



This document is scheduled to be published in the Federal Register on 12/31/2013 and available online at <http://federalregister.gov/a/2013-31361>, and on [FDsys.gov](http://FDsys.gov)

**BILLING CODE 3510-33-P**

**DEPARTMENT OF COMMERCE**

**Bureau of Industry and Security**

**15 CFR Part 744**

**[Docket No. 131121982-3982-01]**

**RIN 0694-AG03**

**Removal of Person from the Entity List Based on a Removal Request**

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Export Administration Regulations (EAR) by removing one person from the Entity List. This rule removes one person in Russia from the Entity List, along with entries for this person under Germany and Taiwan. This

person is being removed from the Entity List as a result of a request for removal submitted by the person, a review of information provided in the removal request in accordance with § 744.16 (Procedure for requesting removal or modification of an Entity List entity), and further review conducted by the End-user Review Committee (ERC).

**DATES:** *Effective Date:* This rule is effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:**

Karen Nies-Vogel, Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-5991, Fax: (202) 482-3911, E-mail: ERC@bis.doc.gov.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Entity List (Supplement No. 4 to Part 744) notifies the public about entities that have engaged in activities that could result in an increased risk of the diversion of exported, reexported or transferred (in-country) items to weapons of mass destruction (WMD) programs. Since its initial publication, grounds for inclusion on the Entity List have expanded to include activities sanctioned by the State Department and activities contrary to U.S. national security or foreign policy interests, including terrorism and

export control violations involving abuse of human rights. Certain exports, reexports, and transfers (in-country) to entities identified on the Entity List require licenses from BIS and are usually subject to a policy of denial. The availability of license exceptions in such transactions is very limited. The license review policy for each entity is identified in the license review policy column on the Entity List and the availability of license exceptions is noted in the Federal Register notices adding persons to the Entity List. BIS places entities on the Entity List based on certain sections of part 744 (Control Policy: End-User and End-Use Based) of the EAR.

The ERC, which is composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote.

### **ERC Entity List Decisions**

#### *Removal from the Entity List*

This rule implements a decision of the ERC to remove three entries consisting of one person located in Russia, along with entries for this person in Germany and Taiwan, from the Entity List on the basis of a removal request by the listed person. Based upon a review of the information provided in the removal request in accordance with § 744.16

(Procedure for requesting removal or modification of an Entity List entity), the ERC determined that this person should be removed from the Entity List.

The ERC decision to remove this person took into account this person's cooperation with the U.S. Government, as well as this person's assurances of future compliance with the EAR. In accordance with § 744.16(c), the Deputy Assistant Secretary for Export Administration has sent written notification to this person, informing the person of the ERC's decision to remove the person from the Entity List.

This final rule removes the following person in Russia, along with entries for this person under Germany and Taiwan from the Entity List:

### **Germany**

(1) T-Platforms GmbH, a.k.a., the following one alias:

-tPlatforms GmbH.

Woehlerstrasse 42, d-30163, Hanover, Germany (See alternate addresses under T-Platforms in Russia and T Platforms in Taiwan).

### **Russia**

(1) T-Platforms,

Leninsky Prospect 113/1, Suite B-705, Moscow, Russia; *and* 8 Vvedenskogo Street, Suite K52B, Moscow, Russia (See alternate addresses under T-Platforms GmbH in Germany and T Platforms in Taiwan).

## **Taiwan**

(1) T Platforms, a.k.a., the following one alias:

-Platforms Solutions Development Limited.

10F, No. 409, Sec. 2 Tiding Blvd., Neihu District, Taipei, Taiwan (See alternate addresses under T-Platforms GmbH in Germany and T-Platforms in Russia).

The removal of the above referenced person from the Entity List eliminates the existing license requirements in Supplement No. 4 to part 744 for exports, reexports and transfers (in-country) to this person. However, the removal of this person from the Entity List does not relieve persons proposing to export, reexport or transfer (in-country) items subject to the EAR to the removed person of other obligations under part 744 of the EAR or under other parts of the EAR. Neither the removal of a person from the Entity List nor the removal of Entity List-based license requirements relieves persons of their obligations under General Prohibition 5 in § 736.2(b)(5) of the EAR which provides that, “you may not, without a license, knowingly export or reexport any item subject to the EAR to an end-user or end-use that is prohibited by part 744 of the EAR.” Additionally this removal does not relieve persons of their obligation to apply for export, reexport or in-country transfer licenses required by other provisions of the EAR. BIS strongly urges the use of Supplement No. 3 to part 732 of the EAR, “BIS’s ‘Know Your Customer’ Guidance and Red Flags,” when persons are involved in transactions that are subject to the EAR.

## **Export Administration Act**

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 8, 2013, 78 FR 49107(August 12, 2013), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

### **Rulemaking Requirements**

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.
2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), unless that collection of information displays a currently valid Office of

Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and carries a burden estimate of 43.8 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by e-mail to [Jasmeet\\_K\\_Seehra@omb.eop.gov](mailto:Jasmeet_K_Seehra@omb.eop.gov), or by fax to (202) 395-7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), BIS finds good cause to waive requirements that this rule be subject to notice and the opportunity for public comment because it would be contrary to the public interest.

In determining whether to grant removal requests from the Entity List, a committee of U.S. Government agencies (the End-user Review Committee (ERC)) evaluates information about and commitments made by listed persons requesting removal from the Entity List, the nature and terms of which are set forth in 15 CFR part 744, Supplement No. 5, as noted in 15 CFR 744.16(b). The information, commitments, and criteria for this extensive review were all established through the notice of proposed rulemaking and public comment process (72 FR 31005 (June 5, 2007) (proposed rule), and 73 FR 49311

(August 21, 2008) (final rule)). This removal has been made within the established regulatory framework of the Entity List. If the rule were to be delayed to allow for public comment, U.S. exporters may face unnecessary economic losses as they turn away potential sales because the customer remained a listed person on the Entity List even after the ERC approved the removal pursuant to the rule published at 73 FR 49311 on August 21, 2008. By publishing without prior notice and comment, BIS allows the applicant to receive U.S. exports immediately since the applicant already has received approval by the ERC pursuant to 15 CFR part 744, Supplement No. 5, as noted in 15 CFR 744.16(b).

The removals from the Entity List granted by the ERC involve interagency deliberation and result from review of public and non-public sources, including sensitive law enforcement information and classified information, and the measurement of such information against the Entity List removal criteria. This information is extensively reviewed according to the criteria for evaluating removal requests from the Entity List, as set out in 15 CFR part 744, Supplement No. 5 and 15 CFR 744.16(b). For reasons of national security, BIS is not at liberty to provide to the public the information on which the ERC relied to make the decision to remove this entity. In addition, the information included in the removal request is specific to information exchanged between the applicant and the ERC, which by law (section 12(c) of the Export Administration Act (EAA)), BIS is restricted from sharing with the public. The removal requests from the Entity List contain confidential business information, which is necessary for the extensive review conducted by the U.S. Government in assessing such removal requests.

Section 553(d) of the APA generally provides that rules may not take effect earlier than thirty (30) days after they are published in the *Federal Register*. BIS finds



good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(1) because this rule is a substantive rule which relieves a restriction. This rule removes a requirement (the Entity-List-based license requirement and limitation on use of license exceptions) on this one person being removed from the Entity List. The rule does not impose a requirement on any other person.

No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required under the APA or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. As a result, no final regulatory flexibility analysis is required and none has been prepared.

#### **List of Subject in 15 CFR Part 744**

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

#### **PART 744—[AMENDED]**

1. The authority citation for 15 CFR part 744 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of January 17, 2013, 78 FR 4303 (January 22, 2013) Notice of August 8, 2013, 78 FR 49107 (August 12, 2013); Notice of September 18, 2013, 78 FR 58151 (September 20, 2013); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013).

2. Supplement No. 4 to part 744 is amended:

a. By removing under Germany, one German entity: T-Platforms GmbH, a.k.a., the following one alias: -tPlatforms GmbH. Woehlerstrasse 42, d-30163, Hanover, Germany (See alternate addresses under T-Platforms in Russia and T Platforms in Taiwan);”

b. By removing under Russia, one Russian entity: “T-Platforms, Leninsky Prospect 113/1, Suite B-705, Moscow, Russia; *and* 8 Vvedenskogo Street, Suite K52B, Moscow, Russia (See alternate addresses under T-Platforms GmbH in Germany and T Platforms in Taiwan);” and

c. By removing under Taiwan, one Taiwanese entity: “T Platforms, a.k.a., the following one alias: -Platforms Solutions Development Limited. 10F, No. 409, Sec. 2

Tiding Blvd., Neihu District, Taipei, Taiwan (See alternate addresses under T-Platforms GmbH in Germany and T-Platforms in Russia).”

Dated: [December 23, 2013](#)

Kevin J. Wolf

Assistant Secretary for Export Administration

[FR Doc. 2013-31361 Filed 12/30/2013 at 8:45 am; Publication Date: 12/31/2013]