

## Does My Company Need to Worry About Export Controls?

Under U.S. export control laws, the term “export” covers a broad range of activities. An “export” includes not only the physical shipment of items abroad, but also the transmission of technology and software to foreign countries, or transfer of technology and “know-how” to foreign nationals even if they are in the United States. As a result, virtually any exchange of information with foreign nationals – including telephone conversations, electronic messages and emails, the sharing of computer databases, technical proposals, briefings, training sessions, and question and answer exchanges – can involve an export. A “foreign national” is nearly any person who is not a U.S. citizen or legal permanent resident.

U.S. export control laws place various restrictions on exports and re-exports of products, software, and related technology from the U.S. These restrictions depend on the nature of the item as well as on the destination and purpose of the export. Export restrictions apply not only to defense or to military articles, but also to a wide range of commercial or “dual-use” articles – items that have both commercial and military applications.

***Ask yourself the following questions. If any of your answers are “yes”, contact your Foley Hoag lawyer or a member of the Export Controls Practice Group.***

- Does my company export goods, technology or services (whether via download or physical shipment) abroad?
- Does my company have parents, subsidiaries, branches, affiliates, joint ventures, agents, representatives, developers, researchers, or other partners abroad? Do we send goods, technology or services to those entities?
- Does my company use H1-B visa workers or other non-immigrant foreign workers in our research, production or product development? This could include graduate students, interns or other types of temporary employees.
- Is my company a U.S. company seeking to acquire operations or license its technology abroad?
- Is my company a foreign company with existing U.S. operations or seeking to acquire U.S. operations?
- Does my company host tours of its research and/or production facilities for visitors, which could include foreign national visitors?
- Does my company conduct marketing or demonstration activities outside the U.S. or for foreign nationals inside or outside the U.S.?