Cooley

Export Control Reminder: Encryption Reporting Deadline Is February 1, 2024

January 25, 2024

The deadline for submitting reports regarding certain exports of encryption items under the US Export Administration Regulations (EAR) is February 1, 2024. Two types of reports are subject to the deadline:

- Annual self-classification reports for certain encryption items exported or re-exported under paragraph (b)(1) of License Exception ENC during calendar year 2023 (January 1 through December 31, 2023).
- Semiannual reports for specified encryption items exported or re-exported under paragraphs (b)(2) and (b)(3)(iii) of License Exception ENC between July 1 and December 31, 2023.

A few notes regarding the reporting requirements:

- We can provide templates and instructions that you can use to prepare and submit the reports.
- Most mass market encryption products classified under Export Control Classification Numbers (ECCNs) 5A992 and 5D992 are no longer subject to an annual reporting requirement – as a result of amendments to the EAR that went into effect in March 2021.
- Companies that have obtained a Commodity Classification Automated Tracking System (CCATS) number for certain encryption products are not required to submit annual self-classification reports. Please contact us to learn more about how to obtain a CCATS number from the Bureau of Industry and Security (BIS) to eliminate your annual self-classification reporting burden going forward.

The new year also is a good time to conduct an export compliance checkup – including an assessment of any new product offerings or changes to the encryption functionality of existing products.

If you would like assistance determining whether the encryption export controls and reporting deadlines apply to your products and associated technology, please contact a member of our team.

This content is provided for general informational purposes only, and your access or use of the content does not create an attorney-client relationship between you or your organization and Cooley LLP, Cooley (UK) LLP, or any other affiliated practice or entity (collectively referred to as "Cooley"). By accessing this content, you agree that the information provided does not constitute legal or other professional advice. This content is not a substitute for obtaining legal advice from a qualified attorney licensed in your jurisdiction, and you should not act or refrain from acting based on this content. This content may be changed without notice. It is not guaranteed to be complete, correct or up to date, and it may not reflect the most current legal developments. Prior results do not guarantee a similar outcome. Do not send any confidential information to Cooley, as we do not have any duty to keep any information you provide to us confidential. When advising companies, our attorney-client relationship is with the company, not with any individual. This content may have been generated with the assistance of artificial intelligence (AI) in accordance with our AI Principles, may be considered Attorney Advertising and is subject to our legal notices.

Key Contacts

Kevin King Washington, DC	kking@cooley.com +1 202 842 7823

Annie Froehlich Washington, DC	afroehlich@cooley.com +1 202 776 2019
Rebecca Ross Washington, DC	rross@cooley.com +1 202 728 7150
Karen Tsai Washington, DC	ktsai@cooley.com +1 202 842 7857

This information is a general description of the law; it is not intended to provide specific legal advice nor is it intended to create an attorney-client relationship with Cooley LLP. Before taking any action on this information you should seek professional counsel.

Copyright © 2023 Cooley LLP, 3175 Hanover Street, Palo Alto, CA 94304; Cooley (UK) LLP, 22 Bishopsgate, London, UK EC2N 4BQ. Permission is granted to make and redistribute, without charge, copies of this entire document provided that such copies are complete and unaltered and identify Cooley LLP as the author. All other rights reserved.