

U.S. Bureau of Industry and Security Creates Option for Extended Renewals of Temporary Denial Orders

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On August 30, 2023, the Department of Commerce's Bureau of Industry and Security ("BIS") [amended](#) the Export Administration Regulations ("EAR") to allow for the extended renewal of Temporary Denial Orders ("TDOs") under certain circumstances. Those named by a TDO face broad and severe civil penalties designed to cut the sanctioned actor off from access to items that are subject to the EAR. The new rule authorizes BIS to renew TDOs for one year at a time instead of only 180 days.

BIS can issue an extended renewal where TDO-sanctioned actors meet a new standard of misconduct under the EAR. Namely, BIS may select this new extended renewal option where, since issuance of the TDO, the named actor(s) is found to have engaged in a pattern of repeated, ongoing and/or continuous apparent violations of the EAR (including the terms of the TDO), and where BIS has shown with specific facts that extended renewal of the TDO is appropriate to address continued apparent violations. The 180-day renewal option otherwise remains in place for imminent violations.

BIS's action is a response to several cases where international actors have been found to be engaged in deliberate and ongoing violation of the EAR. As [examples](#), BIS cites the involvement of Russian and Belarusian airlines, as well as Iranian airline Mahan Airways, with sanctioned aircraft such as PJSC Aeroflot. These cases have necessitated issuance and repeated renewals of several TDOs.

In light of BIS's recent expansion and the significant commercial impact of TDOs, companies must exercise a great deal of caution to avoid activity that could result in a TDO and to prevent dealings with those named by a TDO. As highlighted by BIS, recent cases reveal that such sanctioned actors may go to considerable lengths to obscure involvement in prohibited activities.

A notable [example](#) is BIS's recent issuance of a TDO against parties to a Russia-based illicit procurement network supporting Russian aggression in Ukraine. The TDO, issued in coordination with a U.S. Disruptive Technology Strike Force, named Russian-German national Arthur Petrov, Russian nationals Zhanna Soldatenkova and Ruslan Almetov, and companies situated in Russia, Latvia, and Cyprus, for their roles in a transshipment scheme that deliberately and fraudulently misappropriated electronic components for delivery to the Russian military. Specifically, U.S. distributors were misled into shipping microelectronics that have been recovered on the Ukraine battlefield.

Please [contact](#) our sanctions and export team with any questions regarding these latest

developments. Depending on the national security considerations, it is possible with the assistance of counsel to obtain authorization for transactions that may be otherwise prohibited under the EAR.