

CUSTOMS PROFESSIONAL'S TOOLKIT

# EXPORT COMPLIANCE

Improve your compliance and grow your export business.

# Export Compliance

Having export capabilities gives you the advantage of introducing your products to new markets and the opportunity to increase your revenue. Technology has eased the burden of doing business overseas, but the actual process of exporting remains complex. Avoid costly fees and penalties. Stay informed.

As an international shipper, you need to be aware of the regulations that form the global trade landscape, and put the processes in place to ensure that your business is compliant.

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MANAGING YOUR CUSTOMS PROCESS

# FOUR WAYS TO TAKE CONTROL OF YOUR EXPORT PROCESS

Learn how to overcome today's  
most common export challenges

## Managing your Customs Process

# Four ways to take control of your export process

Being an exporter in today's global marketplace is probably the most complex it's ever been. With so many moving parts when it comes to compliance requirements for different countries (and all the paperwork that goes with it), you need to ensure your export operations process is as streamlined and efficient as possible.

For many large exporters, it's an ongoing challenge for internal customs teams to constantly keep abreast of the latest export requirements. And with your customs team trying to manage the day-to-day tasks and vendor relationships, it can be difficult to find the resources to implement a consistent system that will ensure accurate product descriptions, classifications and license determinations.

Here are a few tips that can help you get more control over your export process:

### 1 Cultivate your global relationships

It's important to understand the needs of your foreign customers, and to understand the specific export requirements for each customer's country. Fostering strong relationships with your foreign contacts will help ensure your logistics team stays current on international trade requirements.

Don't have the time to manage multiple parties or feel that you have little control over them? Consider asking a specialist to step in. Not only will you have to deal with just one point of contact, they can also conduct restricted party screenings with a fully-detailed audit trail.

**Staying competitive** and compliant in a global marketplace.



### 2 Take advantage of technology to streamline your export process

With all that's involved in the export process, the more streamlined and efficient your process is, the less complications and delays you'll run in to. That means making sure all of your documentation is accurate, complete and easy to access in the event of an audit. There are a number of technology solutions available to businesses that can help facilitate the process, as well as help you track volumes by country, cycle time and other key compliance intervals. You can also outsource these activities to an outside provider – chances are they already have all the latest tools and technology so you won't have to invest in new systems or upgrades.



3

### **Make sure your compliance team is aware of current export regulations**

To avoid costly penalties or border delays, make sure your compliance team is on top of the latest export requirements for each country you ship to. Again, partnering with an export compliance specialist can help alleviate risk by screening for restricted parties and overseeing compliance for you entirely.

4

### **Find a reliable partner**

Not every business has the time, the expertise or the resources on hand to manage every aspect of the export process. If you find you're overwhelmed and understaffed, try partnering with a provider that offers export operations expertise. Look for providers that offer flexible, customized solutions to help you stay on track and, most importantly, stay compliant.

As more foreign markets open up and become accessible to your business, your exporting program will only increase in size and complexity. However, by making it a priority to take control of your export operations process, you'll be in a better position to enjoy the success that comes with being part of a global marketplace.

Find out how **Livingston International** can work with you as a trusted export operations partner.

### **Contact Livingston**

**Have questions or need help with your shipments?** Contact your account executive, write to us at: [simplify@livingstonintl.com](mailto:simplify@livingstonintl.com) or give us a call at **1-800-837-1063**

IMPORTING AND EXPORTING

# UNDERSTANDING ELECTRONIC EXPORT INFORMATION FILING

Learn what's required when filing your export documentation electronically.

## Importing and Exporting

# Understanding Electronic Export Information filing

### If it's leaving the U.S. it's considered an export

No matter what the size of your company, if you export goods outside the United States, you're required to file export information. Here's what you need to know to ensure timely delivery of your shipments. And avoid possible civil – or even criminal – penalties.

### What constitutes an “export,” and who needs to file

For any commodity classified under each individual Schedule B number over \$2,500, or if a validated export license is required to export it, you need to file Electronic Export Information (EEI) via the Automated Export System (AES). Examples of commodities include software or technology, clothing, building materials, automotive parts – even blueprints and design plans – as well as technical information.

The AES Summary effectively replaces the Shipper's Export Declaration (SED) and, as the exporter, you are responsible for preparing it. You or a designated agent (such as a freight forwarder) files it with Census and U.S. Customs and Border Protection (CBP) through the AES.

### No matter how it leaves the U.S., it's still an export

Export requirements are the same, regardless of how the commodity is being transported outside of the United States – even if it's being sent by regular mail or hand-carried on an airplane. It might surprise you to know that plans or



schematics sent by fax to a foreign destination, software uploaded or downloaded from the Internet, and technology sent by e-mail or communicated during a phone call are also considered exports.

Technology releases, or source code sent to a foreign national in the United States, are also classified as exports to that foreign national's home country under the Export Administration Regulations (EAR) and International Traffic in Arms Regulations (ITAR). Additionally, items leaving the United States temporarily, or destined for a wholly-owned U.S. subsidiary in a foreign country, along with items considered not for sale, like gifts, are considered exports that may require the filing of EEI via AES. The same applies to foreign-origin items exported, transmitted, or transshipped through, or being returned from, the U.S. to their foreign country of origin.

### What to do before exporting

Prior to exporting, you should determine the proper Schedule B number for the commodity you're exporting. The Schedule B number needs to be reported in AES to identify what it is you're exporting.

## Learn about your requirements

when it comes to Electronic Export Information filing, including how and when to file and more.



If you're sending baggage or containers with personal or household goods valued over \$2,500 to a foreign destination (excluding Canada), you must still file the Electronic Export Information and provide the Internal Transaction Number (ITN) or exemption citation to the carrier.

If you, as the U.S. Principal Party in Interest (USPPI), are sending goods through the U.S. Postal Service, you need to file the EEI only if the shipment contains commodities valued over \$2,500 per Schedule B, or if the shipment requires an export license (or is controlled by the ITAR and is covered by an exemption). You should also submit the ITN or exemption citation to the post office.

### Exceptions to the rule

While most exports require you (the USPPI) to prepare and submit the EEI and, some exports don't, such as the following types of shipments:

- Those whose ultimate destination is Canada, as long as the goods are not licensed, subject to the International Traffic in Arms Regulations (ITAR), or contain rough or uncut diamonds (soon, exports of used self-propelled vehicles will also require EEI, even where the destination is Canada)
- Those to U.S. possessions, including Guam, Northern Mariana Islands, Midway Island, Wake Island and American Samoa.

If the ultimate destination is the U.S. Virgin Islands, or Puerto Rico, the EEI must be filed.

For additional exemptions, see the Foreign Trade Regulations, 15 C.F.R. §§ 30.36 - 30.40.

### Additional considerations

A small percentage of items being exported or re-exported require a license from the Bureau of Industry and Security (BIS) or the Directorate of Defense Trade Controls (DDTC), and it's up to you to determine if that's the case.

Requirements vary and are based on a number of factors, such as:

- technical characteristics
- original intended use
- destination
- end-user
- end-use

Properly classifying your item(s) is essential in determining any licensing requirements. Consult the Commerce Control List (CCL) for your specific Export Control Classification Number (ECCN), or United States Munitions List (USML) to determine proper classification. You can classify the item on your own, check with the manufacturer, or submit a request to have the BIS or DDTC determine the ECCN or USML



Category for you. Note that, if you can't determine whether your item falls on the CCL or USML, you must submit a Commodity Jurisdiction Determination request to the DDTC to determine the proper list.

When it comes to exporting, anything that leaves the U.S. – from software and technology to clothing, building materials, automotive parts, blueprints and design plans is considered an export – and is subject to export filing requirements.

### Failure to comply can result in stiff fines, jail – or both

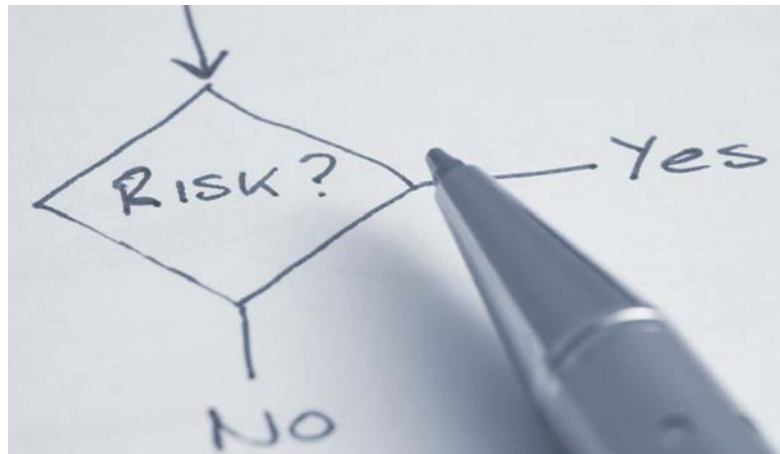
At the very least, not taking the necessary steps to classify your shipment and file the EEI can result in potentially costly delays. However, the consequences can be much more serious. Not filing, submitting false or misleading export information, using the AES to further illegal activity and more all carry severe penalties. Here are just a few real world examples:

- Individual "A" faces up to 20 years in prison, forfeiture, and a fine of up to \$1 million.
- Individual "B" fined \$1,000, sentenced to 42 months in prison, and subject to 3 years of supervision upon release.
- Individual "C" sentenced to 1 year in prison, 500 hours of community service, and a \$100,000 fine.

### Don't take chances. Take the expert advice of seasoned professionals

If your business relies on the seamless transfer of goods from the U.S., it pays to utilize specialists in customs and compliance with a unique understanding of the complexities

**Understanding your responsibilities** when it comes to Electronic Export Information filing can help you reduce risk and eliminate delays in your supply chain.



governing trade, regulatory, reporting and security requirements.

Helping ensure all your export documentation is complete, accurate, and 100% compliant goes a long way toward providing you with added assurance, peace of mind and, above all, continued success.

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IMPORTING AND EXPORTING

# EXPORTING TO THE U.S. WHAT YOU NEED TO KNOW

Six stages of the importing process you need to know before you ship your goods to the U.S.

## Importing and Exporting

# Exporting to the U.S.

Six stages of the importing process you need to know before you ship your goods to the U.S.

There are plenty of factors to consider when you are new to the international shipping process. The many forms to be completed, and regulations to be aware of can be overwhelming. The following overview of the importing process will arm you with the basic knowledge you need to start shipping your goods to the U.S.

1

### Customs clearance

Customs clearance is the umbrella term for the various stages of getting your goods across the U.S. border. The process begins with your shipment arriving at the border with the correct documentation. If Customs agents see fit, they will perform an inspection of your shipment. If everything is in order, they will release your shipment into the U.S.

The most important part of Customs clearance is ensuring that you have secured the correct documents to go along with your shipment. As the importer, you must provide the required documents to your carrier, who will then present them to Customs agents.

The documents you are required to submit with your shipment include the following:

- A Bill of Lading which is essentially proof that there is a contract between the carrier and the shipper to transport the goods;
- A Cargo Manifest which is a comprehensive list of the packages being transported signed by the carrier;
- A Customs or commercial invoice which states the value of the shipment;

**Learn the key stages** that your goods go through during the importing process to the U.S.



- Participating Government Agency (PGA) documents which are additional permits and forms required by other government departments;

All of these documents must be presented within 10 calendar days of your entry arriving at the border, otherwise your shipment will be put in a Customs warehouse, delaying its progress while you are charged for storage.

2

### Participating Government Agency requirements

As mentioned above, you may be required to submit permits, licenses, or forms to satisfy PGA requirements.

PGAs are the agencies of the U.S. government that are responsible for protecting its citizens by regulating imports of certain goods deemed to be potentially dangerous if not strictly regulated. Provided that the importer's goods are subject to approval from PGAs, the importer must comply with the regulations set forth by these agencies in order to get the shipments released by U.S. Customs. If you neglect to meet PGA requirements, you will incur costly delays at the border, or your shipment might be refused entry into the U.S. altogether.



Some of the agencies include: the Department of Transportation (DOT), the Federal Communications Commission (FCC), Environmental Protection Agency (EPA), and the Food and Drug Administration (FDA).

### 3 Classification and duty rates

Duty rates are the fees that you pay to Customs as tariffs on your goods. These rates are based on the classification of the goods being shipped, and the importer is required to pay them before the goods can be released.

All goods that enter the United States are categorized according to the Harmonized Tariff Schedule of the United States (HTSUS). Placing goods into the correct product category is called classification, and the number used to identify that category is referred to as a Harmonized System (HS) code. The HS code consists of 10 numbers, the first six of which are used on the international level by member countries. The remaining four are U.S. specific. The HTSUS provides several rates of duty for each item:

- General rates for countries with which U.S. maintains normal trade relations (NTR);
- Special rates for certain programs such as the North American Free Trade Agreement;
- Column two rates for imports not eligible for either general or special rates.

Customs duties are generally assessed at a percentage of the dutiable value of the imported goods. It is U.S. Customs who makes the final determination of the correct rate of duty to be paid by the importer.

Classification is a very complex process requiring knowledge of various rules and regulations that change often. Getting

the classification wrong, or not paying the correct duty, could mean retroactive penalties for the importer. For this reason, many importers hire customs brokers to help them classify their goods.

### 4 Shipment valuation

Shipment valuation is the process U.S. Customs uses to determine the duties and taxes owed by the importer using the HS code as described above. The importer must declare the dutiable value of merchandise, that is, the value upon which the duties are determined. The transaction value serves as the primary basis of shipment valuation. Transaction value is the price actually paid, or payable, by the buyer to the seller for the imported goods. Other factors may also add to the dutiable value of merchandise, such as: packing costs, selling commissions, assists, royalty or licensing fees, etc. The final appraisal of the dutiable value is determined by U.S. Customs, with the aid of the information you provide with your shipment.

### 5 North American Free Trade Agreement (NAFTA)

NAFTA is a trilateral trade agreement among the U.S., Canada, and Mexico. It is designed to encourage trade among the three countries by eliminating trade barriers, duties and some taxes. For qualifying products, all duties and user fees between Canada and the U.S. are eliminated. For you as an importer that means bottom-line savings.

To take advantage of NAFTA, your products must qualify under the rules of origin (Article 104 in the agreement) and must be covered by a valid NAFTA Certificate of Origin at the time of import into the U.S. The exporter, who has the best knowledge of the product, provides the NAFTA Certificate of Origin.



Avoid retroactive penalties. Work with a customs broker to classify your goods.

Valid NAFTA Certificates are not required to accompany each shipment but should be kept on file by the importer so that they are available if and when they are requested by U.S. Customs.

### Admissibility requirements

It is the importer's responsibility to ensure that the goods meet admissibility requirements such as: proper marking or labeling, packaging, safety standards, etc. Also, proper permits, certificates and licenses from applicable PGAs have to be obtained before the goods arrive in the U.S.

### Country of origin

All imported goods that you want to claim under NAFTA must meet the country of origin marking requirements. The country of origin must be a NAFTA member country, however, that doesn't necessarily mean that the product must have originated there. Country of origin, for U.S. Customs, means the country of manufacture, production or

growth. For instance, a product from Europe which has been significantly modified in Canada could still qualify for NAFTA privileges. Therefore, it is important for you to thoroughly check the rules of origin to ensure your goods are eligible.

## 6 Surety bond

A surety bond is a guarantee to the United States government that the importer will abide by all laws and regulations governing the importation of merchandise into the U.S. Specifically, the bond guarantees the payment of all applicable duties, fees, fines, or penalties up to a specific dollar amount. Having a bond on file allows the importer to take possession of the merchandise before payment of duties, taxes and fees. The surety bond also designates the importer of record for U.S. Customs purposes.

Bonds can be obtained from a surety firm, which is usually an insurance company that has been authorized by the Treasury Department to write customs bonds. The surety company issuing the bond can be called on for payment only when an importer cannot, or will not fulfill its obligations to the U.S. government. The surety company is entitled to full recovery of any loss from the importer. It is important to note that the surety bond is not designed or intended to protect the importer, nor does it relieve the importer of any obligations.

You may apply for either a single transaction bond, or a continuous bond. A single transaction bond covers only one shipment at a specific port of entry. A continuous bond covers multiple shipments, for which an annual premium must be paid. The continuous customs bond also covers transaction at any U.S. Customs' district or port. Because of the above advantages, and the overall cost savings, continuous bonds are recommended in most instances.

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MANAGING COMPLIANCE AND RISK

# THE INS- AND-OUTS OF RESTRICTED PARTY SCREENING

## Managing Compliance and Risk

# The ins-and-outs of restricted party screening

### Did you know?

The U.S. government forbids the exchange of commodities, technical data, software or services with certain companies, entities or persons that appear in export denial, debarment and blocked person lists. Even certain countries are subject to either comprehensive embargoes or targeted sanctions.

The practice of restricted party screening (RPS) involves a review of these lists to ensure that the person or entity with which you are doing business is not on one of the directories. If a company, entity or person in an export transaction appears to have a match on one of the lists, additional due diligence is required before proceeding.

As an exporter, it's your responsibility to ensure that you're not doing business with customers or vendors considered to be a threat to national security or foreign policy interests. But even though thousands of restricted parties have been called out by various governments and agencies around the world, there isn't one consolidated list available for screening.

How do you know for sure whether or not you're compliant? How do you avoid the hefty fines, loss of export privileges and even incarceration that can result from non-compliance?

You can start by being informed, and having a reliable service provider on your side.

When it comes to providing a solid RPS service solution, you can count on Livingston to help ease the burden for your customs team and keep your export business running smoothly.



### Insight into RPS

The Bureau of Industry and Security (BIS) implements export controls for the Department of Commerce through the Export Administration Regulations (EAR). In addition to denied, debarred, and blocked person lists, EAR also enforces embargoes and targeted sanctions lists.

Comprehensive embargoes prohibit virtually ALL exports, imports and other transactions without a license or other U.S. government authorization. Targeted sanctions are prohibitions on trade in specified goods, technologies, and services with specific organizations (including foreign governments) and persons.

The EAR places legal responsibility on persons who have information, authority or functions relevant to carrying out transactions subject to the EAR. These persons may include exporters, freight forwarders, carriers, consignees, and other participants in an export transaction. The EAR applies not only to parties in the United States, but also to persons in foreign countries who are involved in transactions subject to the EAR.

Unfortunately there is no single government source of information listing the thousands of restricted parties. Instead, governments and agencies around the world each publish various entity lists and trade restrictions leaving companies to face the challenging issue of how to manage updates and screen against the overwhelming volume of information without impacting productivity.

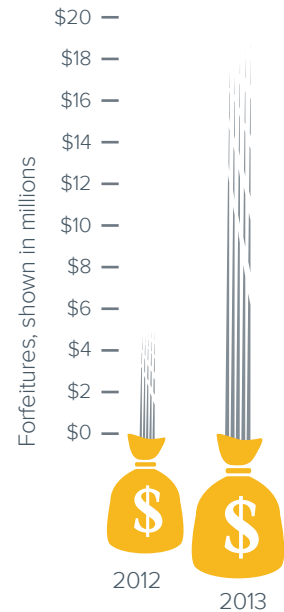
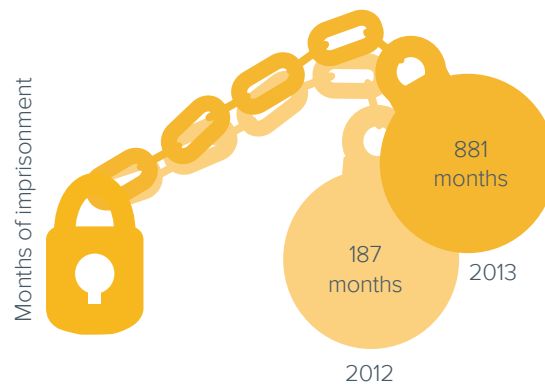
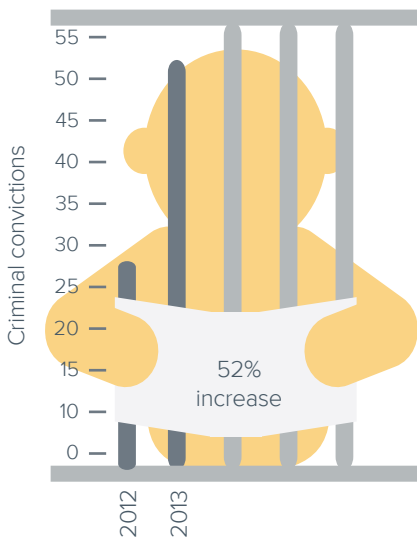
Read on to learn more about the repercussions of violating export controls, and to find out how a trusted partner, like Livingston, can help.

## What you don't know can hurt you

**1** In 2013, the University of Massachusetts was charged for violating export control laws after exporting an atmospheric testing device, along with related cables and antennae, to a research facility in Pakistan that is listed on the entity list. The products exported by the university were classified as EAR99, which represents the lowest level of export control and normally doesn't require a license for any destination except the embargoed or prohibited countries. Exporting to parties on one of the government's prohibited parties lists is a violation, even when selling EAR99 items, unless the requisite license is obtained. The university was given a \$100,000 civil penalty, which was suspended for a two-year period provided that the university does not engage in export violations during this period.

**2** After pleading guilty to criminal charges for breaching U.S. sanction, BNP Paribas is facing a record penalty of \$8.9 billion. The settlement concluded a long-running U.S. Department of Justice investigation into allegations that the French bank had conducted business with countries facing U.S. sanctions, such as Iran, Sudan and Cuba. The multi-billion dollar figure puts the fine among the largest penalties imposed on a bank.

## Think it won't happen to you?



In 2013, BIS investigations resulted in the criminal conviction of 52 individuals and businesses for export violations, as compared to 27 convictions in 2012 – a 52% increase.

The penalties for these convictions came to \$2.7 million in criminal fines, more than \$18 million in forfeitures, and more than 881 months of imprisonment in 2013, compared to \$4.8 million in criminal fines, more than \$5 million in forfeitures, and more than 187 months of imprisonment in 2012.

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OUTSOURCING YOUR CUSTOMS PROCESS

**FIVE  
QUESTIONS  
TO ASK WHEN  
CONSIDERING  
A RESTRICTED  
PARTY  
SCREENING  
SOLUTION**

## Outsourcing your Customs Process

# Five questions to ask when considering a Restricted Party Screening solution

If you've been thinking of ways to relieve your customs team from the time-consuming (but very necessary) burden of screening against restricted party lists, you might want to consider implementing an RPS automation solution. Given the steep penalties and fines that come with non-compliance, having a dedicated resource to ensure your export activities are above-board will not only save you time, it can also save you a lot of money.

When you're narrowing down your search for a solution provider, there are five key questions you should ask to ensure the solution you choose is the right one for your business.

### 1 What lists are included in your database?

With thousands of restricted parties being called out by various governments and agencies around the world, you want to make sure that none of your potential customers or vendors are one of them. Ensure the provider you choose is screening against a comprehensive collection of government and agency restricted party lists. Their restricted party screening (RPS) database should at a minimum include:

- U.S. Department of Commerce – BIS, DPL, Entity List, Unverified List.
- U.S. Department of State – Debarred, EPCI, Terrorist Exclusion List, Foreign Terrorist Organizations.
- U.S. Department of Treasury – OFAC, FINCEN, SDN, SDNT, SDGT, SDNTK, SDT.
- U.S. General Services Administration
- U.S. Federal Bureau of Investigation – Most Wanted List.
- Bank of England Financial Sanctions.
- Canadian Office of Superintendent of Financial Institutions.

Helping you find the right restricted party screening solution to improve your compliance.



- EU Financial Restrictions.
- Japanese Ministry of Economy Trade & Industry restrictions.
- United Nations Security Council Resolution entities.
- World Bank debarred entities.

### 2 Who are you screening and who should you be screening?

Denied party screening requirements aren't specific to export or import transactions. Most government regulations require you to avoid business dealings in any situations with parties on their restricted lists. It's critical to look at all phases of your company's operations to identify where your business may come into contact with restricted parties. Considerations should be made for screening employees, vendors, contractors and partners as well as customers and supply chain partners.

### 3 What criteria do you use to determine compliance?

When you submit information about your potential customer or vendor, there are some key variables that should be evaluated as part of the screening process. Be sure to ask your provider if their solution screens against the following criteria:

- Names
- End user
- Addresses
- Enhanced Proliferation Control Initiative (EPCI)
- Boycott
- Embargo
- Money laundering
- Other illegal or forbidden country concerns



#### 4 How do you handle close and/or potential matches?

There may be instances where you come up against a name that closely resembles one on a restricted party list. To provide a clear audit trail for decisions you are making about restricted party matches, you need to be able to record key pieces of information that were used at the time you resolved the match. By capturing these additional details, such as list sources, additional background on the party, and procedural rationales, it's easy to recreate basis for your match decision at any point in the future.

#### 5 What kind of documentation and reporting services do you provide?

That all-important audit trail is essential if you're ever facing an audit. Look for solutions that can deliver real-time summary reports that highlight all the true or indeterminate matches from the week's screening activity, a rationale behind all decisions and a recommendation for next steps. The compliance decision (valid match, indeterminate, false positive-no match) should be available to you on-demand so you can review your screening activities.

You should ensure you'll be able to get key performance metrics that summarize screening activity, the number of screenings, number of matches/no matches and a calculated

hit rate. These will help you verify the performance of your screening process.

#### A proven solution from an experienced compliance provider

In addition to being able to answer these five questions, you'll also want to ensure your solution provider has global experience and dedicated compliance experts focused on delivering effective and efficient compliance tools, and that the software provided has a well-established, proven history.

Restricted party screening isn't something you can afford to overlook. Finding the right automation solution will help ease the burden for your customs team and keep your global trade operations running smoothly.

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