



So You Want to Export Semiconductors

Ashlyn Koenig Smith, Schulz Trade Law PLLC

In 2024, the total export trade value of semiconductors reached \$70.1 billion, making it one of the largest exporting industries in the U.S.¹ It propels much of modern technology and plays an important role in the global economy. As such, we will discuss three U.S. agencies that may exercise authority over semiconductor transactions, including the U.S. Department of State Directorate of Defense Trade Controls (DDTC), the U.S. Department of Commerce Bureau of Industry and Security (BIS), and the U.S. Department of the Treasury Office of Foreign Assets Control (OFAC). The DDTC administers the International Traffic in Arms Regulations (ITAR), BIS administers the Export Administration Regulations (EAR), and OFAC administers economic sanctions and trade sanctions.

We'll explore each agency's export authority, its licensing requirements and process, and potential violations under each. Although this is not a comprehensive list of the agencies that may be involved in semiconductor transactions, nor is it legal advice, it's important to understand these agencies to better navigate this complex process.

ITAR

The first question to ask is whether or not the semiconductor or its technical data is listed on the **United States Munitions List (USML)**.² The USML lists items and activities pertinent to national security that pertain to defense and aerospace. It's comprised of twenty-two categories, such as Category IX: Military Training Equipment and Training, and Category XII: Fire Control, Laser, Imaging, and Guidance Equipment. Both of these categories specifically mention semiconductors. However, this list is not exclusive, and other categories may also apply.

Licensing Process:

If a semiconductor or its technical data is listed on the USML, then it is subject to the ITAR, which means that **any entity that manufactures, brokers, exports, or reexports is required to register with the DDTC**. To do so, exporters must first sign up for a DECCS account [here](#). However, registration alone does not grant export privileges. When a license is required, typically, one must apply for an export license or other authorization through the governing agency. The online registration process is recommended; however, if one's application includes sensitive information, a hard copy may be submitted instead.

¹ U.S. Bureau of Labor Statistics, *Recent Price Trends in the Semiconductor Industry*, U.S. Bureau of Labor Statistics (July 18, 2025), <https://www.bls.gov/mxp/publications/industry-pamphlets/semiconductor-industry-facts.htm>.

² 22 CFR Part 121 (2026).

Violations:

ITAR violations may subject companies and individuals to civil and criminal penalties. As of January 2026, civil penalties may result in fines of \$1 million+ per violation and debarment, which means the violator is prohibited from directly or indirectly participating in the exportation of defense articles and services. Criminal penalties may also result in fines of \$1 million+ per violation, and/or twenty years' imprisonment per violation, and debarment.³

BIS

BIS has regulatory jurisdiction over items and activities subject to the EAR. 15 CFR § 734.3 specifically lists the items over which the agency has authority, which mostly pertain to items and technologies that have dual commercial and military use.

Although a license is not required for every transaction subject to the EAR, BIS maintains strict policies concerning the exporting and reexporting of semiconductors, having strengthened restrictions on semiconductor exports in December 2024.⁴ It is therefore essential to confirm if/when a semiconductor transaction requires licensing before exporting.

To determine if BIS requires a license for an export transaction, **the first step is to determine whether the item is listed under the Commerce Control List (CCL)**, which is organized into ten categories. To determine if an item is subject to the CCL and which category applies, consult the Export Control Classification Number (ECCN). If it is classified under an ECCN, reference the Commerce Country Chart⁵ to determine if its designated category requires licensing for a particular country.

As an example, ECCN 3B001 concerns “Equipment for the manufacturing of semiconductor devices, materials, or related equipment, as follows (see List of Items Controlled) and “specially designed” “components” and “accessories” therefor.” An item classified as 3B001.c.1.a is controlled for National Security (NS) and is subject to Worldwide control, which means it requires a license regardless of its destination.⁶ Again, this is only one example and is not meant to advise on specific licensing processes. Additionally, the ECCN is subject to change, so just because a product isn't currently classified under the CCL doesn't mean that it won't be there in the future.

In some cases, an item on the CCL may be eligible for **a license exception**. See 15 CFR § 740. Some exceptions may include, but are not limited to: Shipments of limited value (LVS), Technology and software under restriction (TSR), Encryption commodities, software, and technology (ENC), and License Exception Strategic Trade Authorization (STA). If a transaction qualifies, an exporter must properly document the license exception symbol along with the ECCN and keep records of the transaction in accordance with 15 CFR § 762.⁷ Exceptions are only

³ 22 CFR Part 127.10 (2026).

⁴ Foreign-Produced Direct Product Rule Additions, 89 FR 96,790 (2024).

⁵ 15 CFR Part 738, supp. 1 (2026).

⁶ 15 CFR Part 774 (2026).

⁷ 15 CFR Part 740 (2026).

valid when properly claimed.

However, even if the item does not fall under the CCL, it may still require licensing, depending upon its end-use or end-user.⁸ Furthermore, BIS maintains a [Denied Persons List \(DPL\)](#), which details entities that are denied export privileges. Exporters must screen potential transactions against the DPL to ensure export compliance in accordance with the EAR.

Licensing Process:

If a semiconductor transaction requires licensing via BIS according to 15 C.F.R. § 730-774, exporters can apply for such licensing via the [SNAP-R portal](#). The status of an application can be tracked via [STELA](#).

Violations:

While ensuring export compliance may require companies to incur additional costs, in the long run, it can curb hefty fines and serious penalties that may result from export violations. According to the Export Control Reform Act of 2018, an EAR violation may result in penalties “of up to 20 years of imprisonment and up to \$1 million in fines per violation, or both.”⁹

OFAC

OFAC regulatory jurisdiction typically relates to economic sanctions against countries, individuals or groups. Economic sanctions vary depending on the country or persons they target, but may prohibit transactions within certain sectors of a country's economy. For instance, since March 31st, 2022, E.O 14024 prohibits any significant transactions involving Russia's electronics sector, which specifically includes semiconductors.¹⁰

A comprehensive list of OFAC-sanctioned entities and the types of sanctions said entities are subject to can be found [here](#). Notably, OFAC does not maintain a specific country list, as those subject to such sanctions may change locations and/or conduct business in places one would not expect. Therefore, exporters must stay up-to-date on OFAC's sanction list when determining license requirements from the agency to export semiconductors to a specific entity.

Additionally, one agency's policy change does not necessarily mean that another agency changed its policy as well. For instance, on January 13, 2026, BIS issued a rule that stated the agency will now review export licenses for semiconductors such as Nvidia H200, AMD MI325X, and similar chips destined for China on a case-by-case basis. Previously, such transactions were subject to a presumption of denial.¹¹ However, even if the new policy applies to a transaction, export compliance due diligence still requires exporters to ensure an item is not destined for an OFAC-sanctioned entity. In other words, **do not assume export compliance simply because a transaction is compliant with one agency.**

⁸ 15 CFR Part 732.3 (2026).

⁹ Export Control Reform Act of 2018, 50 U.S.C. §§ 4801–4852 (2018).

¹⁰ Exec. Order No. 14,024, 86 F.R. 20,249 (Apr. 15, 2021).

¹¹ 91 FR 1684 (2026).

Licensing Process:

If a semiconductor transaction requires a license from OFAC, exporters can apply for such licensing [here](#) via the agency's online portal. In the application, provide detailed, fact-based information as to the purpose of the transaction and why it requires licensing. After the application is submitted, it can be tracked through that same portal.

Violations:

As of January 2026, those who violate the International Emergency Economic Powers Act (IEEPA), the Trading With the Enemy Act (TWEA), **and any other OFAC sanctions** may be subject to maximum civil penalties per violation as follows:¹²

- IEEPA Violations: \$377,700 or twice the amount of the underlying transactions.
- TWEA Violations: \$111,308.

Since a transaction may be subject to both OFAC sanctions and the EAR, **it may require licensing from more than one agency**. Therefore, a transaction can violate more than one agency's license requirements and, as such, may result in penalties from multiple agencies. For instance, according to an April 2023 press release via OFAC, BIS and OFAC ordered Microsoft to pay a total of \$3.3 million in combined penalties for allegedly violating the EAR and OFAC sanction regulations.

Conclusion:

In short, DDTC regulates transactions subject to the ITAR, while BIS regulates transactions subject to the EAR, and OFAC regulates transactions with sanctioned entities. Throughout the semiconductor transaction process, exporters are required to conduct thorough due diligence regarding the product's application, end use, and end user to determine if the transaction requires a license from a particular agency to export or reexport. Remember, just because an item requires a license to export through one agency does not mean that a license through another agency is not required as well.

Even though ensuring export compliance may require additional time, money, and resources, it can prevent lengthy legal proceedings and/or massive fines that may arise from export violations. For further assistance in navigating semiconductor exports, contact one of the experienced trade attorneys at [Schulz Trade Law PLLC](#).

¹² 31 CFR Part 501, app. A (2026).