

U.S. Persons Recusal Policy

Table of Contents

Policy	1
Annex 1 - Details on restrictions related to semiconductor manufacturing in China (incl. Hong Kong) or Macao	4
Annex 2 – Frequently asked questions.....	6
Change log	11

Policy

Scope of application: This policy applies to all U.S. persons acting on behalf of Siemens, including employees, management, and the supervisory board members.

A U.S. Person is:

- all natural persons acting on behalf of U.S. legal entities, wherever located (i.e., employees, management)
- a U.S. citizen (located or employed anywhere in the world)
- a U.S. permanent resident (Green Card holder – located or employed anywhere in the world)
- a non-U.S. person physically present in the U.S.
- protected individual as defined by 8 U.S.C.1324b(a)(3) (e.g., granted political asylum)

General statement of policy

It is Siemens policy to comply fully and completely with all applicable United States export control and sanctions laws and regulations, including those implemented by the Department of Commerce through the Export Administration Regulations (EAR), by the Department of State through the International Traffic in Arms Regulations (ITAR), and by the Treasury Department through the Office of Foreign Assets Control (OFAC) sanctions regulations.

- U.S. persons, wherever located, are prohibited from engaging or otherwise facilitating business activities with ***U.S. sanctioned countries and regions (incl. entities owned by the governments of the U.S. sanctioned countries) or sanctioned persons*** unless OFAC (Office of Foreign Assets Control within the U.S. Treasury Department) has authorized the involvement of U.S. Persons in such transactions.

U.S. sanctioned countries/Regions: Cuba, Iran, North Korea, Syria and the following regions of Ukraine: Luhansk People's Republic, Donetsk People's Republic, and Crimea (status January 2023, this list is subject to change).

U.S. sanctioned persons are individuals and companies identified on the relevant sanctions lists of the U.S. Treasury department (e.g., SDN, SSI, FSE), as well as companies owned 50% or more, individually or in aggregate, by such sanctioned persons.

- U.S. persons, wherever located, are prohibited from engaging or otherwise facilitating business activities related to **nuclear explosive devices, chemical or biological weapons, missiles or military-intelligence end use and military intelligence end users in Belarus,**

Burma, Cambodia, China, Russia, Venezuela, Cuba, Iran, North Korea, Syria, unless evaluated and released by the responsible Export Control Business Partner.

- U.S. persons, wherever located, are prohibited from directly or indirectly engaging in activities related to provisioning, servicing or facilitating the delivery of certain items and services related to **semiconductor manufacturing in China, Hong Kong and Macao** (see Annex 1 for details), unless evaluated and released by the responsible Export Control Business Partner.
- U.S. persons, wherever located, are prohibited from directly or indirectly participating, supporting, or furthering any restricted business activities described above. This restriction includes Siemens employees who are U.S. persons, as well as U.S. consultants, U.S. suppliers, and U.S. financial institutions (i.e., U.S. banks are involved whenever U.S. dollar payments are made).

In cases of doubt, all employees must consult the responsible [Export Control Business Partners](#).

Examples of U.S. persons activities, that are subject to restrictions:

- Negotiating, concluding or approving sales or procurement contracts with, or for the benefit of a sanctioned country, entity, or end use
- Participating in internal meetings and planning activities related to sanctioned country, entity, or end use
- Provide corporate services (e.g., accounting, logistics, contract administration, payment processing, pursuing past due amounts), technical services or financial serviced to or for the benefit of sanctioned country, entity, or end use. Making business decisions, voting, or planning transactions that further business with a sanctioned country, entity, or end use
- Providing commercial advice, assistance or other support for transactions related to participating in internal meetings and planning activities
- Forwarding a business opportunity in a sanctioned area to another colleague or entity within Siemens, or directing a third party (e.g., customer, supplier, vendor) to a non-U.S. person. (*Takeaway*: if as a U.S. person, you are prohibited from engaging in the transaction, you cannot redirect that workstream to a non-U.S. person).
- Supervising, authorizing, or approving transactions involving a sanctioned country, entity, or end use, managing or directing the conduct of other personnel in regard to restricted business transactions
- Participating in the re-design or restructuring of any transactions, operations, products or services for the purpose of facilitating sanctioned business transactions.

Recusal procedure

Siemens screens business transactions for involvement of the U.S. sanctioned countries, regions, and sanctioned parties, and evaluates the end-use of the products and services Siemens provides. U.S. persons engaged in soliciting new business or otherwise arranging transactions with prospective customers, are advised to screen prospective customers against the U.S. sanctions lists using [DAMEX-SPS](#). If necessary, this can be done with support from an Export Control Business Partner.

It is Siemens policy that no U.S. person will directly or indirectly engage or facilitate any transaction with, or for the benefit of, a sanctioned country, entity, or end use. U.S. persons who know or have reason to believe there may be a nexus between their work assignments and a U.S. sanctioned countries/regions/persons/end-uses, must immediately recuse themselves from such

assignments and must promptly inform the responsible Export Control Business Partner. The Export Control Business Partner will review the transaction and provide guidance on any action that may be required.

U.S. persons acting on behalf of Siemens are responsible for knowing when recusals are required, but they do not need to make this determination alone. Employees should seek the advice of an Export Control Business Partner when considering whether recusal is appropriate. In such cases, all activities in question must be suspended until a determination is made by an Export Control Business Partner.

It is important to understand that colleagues who are not U.S. Persons can lawfully engage in transactions with U.S. sanctioned countries/regions/persons/end-uses, in accordance with the Internal Control Program Export Control (ICP EX). However, in such circumstances U.S. Persons must take steps to remove themselves from any involvement whatsoever with these U.S. sanctioned countries/regions/persons/end-uses.

How to recuse?

- U.S. persons acting on behalf of Siemens are strongly encouraged to document their recusals in writing. Although recusals do not need to be in writing in order to be valid, as a general principle, a written recusal helps clarify the scope of the recusal both for the U.S. persons and those who need to be aware of the recusal. An Export Control Business Partner can assist employees in preparing a written recusal.
- If a recusal becomes necessary during a meeting, the U.S. person should inform the participants of the meeting that he/she is recusing himself/herself from any involvement because they are a U.S. person. It is strongly recommended that the recusal shall be documented in the minutes of meetings, such minutes should indicate the manner in which any U.S. Persons in attendance recused themselves from such action (e.g., left the room, dropped off the conference call), before minuting the discussion and/or decisions related to the U.S. sanctioned countries/regions/persons/end-uses.
- Once a U.S. person recognizes the need to recuse themselves from participating in a particular matter to which they have been assigned, they should notify the person who assigned the matter that they cannot participate in the assignment. The U.S. person must not make recommendations or suggestions as to a colleague who could take up the work. If the U.S. person is responsible for his or her own assignments, he or she should take whatever steps are necessary to ensure that he or she does not participate in a transaction with, or for the benefit of a restricted country, entity, or end use.

Note for non- U.S. persons:

Once informed about a U.S. Person's recusal, employees who are not U.S. Persons (e.g., line managers or project managers) may not involve U.S. Persons in any way in the restricted transactions, may not ask a U.S. Person for assistance, business advice or hand-over, may not discuss restricted transactions with U.S. persons, may not include U.S. Persons in e-mail chains in furtherance of that transaction, may not attempt to involve U.S. Persons in that transaction by withholding information about its connection to a U.S. sanctioned country/region/person/end-use.

Annex 1 - Details on restrictions related to semiconductor manufacturing in China (incl. Hong Kong) or Macao

Below is a detailed overview of the controls on activities of U.S. persons related to semiconductor manufacturing in China (incl. Hong Kong) or Macao. U.S. persons are not expected to interpret these technical restrictions on their own. The responsible Export Control Business Partners will advise in case of any questions or uncertainty.

U.S. persons are prohibited from directly or indirectly participating or facilitating following activities:

Product scope	Activities	End-use
any item not subject to the EAR	<ul style="list-style-type: none"> Shipping, transmitting, or transferring (in-country) to or within the PRC or Macao Facilitating the shipment, transmission, or transfer (in-country) Servicing any item not subject to the EAR 	<p>use in the “development” or “production” of integrated circuits at a semiconductor fabrication “facility” located in the PRC or Macao that fabricates integrated circuits meeting any of the following criteria:</p> <ul style="list-style-type: none"> a. Logic integrated circuits using a non-planar architecture or with a “production” technology node of 16/14 nanometers or less; b. NOT-AND (NAND) memory integrated circuits with 128 layers or more; c. Dynamic random-access memory (DRAM) integrated circuits using a “production” technology node of 18 nanometer half-pitch or less.
any item not subject to the EAR and meeting the parameters of any ECCN in Product Groups B, C, D, or E in Category 3 of the CCL	<ul style="list-style-type: none"> Shipping, transmitting, or transferring (in-country) to or within the PRC or Macao Facilitating the shipment, transmission, or transfer (in-country) Servicing any item not subject to the EAR 	<p>use in the “development” or “production” of integrated circuits at any semiconductor fabrication “facility” located in the PRC or Macao, but you do not know whether such semiconductor fabrication “facility” fabricates integrated circuits that meet any of the criteria a.-c. in the row above</p>

any item not subject to the EAR and meeting the parameters of ECCN 3B090, 3D001 (for 3B090), or 3E001 (for 3B090)	<ul style="list-style-type: none"> • Shipping, transmitting, or transferring (in-country) to or within the PRC or Macao • Facilitating the shipment, transmission, or transfer (in-country) • Servicing any item not subject to the EAR 	regardless of end use or end user
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Annex 2 – Frequently asked questions

Note: The FAQs below refer only to the “U.S. sanctioned countries”, but the same statements are true for transaction with the U.S. sanctioned regions, persons or end-uses, as described in the “U.S. Persons Recusal Policy”.

1. General issues / questions

1.1 What does it mean for a U.S. person to facilitate a transaction related to a U.S. sanctioned country/region/person/end-use?

Examples of facilitation could include:

- *Participating in strategic planning or changing policies to establish business related to U.S. sanctioned countries.*
- *Participating in meetings (in-person or via phone or electronic media) where opportunities or transactions relating to U.S. sanctioned countries are being discussed.*
- *Supervising or otherwise managing the day-to-day activities of non-U.S. Siemens employees engaged in matters with or for the benefit of U.S. sanctioned countries.*
- *Approving (or denying) credit for a transaction relating to U.S. sanctioned countries.*
- *Acting or advising on business opportunities relating to U.S. sanctioned countries.*
- *Referring U.S. sanctioned countries-related business to non-U.S. persons, e.g., to a non-U.S. Siemens affiliate or a non-U.S. third-party company.*
- *Approving capital expenditures or other expenses related to business with U.S. sanctioned countries.*

1.2 Do the U.S. sanctions laws apply to a U.S. citizen or a U.S. permanent resident (e.g., green card holder) working outside the U.S.?

Yes. The extension of U.S. export and sanctions laws apply to U.S. persons wherever they are located.

1.4 Do the U.S. sanctions apply to non-U.S. persons travelling to the U.S. (e.g., on a business trip)?

Yes, the U.S. sanctions apply to a non-U.S. person while this person sojourns in the U.S. All persons physically present in the U.S. are considered U.S. persons.

1.5 Will the U.S. government approve a license request to allow for a U.S. person to perform certain activities regarding a U.S. sanctioned country?

Probably not. There are only very narrow exceptions to the prohibitions available (e.g., in case of humanitarian aid), otherwise the U.S. policy is to deny license requests.

1.6 If I think I may have a concern or question about this topic who do I contact?

Please promptly involve your competent [Export Control Business Partner](#).

2 Communication / information exchange

2.1 May a U.S. person participate in any meeting or conference calls regarding U.S. sanctioned countries (for purely informational purposes only)?

No. A U.S. person may passively receive U.S. sanctioned country-related information, but must not facilitate business. U.S. person involvement or assistance in connection with an U.S. sanctioned country-related opportunity or transaction (no matter how minimal) could be qualified as facilitation. It is Siemens policy that U.S. persons not participate in any such meetings or conference calls. If an U.S. sanctioned country-related topic is one item on an agenda of a meeting or a conference call, a U.S. person should leave the meeting or the conference call while this topic is discussed. If minutes of the meeting are taken it must be explicitly mentioned therein that the U.S. person has left the meeting or the conference call while the U.S. sanctioned country-related topic has been discussed.

2.2 Is it permissible for the U.S. person to forward email he or she may receive which relates to U.S. sanctioned countries to a non-U.S. person for processing? How is a U.S. person to respond to such email?

No. A U.S. person may passively receive U.S. sanctioned country-related information (e.g., receipt of an email), but must not facilitate business. As any involvement or assistance in connection with an U.S. sanctioned country-related opportunity or transaction (no matter how minimal) could be qualified as facilitation, U.S. sanctioned country-related emails must not be answered or forwarded to any other person.

2.3 Our U.S. affiliate collaborates very closely with other teams worldwide. The U.S. affiliate has established a team center site or share point site hosted in the U.S. and wants to share data on the site with respect to customers. Is it allowed to store or share data regarding (potential) customers in U.S. sanctioned countries on that site?

No. As any involvement or assistance in connection with a U.S. sanctioned country-related opportunity or transaction (no matter how minimal) could be qualified as facilitation, data regarding (potential) customers in U.S. sanctioned countries must not be stored or shared on a team center site or share point site hosted in the U.S. or set up by the U.S. affiliate.

3 U.S. person in the role as executive

3.1 May a U.S. person, as a manager, instruct his or her employee(s) which are non-U.S. persons on work related to a U.S. sanctioned country-related transaction?

No. Instructing employees could also be qualified as facilitation. The U.S. person, even as a manager, must avoid being involved in such transaction. If a U.S. person, as a manager, is responsible for employees that potentially deal with U.S. sanctioned country-related topics

or if U.S. sanctioned country-related transactions fall in the area of responsibility of a U.S. person as a manager, such responsibilities of the U.S. person must in general be delegated to a non-U.S. person by an internal delegation letter to be signed by non-U.S. person(s).

3.2 May a U.S. person, as a manager, participate in strategic, business-related activities regarding U.S. sanctioned countries?

No, it is not permitted for a U.S. person, even as a manager, to participate in strategic and/or business-related activities related to a U.S. sanctioned country.

4 Individual business transactions

4.1 Is it permissible for U.S. persons to process cross-operational, higher-level business cases if they involve topics which are of relevance to both countries subject to an embargo as well as countries which are not subject to an embargo (e.g., sales strategy papers, R&D projects)?

No. As any involvement or assistance in connection with a U.S. sanctioned country-related opportunity or transaction (no matter how minimal) could be qualified as facilitation, U.S. persons must not process cross-operational, higher-level business cases if a U.S. sanctioned country is involved.

4.2 Is a U.S. person allowed to present him/herself as the author of an associated cross-operational, higher-level document?

No. As any involvement or assistance in connection with an U.S. sanctioned country-related opportunity or transaction (no matter how minimal) could be qualified as facilitation, U.S. persons must not work on or be named as author of cross-operational, higher-level business cases.

4.3 Is a U.S. person allowed to participate in negotiations or to comment on contracts in respect of U.S. sanctioned country-related transactions?

No. For U.S. persons it is not allowed to negotiate or to comment on contracts with subcontractors or other business partners, such as banks, in connection with U.S. sanctioned country-related transactions.

4.4 Is it permissible to agree to U.S.-dollars as currency in a contract with a customer, supplier, subcontractor or other business partner for a project related to U.S. sanctioned countries?

No. Siemens must not engage in any transactions related to U.S. sanctioned countries that transit the U.S. banking system. If U.S.-dollars are agreed in a contract as currency, then such payments usually transit the U.S. banking system, even if the parties involved or the banks conducting a payment transaction are located and act outside the U.S.

4.5 We hired a U.S. person in Germany to work in logistics. An order in relation to U.S. sanctioned country-business needs to be processed. Can the U.S. person prepare the shipping documents and arrange for delivery to the U.S. sanctioned country.

No. This activity would likely be viewed as facilitation.

4.6 My financial Business Administrator (BA), a U.S. person, is required to approve expenditures exceeding a certain amount. We need to hire contractors in an U.S. Sanctioned country to assist in the installation of a new unit. Can the BA evaluate and approve the requisition?

No. This activity would likely be viewed as facilitation.

4.7 May a U.S. person report on past activities involving a U.S. sanctioned country or financial results of such activities?

Yes, it is permitted for a U.S. person to author a report about past activities involving a U.S. sanctioned country, after the transaction is complete and so long as the report does not further or prompt future activities in the U.S. sanctioned countries. In particular, a U.S. person may not attempt to influence or otherwise be involved with any U.S. sanctioned country-related business decision based on such report.

4.8 Is it permissible for a U.S. person in HR to process a job application from a person located in a U.S. sanctioned country?

No. It is not allowed for an U.S. person in HR to process an application from a person located in an U.S. sanctioned country.

4.9 Is it permissible for a U.S. person in HR to process a job application from a person who is a citizen of a U.S. sanctioned country, but is located outside the Sanctioned Countries?

Yes, the U.S. person in HR can process the application provided that the U.S. sanctioned country citizen will not work on business within U.S. sanctioned countries. For case-by-case analysis, please contact the U.S. Export Control Business Partner.

5 U.S. person in the role as Export Control Business Partner, Legal Advisor or any other regulatory advising role

5.1 May a U.S. person in the role as Export Control Business Partner evaluate transactions related to U.S. sanctioned countries?

Yes. U.S. persons are authorized to provide information, guidance, or analysis if a proposed transaction is subject to U.S. export or sanctions restrictions. However, U.S. persons are prohibited from approving or facilitating a business transaction involving a sanctioned country, such as commenting on how to structure, alter, or modify a transaction.

The line for when an action might become a facilitation of a prohibited activity is very thin. Therefore, in cases where U.S. person cannot provide sufficient/concluding advice for the requestor, they should recuse themselves from the evaluation process.

5.2 May a U.S. person in the role as Export Control Business Partner give advice to the business or to any other colleagues (including Export Control colleagues) regarding transactions with U.S. sanctioned countries, e.g., regarding internal processes applicable for transactions with embargoed countries?

A U.S. person can review a transaction to determine if it is subject to or prohibited by U.S. sanctions or export controls and can provide information about the applicability of internal processes (e.g., Task Force escalation process). However, U.S. persons are prohibited from providing any advice or commentary on structuring or executing a transaction involving a sanctioned country.

The line for when an action might become a facilitation of a prohibited activity is very thin. Therefore, in cases where U.S. person cannot provide sufficient/concluding advice for the requestor, they should recuse themselves from the evaluation process.

5.3 May a U.S. person in the role as Export Control Business Partner forward questions about applicability of U.S. sanctions related to business transactions involving U.S. sanctioned countries to Export Control colleagues who are not U.S.-persons?

U.S. persons are authorized to provide analysis if a proposed transaction is subject to U.S. export or sanctions restrictions. However, U.S. persons are prohibited from commenting on how to structure, alter, or modify a business transaction involving a sanctioned country.

The line for when an action might become a facilitation of a prohibited activity is very thin. Therefore, in cases where U.S. person cannot provide sufficient/concluding advice for the requestor, they should recuse themselves from the evaluation process.

Change log

Version	Changes	Editor	Date
1.0	Initial publication	LC CO EX RP	06.07.2023