



Super Micro Computer, Inc.

Global Trade Compliance Policy (External)

Updated: August 2020

## **General Policy Statement**

It is the policy of Super Micro Computer, Inc. (“Supermicro” or the “Company”) to fully comply with all export control laws of the United States. U.S. export controls laws affect many aspects of Supermicro’s business operations. These laws impact a wide range of activities such as sales, shipping, engineering, customer interactions, and in some cases, the interactions we may have with each other in our daily work environment.

Export controls are laws and regulations that govern “exports” or “re-exports” of goods, services and technologies. In general, these laws determine what can be exported, to whom it can be exported, for what use it can be exported and whether prior approval from the U.S. government (in the form of an export license) is required before the export or reexport takes place.

Non-compliance with U.S. export control laws may result in substantial administrative, civil and criminal penalties against Supermicro and/or individual employees. Because of these potential consequences, it is important that Supermicro, as an organization, and each of you, as employees, remain vigilant and aware of relevant export compliance obligations.

Generally, these laws require that Supermicro obtain a U.S. government export license prior to exporting or re-exporting, or facilitating such an export or re-export (including through resellers or distributors):

- To any sanctioned country, including Cuba, Iran, North Korea, Sudan, Syria or the geographic region of Crimea;
- To any party listed on a U.S. government restricted party list;
- To military end users and military end uses, as applicable;
- For a prohibited end-use such as certain nuclear applications, rocket systems, or biological / chemical weapons; and
- Of a controlled product or technology based on the Commerce Control List (CCL) and Country Chart. The US Export laws also require Supermicro to report any Boycott requests identified.

Your responsibilities as an employee include familiarizing yourself with the export laws that affect your job duties, and seeking advice from knowledgeable company experts when necessary.

Export laws are complex and are constantly changing based on U.S. foreign policy and global developments. An important part of the Export Compliance Program is on-going training. Supermicro’s Export Compliance Team is responsible for maintaining the compliance program which includes comprehensive and up-to-date training for employees of Super Micro.

If you have any questions concerning how these laws apply to you or any Company activity, please contact the Export Compliance Team for guidance.

## **Introduction**

U.S. export control regulations are designed to protect the national security interests of the United States and promote foreign policy, including ensuring U.S. controlled commodities and technology do not fall into the hands of countries and/or individuals where such use or possession could be adverse to the United States.

These laws generally govern “exports” or “re-exports” of goods, services and technologies and determine what can be exported, to whom it can be exported, for what use it can be exported and whether prior approval from the U.S. government (in the form of an export license) is required before the export or re-export takes place.

It is Supermicro’s obligation to comply with these laws when undertaking any export, re-export or other related activity subject to U.S. export controls laws.

Failure to comply with U.S. export regulations may expose Supermicro and individual employees to substantial civil and criminal penalties, including fines, imprisonment and loss of export and government contracting privileges.

## **Purpose**

This document establishes Supermicro’s export control guidelines and practices and is consistent with Export Management System (“EMS”) parameters established by the U.S. Department of Commerce, Bureau of Industry and Security (“BIS”).

## **Scope**

The guidelines, practices and supporting documentation discussed herein apply to all Supermicro export or re-export activities subject to U.S. control laws.

## **Applicable Rules and Regulations**

U.S. export control laws are primarily set forth in three separate sets of regulations. The Export Administration Regulations (“EAR”), 15 CFR Parts 730-774, are administered by the BIS and regulate exports, reexports and temporary imports of items that are commercial and/or “dual use” in nature (“dual use” refers to items having both civil and military or proliferation applications).

The U.S. Department of Treasury, Office of Foreign Assets Control (“OFAC”) administers sanction regulations, including those involving embargoed countries and designated terrorists.

The International Traffic in Arms Regulations (“ITAR”), 22 CFR Part 120-130, are administered by the U.S. Department of State's Directorate of Defense Trade Controls (“DDTC”) and regulate exports, re-exports and temporary imports of items that are military, defense, and/or space in Nature.

## **Management Policy**

It is the policy of Supermicro senior management that the company will fully comply with all U.S. government regulations concerning the export and reexport of commodities, software and technology. Copies of published export control policy statements will be retained by Legal as provided in the Recordkeeping section below.

At a minimum, senior management policy statements will contain the following:

- A. Under no circumstances will a Supermicro transaction be undertaken in a manner contrary to U.S. export regulations.
- B. Questions concerning the legitimacy of a transaction or potential violation should be promptly referred to a knowledgeable company expert for resolution.
- C. Employees should understand and familiarize themselves with the export laws and Supermicro export control guidelines and procedures that affect their duties, and seek advice from knowledgeable company experts when necessary.

## **Responsible Personnel**

Supermicro has identified certain personnel as key employees who are empowered with the responsibility to oversee and implement Supermicro's export compliance guidelines and practices, including the Global Trade Compliance Team, with a lead Export Control Manager ("ECM").

The ECM has the primary responsibility for ensuring Supermicro's compliance and implementation of U.S. export control laws and regulations. The ECM has the independent authority to inquire into any aspect of a proposed export, re-export, or temporary import by or related to Supermicro, and, in the exercise of reasonable judgment, may refuse, withhold, prevent or delay any suspect or unlawful export, reexport, temporary import or other export related activity pending further determination as to the legality of the transaction.

In addition, the ECM will:

- Maintain and administer Supermicro's export guidelines and practices.
- Provide guidance on export control matters to employees.
- Provide implementation tools and training to those employees whose job duties are directly impacted by export controls.
- Conduct spot checks, as necessary, to ensure implementation and adherence to the EMS.
- Prepare and submit required reviews, notifications and reports to U.S. government agencies.
- Prepare and apply for required export licenses and monitor compliance with the license and any conditions thereto.
- Determine and maintain classifications for Supermicro commodities, software and technologies.

The Global Trade Compliance Team can be reached via email by contacting the following individuals:

- Rafael Palacio (ECM): (408) 503-8106 [rafaelp@supermicro.com](mailto:rafaelp@supermicro.com)
- Darrell Swiger: (408) 908-6971 [darrellswiger@supermicro.com](mailto:darrellswiger@supermicro.com)

### **Recordkeeping**

In accordance with U.S. export control laws and regulations, copies of export control related documents shall be retained for a period of not less than 5 years from the date of export or re-export, creation, issuance, or expiration, or any other termination of the transaction or activity, whichever last occurs.

The ECM and Supermicro's Legal Department will jointly retain the following documents, where applicable, to the extent related to export or reexport transactions or other export activity:

- All documents pertaining to export license applications (*e.g.*, BIS-748P, BIS-748P-A, BIS-748P-B) and accompanying attachments.
- Export licenses and accompanying conditions.
- BIS Commodity Classification Automated Tracking System ("CCATS") applications and rulings.
- Statement by Ultimate Consignee and Purchaser (BIS-711 or letter in lieu of form).
- Advisory Opinion requests and resulting determinations.
- People's Republic of China End-User Certificates.
- Restrictive trade practice or boycott requests and reports.
- License Exception TMP log to ensure proper disposition of temporary exports
- License Exception LVS log to ensure limits are not exceeded.
- License Exception TSR Written Assurances.
- Export Powers of Attorney.
- Restricted Party screening results and determinations.
- End-Use/Red Flag screening results and resolutions.
- Export control training logs and related training materials and the EMS and revisions thereto.
- Contracts, invitations to bid, correspondence and other writings to the extent related to export or re-export transactions or other export activity.
- All ECM correspondence, including emails, memorandum and notes to the extent related to export or re-export transactions or other export activity.
- All Legal Department correspondence, including emails, memoranda and notes to the extent they are related to export or re-export transactions or other export activity.

The Supermicro Accounting Department will retain the following documents to the extent related to export or reexport transactions or other export activity:

- Customer Purchase Orders. Order Confirmations.
- Special Pricing Agreements.
- End use/end user information.
- Books of account and financial records.
- Commercial Invoices with appropriate destination control statements.
- Instructions to Freight Forwarders (*e.g.*, Shipper's Letter of Instruction).
- Shippers Export Declarations/ Automated Export System Records.
- Air Waybills/Bills of Lading.
- Accounting Department correspondence, including emails, memorandum and notes.

The Supermicro Human Resources Department will retain deemed export related documents as outlined in the Technology Control Plan, attached hereto as Exhibit A.

### **Training**

The complex nature of U.S. export control laws requires a continuing program of instruction and education to Supermicro employees. The ECM, with the assistance from the Global Trade Compliance Team, will maintain attendance logs to ensure compliance with training requirements, to include the session date, subject(s) covered, instructor(s) name and list of attendees.

The following types of export control training will be conducted by Supermicro:

- A. New Employee Orientation Training: Newly hired employees will receive an overview of U.S. export control laws and, as necessary, training on job-specific export compliance practices and procedures. The ECM or designee will conduct this training.
- B. Awareness Training: Supermicro employees involved in export related activities will receive Awareness Training on an ongoing and periodic basis. The ECM or designee will conduct this training, which may include:
  - i. Overview of U.S. export control law requirements related to Supermicro; overview of Supermicro export control guidelines and practices; regulatory changes and new requirements; and
  - ii. Identification and reporting of suspect transactions.
- C. Continuing Education: The ECM shall remain current with U.S. export control laws and regulations by attending a BIS or other outside export control seminar or training on an annual basis.

## **Internal Review**

At the direction of the Legal Department, a review will be conducted by outside export counsel on a periodic basis to verify the adequacy and implementation of the Supermicro EMS. Upon completion of the review, the findings and, if necessary, suggestions for appropriate corrective actions will be provided to the Legal Department. The Legal Department will subsequently confirm corrective actions were implemented.

## **Notification**

Questionable, unauthorized or illegal export activities, including those involving customers, distributors, competitors, or other third parties, shall be reported to the ECM. The ECM will consult with the Legal Counsel, and, as required, with outside export counsel to determine appropriate proactive compliance measures and/or remedial actions, including, in appropriate cases voluntary self-disclosure to BIS.

## **Product and Technology Classification**

- A. Product Classifications: The ECM, with the assistance of outside export counsel, as needed, will determine the appropriate Export Control Classification Number ("ECCN") and Harmonized Tariff Schedule ("HTS") number for each new product.

The ECM and Legal Department will maintain an ECCN and HTS Number Matrix. The Matrix will include Supermicro product and technology ECCNs and HTS numbers with applicable export restrictions and, where applicable, CCATS numbers and Customs Ruling citations.

- B. Non-Revenue Classifications: Prior to exporting non-revenue commodities or technologies, the ECM, or designee, will determine the appropriate ECCN, HTS number and license requirements by:
- (1) Identifying the commodity, classifications, and license requirements on the Export Reference Guide, a listing of previously classified non-revenue commodities and technologies; or
  - (2) Contacting the manufacturer, or where possible, consulting the manufacturer's website, and thereafter updating the Export Reference Guide.
- C. Commodity Classification Automated Tracking System ("CCATS") Rulings: The ECM, with assistance of outside export counsel, as needed, will, as appropriate, submit CCATS requests to BIS to formally classify a representative sample of Supermicro's products and technologies. "Representative sample" includes products with the highest technical performance in a product line or which are technically identical to other products within the product line, in terms of EAR Commerce Control List control parameters.

## **Customer and Order Screening**

New customers complete a New Account Application and provide information regarding company background.

Red Flag Screening: The ECM conducts Red Flag Screening (refer to below for additional information) by reviewing the company background, targeted information, company website, and other information furnished by the customer. The ECM places customers having a Red Flag on hold, and reviews, resolves and documents Red Flag issues. Red Flag holds will only be removed at the direction of the ECM with concurrence of the Legal Counsel where necessary.

Restricted Party/Country Screening: The ECM conducts Country and Restricted Party Screening. Where the name or address is a hit, the customer is automatically placed on hold.

The ECM reviews, resolves and documents Restricted Party/Country screen hits and, if appropriate, removes the customer hold with the concurrence of the Legal Counsel where necessary. The ECM documents the results of hit resolutions.

## **Restricted Party Screening**

Potential, new and existing customers, are screened against the U.S . government's various restricted party lists in accordance with the process outlined in the Customer and Order Screening procedures described in this policy. The Restricted Party lists include, but are not limited to, the Department of Commerce's Entity and Denied Persons Lists, the Department of State's List of Debarred Parties, and the Department of Treasury, Office of Foreign Assets Control's Specially Designated Nationals List.

## **Red Flag Screening**

The Red Flag Screenings reviews new customer accounts and sales orders for potential "Red Flags," as described in EAR Part 732, Supplement Number 3, which may indicate the transaction will involve an inappropriate end-use, end-user or destination.

Red Flags include:

- The customer or purchasing agent is reluctant to offer information about the end-use of the item.
- The product's capabilities do not fit the buyer's line of business, such as an order for sophisticated computers for a small bakery.
- The item ordered is incompatible with the technical level of the country to which it is being shipped, such as semiconductor manufacturing equipment being shipped to a country that has no electronics industry.



- The customer is willing to pay cash for a very expensive item when the terms of sale would normally call for financing.
- The customer has little or no business background.
- The customer is unfamiliar with the product's performance characteristics but still wants the product.
- Routine installation, training, or maintenance services are declined by the customer. Delivery dates are vague, or deliveries are planned for out of the way destinations. A freight forwarding firm is listed as the product's final destination.
- The shipping route is abnormal for the product and destination.
- Packaging is inconsistent with the stated method of shipment or destination.
- When questioned, the buyer is evasive and especially unclear about whether the purchased product is for domestic use, for export, or for reexport.
- The customer has indicated involvement, including business and/or exports or re-exports, with embargoed or terrorist supporting countries.
- The customer will utilize Supermicro's product in missile, nuclear or chemical/biological weapons, applications.
- The ECM or designee will conduct the Red Flag Screening in the manner as described in the screening procedures described in this policy.

### **Anti-Boycott Screen**

EAR Part 760 anti-boycott regulations require that U.S. firms refuse to participate in unsanctioned foreign boycotts such as the Arab boycott of Israel. In essence, the anti-boycott regulations prohibit the following conduct:

- Agreeing to refuse to do business with Israel or blacklisted firms and countries.
- Discriminating or agreeing to discriminate against other U.S. persons because of race, religion, sex or national origin in order to comply with a foreign boycott.
- Furnishing or agreeing to furnish information about business relationships with Israel or blacklisted companies and countries in response to boycott requirements.
- Furnishing or agreeing to furnish information about U.S. company associations with charitable or fraternal organizations for boycott-related reasons.

- Paying or otherwise implementing letters of credit that include requirements to take boycott related actions.
- Requests to comply with foreign boycotts must be reported to the Commerce Department on a quarterly basis and, in some instances, on Supermicro's tax returns. Failure to report unsanctioned boycott requests can result in penalties.

In accordance with this policy, the Legal Department will review contracts for anti-boycott language and document the screening results. Suspected anti-boycott language will be reported to the SLC for resolution. Examples of prohibited boycott related language are maintained at the Bureau of Industry's website at [www.bis.doc.gov](http://www.bis.doc.gov)

Where appropriate, the ECM will include general anti-boycott awareness training to employees in company export training sessions described in this policy. The training will include the requirement that any unsanctioned boycott requests are immediately reported to the ECM for resolution.