Senior Topics in Export Controls Compliance

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Update on current legislation that could impact research on and off campus.

Identify activities on campus that might have export control implications.

Recognize best practices for managing an enforcement visit or suspected violation.
A geneticist at Yale helped the Chinese government advance one of the biggest, most invasive surveillance projects anywhere on Earth.

Alisa Chang NPR 7.18.19
Current Legislative Landscape

• Protect Our Universities Act (PUOA) 2019
• Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA)
• Export Control Reform Act of 2018 (ECRA)
Protect Our Universities Act (POUA) 2019

House Bill: March 2019

Senate Bill June 2019

(1) Establish a multi-agency task force to identify “sensitive” research

(2) Restrict certain foreign students and entities from involvement in such research

(3) Facilitate foreign threat information sharing with and “instruction” to academic institutions

(4) Empower federal funding agencies to enforce restrictions

(5) Institute Congressional oversight through reporting to multiple House committees
### New Transaction Types To Be Covered By CFIUS

- Non-passive minority-position investments involving critical technologies
- Non-passive minority-position investments involving the sensitive personal data of US citizens
- Non-passive minority-position investments involving critical infrastructure
- Purchases or leases of US real estate near sensitive facilities.
Export Control Reform Act (ECRA):
Technologies that are Essential to U.S. National Security

Currently Technologies export controlled under ITAR/EAR

Emerging Technologies (ECRA)

Foundational Technologies (ECRA)

Critical Technologies (FIRRMA)
ECRA

Look out for Changes in Export Controls!

- Artificial intelligence
- Driverless vehicle technology
- Advanced computing
- Additive manufacturing
- Microelectronics
Dual National Concerns
Faculty Start-ups

• Why Faculty Establish Startups
• Conflicts of Commitment
• Fundamental Research Exclusion
• Relinquished IP
• Export Compliance Concerns
Foreign Influence on US Research

Primarily a FCOI Concern with Implications for Export Controls

If identified, was technology released?

Was it controlled?

Was it a violation?
Violations and Disclosures

• Lock it Down
• Report the “Suspected” Violation
• Submit an Initial Voluntary Disclosure
• Determine Reporting Requirements
  • Award Requirements
  • Cyber Incident Reporting Requirements
Enforcement Visits

“Outreach”
Nature of the “Visit”

1. Educational
2. Relationship Building
3. Intelligence Gathering
4. Investigatory

*If you invite them, it is a visit......when they show up at your door, it is an inquiry.*

James Fuller, Special Agent Dallas Office:
http://www.exporttexas.com/sites/default/files/Events/OEE.pdf
Questions

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