

**BUREAU OF INDUSTRY AND SECURITY
FREQUENTLY ASKED QUESTIONS
BIS END USER CONTROLS ON OFAC SDNS
CURRENT AS OF AUGUST 23, 2024**

Q1: I want to export to a person identified on U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC) Specially Designated Nationals and Blocked Persons (SDN) List and subject to BIS end-user restrictions pursuant to Section 744.8 of the EAR. Should I apply to OFAC or to BIS for an export license?

A1:

- To avoid duplication, when [Section 744.8 is the only EAR](#) provision that would trigger an EAR license requirement for a particular export (or reexport or in-country transfer) transaction, a BIS license is not required if the transaction is authorized under an OFAC specific or general license or exempt under OFAC's regulations. Notably, OFAC general licenses are available for transactions by U.S. persons, wherever located, or through the United States involving SDNs related to the Executive Orders identified in Section 744.8 that form the basis for EAR end-user export, reexport, and transfer (in-country) restrictions.
- However, U.S. persons will generally require a separate BIS authorization if a transaction that may be subject to OFAC's regulations also requires a license under Part 742 (Item-Based Controls), other sections in Part 744, or Part 746 (Embargoes and Other Special Controls) of the EAR. For example, a separate BIS license may still be required under Part 742 for items on the Commerce Control List (CCL), Supplement No. 1 to Part 774 of the EAR; or if the item is going to an entity listed on the Entity List; or if the export is destined to a country subject to special controls under Part 746 of the EAR, such as Cuba, Iraq, North Korea, Russia, Belarus, the covered regions of Ukraine, or Syria.
- Non-U.S. persons will generally require BIS authorization for the export from abroad, reexport, or transfer (in-country) of items subject to the EAR to persons identified on the SDN List that are specified in Section 744.8 or in situations in which such persons are parties to the export from abroad, reexport, or transfer (in-country). However, a BIS authorization is not required if the transaction would have otherwise met all of the terms and conditions of an OFAC general license had the transaction been subject to OFAC jurisdiction.

Q2: Section 744.8 of the EAR applies end-user restrictions to persons included on the U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC) Specially Designated Nationals and Blocked Persons List (“SDN List”). Do Section 744.8’s restrictions apply to entities owned 50 percent or more by persons that are included on OFAC’s SDN List (OFAC’s 50 percent rule)?

A2:

- Section 744.8 of the EAR imposes end-user restrictions on persons blocked under certain OFAC programs and included on the SDN List. Section 744.8 does not apply to persons that are not specifically identified on the SDN List. For more information on OFAC’s 50 percent rule, see [OFAC Frequently Asked Question \(FAQ\) 401](#).
- However, exporting, reexporting, or transferring (in-country) an item to subsidiaries or affiliates of SDNs carries risks. Notably, a subsidiary or affiliate of an SDN subject to an end-user control under [Section 744.8 of the EAR](#) may be acting as an agent, a front, or a shell company for the SDN in order to facilitate transactions with the listed entity that would otherwise require a license or other EAR authorization.
- A subsidiary or affiliate of an SDN subject to end-user controls under Section 744.8 of the EAR that acts as an agent, a front, or a shell company for the SDN in order to facilitate transactions with the listed entity that would require a license or other EAR authorization is likely acting in violation of the EAR.
- Those who export, reexport, or transfer (in-country) items subject to the EAR to such parties may be proceeding with a transaction with knowledge (including actual knowledge or reason to know) that a violation will occur, which is itself a violation of the EAR. BIS encourages additional due diligence to ensure that: (i) the items are not ultimately destined for the entity identified on the SDN List; and (ii) the affiliate is a distinct legal entity (as opposed to a branch or operating division of the SDN).
- BIS recommends exporters also review guidance [on incorporated subsidiaries, partially owned subsidiaries, or sister companies of listed entities](#); [branch offices and operating divisions of listed entities](#); [parent companies of listed entities](#); and [listed aliases](#).

Q3: Section 744.8 of the EAR applies end-user restrictions to persons included on the U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC) Specially Designated Nationals and Blocked Persons List (“SDN List”). Do the end-user restrictions in Section 744.8 of the EAR apply to OFAC sanctioned persons subject to less-than-blocking sanctions?

A3:

- [Section 744.8 of the EAR](#) imposes end-user restrictions on persons blocked under certain OFAC programs and included on the SDN List. These end-user restrictions do not apply

to OFAC sanctioned persons that are subject to less-than-blocking sanctions, such as persons included on the OFAC Sectoral Sanctions Identifications (SSI) List.