

INTERNATIONAL BUSINESS ALERT

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BIS further extending temporary license to Huawei

Following the [previously reported public comments](#) period on whether the U.S. Department of Commerce Bureau of Industry and Security (BIS) should further extend temporary general licenses for companies doing business with Huawei Technologies Co. Ltd. and its non-U.S. affiliates (Huawei) and whether other changes should be made to the temporary general license practice, for which the deadline was originally set to expire on March 25, 2020, and later extended to April 22, the BIS [announced](#) on May 15, 2020, that it will further extend the terms of the existing temporary general license authorizations for Huawei for another 90 days until Aug. 13, 2020.

The existing temporary general license authorizes, “certain activities necessary for the continued operations of existing networks and equipment as well as the support of existing mobile services, including cybersecurity research critical to maintaining the integrity and reliability of existing and fully operational networks and equipment.” Exporters, re-exporters and transferors that qualify for the temporary general license are required to maintain certifications and other records regarding use that must be made available to BIS upon request. In addition, any exports, re-exports or in-country transfers of items subject to the Export Control Regulations to these entities that are not explicitly authorized by the temporary general license continue to require a separate license for that item, but it is understood that such license application will be reviewed under a presumption of denial and will be hard to obtain.

The BIS made this decision to further extend the temporary license to Huawei after receiving comments from numerous companies, associations, and individuals. The BIS explained that this extension of the temporary general license to Huawei provides an opportunity for users of Huawei devices and telecommunication providers—particularly those in rural

U.S. communities—to continue to temporarily operate such devices and existing networks while hastening the transition to alternative suppliers.

Companies should carefully evaluate and continue to monitor their customer, vendor and other third-party data against the list of Huawei affiliates to identify any potential ongoing or pending transactions with these parties and set up appropriate controls to ensure compliance with U.S. export control laws. Given Huawei's supply chain in the U.S., such screening may not be easy and may be very costly. Companies should be aware that violations can result in significant financial penalties, denial of export privileges and reputational damage.

Regarding whether the temporary general license to Huawei will be further extended beyond Aug. 13, 2020, the BIS said that "the terms and duration of any future general licenses will be announced prior to the expiration of this 90-day time period." However, the BIS also cautioned the public that it is authorized to revise and possibly eliminate the temporary general license after Aug. 13, 2020, suggesting that users of Huawei device and telecommunications providers should get ready for potential rule changes.

For more information please contact [Yuanyou Yang](#) or any member of Porter Wright's [International Business & Trade Practice Group](#).