



## KPMG SMART PRACTICE

# Pausing exports: When, Why and How

When a potential export control or sanctions violation is identified, the export compliance team digs into the matter to identify the root cause, determine next steps and implement corrective actions. However, sometimes the team realizes that egregious violations are on-going and remediating these issues will require a coordinated, enterprise-wide approach. For example, in one prominent case an employee altered invoices and shipping documents, listed false license numbers on export paperwork and lied about the existence of export licenses. In a bad-actor scenario such as this, it may be necessary to stop a broad range of shipments to fully understand the scope of the problem.

Certainly, stopping exports for a specific period is extremely rare and a scenario that export compliance teams want to avoid. However, if it's necessary to take this step, there are a few strategies that will make a difficult situation more manageable.

### 1. Define the scope of the activity pause and its duration

In conjunction with counsel, the first step is determining the scope of that activity to be paused. For example, will it be all shipments to all destinations? Or can just a portion of the business be quarantined?

As part of this effort, the goals for pausing the business must be clearly articulated and measurable. There should be a tangible outcome that can be communicated to leadership. Once the goal is defined, determining the length of the pause is critical. Not only will it allow stakeholders to develop a plan to manage the business in the interim, but it will help maintain morale. Having a roadmap to restarting business in a fully compliant manner reassures business teams that the problem will be resolved expediently.

### 2. Define export compliance risks

During the export pause, the compliance team should undertake a deep-dive analysis of the compliance breach's root cause, and then develop supporting corrective actions to prevent similar violations. Pinpointing the reasons the potential violations occurred is fundamental to redefining compliance. Further, it will enable the compliance team to remediate the issue through effective policies and procedures, or potentially automation. Similarly, the key controls supporting the corrective actions, essentially what makes the corrective actions effective, should be identified. Coming out of the pause, stakeholders should know why these errors occurred, the steps to correct them

and how the corrective actions will be monitored.

### 3. Develop a long-term path to compliance

Once the corrective actions have been identified and implementation is in process, the export compliance team should begin shaping its future rule. While its responsibilities may expand or become better defined, changes should be implemented strategically following a strong work plan. If new resources are added, their roles should be defined, with a clear reporting structure. If a new system is implemented, its requirements and capabilities should be mindfully developed. Inserting new processes and procedures, technology and resources can be compliance force-multipliers – but only if the necessary deliberation is given to what their responsibilities are and how they will be executed.

### 4. Execute a communications plan

Although the export compliance team may potentially be working extended hours to resolve the issue driving the pause, it's important to implement a communications plan. This may include a general advisory email informing the business about the importance of export controls, their responsibilities, and the path forward. The intent of the email is to educate the enterprise around export controls and/or sanctions and inform them that export compliance will be more prominent. This initial email may be followed up with targeted communications to groups requiring specific guidance or those who will be substantially impacted.

Another good practice is to build reference resources where employees can easily access information about export compliance, trainings, advisories and FAQs. Taking these steps will increase engagement around organizational changes, help people understand the vision for the future state and provide clarity around points of contact.

A thoughtful, calm approach in a challenging situation will maximize the results of pausing the business. While it is not a position any company would like to be in, having a sense of purpose with articulable goals will maximize the benefits. ■

#### About the authors:

Steven Brotherton (San Francisco) is a Principal in the Global Export Controls & Sanctions practice of KPMG LLP and leader of the service line. [sbrotherton@kpmg.com](mailto:sbrotherton@kpmg.com)

Elizabeth Shingler (Richmond) is a Manager in the Global Export Controls and Sanctions practice of KPMG LLP. [eshingler@kpmg.com](mailto:eshingler@kpmg.com)