

**BUREAU OF INDUSTRY AND SECURITY
FREQUENTLY ASKED QUESTIONS
EAR99 SOFTWARE CONTROLS
CURRENT AS OF SEPTEMBER 16, 2024**

Q1: What type of software is included in the BIS software control?

A1:

BIS already requires a license for the export, reexport, or transfer (in-country) of all “software” classified and controlled under an Export Control Classification Number (ECCN) on the Commerce Control List (CCL) to Russia and Belarus. See Section 746.8(a)(1) of the Export Administration Regulations (EAR). As of September 16, 2024, there is a new license requirement for the export, reexport, or transfer (in-country) to or within Russia or Belarus of the following “software” subject to the EAR and designated as EAR99:

- Enterprise resource planning (ERP);
- Customer relationship management (CRM);
- Business intelligence (BI);
- Supply chain management (SCM);
- Enterprise data warehouse (EDW);
- Computerized maintenance management system (CMMS);
- Project management software;
- Product lifecycle management (PLM);
- Building information modelling (BIM);
- Computer aided design (CAD);
- Computer-aided manufacturing (CAM); and
- Engineering to order (ETO)

Applications for the export, reexport, or transfer (in-country) of such EAR99 “software” will be reviewed under a policy of denial except as described below. This license requirement covers exports, reexports, or transfers (in-country) of “software” in tangible or intangible form.

Q2: Does this include software updates?

A2:

Yes, this license requirement for the export, reexport, or transfer (in-country) to or within Russia or Belarus of EAR99 “software” identified above includes related software updates.

Q3: Is there a license requirement for this software to all entities in Russia and Belarus?

A3:

EAR99 software destined for companies exclusively operating in Russia's or Belarus's agricultural or medical industries is excluded from this license requirement. For companies making items, parts, or components for multiple end-uses, the exclusion does not apply.

Additionally, EAR99 “software” identified above does not require a license to or within Russia or Belarus for the following civil end-users:

- Wholly-owned U.S. subsidiaries, branches, or sales offices;
- Joint ventures between two or more U.S. companies, including the wholly-owned subsidiaries, branches, or sales offices of such joint ventures;
- Joint ventures between U.S. companies and companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the Export Administration Regulations, including the wholly-owned subsidiaries, branches, or sales offices of such joint ventures;
- Wholly-owned subsidiaries, branches, or sales offices of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740; or
- Joint ventures between two or more companies headquartered in Country Group A:5 and A:6 in supplement no. 1 to part 740, including the wholly-owned subsidiaries, branches, or sales offices of such joint ventures.

For software destined to companies in Russia or Belarus that have partial local ownership or ownership from a country not in Country Group A:5 or A:6, this exclusion does not apply.

Q4: What is the license review policy for software subject to these controls?

A4:

All license applications for Russia or Belarus that do not fit within the exclusions stated above will be reviewed consistent with relevant licensing policies in the EAR, including those described in Sec. 746.8(b). Further, in limited cases, the EAR includes license exceptions that may authorize some software transactions, as described in Sec. 746.8(c). When it comes to Russia or Belarus, these license exceptions are often only narrowly available. For example, Sec. 746.8(c) states that license exceptions TSU and ENC are only available for transactions with companies having certain ownership structures. In other cases, license exception requirements in part 740 of the EAR may have specific language on Russia or Belarus. For example, license exception CCD is available for Russia and Belarus in certain cases, but the license exception conditions described in Sec. 740.19 of the EAR are different for Russia and Belarus than they are for Cuba. Accordingly, you should review all applicable language in Sec. 746.8, part 740, or other relevant provisions of the EAR before using a license exception to export software to Russia or Belarus.

BIS remains committed to supporting essential humanitarian and related activities that benefit the Russian people and people around the world, including ensuring the availability of basic foodstuffs and agricultural commodities, safeguarding access to medicine and medical devices, and enabling telecommunications services to support the flow of information and access to the internet.

As such, license applications for identified EAR99 “software” subject to the EAR will be reviewed on a case-by-case basis for humanitarian uses, including applications for items that are predominantly agricultural or medical in nature. License applications for companies headquartered in Country Groups A:5 and A:6 to support civil telecommunications infrastructure will also be reviewed on a case-by-case basis.

Q5: Are there related controls on the provision of cloud services for the identified EAR99 “software?”

A5:

Effective September 12, 2024, pursuant to a determination of June 12, 2024, OFAC prohibits, unless otherwise authorized or exempt, the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of cloud-based services and IT support services for enterprise management software and design and manufacturing software (that is, the EAR99 “software” identified above) to any person in the Russian Federation. See FAQs [1184 – 1188](#) and [1192-1195](#) on [OFAC’s website](#) for more information.

Q6: I manufacture and sell Computer Numerical Control (CNC) machine tools. Some of my past clients in Russia continue to operate tools that were exported to Russia several years ago when no license was required. I now want to provide them with free EAR99 software updates for regional distributors to install on these tools. The software does not directly enable the machines to function but monitors the machines to ensure they remain in working order. Can this software be exported or reexported to Russia and installed in the CNC tools without a license from the Department of Commerce?

A:6:

No. Recent amendments to Sec. 746.8(a)(8) of the EAR impose license requirements on the export and reexport of “software” designated as EAR99 for the operation of CNC machine tools to ensure that CNC machine tools that are already restricted for export, reexport, and transfer to or within Russia (and Belarus) under the EAR cannot receive “software” updates. This includes:

- Software that provides a user interface for setting up, operating, and troubleshooting the machine tool. Software that translates the instructions produced by computer-aided manufacturing (CAM) software into physical actions by the machine tool.

- Software that monitors conditions during the machining process.
- Software that automatically adjusts the machine tool's settings based on real-time conditions.

The controls in Sec. 746.8(a)(8) include not only EAR99 design software (e.g., computer aided design or computer-aided manufacturing software), but the following types of software for CNC machining: part-program generator software; CNC controller software, including firmware; programmable logic controller (PLC) software, including firmware; machine tool user interface (UI) software; G-code processors; process monitoring software, machine condition monitoring software, and adaptive control software.