

US-China Business Council Comment on Expansion of End-User Controls to Cover Affiliates of Certain Listed Entities (Docket No. 250509-0083) (RIN 0694-AK11)

The US-China Business Council (USCBC) welcomes the opportunity to submit comments to the Department of Commerce regarding the Expansion of End-User Controls to Cover Affiliates of Certain Listed Entities interim final rule (henceforth the “Affiliates Rule”). USCBC’s membership comprises around 270 American companies that do business in China. Our membership includes some of the largest and most iconic American brands, in addition to small and medium-sized enterprises. US trade with and sales of goods and services in China bring many important benefits to the US economy and American workers.

USCBC fully supports efforts to protect US national security and prevent the diversion of sensitive technologies. USCBC recognizes the attempt of the Bureau of Industry and Security (BIS) to deter circumvention by extending controls to affiliates, drawing on aspects of the Department of Treasury’s Office of Foreign Assets Control (OFAC) 50% ownership framework; however, that construct does not translate cleanly to the Export Administration Regulations (EAR). OFAC operates a blocking regime with a single consolidated list, government-generated ownership intelligence, and strict liability. The Affiliates Rule is a licensing regime that aggregates multiple list types, applies a most restrictive overlay that can extend the foreign direct product rule (FDPR) and other policies to all items subject to the EAR, and places on companies the burden of resolving indirect and aggregated ownership in jurisdictions with limited disclosure. In practice, this causes US firms to adopt a conservative approach and pause or terminate a broad array of commercial relationships that extend beyond directly implicated entities, particularly for benign and medical items, because ownership information is incomplete or unobtainable and Red Flag 29 compels a license-or-halt posture. To preserve the anti-circumvention objective while tailoring the rule to the export control context, we recommend a knowledge-based standard with a defined safe harbor for commercially reasonable due diligence and a 365-day reliance period; publication of an indicative affiliates dataset and a clear evidence menu; confirmation that the most restrictive flow-down, including FDPR, attaches only where a controlling, footnoted owner is present; and focus on technologies and use cases that present identifiable national security risks.

We have significant concerns that the scope and implementation of the Affiliates Rule as written are overly broad, lack sufficient clarity, and will impose unintended operational burdens across a range of industries without a commensurate security benefit. The Affiliates Rule’s immediate effective date, coupled with a narrow and short-lived Temporary General License (TGL), has forced companies to suspend transactions while they attempt to verify multi-tier beneficial ownership in jurisdictions where reliable data is unattainable. The resulting compliance burden is not confined to the estimated more than 20,000 Chinese entities directly covered by the rule; it chills activity across entire supply chains as US exporters adopt conservative defaults and pause shipments to avoid inadvertent violations. The rule has prompted a broad-based decoupling of US-China commercial ties in areas extending far beyond the intended sensitive technologies, gifting market share to foreign competitors that are not subject to the same ownership-tracing obligations, leading to design-outs and long-term supplier substitutions. The net effect is a rapid and durable erosion of market share and ecosystem influence for US firms in

China without a commensurate security benefit.

Many US companies depend on China's market to enhance and undergird their global competitiveness, such as through globally integrated supply chains that improve efficiency and lower costs for American consumers. According to our [annual member survey](#), 91% of respondents say China is important for their global competitiveness, among which 28% of respondents say their firm would not be globally competitive without China. It is crucial that BIS evaluate export controls with these considerations to ensure that restrictions do not inadvertently damage US competitiveness and, by extension, US national security.

We recommend narrowing the rule's scope to create more realistic compliance objectives and streamline implementation. In our survey, 62% of member companies identified due diligence as a primary export controls compliance challenge, and 53% cited delayed or unclear administrative processes. To keep the system workable from both a compliance and administrative perspective, BIS should consult with industry to tailor its rules to areas of national security and foreign policy concern. Absent such calibration, the Affiliates Rule will unilaterally disadvantage US firms with unrealistic compliance burdens and reinforce a perception among Chinese customers that American suppliers are unreliable. In our survey, 56% of respondents reported losing sales to Chinese competitors due to export controls, signaling increased Chinese indigenization and reduced US visibility into technology ecosystems.

BIS should continue to assess foreign availability before adding controls. Without multilateral coordination, US companies will also be displaced by foreign suppliers: in our survey, 49% of respondents reported losing sales to international firms, underscoring the importance of multilateralism and the limits of unilateral tools. This dynamic is especially acute for US products that are widely available and uncontrolled by other countries, such as EAR99 items.

The Affiliates Rule has also destabilized diplomacy with China amid ongoing trade negotiations, creating another escalatory cycle. The rule has already prompted severe retaliatory actions from China's Ministry of Commerce targeting US companies with a host of restrictions, complicating the administration's efforts to reach a trade agreement with China that will benefit US companies and reduce the trade deficit.

We propose an initial 120-day stay of implementation, retroactively effective from September 29, and offer concrete adjustments that preserve national security aims while restoring administrability and predictability to protect large swathes of legitimate trade in the US-China commercial relationship.

I. Executive Summary

To improve compliance with the Affiliates Rule, provide needed clarity, and maintain an appropriate scope that advances US national security and foreign policy objectives, USCBC recommends the following:

Recommendations on Regulatory Scope

- Limit § 744.16 license requirements to affiliates engaged with items on the Commerce Control List (CCL). Absent this change, restrict EAR99 coverage to affiliates individually designated on the Entity List (Part 744, Supplement No. 4).
- Rely on list-based designations for affiliates of concern. Require licensing only where the affiliate is expressly designated (Entity List/Military End-User (MEU) List (Supplement No. 7 to Part 744) under § 744.21), rather than through open-ended ownership tracing under § 744.16.
- Constrain affiliates-based FDPR attachment. Apply FDPR only where a footnoted listed owner (see Entity List footnotes, Part 744, Supplement No. 4) holds a controlling ($\geq 50\%$) interest; minority holdings should not trigger FDPR flow-down (FDPR framework at § 734.9).
- Exclude civilian medical institutions. Hospitals, clinical centers, and university-linked medical institutions not performing military end uses should be exempt (align with § 744.21 policy focus) to ensure continuity of patient care and clinical research.
- Exclude contract manufacturing/service flows with no transfer of title or design access. Service providers operating under consignment, with documented end delivery to an authorized customer, should be out of scope via clarification to § 744.16 (and/or a license exception/general license under Part 740).

Definitional Recommendations

- Clarify enforcement standards and remove “strict liability” ambiguity published in supplementary guidance. Confirm in regulatory text that § 744.16 applies a knowledge-based standard consistent with General Prohibition 5 (15 CFR 736.2(b)(5)), the definition of “knowledge” (15 CFR 772.1), and BIS’s “Know Your Customer” Guidance and Red Flags (Supplement No. 3 to Part 732); if BIS intends a stricter regime, codify a safe harbor specifying commercially reasonable diligence and reliance criteria rather than relying on preamble statements.
- Define “owned 50% or more...directly or indirectly, in aggregate” with a control-based test. Publish aggregation methodology for multi-tier ownership; confirm passive, unrelated minority stakes do not constitute control (use definitions framework in § 772.1).
- Clarify the “most restrictive” overlay. Specify when, and to what products, an owner’s footnoted policy (including FDPR via § 734.9) flows down to an affiliate; avoid attaching heightened policies to unrelated transactions driven by minor shareholdings.
- Codify a knowledge-based standard and safe harbor in Supplement No. 3 to Part 732 (Red Flags) and § 772.1 (“knowledge”). Commercially reasonable diligence supported by a menu of evidence standards should resolve Red Flag 29 without defaulting to license-or-halt; allow 365-day reliance on verified ownership absent contrary information.
- Announce a one-year enforcement pause for the new ownership-related red flag in Supplement No. 3 to Part 732. During this period, BIS would forbear enforcement actions premised solely on the red flag where the exporter applies the safe-harbor

diligence and evidence menu; willful evasion and false statements remain fully enforceable. This aligns with the transparency and predictability objectives of the Export Control Reform Act (ECRA) and avoids de facto strict liability via preamble language.

- Provide guidance on universities and university-affiliated hospitals. Offer a Validated End-User (VEU)-style pathway for civilian education/research and patient care (§ 748.15; Supplement No. 7 to Part 748).

Suggestions for Implementation

- Extend and broaden the TGL. Provide a 120-day grace period retroactive to September 29, covering spares, warranty/field service, and clinical continuity to prevent immediate supply interruptions.
- Implement a rolling TGL that renews automatically until specified jurisdictions adopt comparable affiliate ownership controls (see Country Group A in Supplement No. 1 to Part 740), then sunsets on a per country basis.
- Adopt public licensing service levels and a short-form application. Commit to 15-day targets for healthcare/clinical, warranty/field service, benign EAR99, and operator-mandated security patches/certification fixtures; issue interim no-action acknowledgements if timelines lapse (processing policy guidance; cross-reference § 748 procedures).
- Publish an indicative affiliates dataset and integrate identifiers with screening providers. Standardize submissions and reduce duplicative investigations (tie to § 744.16 application and Supplement No. 3 to Part 732 for red flag resolution).
- Establish a Critical Infrastructure Service General License. Authorize spares, encrypted configuration files, firmware/feature keys, diagnostics, and on-site service for building life safety systems, data center environmental controls, and pharmaceutical cold chain, with stabilize-then-notify (implemented as a License Exception under Part 740 or a TGL in Part 744).
- Fast-track low-risk applications, provide presumptive approval pathways for benign EAR99 transactions to covered affiliates, and expand VEU to trusted civilian institutions (§ 748.15; Supplement No. 7 to Part 748).
- Phase implementation and enhance outreach. Publish queue metrics, hold technical briefings, and offer advisory opinions to ensure uniform understanding and predictable compliance (processing under § 748; advisory opinions via § 748.3).

II. Recommendations on Regulatory Scope

Focusing Controls on Listed Entities and Critical Items

In principle, USCBC believes that end-user controls should predominantly apply to entities explicitly identified by the US government as threats — that is, those designated on the Entity List (with footnotes as appropriate) or MEU List. The Affiliates Rule’s automatic extension of license requirements to any unlisted company meeting a 50% ownership test is an overreach

that captures countless entities with no direct nexus to military or illicit end uses. By treating all such affiliates as if they were individually vetted national security risks, the rule dilutes focus from truly risky actors and creates enormous ambiguity for exporters. **We recommend BIS revert to a more targeted approach, using the Entity List process (End-User Review Committee deliberations) to add specific affiliates of concern.** If broadening the rules beyond named parties is deemed necessary, it should at least be limited to strategic technologies — for example, affiliates should require a license only for items on the CCL or items controlled for national security, military, or proliferation reasons. Capturing all items subject to the EAR, including mass market and EAR99 items, goes against the administration’s stated policy of supporting US exports to reduce the trade deficit and promote US technological leadership through deregulation. It will needlessly impede sales of low-tech consumer or medical products with minimal security relevance, undermining US industry without a security payoff.

Preventing Disproportionate Impact on Civilian Sectors

One of the clearest examples of over-breadth is the rule’s effect on the healthcare sector. Chinese civilian hospitals that carry military designations are now arguably “affiliates” of the People’s Liberation Army or defense universities and thus immediately subject to license requirements for virtually all US-origin items they use — from MRI machines to basic reagents. It is not possible to ascertain the ownership structure of many of these hospitals (many are public or semi-public institutions with opaque ties). In the absence of clarity, firms must assume the worst and halt shipments pending licenses. This has already led to urgent situations where critical medical supplies are delayed, and initial indications are that licenses for such end users are not being approved in a timely manner. The potential scale of this issue is enormous: major Chinese hospitals treat thousands of patients and rely on US products for routine care and research. **We strongly urge BIS to exclude hospitals, medical institutions, and university/academic medical centers from the Affiliates Rule unless there is concrete evidence linking a specific institution to military programs with military end use.** Imposing a blanket restriction on medical trade not only endangers civilian health — it also undermines US firms, as these hospitals will turn to foreign suppliers for similar equipment. A narrowly tailored exclusion or a standing general license for medical end uses would mitigate harm while still allowing BIS to review truly high-risk transactions on a case-by-case basis.

Minority Investments vs. Effective Control: Rethinking the 50% Threshold

The rule’s use of a flat 50% ownership threshold (including aggregation of multiple owners) is a blunt instrument that does not always correlate to control or influence. For instance, consider a joint venture (JV) where two unrelated listed entities each hold 30%. By the letter of the rule, that JV (at 60% total listed ownership) is treated as if it were a fully sanctioned entity — yet, neither owner individually controls the venture. Meanwhile, a scenario where a single listed entity holds 49% (just below the threshold) but has operational control via special rights would not be covered, even though the risk of diversion could be higher. This illustrates the mismatch that can occur. **We recommend BIS either raise the threshold or incorporate a concept of control to better target genuine risk.** Aligning with common international practice, one approach could be to require one listed owner at $\geq 50\%$ or any listed owner who otherwise controls the entity (e.g., by board or shareholder agreement) for the rule to apply. **Absent such change, at minimum BIS should clarify that the 50% threshold is not intended to capture passive, minority holdings spread among multiple investors**

where no single listed party directs the affiliate's actions. Without this nuance, the rule could force US companies to cut off dealings with numerous international partners and suppliers that have complex ownership, even when no listed entity actually runs those businesses.

Contract Manufacturing and Service-Only Flows

Exports to affiliates acting purely as contract manufacturers or service providers should not trigger § 744.16 licensing where (i) title does not transfer (e.g., consignment), (ii) the provider has no access to design files or controlled technology beyond what is essential for the service, and (iii) documented end delivery is to an authorized, non-restricted customer under specified Incoterms. This treatment aligns risk with actual end use and ownership change and avoids disrupting workflows that present low diversion risk when properly documented.

Emphasizing Entity List Designations as the Primary Tool

We wish to underscore that BIS's Entity List designations remain the most powerful and clear way to counter threats. The Affiliates Rule should be a backstop, not the primary means, of restricting parties. BIS has the capability to add known problematic affiliates to the Entity List with specific licensing policies tailored to the concern at hand. For example, if a listed defense company spins off a subsidiary to circumvent controls, BIS can swiftly list that subsidiary. Such case-by-case action ensures due process and clarity. Relying on private companies to identify and restrict affiliates shifts a fundamental government responsibility onto the private sector. It also introduces competitive distortion — companies with greater legal resources will interpret the rule differently, while others may take more risk, leading to uneven application. Outsourcing intelligence gathering to industry, which lacks the government's tools and coordination, is inherently ineffective and unreliable, leading to confusion and conflicting interpretations of compliance. **We recommend that BIS use the comment period to identify categories of affiliates that warrant listing or further clarification and that BIS ultimately narrow the final rule's automatic scope to those areas.** This will preserve US firms' compliance bandwidth for truly critical risks and reduce the inadvertent chilling of legitimate trade.

III. Definitional Clarifications and Concerns

Interpretation of "Owned...Individually or in Aggregate, Directly or Indirectly"

This phrasing encompasses a wide array of ownership scenarios. We request BIS provide illustrative scenarios in the final rule's preamble or guidance. For example, if Listed Company A owns 30% of Company X, and Listed Company B owns 25% of Company X (unrelated owners), Company X is covered because $30+25 = 55\%$. However, what if Company B itself is 50%-owned by another listed Entity C (an indirect chain)? The rule would count A's 30% plus B's effective 12.5% (half of 25%) from C, totaling 42.5%, which is below 50%. This demonstrates the complexity of calculating "indirect" aggregated ownership through tiers of ownership. Providing a clear methodology (perhaps akin to OFAC's rule where one takes any listed 50% owner at each tier) will assist compliance personnel greatly. BIS should also clarify if ownership by different types of listed parties (Entity List vs Specially Designated Nationals (SDN) vs MEU) can be combined. The rule indicates they do combine ("a combination of Entity List, MEU List or SDN List parties" can aggregate), meaning exporters must be aware not just of BIS lists but certain

OFAC designations as well. **We recommend BIS publish a concise reference list of which OFAC programs under EAR §744.8(a)(1) are in scope to reduce confusion.**

Most-Restrictive Overlay — Control Threshold and Product Nexus

BIS should clarify that an owner's footnoted policy (including FDPR under § 734.9) flows down to a foreign affiliate only where a listed owner with the applicable footnote holds a controlling interest ($\geq 50\%$) or otherwise exercises control via binding governance rights, and only to products within the scope of the footnote's policy. Passive or unrelated minority shareholdings must not attach the most-restrictive policy to the affiliate's unrelated transactions. Absent evidence of control, exporters should not be required to assume footnote attachment based solely on aggregated minority ownership.

Red Flag 29 and “Reason to Know” Standard

Red Flag 29 imposes an affirmative duty when an exporter has knowledge or reason to know of any listed ownership interest. We want to emphasize the need for practical thresholds here. US companies often receive third-party reports or media articles suggesting a Chinese state-owned fund or military university has some stake in a customer or business partner. Such reports can range from well-documented to purely speculative. Under Red Flag 29, even a rumor could force an exporter to halt and investigate ownership percentages. **BIS should clarify that “reason to know” entails credible evidence, not mere speculation. Additionally, BIS should permit the use of reliable certifications to resolve uncertainty: if a foreign counterparty certifies it is not $\geq 50\%$ owned by restricted parties, and no contrary evidence exists, the exporter should be allowed to rely on that, absent other red flags.** This would create a workable path forward in cases where perfect information is unattainable. Without such measures, companies feel they are in an impossible position where no third-party compliance provider is sufficient to guarantee full ownership knowledge, raising the question of what level of inquiry BIS expects as “reasonable.” BIS's enforcement posture should encourage reasonable compliance efforts rather than zero-tolerance perfection.

For purposes of § 744.16 and Supplement No. 3 to Part 732, an exporter satisfies a commercially reasonable diligence standard — and may proceed without a license for non-sensitive items — where the exporter has (i) obtained official corporate registry extracts (or equivalent public filings) for the counterparty and known parents; (ii) obtained a report from a reputable beneficial-ownership data provider; (iii) secured a counterparty attestation, under penalty of perjury, that no party on the Entity List, the MEU List, or applicable OFAC programs identified by BIS in the Affiliates Rule preamble and guidance owns, directly or indirectly and in the aggregate, $\geq 50\%$ of the counterparty; and (iv) identified no contradictory evidence. Where these criteria are met, Red Flag 29 is deemed resolved for that counterparty. Once the safe-harbor criteria above are met and no $\geq 50\%$ restricted ownership is identified, exporters should be able to rely on that determination for 365 days absent credible adverse information indicating a change in ownership, thereby avoiding repetitive re-screening that yields no security benefit. **BIS should recognize as admissible evidence: (a) official registry extracts; (b) audited financials/annual reports; (c) reputable BO-provider reports; (d) counterparty attestation under penalty of perjury; and (e) a counsel memorandum describing methodology and findings.** This evidence menu should be referenced in Supplement No. 3 to Part 732 and in FAQs.

To align implementation with ECRA's transparency and predictability objectives and to avoid a de facto strict-liability regime, BIS should announce a one-year

enforcement pause with respect to the new ownership-related red flag in Supplement No. 3 to Part 732. During this period, no enforcement action should be predicated solely on that red flag where the exporter has applied the safe-harbor diligence and documented the evidence menu; by contrast, willful evasion, false statements, or shipments contrary to explicit BIS direction remain fully actionable. This allows industry to operationalize ownership checks and provides BIS time to issue further guidance.

“Knowledge” vs. Strict Liability in Enforcement

The EAR traditionally distinguishes between having knowledge of a violation and unknowingly violating (with the latter often resulting in mitigated penalties). **We request BIS confirm that it will follow this principle for violations involving covered affiliates.**

Specifically, if a company unknowingly ships to an unlisted covered affiliate despite conducting reasonable due diligence, the requisite knowledge requirement has not been met, and no violation of the EAR has occurred.

The Affiliates Rule’s *Supplementary Information* section and recently updated BIS Entity List FAQs have introduced a “strict liability” concept to the EAR’s end-user and end-use restrictions that is inconsistent with the text of the regulations. Under General Prohibition 5 (15 CFR 736.2(b)(5)), a person is prohibited from “knowingly” exporting, reexporting, or transferring (in-country) an item involving a prohibited end user or end use. This standard was not changed with the addition of Red Flag 29 to BIS’s “Know Your Customer” Guidance (discussed above). Red Flag 29 establishes an affirmative duty to determine whether a foreign party is 50% or more owned by a listed entity only when the exporter has “knowledge” (including awareness of a high probability of existence) that an owner is listed on the Entity List or the MEU List. Under § 772.1 of the EAR, an exporter may not disregard or willfully avoid facts that would enable them to gain such knowledge. However, this knowledge-based standard is not equivalent to “strict liability,” and the text that was added to the regulations via Red Flag 29 confirms that knowledge remains a prerequisite for due diligence.

Although the updated FAQs suggest that knowledge — or a lack of knowledge — will be considered in penalty calculations, which we appreciate, it would be more reassuring to US businesses to codify a kind of “safe harbor” for diligent compliance. Conversely, if a company ignores obvious signs (e.g., an affiliate openly advertising its connection to a listed entity), such conduct would justifiably be seen as knowing or willfully blind behavior. Clarifying this balance will incentivize exporters to invest in compliance programs (knowing they won’t be unduly punished for a good-faith miss) and focus enforcement on truly negligent or egregious circumvention.

To resolve these inconsistencies, BIS should reconcile the Federal Register notice and updated FAQ’s description of the Affiliates Rule as enforceable on a “strict liability basis” with the EAR’s established knowledge-based framework for part 744 end-user/end-use controls. While failing to screen transactions against a publicly available list of restricted parties may have, in practice, been enforced on a strict liability basis, the Affiliates Rule construct hinges on indirect, aggregated ownership determinations that are often non-public and not reasonably knowable ex ante. **We therefore request BIS to:**

- (1) Clarify in § 744.16 (and/or its notes) that the trigger for an affiliate determination is knowledge-based, consistent with §§ 736.2(b)(5) and 772.1;**

- (2) Avoid creating a de facto strict-liability obligation via preamble language and FAQs that are not reflected in codified text; and**
- (3) If heightened liability is intended, codify an explicit safe harbor — such as commercially reasonable diligence, use of a defined evidence menu, and 365-day reliance — so exporters are not penalized where ownership information is unobtainable despite reasonable efforts.**

These changes will align the Affiliates Rule with the EAR's text, provide predictable compliance expectations, and focus enforcement on willful evasion rather than unavoidable information gaps.

Clarification on Affiliates Seeking Removal

The Affiliates Rule notes that a newly covered foreign affiliate can request BIS to modify its parent's Entity List entry to exclude the affiliate. In practice, this process (via the End-User Review Committee) has been rarely used and seldom successful for listed entities seeking removal. **BIS should clarify what criteria will be considered for excluding an affiliate. For example, if an affiliate can demonstrate operational independence and that it does not engage in any of the activities that caused its parent to be listed, BIS should consider a subsequent carve out.** Providing some benchmarks or a faster-track review for affiliates (as opposed to a full delisting request) could encourage legitimate companies to come forward and be vetted, reducing the number of innocuous entities under restriction. Otherwise, many affiliates may not even attempt the onerous removal process, and the restriction becomes effectively permanent regardless of individual circumstances.

IV. Suggestions for Implementation

Phased Implementation and Outreach

Major regulatory changes of this nature benefit from phased implementation. We commend BIS for allowing a comment period despite making the rule effective immediately. **We suggest BIS announce an enforcement grace period following the comment deadline to incorporate clarifications and give industry time to implement compliance measures.** Even a short delay in enforcement (e.g., refraining from penalizing violations for 120 days) coupled with outreach can greatly improve compliance. Early engagement will surface practical issues that can be addressed through FAQs or license policy adjustments before they cause security incidents or business disruptions.

One-Year Enforcement Pause for the Ownership Red Flag

BIS should forbear red-flag-only enforcement for 12 months where the exporter uses the safe-harbor diligence and evidence menu described in Section III. BIS can publish this policy alongside queue metrics and FAQs to ensure uniform understanding across industry.

Enhance Due Diligence Tools — End-Use Certificates and Templates

In line with our earlier recommendation, BIS can aid compliance by providing standardized tools. A sample certificate of ownership/End-User Statement could be published, which foreign customers and partners can fill out to declare their ownership structure and affirm no listed party ownership above 50%. While not foolproof, such a form would give US exporters a

uniform starting point for due diligence and could be used in conjunction with other verification methods.

Work With Compliance Service Providers

Many companies rely on third-party compliance software and databases for screening. **BIS should actively liaise with major providers to ensure that updated data fields (for Entity List affiliates, ownership info, Red Flag 29 alerts) are incorporated quickly and accurately.** If BIS expects companies to purchase new screening content for the Affiliates Rule (as is already happening, with providers charging substantial six-figure fees for ownership screening modules), then having a direct channel to supply those providers with authoritative data (to the extent available) will improve consistency. Otherwise, there is a risk that different providers produce divergent lists of “potential affiliates,” leading to confusion. Compliance information providers are not ready to handle the rule’s requirements at launch, requiring urgent manual workarounds. Closer coordination with vendors before enforcement will mitigate such gaps.

Rolling TGL Pending Allied Alignment

To avoid unilateral substitution effects and promote alignment, BIS should issue a rolling TGL covering low-risk, continuity transactions (e.g., spares, warranty/field service, life-safety, clinical continuity) until individual Country Group A jurisdictions (Supplement No. 1 to Part 740) adopt comparable affiliate-ownership rules. The TGL would auto-renew quarterly and sunset on a per country basis upon publication by BIS that a jurisdiction has implemented comparable measures. Conditions would include: (i) standard recordkeeping; (ii) no release of technology beyond what is necessary for maintenance/repair; (iii) post-shipment notice on request; and (iv) exclusion of named Entity List parties with “presumption of denial” policies and destinations in Country Groups E:1/E:2.

Address Licensing Backlogs Proactively

We reiterate the importance of BIS preparing for an influx of license requests. A commitment to fast-track certain categories — for example, medical supplies or affiliates in allied countries — would reassure industry. BIS could announce interim policy guidance that license applications involving only EAR99 items or other low-risk exports to newly covered affiliates will receive favorable consideration or presumptive approval, absent specific national security concerns. This would deter foreign customers from immediately abandoning US suppliers due to fear of lengthy license delays. If US export licenses become too slow or unpredictable, customers will shift to non-US sources permanently. The Affiliates Rule should not inadvertently accelerate that shift by casting too wide a net without adequate license processing support.

Continued Dialogue and Monitoring

We encourage BIS to treat the Affiliates Rule as a living program that will require ongoing calibration. Industry feedback should be heeded as early warnings of unintended outcomes. We suggest BIS establish a formal feedback mechanism (perhaps a standing working group or periodic survey) to monitor how the rule is being implemented. If certain provisions prove unworkable or excessively damaging to US competitiveness, BIS should be prepared to adjust them — whether through additional exceptions, revised guidance, or in extreme cases, scaling back aspects of the rule. The objective we share is an export control system that protects national security while remaining practical to enforce and comply with.

V. Conclusion

USCBC appreciates the opportunity to provide comments on the Affiliates Rule. We fully support the US government's aim to prevent malign actors from evading export controls, and we believe these goals can be met with a calibrated approach that also safeguards US economic interests. In summary, we urge BIS to narrow the regulatory scope to focus on genuine threats, clarify definitions and expectations to reduce confusion, and implement the rule with pragmatism and engagement with industry. By incorporating the recommendations above — such as excluding purely civilian affiliates, introducing safe harbors for diligent compliance, and extending transitional support — BIS can strengthen the rule's effectiveness.

A balanced Affiliates Rule will enhance national security by closing loopholes without unduly hampering legitimate trade or driving business to foreign competitors. It will allow American companies to continue innovating and competing globally, which in turn sustains the US technological edge that underpins our security. We stand ready to assist BIS in refining this rule and address any further issues as they arise. USCBC and its member companies are committed to compliance and to working with the administration to achieve our shared objectives of security, US technological leadership, and economic prosperity. We hope the above recommendations contribute to a final rule that is clear, targeted, and effective in preventing diversion, while maintaining the vitality of US industry in key sectors.