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International Trade Compliance and Enforcement Bulletin

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Authors:

Ross H. Garber
(202) 469-7750
or (860) 251-5901
rgarber@goodwin.com

T. Scott Cowperthwait
(860) 251-5134
scowperthwait@goodwin.com

Compliance Tips for Entering the Turkish Market

As bilateral trade and investment opportunities between the U.S. and Turkey increase, U.S. companies -- particularly U.S. defense and aerospace contractors -- need to consider the potential challenges involved in doing business in Turkey to prevent export control, economic sanctions, and corruption and bribery violations. While there is no one-size-fits-all approach to developing and maintaining an effective compliance program, any U.S. company expanding into the Turkish market should proactively assess and update their existing compliance program to ensure that it is tailored to the policies, regulations and requirements relevant to Turkey.

The first phase of export control reform ("ECR") became effective on October 15, 2013, laying the foundation for increased international trade opportunities as thousands of aircraft and gas turbine engine items moved from the U.S. Munitions List to the Commerce Control List. ECR has also opened the door for U.S. companies to take advantage of the U.S. Department of Commerce's License Exception Strategic Trade Authorization ("STA"), if certain requirements are met, for the transfer of certain aircraft and engine items without a license to 36 countries, including Turkey. While STA is intended to streamline and facilitate exports between the U.S. and its NATO allies and multilateral regime partners by easing the license burden on exports of numerous items, U.S. companies seeking to use STA are responsible for compliance with the STA's license exception requirements to ensure the items are not re-exported outside STA-eligible countries or employed for unapproved end uses within such countries.
U.S. expansion into the Turkish market does not come without compliance concerns. Earlier this month, the U.S. Department of Commerce issued a temporary denial order ("TDO") denying the export privileges of multiple companies and individuals for attempting to illegally re-export U.S.-built commercial jet engines to an Iranian airline. Specifically, the TDO provides that two U.S.-origin General Electric CF6 aircraft engines, which are items subject to the Export Administration Regulations ("EAR"), were transported by an Illinois-based company from the U.S. to Turkey and intended to be re-exported to Iran. The TDO, the issuance of which is a rare occurrence, will remain in effect for 180 days and prohibits the companies and their key officers from engaging in negotiations, trade, transport or other activities involving any U.S. export-controlled items. It highlights the inherent risks associated with exports and re-exports.

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The recent corruption and bribery investigations in Turkey also present potential challenges for U.S. companies and highlights the need for those companies to develop, implement and enforce effective compliance programs. U.S. companies should conduct risk assessments of their lines of business to identify their potential exposure to international trade compliance risks -- pursuant to both U.S. and international law -- under export controls, economic sanctions, anti-corruption and anti-bribery laws. Such risk assessments should also consider the corruption reputation of the countries in which it does or intends to do business, as well as an ongoing review of those entities and individuals with whom they are doing business in foreign markets.

Questions or Assistance?

If you have any questions regarding this alert, please contact Ross Garber at (202) 469-7750, (860) 251-5901 or rgarber@goodwin.com, or Scott Cowperthwait at (860) 251-5134 or scowperthwait@goodwin.com.

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One Constitution Plaza
Hartford, CT 06103-1919
860-251-5000

300 Atlantic Street
Stamford, CT 06901-3522
203-324-8100

1133 Connecticut Avenue NW
Washington, DC 20036-4305
202-469-7750

289 Greenwich Avenue
Greenwich, CT 06830-6595
203-869-5600

12 Porter Street
Lakeville, CT 06039-1809
860-435-2539

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