

Insights

ANTIBOYCOTT UPDATES AND COMPLIANCE RECOMMENDATIONS

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On June 7, 2021, US Department of Commerce, Bureau of Industry and Security (“BIS”) amended its Antiboycott provisions in Part 760 of the Export Administration Regulations (“EAR”) easing reporting requirements and business barriers with the UAE. This action followed the [United States Treasury Department’s](#) removal of the United Arab Emirates (“UAE”) from its list of countries which have been known to require participation in, or to cooperate with, an international boycott.

The removal of the UAE from Treasury’s Section 999 List and the changes to BIS’s Antiboycott provisions follow the UAE’s establishment of diplomatic relations with Israel in August 2020 under the [UAE-Israel Abraham Accords](#), and its subsequent repeal of Federal Decree-Law No. 15 of 1972 that required participation in the Arab League Boycott against Israel.

With the UAE removed from the Treasury List and BIS’s Antiboycott provision changes that reflect the new Israel-UAE diplomatic relations, certain activities that previously raised concerns under the Commerce and Treasury Antiboycott provisions no longer do. These changes also reduce the number and types of requests from the UAE that are reportable to one or both agencies. For the Department of Treasury, requests to comply with the laws of the UAE are no longer reportable or subject to penalty if you agree to such a request because the requests are no longer presumed to include boycott requirements. Moreover, business with the UAE that does not involve boycott requests is no longer reportable to Treasury through Form 5713 since the UAE is no longer on the Treasury List. Under the Commerce rules, requests for certification by an agent that a vessel is eligible to enter particular ports will no longer be prohibited or reportable when received from a party in the UAE.

These changes should ease compliance burdens associated with doing business with the UAE and lessen the risk of running afoul of the Antiboycott rules and reporting obligations under 26 U.S.C. § 999 and Part 760 of the EAR. However, it is important to remember that these changes do not grant permission to engage in activity in or with the UAE (or any other country) involving explicit boycott requests or relieve US persons of reporting obligations if a boycott request is received from parties in the UAE or elsewhere. For Treasury purposes, the list of countries still considered to participate in

or cooperate with an international boycott are Iraq, Kuwait, Lebanon, Libya, Qatar, Saudi Arabia, Syria and Yemen.

The Antiboycott provisions require that US companies refrain from complying with another country's boycott that the US does not support. This includes non-US entities owned or controlled by US persons, such as subsidiaries, affiliates, or other permanent foreign establishments of US business entities, for purposes of the Treasury rules, to the extent that such entities file consolidated tax returns in the United States, or for purposes of the Commerce rules, to the extent such transactions involve the foreign commerce of the United States . The changes in Antiboycott regulations highlight the government's continued scrutiny of boycott requests and the need for strong compliance programs to: (1) identify prohibited requests; (2) take action to remove boycott provisions in agreements; and (3) comply with reporting requirements by both Treasury and Commerce.

Having a strong compliance program is the key to recognizing boycott requests and reporting such requests. Attorneys at Bryan Cave Leighton Paisner are experienced in helping clients navigate the complex Antiboycott provisions to ensure compliance. For more information, please contact a member of the International Trade team.

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