 1731
laura.xu@kpmg.com

Eastern and Western Region

Anthony Chau
Head of Tax,
Eastern & Western Region
Tel. +86 (21) 2212 3206
anthony.chau@kpmg.com

Cheng Chi
Tel. +86 (21) 2212 3433
cheng.chi@kpmg.com

Johnny Deng
Tel. +86 (21) 2212 3457
johnny.deng@kpmg.com

Cheng Dong
Tel. +86 (21) 2212 3410
cheng.dong@kpmg.com

Chris Ge
Tel. +86 (21) 2212 3083
chris.ge@kpmg.com

Chris Ho
Tel. +86 (21) 2212 3406
chris.ho@kpmg.com

Henry Wong
Tel. +86 (21) 2212 3380
henry.wong@kpmg.com

Sunny Leung
Tel. +86 (21) 2212 3488
sunny.leung@kpmg.com

Michael Li
Tel. +86 (21) 2212 3463
michael.y.li@kpmg.com

Karen Lin
Tel. +86 (21) 2212 4169
karen.w.lin@kpmg.com

Benjamin Lu
Tel. +86 (21) 2212 3462
benjamin.lu@kpmg.com

Christopher Mak
Tel. +86 (21) 2212 3409
christopher.mak@kpmg.com

Naoko Hirasawa
Tel. +86 (21) 2212 3098
naoko.hirasawa@kpmg.com

Ruqiang Pan
Tel. +86 (21) 2212 3118
ruqiang.pan@kpmg.com

Amy Rao
Tel. +86 (21) 2212 3208
amy.rao@kpmg.com

Wayne Tan
Tel. +86 (28) 8673 3915
wayne.tan@kpmg.com

Tanya Tang
Tel. +86 (25) 8691 2850
tanya.tang@kpmg.com

Rachel Tao
Tel. +86 (21) 2212 3473
rachel.tao@kpmg.com

Janet Wang
Tel. +86 (21) 2212 3302
janet.z.wang@kpmg.com

John Wang
Tel. +86 (571) 2803 8088
john.wang@kpmg.com

Mimi Wang
Tel. +86 (21) 2212 3250
mimi.wang@kpmg.com

Jennifer Weng
Tel. +86 (21) 2212 3431
jennifer.weng@kpmg.com

Grace Xie
Tel. +86 (21) 2212 3422
grace.xie@kpmg.com

Bruce Xu
Tel. +86 (21) 2212 3396
bruce.xu@kpmg.com

Jie Xu
Tel. +86 (21) 2212 3678
jie.xu@kpmg.com

Robert Xu
Tel. +86 (21) 2212 3124
robert.xu@kpmg.com

Jason Yu
Tel. +86 (21) 2212 3316
jjm.yu@kpmg.com

William Zhang
Tel. +86 (21) 2212 3415
william.zhang@kpmg.com

Hanson Zhou
Tel. +86 (21) 2212 3318
hanson.zhou@kpmg.com

Michelle Zhou
Tel. +86 (21) 2212 3458
michelle.b.zhou@kpmg.com

Eric Zhang
Tel. +86 (21) 2212 3398
eric.z.zhang@kpmg.com

Kevin Zhu
Tel. +86 (21) 2212 3346
kevin.x.zhu@kpmg.com

Leon Shao
Tel. +86 (21) 2212 3622
leon.shao@kpmg.com

Joyce Wang
Tel. +86 (21) 2212 3387
joyce.t.wang@kpmg.com

Robin Xiao
Tel. +86 (21) 2212 3273
robin.xiao@kpmg.com

Ellen Yan
Tel. +86 (21) 2212 3484
ellen.yan@kpmg.com

Tim Zeng
Tel. +86 (21) 2212 3759
tim.zeng@kpmg.com

Southern Region

Lilly Li
Head of Tax,
Southern Region
Tel. +86 (20) 3813 8999
lilly.li@kpmg.com

Vivian Chen
Tel. +86 (755) 2547 1198
vivian.w.chen@kpmg.com

Nicole Cao
Tel. +86 (20) 3813 8619
nicole.cao@kpmg.com

Felix Feng
Tel. +86 (20) 3813 7060
Felix.feng@kpmg.com

Ricky Gu
Tel. +86 (20) 3813 8620
ricky.gu@kpmg.com

Fiona He
Tel. +86 (20) 3813 8623
fiona.he@kpmg.com

Cloris Li
Tel. +86 (20) 3813 8829
cloris.li@kpmg.com

Jean Li
Tel. +86 (755) 2547 1128
jean.j.li@kpmg.com

Sisi Li
Tel. +86 (20) 3813 8887
sisi.li@kpmg.com

Kelly Liao
Tel. +86 (20) 3813 8668
kelly.liao@kpmg.com

Patrick Lu
Tel. +86 (755) 2547 1187
patrick.c.lu@kpmg.com

Grace Luo
Tel. +86 (20) 3813 8609
grace.luo@kpmg.com

Ling Lin
Tel. +86 (755) 2547 1170
ling.lin@kpmg.com

Maria Mei
Tel. +86 (592) 2150 807
maria.mei@kpmg.com

Chris Xiao
Tel. +86 (20) 3813 8630
chris.xiao@kpmg.com

Eileen Sun
Tel. +86 (755) 2547 1188
eileen.gh.sun@kpmg.com

Koko Tang
Tel. +86 (755) 2547 4180
koko.tang@kpmg.com

Bin Yang
Tel. +86 (20) 3813 8605
bin.yang@kpmg.com

Lixin Zeng
Tel. +86 (20) 3813 8812
lixin.zeng@kpmg.com

Nicole Zhang
Tel. +86 (20) 3813 8644
nicole.ll.zhang@kpmg.com

Bruce Liu
Tel. +86 (20) 3813 8636
bruce.liu@kpmg.com

Sophie Lu
Tel. +86 (20) 2547 1141
ss.lu@kpmg.com

Fiona Wu
Tel. +86 (20) 3813 8606
fiona.wu@kpmg.com

Philip Xia
Tel. +86 (20) 3813 8674
philip.xia@kpmg.com

Hong Kong

Curtis Ng
Head of Tax, Hong Kong
Tel. +852 2143 8709
curtis.ng@kpmg.com

Ayesha M. Lau
Tel. +852 2826 7165
ayesha.lau@kpmg.com

Darren Bowdern
Tel. +852 2826 7166
darren.bowdern@kpmg.com

Patrick Cheung
Tel. +852 3927 4602
patrick.p.cheung@kpmg.com

Wade Wagatsuma
Tel. +852 2685 7806
wade.wagatsuma@kpmg.com

Natalie To
Tel. +852 2143 8509
natalie.to@kpmg.com

Elizabeth DE LA CRUZ
Tel. +852 2826 8071
elizabeth.delacruz@kpmg.com

Matthew Fenwick
Tel. +852 2143 8761
matthew.fenwick@kpmg.com

Sandy Fung
Tel. +852 2143 8821
sandy.fung@kpmg.com

Charles Kinsley
Tel. +852 2826 8070
charles.kinsley@kpmg.com

Stanley Ho
Tel. +852 2826 7296
stanley.ho@kpmg.com

Becky Wong
Tel. +852 2978 8271
becky.wong@kpmg.com

Barbara Forrest
Tel. +852 2978 8941
barbara.forrest@kpmg.com

Kate Lai
Tel. +852 2978 8942
kate.lai@kpmg.com

Travis Lee
Tel. +852 2143 8524
travis.lee@kpmg.com

Irene Lee
Tel. +852 2685 7372
irene.lee@kpmg.com

Alice Leung
Tel. +852 2143 8711
alice.leung@kpmg.com

Ivor Morris
Tel. +852 2847 5092
ivor.morris@kpmg.com

Benjamin Pong
Tel. +852 2143 8525
benjamin.pong@kpmg.com

Malcolm Prebble
Tel. +852 2684 7472
malcolm.j.prebble@kpmg.com

David Siew
Tel. +852 2143 8785
david.siew@kpmg.com

Murray Sarelius
Tel. +852 3927 5671
murray.sarelius@kpmg.com

John Timpany
Tel. +852 2143 8790
john.timpany@kpmg.com

Lachlan Wolfers
Tel. +852 2685 7791
lachlan.wolfers@kpmg.com

Daniel Hui
Tel. +852 2685 7815
daniel.hui@kpmg.com

Karmen Yeung
Tel. +852 2143 8753
karmen.yeung@kpmg.com

Adam Zhong
Tel. +852 2685 7559
adam.zhong@kpmg.com

Eva Chow
Tel. +852 2685 7454
eva.chow@kpmg.com

Anthony Pak
Tel. +852 2847 5088
anthony.pak@kpmg.com

Gabriel Ho
Tel. +852 3927 5570
gabriel.ho@kpmg.com

Vivian Tu
Tel. +852 2913 2578
vivian.l.tu@kpmg.com

Eugene Yeung
Tel. +852 2143 8575
eugene.yeung@kpmg.com

Alexander ZEGERS
Tel. +852 2143 8796
zegers.alexander@kpmg.com

kpmg.com/cn