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Regulatory Policy Division
Bureau of Industry and Security
U.S. Department of Commerce
Room 2099B
14th Street & Pennsylvania Avenue NW.
Washington DC 20230

Subject: Advance Notice of Proposed Rulemaking, Request for Public Comment on the Additional Improvements and Harmonization of Export Clearance Provisions, RIN 0694-AG51

Reference: Federal Register / Vol. 80, No. 99 / Friday, May 22, 2015 / Proposed Rules

To Whom It May Concern:

Access USA Shipping, LLC ("Access USA" or "the Company") appreciates the opportunity to submit comments regarding the Bureau of Industry and Security's ("BIS") advanced notice of proposed rulemaking concerning additional improvements and harmonization of export clearance provisions within the Export Administration Regulations ("EAR"). Access USA believes in the reform, harmonization, and streamlining of export controls to ensure that BIS, and the U.S. government in general, effectively can manage the U.S. exporting environment while ensuring that industry can continue to grow compliantly and competitively within the global marketplace. Access USA also understands the importance of ensuring a proper compliance program, especially with regards to control classification and designation of an ECCN status for a commodity, software or technology (hereinafter referred to as an "item") intended for export. Access USA, however, does not believe that requiring Export Control Classification Numbers ("ECCNs") on export control documents will provide sufficient benefits to outweigh the associated administrative burdens. Access USA believes that there are more efficient ways ensure that all parties within the supply chain have proper visibility into the control status of exported items.

Founded in 1997 in Sarasota, Florida, Access USA offers package consolidation services that permit customers to save on international express transportation charges by consolidating orders for export. In most instances, Access USA is not involved in the title chain, but instead acts as an agent of the Foreign Principal Party in Interest ("FPPI"), including when necessary by coordinating with the Seller, *i.e.*, the U.S. Principal Party in Interest ("USPPI"), to gather information required for export. The Company opens each package for its customers, identifies what has been received, and confirms the export classification of items for export before they leave the Company's facility. Because of the Company's history in this industry, Access USA has invaluable experience and insight on consumer purchasing habits and thus has developed core competencies on the proper application of regulatory controls prior to export (and throughout the exporting process). This insight is based on the large volume of items that are received at the Company's facility; on average, Access USA reviews thousands of items daily.

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Access USA opens every package that arrives at its facility in order to inspect and confirm the classification of the contents of the package for export purposes. Access USA employs a fourteen member Trade Compliance Team ("TCT"), which consists of ten trained trade compliance professionals, three additional warehouse staff members who have received specialized compliance training, and one administrative assistant. Items for which classifications cannot readily be confirmed for export purposes by the regular package log-in staff are flagged for further review by the TCT. The TCT then conducts research to determine if the product may be exported. If the item can be exported, Access USA notifies the customer that the contents of the package are available for export.

As a matter of current company policy, Access USA does not intend to participate in any way, directly or indirectly, in any transaction involving any item exported or to be exported from the United States that is subject to the International Traffic In Arms Regulations ("ITAR") or that would require an export license to the destination country under the EAR (other than for items that may be exported pursuant to EAR License Exception ENC, pursuant to the semi-annual reporting obligations).

With the rapid growth and development in technology, and in particular of consumer electronics, increasingly large numbers of readily available consumer products fall under the Commerce Control List ("CCL") (*e.g.*, iPhones/Android smartphones, GPS devices for automobiles, mass market available computers and tablets, low-level home networking equipment). While these items are deemed to be "dual-use" and thus warrant certain levels of export control, they have become ubiquitous in today's domestic and global markets. As a provider of export consolidation services and agent of the FPPI, Access USA reviews thousands of items for admissibility and control requirements. However, this review practice is focused on determining licensing requirements based on the four control classification criteria (*i.e.*, Product Specification, End Use, End User, and Destination Country). When Access USA receives an item that is classified under an ECCN controlled only for Anti-Terrorism ("AT") reasons, it is generally possible for the regular package log-in staff to review for the "catch all controls" (e.g., prohibitive end use/end user, destination controls, red flag identification, EAR General Prohibitions), just as the regular log-in staff would do for an EAR99 item. Currently, only items that may fall under an ECCN requiring a higher level of control are escalated to the TCT. If all ECCNs needed to be listed on the export documents, then more and more items with lower levels of control would need to be held by Access USA while the TCT confirms an export classification. To require an AT-level ECCN to be included on the export control documents would shift the process from the higher level licensing review to add the lower level administrative need to mark export documents. Based on the resources needed to comply with this proposed rule, Access USA feels strongly that the administrative burden would be significantly impactful.

The framework of the CCL is designed to include varying degrees of control status. For example, the difference in requirements for an item with an ECCN controlled only for AT reasons compared to an item controlled for Missile Technology ("MT") or National Security ("NS") reasons can be significant. The opposite is generally true when comparing an item with an ECCN controlled only under AT with an item designated EAR99; the levels of control are similar. We do not feel that the benefit to industry, government, and the greater supply-chain of including additional information on the export control documents related to items controlled only for AT reasons is significant enough to outweigh the administrative costs that would be imposed.

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As previously stated, Access USA also fully believes in the necessity for proper control classification and compliance oversight. Access USA recognizes the benefit of putting the end user and carrier on notice when an item is subject to higher-level export controls. Due to the broad scope of items that the CCL encompasses, Access USA does not feel that simply discounting this rule would be prudent. We suggest that the rule be further specified to require the listing of an ECCN when it is controlled for other than AT. This would help consolidators such as Access USA avoid increased administrative costs for items under lower levels of control, while also communicating to the recipient of the exported items that items they receive with listed ECCNs are subject to a higher level of control and may require a re-export license to certain destinations.

Thank you again for the opportunity to comment and for considering Access USA's input. Please do not hesitate to contact me should you have any questions or require any additional information.

Sincerely,

Corey Bonasorte
Director, Trade Compliance