



October 29, 2025

Submitted Electronically: <https://www.regulations.gov>

Matthew S. Borman
Deputy Assistant Secretary for Export Administration
Bureau of Industry and Security
U.S. Department of Commerce
14th Street and Pennsylvania Avenue NW
Washington, DC 20230

RE: Bureau of Industry and Security Interim Final Rule – “Expansion of End-User Controls to Cover Affiliates of Certain Listed Entities” (RIN 0694-AK11)

Dear Mr. Borman:

COGR, the Association of American Universities (AAU), and the Association of Public and Land-grant Universities (APLU) write to offer comments on the interim final rule, Expansion of End-User Controls to Cover Affiliates of Certain Entities (“Affiliates Rule”), which went into effect on September 29, 2025.

COGR, AAU, and APLU appreciate the opportunity to jointly provide comments on the Affiliates Rule. Our university members take Bureau of Industry and Security (BIS) requirements seriously and invest substantially in on- and off-campus experts, as well as faculty education programs, to ensure compliance with existing control standards. Our member institutions also recognize the importance of discouraging evasion of United States export control regulations by certain entities through the use of complex ownership structures. **We are, however, concerned that the new rule creates new, substantial, and uncertain compliance burdens on the higher education research community and does not provide sufficient clarity or support for implementation.**

We strongly recommend that revisions and clarifications to the rule need to be made to mitigate the undue burden of compliance being shifted to the research community while preserving BIS’s policy objectives. Our concerns are as follows:

The interim final rule fundamentally alters the compliance landscape for the higher education research community by shifting administrative responsibilities from BIS to individual institutions. Under the new framework, universities must now perform ownership and control analyses. This change represents a substantial expansion of institutional compliance obligations at a time when federal agencies are proposing to reduce federal indirect cost recovery

rates, which will significantly limit the very resources universities will need to depend on to supplement staffing and infrastructure to absorb this new compliance workload. Tracking ownership structures, collecting supporting documentation, and making nuanced risk-based determinations will place considerable strain on existing compliance offices. Moreover, because the rule provides no centralized, authoritative database of BIS determinations or exemptions, each institution will be forced to conduct duplicative analyses of the same foreign collaborators or entities. This fragmented approach will generate inefficiency, inconsistent interpretations, and unnecessary administrative burden across the higher education sector.

The interim final rule introduces new compliance obligations without providing adequate tools or transparency mechanisms to support their implementation. The Consolidated Screening List (CSL), which institutions have traditionally relied upon to verify whether an entity is subject to BIS restrictions, is no longer sufficient under the Affiliates Rule. Universities must now undertake deeper investigations into complex ownership and beneficial ownership structures, an area well beyond the traditional scope of academic compliance offices. Compounding this challenge, the Affiliates Rule does not require BIS to publish or share determinations of non-coverage, petition results, or de-listings in a systematic or timely manner. Without access to this information, institutions cannot coordinate compliance decisions or rely on BIS precedent, creating further uncertainty and inefficiency. Finally, the absence of a clear definition of what constitutes “adequate due diligence” leaves institutions without an objective standard to guide their analyses. In this vacuum, universities will likely adopt overly conservative compliance approaches to minimize risk, increasing costs and administrative burdens while doing little to enhance actual national security.

The interim final rule introduces significant ambiguity surrounding “red flag” designation and other situations involving unknown or indeterminate ownership. Under the Affiliates Rule, if a university or its researchers have knowledge or reason to know that a foreign collaborator or subrecipient is partially or indirectly owned by a restricted party but cannot determine the precise percentage of ownership, the institution must either resolve the uncertainty or seek a BIS license. This requirement effectively places the burden of investigation on the university, even in cases where ownership structures are inherently opaque or unverifiable. Many foreign collaborators, particularly those operating in jurisdictions with limited corporate transparency or differing disclosure norms, will be unable or unwilling to provide the detailed ownership information needed to satisfy this requirement. As a result, universities face heightened compliance risk under a strict-liability standard, despite their good-faith efforts to comply with the Affiliates Rule requirements. Faced with this liability standard, many universities are likely to adopt a risk-averse stance, declining to pursue otherwise beneficial international collaborations simply because ownership information cannot be conclusively verified. Such outcomes could chill global research partnerships with reputable academic, nonprofit, or governmental institutions in countries with less robust corporate disclosure systems.

The interim final rule appears to underestimate the volume of new license applications that will result from these ambiguities. Because many institutions will lack confidence in their ability to make definitive ownership determinations under the Affiliates Rule, they are likely to submit license applications as a precautionary measure. BIS’s assumption that only a modest increase in license volume will occur may therefore be unrealistic. As license requests surge, processing delays are likely to follow, creating bottlenecks that directly affect research operations. Many university projects are time-sensitive—tied to grant funding cycles, fieldwork windows,

equipment procurement schedules, or collaboration milestones—and even modest delays in license adjudication could derail or postpone critical research activities. Furthermore, already-negotiated collaborations or ongoing experiments could be stranded if a foreign partner is subsequently deemed an affiliate and the required license is delayed, withdrawn, or denied. These risks are particularly acute for multi-institution and international consortia, where a single partner's ownership status could halt the work of multiple institutions across several countries.

Implementation of the interim final will entail significant new costs and resource burdens for universities, particularly smaller or teaching-intensive institutions with limited compliance infrastructure. Investments in compliance systems, personnel, training, ongoing monitoring, and related costs to ensure compliance at a time of constrained budgets and potential reductions in indirect cost recovery rates will impose a disproportionate burden on smaller institutions. The resulting disparities could deepen inequities within the U.S. research ecosystem, undermining national goals of broad-based scientific participation and innovation.

The interim final rule lacks sufficient clarity regarding procedures for entities seeking exclusion, modification, or exemption from coverage. Although the interim rule provides a mechanism for affected foreign entities to petition for exclusion or modification, it does not specify the process, timeline, evidentiary standards, or criteria BIS will use to adjudicate such requests. This uncertainty leaves universities and their collaborators without a clear path for determining how or when relief may be granted. Moreover, institutions require explicit guidance on how the rule applies to existing entities or collaborations that predate the interim final rule's effective date—whether such arrangements are subject to the new requirements or eligible for grandfathering treatment. The absence of safe-harbor provisions for institutions that make good-faith efforts to comply further heightens risk, as universities could face penalties or enforcement actions even when they act diligently to interpret and follow BIS guidance. Clearer standards for petition procedures, transitional treatment, and good-faith compliance are essential to provide predictability and fairness for the research community.

To reduce the negative impact on the higher education research community and preserve BIS's statutory goals, we respectfully recommend the following changes and clarifications:

1. **Define clear, objective due diligence standards.** Clear, objective standards for “adequate due diligence” need to be established by BIS. Published guidance should identify acceptable sources to be used for ownership verification, set reasonable thresholds for uncertainty, and include documentation standards to promote consistent institutional practices.
2. **Publish BIS affiliate determinations and non-coverage letters.** BIS should commit to publishing affiliate determinations, negative determination letters, and petition outcomes in an accessible, searchable database. Public access to this information would promote transparency, reduce the amount of duplicative institutional efforts, and foster consistency in compliance determinations.
3. **Safe harbor for good-faith compliance efforts.** A safe-harbor regime should be implemented, whereby institutions that conduct diligence consistent with published

standards and document their process in good faith would incur no penalties if ownership determinations later prove inaccurate.

4. **Transition relief for existing relationships.** The final rule should provide transitional relief for existing collaborations and subawards established prior to the Affiliates Rule's effective date.
5. **Narrow and clarify the Red Flag presumption.** The "red flag" presumption should be clarified and narrowed so that only material or credible indicators of ownership trigger the obligation, rather than trivial or speculative signals. BIS might require multiple corroborating indicators or a threshold of likelihood before triggering the requirement.
6. **Provide robust BIS guidance and training.** BIS should provide detailed guidance, illustrative ownership scenarios, model policies, webinars, and helpdesk support tailored to university settings. This should include hypothetical research collaboration structures, joint ventures, spin-off companies, and international academic partners.

COGR, AAU, and APLU respectfully urge BIS to adopt the revisions and clarifications outlined above to mitigate unnecessary harm to the U.S. research enterprise while preserving the integrity and objectives of the export control system. As currently written, the Affiliates Rule introduces substantial compliance burdens and operational uncertainty for universities—institutions that are already heavily regulated and resource-constrained. Without clearer guidance and supporting infrastructure, the rule may unintentionally divert attention and resources away from research and innovation, slowing the very scientific and technological progress that supports U.S. economic competitiveness and national security. By clarifying due diligence expectations, establishing safe-harbor protections for good-faith compliance efforts, and increasing transparency in BIS determinations and non-coverage decisions, BIS can enable universities to implement the rule with confidence and consistency in a manner that is not cost-prohibitive for most of our members. These refinements would promote a more efficient allocation of compliance resources, reduce duplicative analyses across institutions, and ensure that enforcement efforts remain focused on transactions that pose genuine national security risks rather than those arising from administrative uncertainty. In doing so, BIS would strengthen the overall effectiveness and credibility of the export control framework while sustaining the collaborative and open research environment that drives American scientific leadership.

Finally, we concur with the recommendations made by the Association of University Export Control Officers (AUECO) in response to the interim final rule. COGR, AAU, and APLU strongly support AUECO's emphasis on the need for clear due diligence standards, practical guidance and templates, and burden reduction strategies that recognize good-faith compliance efforts. Together, the recommendations offered by our organizations and AUECO represent a unified position from the higher education community aimed at ensuring the Affiliates Rule achieves its intended objectives without imposing disproportionate and impractical compliance obligations.

Thank you for the opportunity to submit these comments. Should you have any questions regarding these comments, please do not hesitate to reach out to any of our organizations.

Sincerely,



Barbara R. Snyder
President, AAU



Waded Cruzado
President, APLU



Matt Owens
President, COGR

AAU is an organization of 69 leading U.S. public and private research universities on the leading edge of innovation, scholarship, and solutions that contribute to scientific progress, economic development, security, and well-being.

APLU is a membership organization that fosters a community of university leaders collectively working to advance the mission of public research universities. The association's U.S. membership consists of more than 240 public research universities, land-grant institutions, state university systems, and affiliated organizations spanning across all 50 states, the District of Columbia, and six U.S. territories.

COGR is the national authority on federal policies and regulations affecting U.S. research institutions. We provide a unified voice for over 225 research universities and affiliated academic medical centers and research institutes. Our work strengthens the research partnership between the federal government and research institutions and furthers the frontiers of science, technology, and knowledge. We advocate for effective and efficient research policies and regulations that maximize and safeguard research investments and minimize administrative and cost burdens.