

Commerce Department Adds 77 Companies and Individuals to the Entity List, Many in China, and Issues Huawei FAQs

美商务部向实体清单新添 77 个实体 (包括多个中国公司和个人), 并发布华为相关常见问题解答

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International Trade Controls
国际贸易管制

On December 18, the U.S. Department of Commerce's Bureau of Industry and Security ("BIS") released a [Final Rule \("the Rule"\)](#), effective immediately, adding 77 entities to the BIS Entity List. The majority of these entities are in China, and include, among others, the Semiconductor Manufacturing International Corporation ("SMIC") and the drone company SZ DJI Technology Co., Ltd. ("DJI"). The new additions also include entities in Bulgaria, France, Germany, Hong Kong, Italy, Malta, Pakistan, Russia, and the United Arab Emirates.

12 月 18 日, 美国商务部工业和安全局 ("工业和安全局") 发布了一份即时生效的[最终规则](#) ("《规则》"), 在工业和安全局的实体清单中新增了 77 个实体, 其中大多数位于中国大陆地区, 包括中芯国际集成电路制造有限公司 ("中芯国际") 和无人机企业深圳市大疆创新科技有限公司 ("大疆创新") 。新增实体还包括位于保加利亚、法国、德国、中国香港、意大利、马耳他、巴基斯坦、俄罗斯和阿拉伯联合酋长国的数个实体。

Exports, reexports, and transfers (in-country) of any items subject to the Export Administration Regulations ("EAR") to the listed entities, or when a listed entity is otherwise a party to the transaction, now require prior BIS licensing, even for non-sensitive EAR99 items (e.g., ordinary commercial products). Items subject to the EAR include commodities, software, and technology originating in or exported from the United States, as well as certain non-U.S.-origin items that contain controlled U.S.-origin content or are the direct products of sensitive U.S. technology or software. Subject to a few exceptions below, BIS has instituted a policy of a presumption of denial of export license applications for most items to the listed entities.

如果向被列入实体清单的实体出口、再出口、(国内) 转让受《出口管理条例》 ("《出口管理条例》") 约束的任何物项, 或者清单所列实体以其他方式作为该等交易的一方时, 则即使是非敏感的 EAR99 物项 (例如普通商用产品), 现在也需要事先获得工业和安全局的许可。受《出口管理条例》约束的物项包括源自或出口自美国的商品、软件和技术, 以及某些虽非美国原产但包含受管制美国原产内容或属于敏感美国技术或软件之直接产品的物项。对于大多数物项, 如果拟出口给清单所列实体, 除下文所述的个别例外情况外, 工业和安全局的政策是推定拒绝该等物项的出口许可申请。

The designations were effective December 18, 2020 and will be published in the Federal Register on December 22, 2020.

此次实体清单的新增部分于 2020 年 12 月 18 日生效，并于 2020 年 12 月 22 日刊登于《联邦公报》。

The large tranche of designations of Chinese entities is the latest in a series of measures the Trump Administration has directed at China, including measures that have been imposed since the November 3, 2020 U.S. election and have been aimed at the military-civil fusion in China. Other recent actions include, for instance, President Trump's November 12 Executive Order prohibiting U.S. persons from engaging in any transaction in publicly traded securities, or any securities that are derivative of, or are designed to provide investment exposure to such securities, of "Communist Chinese military companies." (See our recent alert [here](#).) This Rule also continues the Trump Administration's focus on human rights in China, this time with particular emphasis on the collection of genetic material and high-technology surveillance.

此次新增实体涉及大量中国实体，这是特朗普政府针对中国采取之一系列措施中的最新动作，这些措施包括自 2020 年 11 月 3 日美国大选以来实施的、旨在针对中国军民融合发展政策的措施。近期其他的行动包括，例如，特朗普总统于 11 月 12 日颁布了一道行政令，禁止美国人投资“中共军方公司”，即不得交易该等企业的任何公开交易证券、或者任何衍生自此类证券或旨在为此类证券提供投资渠道的证券。（请点击[此处](#)查看我们近期的客户通讯。）此次新发《规则》持续了特朗普政府对中国人权问题的关注，并特别强调了遗传物质的收集和高科技监控问题。

Also on December 18, BIS posted [new Frequently Asked Questions \("FAQs"\)](#) related to BIS's prior designation on the Entity List of Huawei Technologies Co., Ltd. and many of its non-U.S. affiliates (collectively, "Huawei"). The publication of the FAQs had been long awaited, as they address questions related to the August 2020 expansion of the EAR's foreign-produced direct product rule to cover a broader range of items exported, reexported, or transferred to Huawei. See Covington's bilingual version of the FAQs [here](#).

同日，针对之前将华为技术有限公司及其许多非美国关联方（统称为“华为”）列入实体清单以及 2020 年 8 月扩大《出口管理条例》外国直接产品规则的适用范围的某人些问题，工业和安全局在 12 月 18 日还发布了期待已久的新的[常见问题解答](#)（“[常见问题解答](#)”）。常见问题解答解释了修订后的外国直接产品规则如何在更大程度上限制了向华为出口、再出口或转让物项。请于[此处](#)参阅科文顿的双语版常见问题解答。

Basis for Entity List Designations

列入实体清单的依据

The Entity List, maintained as Supplement No. 4 to Part 744 of the EAR, identifies legal and natural persons believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States. BIS explains in the Rule that it has reasonable cause to believe that the listed entities have been or may become involved in such activities.

实体清单作为《出口管理条例》第 744 部分补编 4，列出了美国认为已经参与或存在重大风险已参与或将参与有损美国国家安全或外交政策利益之活动的法人和自然人。工业和安全局在《规则》中解释称，其有合理理由相信实体清单所列实体已经或可能参与此类活动。

China and Hong Kong Designations

中国大陆地区和中国香港被列入清单的实体

The majority of entities added to the Entity List in the Rule are located in China. The specific reasons cited by BIS for designation to the Entity List vary.

此次《规则》中向实体清单新添的大多数实体位于中国大陆地区。对于将实体列入实体清单，工业和安全局称原因各不相同。

SMIC and ten related entities were designated because of “China’s military-civil fusion (MCF) doctrine and evidence of activities between SMIC and entities of concern in the Chinese military industrial complex.” One of these related entities is Hong Kong-based.

中芯国际及十个相关实体之所以被列入实体清单，是因为“中国的军民融合发展政策，以及有证据表明中芯国际与中国军工联合体所涉实体之间存在往来活动”。这些被列入清单的相关实体之一是一家位于香港的公司。

Four Chinese entities (AGCU ScienTech Inc. (“AGCU ScienTech”); China National Scientific Instruments & Materials Co., Ltd. (“CNSIM”); DJI; and Kuang-Chi Group) were designated for the “abusive genetic collection” from and “high-technology surveillance” of individuals within China, as well as the “export of items...that aid repressive regimes around the world.”

无锡中德美联生物技术有限公司（以下简称“中德美联”）、中国科学器材有限公司（以下简称“国药器材”）、大疆创新、以及光启集团这四家中国实体被列入实体清单的原因是，对中国境内的个人“滥用基因收集”和进行“高科技监控”，以及“出口某些物项……帮助世界各地的专制政权”。

China Communications Construction Company Ltd. and four other companies were designated for reasons related to “China’s efforts to assert its unlawful maritime claims” and “to reclaim and militarize disputed outposts in the South China Sea.”

中国交通建设股份有限公司和其他四家公司被列入实体清单的原因是，“帮助中国主张其非法的海洋权益”以及“参与在南海有争议的领土进行挖掘填造和军事化活动”。

A significant part of the designations were 25 research academies, institutes, and a test center associated with the China State Shipbuilding Corporation Ltd., as well as the Beijing Institute of Technology and four other Chinese entities “for acquiring and attempting to acquire U.S.-origin items in support of programs for the People’s Liberation Army.” The Beijing University of Posts and Telecommunications was also added to the Entity List for its “research and development, and production, of advanced weapons and advanced weapons systems in support of People’s Liberation Army modernization.”

被列入实体清单的还包括与中国船舶集团有限公司相关的 25 家研究院/研究所和试验场，以及北京理工大学和其他四个中国实体，它们被列入清单的原因是“获取和尝试获取美国原产物项用于支持中国人民解放军项目”。北京邮电大学也被列入了实体清单，原因是其“研发、生产用于支持中国人民解放军现代化的先进武器和先进武器系统”。

Finally, the interagency End-User Review Committee responsible for reviewing the evidence that led to the designations also added one entity, Tongfang NucTech Technology Ltd., for reasons related to nonproliferation—namely, that it produced “lower performing equipment” that impaired U.S. efforts to counter illicit international trafficking in nuclear and other radioactive materials, including efforts that are part of cargo screening—and two entities and five individuals for reasons related to the “theft of trade secrets from U.S. corporations.”

最后，负责审查相关实体被列入清单之证据的跨部门最终用户审查委员会在实体清单上添加了同方威视技术股份有限公司，原因涉及防止核扩散，称该公司生产的“性能较差的设备”削弱了美国打击国际非法贩运核物质和其他放射性物质的努力（包括检查货物的部分努力），以及另外两个实体和五名个人，原因涉及“窃取美国公司的商业秘密”。

Non-China Designations

列入清单的非中国实体

In addition to the Chinese entities listed above, entities in several other countries also were added to the Entity List for, among other reasons, providing aircraft parts without the necessary licenses to Mahan Air, an entity on the List of Specially Designated Nationals and Blocked Persons maintained by the Treasury Department's Office of Foreign Assets Control. Several entities also were designated, according to BIS, for seeking to evade license requirements and divert U.S.-origin items to unauthorized recipients.

除了上文所列的中国实体，位于其他几个国家/地区的数个实体也被列入了实体清单，原因包括，在未获得必要许可的情况下向马汉航空提供飞机零部件，而马汉航空已被列入美国财政部海外资产控制办公室的特别指定国民和被封锁人员名单。根据工业和安全局的说法，还有几个实体被列入清单的原因是企图规避许可要求而将美国原产物项转移给未经授权的接收方。

Impact of Entity Listing Designations

实体被列入清单的影响

These Entity List designations mandate BIS licensing for all exports, reexports, and transfers (in-country) of any item subject to the EAR to the listed entities, or if a listed entity is otherwise a purchaser, intermediate consignee, ultimate consignee, or end user to the transaction. Moreover, license exceptions otherwise available under the EAR are suspended with respect to the listed entities, and BIS has instituted a license review policy of a presumption of denial for export license applications for all items, subject to a few exceptions for certain entities detailed below.

一旦实体被列入实体清单，若拟向被列入清单的实体出口、再出口和（国内转让）受《出口管理条例》约束的任何物项，或者如果被列入清单的实体以其他方式作为交易的买方、中间收货人、最终收货人或最终用户，则必须获得工业和安全局的许可。此外，《出口管理条例》下在其他方面可提供的许可例外对于清单所列实体暂停适用，且工业和安全局对所有物项的出口许可申请适用推定拒绝的许可审查政策，除了针对某些实体的个别例外情况，具体见下文。

All commodities, software, and technology that are subject to U.S. jurisdiction under the EAR—including common EAR99 items not identified on the EAR’s Commerce Control List—require licensing prior to their supply by any person, including by non-U.S. persons, to any of the listed entities as a result of the designations. Items “subject to the EAR” include all items located in or exported from the United States, and all items produced in the United States, wherever located. Furthermore, non-U.S.-made items that contain more than *de minimis* amounts of controlled U.S.-origin content also are subject to the EAR. Non-U.S.-made items destined for China, including destined to the listed entities, require BIS licensing if their value is made up of more than 25% controlled U.S.-origin content, where that content is itself subject to BIS licensing requirements for export to or reexport to China.¹

《出口管理条例》下受美国管辖的所有商品、软件和技术，包括未被纳入《出口管理条例》商业控制清单的普通 EAR99 物项，任何人（包括非美国人）在向被列入清单的任何实体供应之前，都必须获得许可。“受《出口管理条例》约束的”物项包括位于美国境内或从美国出口的所有物项，以及在美国生产的所有物项，无论其位于何处。此外，某物项即使非美国制造，但含有的受管制美国原产内容超过最低含量限度，同样也受《出口管理条例》的约束。目的地为中国（包括目的地为清单所列实体）的非美国制造物项的价值构成中，如果受管制美国原产内容所占比例超过 25%（且该等内容本身受限于工业和安全局关于对华出口或再出口的许可要求），则需要获得工业和安全局的许可。²

Finally, certain non-U.S.-produced items that meet the narrow conditions to constitute “direct products” of certain types of sensitive U.S. software or technology also are subject to the EAR, even if those non-U.S. items were produced and are located abroad and contain no or less than *de minimis* controlled U.S.-origin content. Additionally, items produced at a non-U.S. manufacturing plant or by a major manufacturing plant component can be subject to the EAR if the plant or plant component was a product of certain sensitive U.S. software or technology.³

¹ Notwithstanding this general 25% *de minimis* threshold, non U.S.-made items are “subject to the EAR” if they contain any amount of certain types of U.S. content. Such content includes, for example, U.S.-origin components classified under a “600 series” or “9x515” Export Control Classification Number (“ECCN”), when destined for countries subject to U.S. arms embargos, such as China. There similarly are no *de minimis* levels for any non-U.S.-origin encryption technology that incorporates U.S.-origin encryption controlled under ECCN 5E002.

² 尽管存在 25% 最低含量限度的一般要求，但如果非美国制造物项含有特定种类的美国内容，则无论含量多少，均“受《出口管理条例》约束”。前述特定种类美国内容包括，例如出口管制分类编码（ECCN）“600 系列”或“9x515”下的美国原产组件，且目的地为中国等受限于美国武器禁运规定的国家地区。同样地，包含 ECCN 5E002 下受管制美国原产加密技术的任何非美国原产加密技术也无最低含量限度要求。

³ A broader version of this foreign-produced direct product rule applies to exports, reexports, and transfers to Huawei, as discussed below. BIS has not applied that broader foreign-produced direct product rule to exports, reexports, and transfers to these newly listed entities or to other entities on the Entity List, besides Huawei.

最后，因满足特定条件而构成特定种类之敏感美国软件或技术的“直接产品”的某些非美国生产物项也受《出口管理条例》的约束，即使这些非美国物项是在国外生产、目前位于国外并且不含受管制美国原产内容或者包含的受管制美国原产内容未达到最低含量限度。此外，如果某物项是由非美国的工厂生产，而该工厂或其主要设备是某些敏感美国软件或技术的产物，则由该工厂或其主要设备生产的物项也可能受到《出口管理条例》的约束。⁴

The Entity List designations apply only to the listed entities (including branches and operating divisions) and their representatives, because Entity List designations do not automatically extend to non-listed subsidiaries or separately incorporated affiliates of listed persons. However, when dealing with a non-listed subsidiary or affiliate of a listed entity, under longstanding BIS guidance, companies should exercise heightened caution to ensure that the party with which they are dealing is in fact separately incorporated (and not part of the listed entity), that it is not a front or shell company for the listed entity, and that it will not otherwise divert items subject to the EAR to a listed entity.

实体清单的限制仅适用于被列入清单的实体（包括分支机构和运营部门）及其代表，因为实体清单的限制不会自动扩展适用于被列实体的（未被列入清单）的子公司或独立设立的关联方。但是，对于被列入清单的子公司或关联方，根据工业和安全局长期以来的指导意见，企业应格外谨慎，以确保与之交易的相关方实际上是独立设立的（而非被列入清单之实体的一部分），且其不是被列入清单之实体的幌子或空壳公司，同时，企业要确保交易对方不会以其他方式将受《出口管理条例》约束的物项转移给被列入清单的实体。

The Rule contains a limited savings clause allowing items that were en route aboard a carrier to a port of export or reexport as of the date of publication of the Rule in the Federal Register, pursuant to actual orders for export or reexport to a foreign destination, to proceed to that destination under a license exception or without a license if they would have been so eligible prior to the effective date of the Rule.

《规则》包含一项有限的保留条款，即对于在《规则》刊登于《联邦公报》之日已经（根据向国外目的地出口或再出口的实际订单）在途运往出口港或转口港的物项，允许在许可例外或无需许可的情况下继续运往目的地，条件是该等物项在《规则》生效日之前已经符合许可例外或无需许可的条件。

License Review Policy – Exceptions 许可审查政策——例外情况

BIS has imposed a license review policy of a presumption of denial for certain items going to SMIC and the ten related entities. The policy applies to items “uniquely required for production of semiconductors at advanced technology nodes (10 nanometers and below, including extreme ultraviolet technology).” The review policy is case-by-case for all other items to SMIC and related entities.

⁴ 此外国直接产品规则的范围扩大版本适用于向华为进行的出口、再出口和转让，见下文的讨论。除了华为以外，工业和安全局尚未将适用范围扩大的外国直接产品规则适用于面向该等新增实体或实体清单上其他实体的出口、再出口和转让。

针对拟提供给中芯国际及其十个相关实体的某些物项，工业和安全局适用推定拒绝的许可审查政策。该政策适用于“在先进技术节点（10 纳米及以下，包括极紫外技术）下生产半导体独特所需的”物项。对于拟提供给中芯国际和相关实体的所有其他物项，则适用个案分析的审查政策。

With regards to AGCU ScienTech, CNSIM, DJI, and Kuang-Chi Group, BIS has imposed a license review policy of a presumption of denial for most items, but case-by-case review for applications to export, reexport, or transfer to these entities “items necessary to detect, identify and treat infectious disease.”

关于中德美联、国药器材、大疆创新和光启集团，工业和安全局针对大多数物项适用推定拒绝的许可审查政策，但对于向这些实体出口、再出口或转让“对检测、识别和治疗传染病所必要的物项”，则适用个案分析的审查政策。

BIS has imposed the license review policy set forth in 15 C.F.R. § 744.2(d) for two entities in Pakistan: Geo Research and Link Lines (Pvt.) Limited. Section 744.2(d) sets out a non-exclusive list of nine wide-ranging factors that guide the U.S. government in its review of these license applications. These factors are intended to assess nuclear proliferation concerns, and include factors such as the appropriateness of the commodities, software, or technologies to the stated end use and whether the stated end use is appropriate to the end user.

工业和安全局已针对巴基斯坦的两个实体 Geo Research 和 Link Lines (Pvt.) Limited 实施《美国联邦法规》第 15 编第 744.2(d)节中规定的许可审查政策。第 744.2(d)节非穷尽列举了指导美国政府审查这些许可申请的九项覆盖范围广泛的因素。这些因素旨在评估核扩散问题，包括诸如将商品、软件或技术用于指定最终用途的适当性以及指定最终用途与最终用户是否相适应之类的因素。

Entity List Revisions **实体清单的修订**

As part of the new Rule, BIS also revised the Entity List to update the aliases and addresses for two entities: China Shipbuilding Group 722nd Research Institute and Oriental Engineers Pvt. Ltd. Finally, BIS removed several entities from the list: Ben Gurion University (Israel) and Dow Technology Co. LLC, Hassan Dow, and Modest Marketing LLC (United Arab Emirates).

作为新《规则》的一部分，工业和安全局对实体清单的修订还包括更新了中国船舶重工集团公司第七二二研究所和 Oriental Engineers Pvt. Ltd.这两个实体的别名和地址。最后，工业和安全局从实体清单中删除了以下几个实体：以色列的本古里安大学（Ben Gurion University）以及阿拉伯联合酋长国的 Dow Technology Co. LLC、Hassan Dow 和 Modest Marketing LLC。

Huawei-Related FAQs 华为相关常见问题解答

The new FAQs provide significant clarifications regarding BIS's interpretation of the [August 2020 Foreign-Produced Direct Product Rule](#) ("FDP Rule") (summarized in our previous [client alert](#)), which expanded the scope of EAR jurisdiction over foreign-produced items that are exported, reexported or transferred with "knowledge" that the item will be incorporated into, or will be used in the production or development of, any part, component, or equipment produced, purchased, or ordered by Huawei, or where Huawei is a party to any transaction involving the foreign-produced item. The FAQs were long awaited, given the complexity of the FDP Rule, and BIS advised in releasing the FAQs that they are "subject to amendment" and exporters should "check back frequently for updates."

对于工业和安全局关于 [2020年8月的外国直接产品规则](#)（“外国直接产品规则”）（我们之前的[客户通讯](#)对此进行了总结）的解释，新的常见问题解答提供了重要的说明。2020年8月修订的外国直接产品规则将《出口管理条例》的适用范围扩大至符合以下条件的外国生产物项的出口、再出口或转让交易：“知道”该等物项将被包含于或将被用于生产或开发华为所生产、采购或订购的任何零件、组件或设备，或者“知道”华为是涉及该等外国生产物项之任何交易的一方。考虑到外国直接产品规则的复杂性，各方对此次的常见问题解答期待已久，工业和安全局在发布常见问题解答时表示这些常见问题解答“有待修订”，出口商应当“经常查阅相关更新”。

Some of the more significant clarifications in the FAQs are as follows:

以下是常见问题解答中较为重要的一些澄清说明：

- *FAQ 9* confirms that the FDP Rule generally does not require a license for the servicing or repair of an item lawfully exported prior to the August 2020 FDP Rule, although other provisions of the EAR may apply and replacement parts that are subject to the FDP Rule that are for Huawei equipment may require licensing.

常见问题解答第9项确认，外国直接产品规则一般不要求就2020年8月的外国直接产品规则实施之前合法出口的物项的检修或维修获得许可，但是可能适用《出口管理条例》的其他规定，且受外国直接产品规则约束的、用于华为设备的更换件可能需要获得许可。

- *FAQ 12* states that "incorporation of a part that is subject to the EAR pursuant to the FDP rule does not necessarily make the larger foreign product subject to the EAR." This guidance suggests that BIS does not consider that mere incorporation of a part subject to the FDP rule (if it were sent directly to Huawei) automatically makes an end-item subject to the FDP Rule (e.g., the end item is not considered to have been "produced by" the equipment that produced the part, under Footnote 1(b) of the FDP Rule). However, the export, reexport, or transfer of such a part that is an FDP to another party with "knowledge" that the part is to be incorporated into a part, component, or equipment for Huawei still requires licensing. *FAQ 7* provides an example of this, explaining that a wafer that is subject to the FDP Rule requires licensing when exported abroad to a finished integrated circuit manufacturer with "knowledge" that the integrated circuit or higher-level assembly containing the integrated circuit (and wafer) is for Huawei. See also *FAQ 13.a*.

常见问题解答第 12 项指出：“即使某外国产品中包含根据外国直接产品规则受《出口管理条例》约束的零件，也不一定会使该等外国产品受《出口管理条例》约束”。此指导意见表明，工业和安全局并不认为单纯包含某受外国直接产品规则约束的零件（假设直接发往华为）会自动使最终物项受外国直接产品规则的约束（例如，即使生产零件的设备属于外国直接产品规则脚注 1（b）下的设备，也不认为最终物项由该等设备“生产”）。但是，如果“知道”属于外国直接产品的相关零件将被包含于供给华为的零件、组件或设备，则将该等零件出口、再出口或转让给另一方时，仍需获得许可。常见问题解答第 7 项就此举了个例子，即在将受外国直接产品规则约束的晶圆从国外出口给集成电路成品制造商时，如果“知道”该等集成电路或包含该等集成电路（和晶圆）的更上层装配组件系提供给华为，则需要获得许可。**另参见**常见问题解答第 13.a 项。

- **FAQ 20** states that where a distributor has a license to provide products to a listed Huawei entity, a company supplying products to the distributor does not need to get a separate license. This and other guidance, such as FAQ 16, appear relevant in analogous situations, e.g. where a company is supplying components to a downstream manufacturer which has a license to supply the end-item to a listed Huawei entity, then the supplier and the downstream manufacturer do not both need to obtain licensing.

常见问题解答第 20 项指出，如果向被列入清单的华为实体提供产品的分销商已经获得许可，则向该分销商供应产品的公司无需另行获得许可。本指导意见以及其他指导意见（例如常见问题解答第 16 项）也适用于类似情况，例如，在公司向某下游制造商供应组件时，若该下游制造商已经获得许可向被列入清单的华为实体供应最终物项，则无需该公司和下游制造商二者皆获得许可。

- **FAQ 24** confirms that if U.S. software is used in the product engineering stage of producing a cellphone, “[t]he direct product would be whatever the software produces. In most cases the direct product of the U.S. software would be the product design, which may be subject to paragraph (a) of the FDP Rule.” This guidance may be relevant in analogous situations where U.S. technology, software, or hardware is used to produce an item at an early stage of the engineering or production process. However, it also would be important to take into account FAQ 14, which states that when integrated circuits are designed in the United States, the integrated circuits themselves are subject to paragraph (a) of the FDP Rule.

常见问题解答第 24 项确认，如果美国软件被用于生产手机的产品设计阶段，则“直接产品包括该软件生产的任何产品。在大多数情况下，美国软件是直接产品是产品设计，其可能受限于外国直接产品规则第（a）款的规定”。此指导意见可能适用于类似情况，即美国技术、软件或硬件被用于在设计或生产流程早期阶段生产物项。但是，同时也要考虑常见问题解答第 14 项，该项也很重要，其指出，当集成电路系在美国设计时，集成电路本身受外国直接产品规则（a）款的约束。

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We are well-positioned to advise on the export controls issues related to these latest actions, and more broadly on the trade controls and human rights dimensions of doing business in China and internationally. If you have any questions concerning the material discussed in this client alert, please contact the following members of our International Trade Controls practice:

我们有足够的能力就这些最新行动相关的出口管制问题提供咨询建议，以及在更广泛的方面就企业在中国和国际上开展业务可能面临的贸易管制和人权方面的问题提供咨询建议。如果您对此客户通讯中讨论的资料有任何疑问，请联系我们国际贸易管制业务团队的以下成员：

<u>Eric Carlson</u>	+86 21 6036 2503	<u>ecarlson@cov.com</u>
<u>Min He</u>	+86 10 5910 0510	<u>mhe@cov.com</u>
<u>Stephen Bartenstein</u>	+1 202 662 5471	<u>sbartenstein@cov.com</u>
<u>Dan Feldman</u>	+1 202 662 5494	<u>dffeldman@cov.com</u>
<u>Peter Flanagan</u>	+1 202 662 5163	<u>pflanagan@cov.com</u>
<u>Corinne Goldstein</u>	+1 202 662 5534	<u>cgoldstein@cov.com</u>
<u>Alan Larson</u>	+1 202 662 5756	<u>alarson@cov.com</u>
<u>Peter Lichtenbaum</u>	+1 202 662 5557	<u>plichtenbaum@cov.com</u>
<u>Lisa Peets</u>	+44 20 7067 2031	<u>lpeets@cov.com</u>
<u>Stephen Rademaker</u>	+1 202 662 5140	<u>srademaker@cov.com</u>
<u>Eric Sandberg-Zakian</u>	+1 202 662 5603	<u>esandbergzakian@cov.com</u>
<u>Kimberly Strosnider</u>	+1 202 662 5816	<u>kstrosnider@cov.com</u>
<u>David Addis</u>	+1 202 662 5182	<u>daddis@cov.com</u>
<u>David Lorello</u>	+44 20 7067 2012	<u>dlorello@cov.com</u>
<u>Alden Fletcher</u>	+1 202 662 5212	<u>afletcher@cov.com</u>

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