

Schedule of the United States. The list of the HTSUS Classifications referenced in this table of GAEs is drawn from the HTSUS and ITC Change Records for HTSUS Classifications (compiled at <https://hts.usitc.gov/>) and will be amended when the ITC publishes subsequent Change Records. If there are any discrepancies between the list of HTSUS Classifications in this table and the HTSUS Classifications identified by the ITC in the Harmonized Tariff Schedule of the United States and the associated Change Records, the ITC's list of HTSUS Classifications shall be controlling. Therefore, if an HTSUS Classification defining a GAE is split or otherwise modified by the ITC in the HTSUS, GAEs are extended to the newly-created HTSUS Classification(s), so long as the new 'child' HTSUS Classification(s) contain products falling entirely within the scope of the old 'parent' HTSUS classification. These types of 'inherited' GAEs are effective from the effective date of the change to the HTSUS, even prior to a Commerce rule being published to add the new HTSUS number to the GAE list under this supplement no. 3. During the period after the effective date of the change to the HTSUS and before the GAE is updated, ACE will reject entries claiming the exclusion with the new HTSUS number and importers will have to make entry without the exclusion. In order for importers to preserve their rights, if any, to the exclusion with the new HTSUS number during this period, importers are advised to seek extensions of liquidation of the affected entries with CBP until Commerce is able to update and publish a revised GAE list under this supplement no. 3.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740, 742, and 744

[Docket No. 211201-0249]

RIN 0694-A165

Revision of Controls for Cambodia Under the Export Administration Regulations

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In response to deepening Chinese military influence in Cambodia, which undermines and threatens regional security, as well as growing corruption and human rights abuses by the Government of Cambodia, in this final rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to apply more restrictive treatment to exports and reexports to, and transfers within, Cambodia of items subject to the EAR. BIS is taking this action to address recent actions by the Government of Cambodia that are contrary to the national security and foreign policy interests of the United States. Further, BIS updates a Country Group designation for Cambodia under the EAR to reflect the country's identification by the State Department as subject to a United States arms embargo.

DATES: This rule is effective December 9, 2021.

FOR FURTHER INFORMATION CONTACT:

Tracy Patts, Foreign Policy Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, U.S. Department of Commerce, by email at Foreign.Policy@bis.doc.gov, or by phone at 202-482-4252.

SUPPLEMENTARY INFORMATION:

Background

Cambodia Under the Export Administration Regulations

BIS's current licensing policy for Cambodia dates from 1992, when the agency amended the EAR in support of the settlement of political conflict in Cambodia and the lifting of a U.S. trade embargo on Cambodia. (57 FR 11576, April 6, 1992.) Recent changes in Cambodian foreign policy, however, undermine regional security as well as U.S. national security and foreign policy interests, and necessitate a revision to export controls for Cambodia under the EAR.

In June 2021, during an official visit to Cambodia, Deputy Secretary of State Wendy Sherman expressed serious concerns about the People's Republic of China's (PRC or China) military presence and construction of facilities at Ream Naval Base in Cambodia. Deputy Secretary Sherman emphasized that an exclusive-use PRC military base in Cambodia would undermine Cambodian sovereignty, threaten regional security, and negatively impact U.S.-Cambodia relations. Since then, the Department of State (State) and the Treasury (Treasury), have taken action under their respective authorities to address such concerns. In November 2021, State and Treasury designated two

Cambodian military officials due to their involvement in significant corruption, including in connection with the Ream Naval Base. At that time, State, Treasury, and the Department of Commerce also issued an advisory cautioning U.S. businesses regarding the potential exposure to entities in Cambodia, such as the Cambodian military, that engage in human rights abuses, corruption, and other destabilizing conduct.

The United States has determined that expanded Chinese military influence in Cambodia and corruption and human rights abuses committed by Cambodian government actors, including the Cambodian military, are contrary to U.S. national security and foreign policy interests. Therefore, the U.S.

Government is restricting certain exports and reexports to, and transfers within, Cambodia to ensure that items subject to the EAR are not available to Cambodia's military and military-intelligence services without prior review by the U.S. Government, and is also adding Cambodia to the list of countries subject to a more stringent review policy for license applications involving national security-controlled items. In this rule, BIS amends the EAR to implement more restrictive treatment for Cambodia under the EAR.

Changes Made by This Rule for Cambodia Under the EAR

BIS is taking this action to address recent actions by the Government of Cambodia that are contrary to the national security and foreign policy interests of the United States and threaten regional security. The rule makes four broad changes to the EAR to reflect BIS's more restrictive licensing approach to Cambodia. It adds Cambodia to: (1) The list of countries subject to the licensing policy in § 742.4(b)(7), (2) the list of countries subject to military end use and end user controls in § 744.21, (3) the list of countries subject to military intelligence end use and end user controls in § 744.22, and (4) the list of countries subject to a U.S. arms embargo under Country Group D:5.

Licensing Policy

This rule adds Cambodia to the list of countries subject to the licensing policy in § 742.4(b)(7) (NS-controlled items) of the EAR. The license review policy for NS-controlled items in § 742.4(b)(7) applies to transactions with the countries listed in § 744.21, and now applies to Cambodia as well. This rule removes the reference to Cambodia in the policy described in § 742.4(b)(6), which is superseded in this rule by the

policy for Cambodia in paragraph (b)(7)(i).

Section 744.21

This rule adds Cambodia to the countries subject to the ‘military end use’ and ‘military end user’ (MEU) restrictions in § 744.21 of the EAR. In addition to the license requirements for items specified on the Commerce Control List (CCL), § 744.21 prohibits the export, reexport, or transfer (in-country) without a license of items subject to the EAR and are listed in supplement no. 2 to part 744—List of Items Subject to the Military End Use or End User License Requirement of § 744.21—to Burma, China, the Russian Federation, or Venezuela. With the publication of this rule, Cambodia is now added to the countries subject to this license requirement. Such exports, reexports, or transfers (in-country) require a license if, at the time of the export, reexport, or transfer (in-country), the exporter, reexporter, or transferor (in-country) has “knowledge,” as defined in § 772.1 of the EAR that the item is intended, entirely or in part, for a ‘military end use,’ or ‘military end user,’ in Burma, Cambodia, China, the Russian Federation, or Venezuela. Applications submitted for the export or reexport to Cambodia, or transfer within Cambodia, of an item in supplement no. 2 to part 744 under this section will be reviewed with a presumption of denial.

This rule also adds a reference to Cambodia in supplement no. 7 to part 744—‘Military End User’ List but does not add any entities located in Cambodia to the list of Military End Users (MEU List). The MEU List notifies the public that certain entities are subject to the military end-user prohibitions in § 744.21 of the EAR. BIS may add entities located in Cambodia to the MEU List in the future.

Section 744.22

This rule also adds Cambodia to the countries subject to the ‘military-intelligence end use’ and ‘military-intelligence end user’ (MIEU) restrictions in § 744.22 of the EAR. In addition to the license requirements for items specified on the CCL, § 744.22 prohibits the export, reexport, or transfer (in-country) without a license of items subject to the EAR to Burma, China, the Russian Federation, Venezuela, or a country listed in Country Group E:1 or E:2. With the publication of this rule, Cambodia is now added to the countries subject to this license requirement. Such exports, reexports, or transfers (in-country) require a license if, at the time of the export, reexport, or transfer (in-country),

the exporter, reexporter, or transferor (in-country) has “knowledge,” as defined in § 772.1 of the EAR that the item is intended, entirely or in part, for a ‘military-intelligence end use,’ or ‘military-intelligence end user,’ in Burma, Cambodia, China, the Russian Federation, Venezuela or the countries listed in Country Group E:1 or E:2. Applications submitted for the export or reexport to Cambodia, or transfer within Cambodia, of an EAR item under this section will be reviewed with a presumption of denial.

With this amendment to § 744.22 of the EAR, BIS is also revising § 744.6(b)(5) of the EAR to restrict specific activities of “U.S. persons” in connection with a ‘military-intelligence end use’ or ‘military-intelligence end user’ in Cambodia.

Country Group D:5

The amendments in this rule are made concurrent with other U.S. Government actions intended to support the revision of export control policy toward Cambodia in light of the recent developments in Cambodia. In particular, the Department of State is amending the International Traffic in Arms Regulations (ITAR) § 126.1, “Prohibited Exports, Imports, and Sales to or from Certain Countries” to add Cambodia in the list of countries for which it is the policy of the United States to deny licenses and other approvals for exports and imports of defense articles and defense services. This change reflects the policy of the United States to deny licenses and other approvals for the export and import of defense articles and defense services destined for or originating in Cambodia, except as otherwise provided within the ITAR.

BIS harmonizes the arms embargo-related provisions in the EAR with the regulation of arms embargoes in § 126.1 of the ITAR. The ITAR list incorporates countries subject to United Nations Security Council (UNSC) and U.S. arms embargoes. BIS primarily implements such controls through Country Group D:5 “U.S. Arms Embargoed Countries,” in supplement no. 1 to part 740 of the EAR.

Countries listed in Country Group D:5 are subject to additional restrictions in the EAR, including on de minimis U.S. content, license exception availability, and licensing policy for certain items. For example, license applications for the export or reexport of items classified under 9x515 or “600 series” Export Control Classification Numbers (ECCNs) to countries in Country Group D:5 are reviewed consistent with the policies in § 126.1 of the ITAR, as provided in

paragraph (b)(1)(ii) of § 742.4 of the EAR.

Therefore, BIS revises Country Group D to add Cambodia to Country Group D:5 consistent with the Department of State’s amendment adding Cambodia to ITAR § 126.1 on December 9, 2021.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4801–4852) that provides the legal basis for BIS’s principal authorities and serves as the authority under which BIS issues this rule.

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, distribute 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 final rule has been designated to be a “significant regulatory action,” although not economically significant, under section 3(f) of Executive Order 12866.

2. This rule does not contain policies with federalism implications as that term is defined under Executive Order 13132.

3. Pursuant to section 1762 of the Export Control Reform Act of 2018 (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

5. Notwithstanding any other provision of law, no person may be required to respond to or 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 a collection currently approved by OMB under control number 0694–0088, Simplified Network Application Processing System. The collection includes, among other things, license applications, and carries a burden estimate of 42.5 minutes for a manual or electronic submission for a total burden estimate of 31,878 hours. BIS expects the burden hours associated with this collection to not significantly increase with the publication of this rule.

Savings Clause

Shipments of items that may no longer be made under No License Required (NLR) or license exception as a result of this action and were on dock for loading, on lighter, laden aboard an exporting or transferring carrier, or en

route aboard a carrier to a port of export or reexport on January 10, 2022, pursuant to actual orders for export to Cambodia, reexport to Cambodia, or transfer (in country) within Cambodia may proceed to their destination under the prior authorization.

List of Subjects

15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, parts 740, 742, and 744 of the Export Administration

Regulations (15 CFR parts 730–774) are amended as follows:

PART 740—[AMENDED]

■ 1. The authority citation for part 740 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 7201 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 2. Supplement no. 1 to part 740 is amended in the Country Group D table by revising the entry for “Cambodia” and note 1 to the table to read as follows:

Supplement No. 1 to Part 740—Country Groups

* * * * *

COUNTRY GROUP D

Country	[D:1] National security	[D:2] Nuclear	[D:3] Chemical & biological	[D:4] Missile technology	[D:5] U.S. arms embargoed countries ¹
Cambodia	X				X

¹ **Note to Country Group D:5:** Countries subject to U.S. arms embargoes are identified by the State Department through notices published in the **Federal Register**. The list of arms embargoed destinations in this table is drawn from 22 CFR 126.1 and State Department **Federal Register** notices related to arms embargoes (compiled and accessible at <https://www.pmdtc.state.gov>) and will be amended when the State Department publishes subsequent notices. If there are any discrepancies between the list of countries in this table and the countries identified by the State Department as subject to a U.S. arms embargo (in the **Federal Register**), the State Department’s list of countries subject to U.S. arms embargoes shall be controlling.

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PART 742—[AMENDED]

■ 3. The authority citation for part 742 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *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; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; 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. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of November 12, 2020, 85 FR 72897 (November 13, 2020).

■ 4. Section 742.4 is amended by revising paragraphs (b)(6) and (7) to read as follows:

§ 742.4 National security.

* * * * *

(b) * * *

(6) The general policy for Laos is to approve license applications when BIS determines, on a case-by-case basis, that the items are for an authorized use in Laos and are not likely to be diverted to another country or use contrary to the national security or foreign policy controls of the United States.

(7)(i) For Burma, Cambodia, the People’s Republic of China (China), the Russian Federation, and Venezuela, all applications will be reviewed to determine the risk of diversion to a military end user or military end use. There is a general policy of approval for license applications to export, reexport, or transfer items determined to be for civil end users for civil end uses. There is a presumption of denial for license applications to export, reexport, or transfer items that would make a material contribution to the “development,” “production,” maintenance, repair, or operation of weapons systems, subsystems, and assemblies, such as, but not limited to, those described in supplement no. 7 to

this part, of Burma, Cambodia, China, the Russian Federation, or Venezuela.

(ii) The following factors are among those that will be considered in reviewing license applications described in paragraph (b)(7)(i) of this section:

(A) The appropriateness of the export, reexport, or transfer for the stated end use;

(B) The significance of the item for the weapon systems capabilities of the importing country;

(C) Whether any party is a ‘military end user’ as defined in § 744.21(g) of the EAR;

(D) The reliability of the parties to the transaction, including whether:

(1) An export or reexport license application has previously been denied;

(2) Any parties are or have been engaged in unlawful procurement or diversion activities;

(3) The parties are capable of securely handling and storing the items; and

(4) End-use checks have been and may be conducted by BIS or another

U.S. Government agency on parties to the transaction;

(E) The involvement of any party to the transaction in military activities, including activities involving the “development,” “production,” maintenance, repair, or operation of weapons systems, subsystems, and assemblies;

(F) Government strategies and policies that support the diversion of exports from their stated civil end use and redirection towards military end use; and

(G) The scope and effectiveness of the export control system in the importing country.

(iii) The review will also include an assessment of the impact of a proposed export of an item on the United States defense industrial base and the denial of an application for a license that would have a significant negative impact, as defined in section 1756(d)(3) of the Export Control Reform Act of 2018 (50 U.S.C. 4815(d)(3)), on such defense industrial base.

* * * * *

PART 744—[AMENDED]

■ 5. The authority citation for part 744 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *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. 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 September 15, 2021, 86 FR 52069 (September 17, 2021); Notice of November 10, 2021, 86 FR 62891 (November 12, 2021).

■ 6. Section 744.6 is amended by revising paragraph (b)(5) to read as follows:

§ 744.6 Restrictions on specific activities of “U.S. persons.”

* * * * *

(b) * * *

(5) A ‘military-intelligence end use’ or a ‘military-intelligence end user,’ as defined in § 744.22(f), in Burma, Cambodia, the People’s Republic of China, Russia, or Venezuela; or a country listed in Country Groups E:1 or E:2 (see supplement no. 1 to part 740 of the EAR).

* * * * *

■ 7. Section 744.21 is revised to read as follows:

§ 744.21 Restrictions on Certain ‘military end use’ or ‘military end user’ in Burma, Cambodia, the People’s Republic of China, the Russian Federation, or Venezuela.

(a) *General prohibition.* In addition to the license requirements for items specified on the Commerce Control List (CCL) (supplement no. 1 to part 774 of the EAR), you may not export, reexport, or transfer (in-country) any item subject to the EAR listed in supplement no. 2 to this part to Burma, Cambodia, the People’s Republic of China (China), the Russian Federation, or Venezuela without a license if, at the time of the export, reexport, or transfer (in-country), you have “knowledge,” as defined in § 772.1 of the EAR, that the item is intended, entirely or in part, for a ‘military end use,’ as defined in paragraph (f) of this section, or ‘military end user,’ as defined in paragraph (g) of this section, in Burma, Cambodia, China, the Russian Federation, or Venezuela.

(b) *Additional prohibition on those informed by BIS.* BIS may inform you either individually by specific notice, through amendment to the EAR published in the **Federal Register**, or through a separate notification published in the **Federal Register**, that a license is required for specific exports, reexports, or transfers (in-country) of any item because there is an unacceptable risk of use in or diversion to a ‘military end use’ or ‘military end user’ in Burma, Cambodia, China, the Russian Federation, or Venezuela. Specific notice will be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by written notice within two working days signed by the Deputy Assistant Secretary for Export Administration or the Deputy Assistant Secretary’s designee. The absence of BIS notification does not excuse the exporter from compliance with the license requirements of paragraph (a) of this section.

(1) *‘Military End-User’ (MEU) List.* BIS may inform and provide notice to the public that certain entities are subject to the additional prohibition described under this paragraph (b) following a determination by the End-User Review Committee (ERC) that a specific entity is a ‘military end user’ pursuant to this section and therefore any exports, reexports, or transfers (in-country) to that entity represent an unacceptable risk of use in or diversion to a ‘military end use’ or ‘military end user’ in Burma, Cambodia, China, the Russian Federation, or Venezuela. Such entities may be added to supplement no. 7 to this part—‘Military End-User’ (MEU)

List through **Federal Register** notifications published by BIS and will thus be subject to a license requirement for exports, reexports, or transfers (in-country) of items specified in supplement no. 2 to this part. The listing of entities under supplement no. 7 to this part is not an exhaustive listing of ‘military end users’ for purposes of this section. Exporters, reexporters, and transferors are responsible for determining whether transactions with entities not listed on supplement no. 7 to this part are subject to a license requirement under paragraph (a) of this section. The process in this paragraph (b)(1) for placing entities on the MEU List is only one method BIS may use to inform exporters, reexporters, and transferors of license requirements under this section.

(i) *End-User Review Committee (ERC).* The End-User Review Committee (ERC), 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 MEU List. Decisions by the ERC for purposes of the MEU List will be made following the procedures identified in this section and in supplement no. 5 to this part—Procedures for End-User Review Committee Entity List and ‘Military End User’ (MEU) List Decisions.

(ii) *License requirement for parties to the transaction.* The license requirement for entities listed in supplement no. 7 to this part applies to the export, reexport, or transfer (in-country) of any item subject to the EAR listed in supplement no. 2 to this part when an entity that is listed on the MEU List is a party to the transaction as described in § 748.5(c) through (f) of the EAR.

(2) *Requests for removal from or modification of ‘Military End-User’ (MEU) List.* Any entity listed on the MEU List may request that its listing be removed or modified. All such requests, including reasons therefor, must be in writing and sent to: Chair, End-User Review Committee, Bureau of Industry and Security, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW, Room 3886, Washington, DC 20230; or by email at ERC@bis.doc.gov. In order for an entity listed on the MEU List to petition BIS for their removal or modification, as applicable, the entity must address why the entity is not a ‘military end user’ for purposes of this section.

(i) *Review.* The ERC will review such requests for removal or modification in accordance with the procedures set forth in supplement no. 5 to this part.

(ii) *BIS action*. The Deputy Assistant Secretary for Export Administration will convey the decision on the request to the requester in writing. That decision will be the final agency action on the request.

(c) *License exception*. Despite the prohibitions described in paragraphs (a) and (b) of this section, you may export, reexport, or transfer (in-country) items subject to the EAR under the provisions of License Exception GOV set forth in § 740.11(b)(2)(i) and (ii) of the EAR.

(d) *License application procedure*. When submitting a license application pursuant to this section, you must state in the “additional information” block of the application that “this application is submitted because of the license requirement in § 744.21 of the EAR (Restrictions on a ‘Military End Use’ or ‘Military End User’ in Burma, Cambodia, the People’s Republic of China, the Russian Federation, or Venezuela).” In addition, either in the additional information block of the application or in an attachment to the application, you must include all known information concerning the ‘military end use’ and ‘military end user(s)’ of the item(s). If you submit an attachment with your license application, you must reference the attachment in the “additional information” block of the application.

(e) *License review standards*. (1) Applications to export, reexport, or transfer (in-country) items described in paragraph (a) of this section will be reviewed with a presumption of denial.

(2) Applications may be reviewed under chemical and biological weapons, nuclear nonproliferation, or missile technology review policies, as set forth in §§ 742.2(b)(4), 742.3(b)(4), and 742.5(b)(4) of the EAR, if the end use may involve certain proliferation activities.

(3) Applications for items requiring a license for any reason that are destined to Burma, Cambodia, China, the Russian Federation, or Venezuela for a ‘military end use’ or ‘military end user’ also will be subject to the review policy stated in paragraph (e)(1) of this section.

(f) *Military end use*. In this section, ‘military end use’ means: Incorporation into a military item described on the U.S. Munitions List (USML) (22 CFR part 121, International Traffic in Arms Regulations); incorporation into items classified under Export Control Classification Numbers (ECCNs) ending in “A018” or under “600 series” ECCNs; or any item that supports or contributes to the operation, installation, maintenance, repair, overhaul, refurbishing, “development,” or “production,” of military items

described on the USML, or items classified under ECCNs ending in “A018” or under “600 series” ECCNs.

(g) *Military end user*. In this section, the term ‘military end user’ means the national armed services (army, navy, marine, air force, or coast guard), as well as the national guard and national police, government intelligence or reconnaissance organizations, or any person or entity whose actions or functions are intended to support ‘military end uses’ as defined in paragraph (f) of this section.

(h) *Effects on contracts*. Venezuela: Transactions involving the export, reexport, or transfer (in country) of items to or within Venezuela are not subject to the provisions of this section if the contracts for such transactions were signed prior to November 7, 2014. ■ 8. Section 744.22 is revised to read as follows:

§ 744.22 Restrictions on exports, reexports, and transfers (in-country) to certain military-intelligence end uses or end users.

(a) *General prohibition*. In addition to the license requirements for items specified on the Commerce Control List (CCL) (supplement no. 1 to part 774 of the EAR), you may not export, reexport, or transfer (in-country) any item subject to the EAR without a license from BIS if, at the time of the export, reexport, or transfer (in-country), you have “knowledge” that the item is intended, entirely or in part, for a ‘military-intelligence end use’ or a ‘military-intelligence end user’ in Burma, Cambodia, the People’s Republic of China (China), Russia, or Venezuela; or a country listed in Country Groups E:1 or E:2 (see supplement no. 1 to part 740 of the EAR).

(b) *Additional prohibition on those informed by BIS*. BIS may inform you either individually by specific notice, through amendment to the EAR published in the **Federal Register**, or through a separate notification published in the **Federal Register**, that a license is required for specific exports, reexports, or transfers (in-country) of any item subject to the EAR because there is an unacceptable risk of use in, or diversion to, a ‘military-intelligence end use’ or a ‘military-intelligence end user’ in Burma, Cambodia, China, Russia, or Venezuela; or a country listed in Country Group E:1 or E:2 (see supplement no. 1 to part 740 of the EAR).

(c) *License exception*. Notwithstanding the prohibitions described in paragraphs (a) and (b) of this section, you may export, reexport, or transfer (in-country) items subject to

the EAR under the provision of License Exception GOV set forth in § 740.11(b)(2)(ii) of the EAR.

(d) *License application procedure*. When submitting a license application pursuant to this section, you must state in the “additional information” block of the application that “this application is submitted because of the license requirement in § 744.22 of the EAR (Restrictions on exports, reexports, and transfers (in-country) to certain military-intelligence end uses or end users).” In addition, either in the additional information block of the application or in an attachment to the application, you must include all known information concerning the military-intelligence end use(s) or end user(s) of the item(s). If you submit an attachment with your license application, you must reference the attachment in the “additional information” block of the application.

(e) *License review policy*. Applications to export, reexport, or transfer (in-country) items requiring a license pursuant to paragraph (a) or (b) of this section will be reviewed with a presumption of denial.

(f) *Definitions*. (1) ‘Military-intelligence end use’ means the “development,” “production,” operation, installation (including on-site installation), maintenance (checking), repair, overhaul, or refurbishing of, or incorporation into, items described on the U.S. Munitions List (USML) (22 CFR part 121, International Traffic in Arms Regulations), or classified under ECCNs ending in “A018” or under “600 series” ECCNs, which are intended to support the actions or functions of a ‘military-intelligence end user,’ as defined in this section.

(2) ‘Military-intelligence end user’ means any intelligence or reconnaissance organization of the armed services (army, navy, marine, air force, or coast guard); or national guard. For license requirements applicable to other government intelligence or reconnaissance organizations in Burma, Cambodia, China, Russia, or Venezuela, see § 744.21. Military-intelligence end users subject to the license requirements set forth in this section include, but are not limited to, the following:

(i) *Burma*. Office of Chief of Military Security Affairs (OCMSA) and the Directorate of Signal.

(ii) *Cambodia*. General Department of Research and Intelligence (GDRI).

(iii) *Cuba*. Directorate of Military Intelligence (DIM) and Directorate of Military Counterintelligence (CIM).

(iv) *China, People’s Republic of*. Intelligence Bureau of the Joint Staff Department.

(v) *Iran*. Islamic Revolutionary Guard Corps Intelligence Organization (IRGC–IO) and Artesh Directorate for Intelligence (J2).

(vi) *Korea, North*. Reconnaissance General Bureau (RGB).

(vii) *Russia*. Main Intelligence Directorate (GRU).

(viii) *Syria*. Military Intelligence Service.

(ix) *Venezuela*. General Directorate of Military Counterintelligence (DGCIM).

■ 9. Supplement No.7 to part 744 is amended in the table by adding in alphabetical order an entry for “CAMBODIA” to read as follows:

**Supplement No. 7 to Part 744—
‘Military End-User’ (MEU) List**

Country	Entity	Federal Register citation
*	*	*
Cambodia [Reserved] ...	[Reserved]
*	*	*

Matthew S. Borman,
Deputy Assistant Secretary for Export Administration.

[FR Doc. 2021–26633 Filed 12–8–21; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Part 313

RIN 3084–AB42

Privacy of Consumer Financial Information Rule Under the Gramm-Leach-Bliley Act

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission is amending its Privacy Rule to revise the rule’s scope, to modify the rule’s definitions of “financial institution” and “Federal functional regulator,” and to update the rule’s annual customer privacy notice requirement. The amendments also remove certain examples in the rule that apply to financial institutions that now fall outside its scope. This action is necessary to conform the rule to the current requirements of the Gramm-Leach-Bliley Act (“GLBA”), as amended by the Dodd-Frank and FAST Acts, and the Commission’s revisions to the Safeguards Rule, which are being announced simultaneously through a separate document published elsewhere in this issue of the **Federal Register**.

DATES: The amendments are effective January 10, 2022.

FOR FURTHER INFORMATION CONTACT: David Lincicum (202–326–2773), Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Statute and Regulation

The GLBA was enacted in 1999.¹ The GLBA, among other things, requires that financial institutions provide their customers with initial and annual notices regarding their privacy practices, and allow their customers to opt out of sharing their information with certain nonaffiliated third parties.

Rulemaking authority to implement the GLBA’s privacy provisions was initially spread among multiple agencies. The Federal Reserve Board (“the Fed”), the Office of Comptroller of the Currency (“OCC”), the Federal Deposit Insurance Corporation (“FDIC”), and the Office of Thrift Supervision (“OTS”) jointly adopted final rules to implement the notice and opt-out requirements of the GLBA in 2000.² The Commission, the National Credit Union Administration (“NCUA”), the Securities and Exchange Commission (“SEC”), and the Commodity Futures Trading Commission (“CFTC”) were part of the same interagency process, but each issued their rules separately.³ In 2009, all those agencies jointly adopted a model form financial institutions could use to provide the required initial and annual privacy disclosures.⁴

As originally promulgated, the FTC’s Privacy Rule covered a broad range of

non-bank financial institutions such as payday lenders, mortgage brokers, check cashers, debt collectors, real estate appraisers, certain motor vehicle dealers, and remittance transfer providers. In 2010, the Dodd-Frank Act⁵ transferred the majority of GLBA’s privacy rulemaking authority from the Fed, NCUA, OCC, OTS, FDIC, and the Commission (in part) to the Consumer Financial Protection Bureau (“CFPB”). The CFPB then restated the implementing regulations in Regulation P, 12 CFR part 1016, in late 2011 (“Regulation P”).⁶ However, under section 1029 of the Dodd-Frank Act, the Commission retained rulemaking authority for certain motor vehicle dealers.⁷ Thus, in 2012, the Commission announced it was retaining the implementing regulations governing privacy notices for motor vehicle dealers at 16 CFR part 313.⁸

Despite the transfer of general rulemaking authority for the Privacy Rule to the CFPB, the Commission and other agencies retain their existing enforcement authority under the GLBA.⁹ In addition, the SEC and CFTC retain rulemaking authority with respect to securities and futures-related companies, respectively.¹⁰ Accordingly, as part of this rulemaking process, the Commission has consulted and coordinated, or offered to consult, with those agencies that have rulemaking and/or enforcement authority under the GLBA, including the CFPB, SEC, CFTC, and the National Association of Insurance Commissioners (“NAIC”).¹¹

On December 4, 2015, Congress amended the GLBA as part of the FAST Act. This amendment, titled Eliminate Privacy Notice Confusion,¹² added GLBA subsection 503(f). This subsection

⁵ Public Law 111–203, 124 Stat. 1376 (2010).

⁶ Interim Final Rule for Regulation P, 76 FR 79025 (Dec. 21, 2011) available at <https://www.federalregister.gov/documents/2011/12/21/2011-31729/privacy-of-consumer-financial-information-regulation-p>.

⁷ 12 U.S.C. 5519. The FTC retained rulemaking jurisdiction as to motor vehicle dealers that are predominantly engaged in the sale and servicing or the leasing and servicing of motor vehicles, excluding those dealers that directly extend credit to consumers and do not routinely assign the extensions of credit to an unaffiliated third party. For ease of reference, covered motor vehicle dealers are referenced herein as “motor vehicle dealers.”

⁸ Rescission of Rules, 77 FR 22200, 22201 (Apr. 13, 2012) available at <https://www.federalregister.gov/documents/2012/04/13/2012-8748/rescission-of-rules> (also rescinding those regulations for which rulemaking authority was transferred to the CFPB under the Dodd-Frank Act).

⁹ 15 U.S.C. 6805(a).

¹⁰ 15 U.S.C. 6804, 6809; 12 U.S.C. 1843(k)(4); 12 CFR 1016.1(b).

¹¹ See 15 U.S.C. 6804(a)(2).

¹² Section 75001, Public Law 114–94, 129 Stat. 1312, 1787 (2015).

¹ Public Law 106–102, 113 Stat. 1338 (1999).

² Joint Final Rule, 65 FR 35162 (June 1, 2000) available at <https://www.federalregister.gov/documents/2001/04/27/01-10398/privacy-of-consumer-financial-information>.

³ FTC Final Privacy Rule, 65 FR 33645 (May 24, 2000) available at <https://www.federalregister.gov/documents/2000/05/24/00-12755/privacy-of-consumer-financial-information>; NCUA Final Privacy Rule, 65 FR 31722 (May 18, 2000) available at <https://www.federalregister.gov/documents/2000/05/18/00-12014/privacy-of-consumer-financial-information-requirements-for-insurance>; SEC Final Privacy Rule, 65 FR 40333 (June 29, 2000) available at <https://www.federalregister.gov/documents/2000/06/29/00-16269/privacy-of-consumer-financial-information-regulation-s-p>; CFTC Final Privacy Rule, 66 FR 21235 (Apr. 27, 2001) available at <https://www.federalregister.gov/documents/2001/04/27/01-10398/privacy-of-consumer-financial-information>.

⁴ Joint Model Form, 74 FR 62889 (Dec. 1, 2009) available at <https://www.federalregister.gov/documents/2009/12/01/E9-27882/final-model-privacy-form-under-the-gramm-leach-bliley-act>; see also 16 CFR 313.2, 16 CFR 313.4 through 313.9.