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**BUREAU OF INDUSTRY AND SECURITY**

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## **BIS IMPOSES \$300 MILLION PENALTY AGAINST SEAGATE TECHNOLOGY LLC RELATED TO SHIPMENTS TO HUAWEI**

### *Largest Standalone Administrative Penalty in BIS History*

WASHINGTON, D.C.—Today, the Department of Commerce’s Bureau of Industry and Security (BIS) imposed a \$300 million civil penalty against Seagate Technology LLC of Fremont, California (Seagate US) and Seagate Singapore International Headquarters Pte. Ltd., of Singapore (Seagate Singapore) (collectively, Seagate) to resolve alleged violations of U.S. export controls related to selling hard disk drives (HDDs) to Huawei Technologies Co. Ltd. (Huawei) in violation of the foreign direct product (FDP) rule. This historic foreign direct product enforcement case and settlement represents the largest standalone administrative penalty in BIS history. Today’s resolution also includes a multi-year audit requirement and a five-year suspended Denial Order.

In August 2020, BIS imposed controls over certain foreign-produced items related to Huawei, as further described below. Despite this, in September 2020, Seagate announced it would continue to do business with Huawei. Seagate did so despite the fact that its only two competitors had stopped selling HDDs to Huawei, resulting in Seagate becoming Huawei’s sole source provider of HDDs. Subsequently, Seagate entered into a three-year *Strategic Cooperation Agreement* with Huawei, naming Seagate as “Huawei’s strategic supplier” and granting the company “priority basis over other Huawei suppliers.”

As alleged in the Proposed Charging Letter, BIS’s investigation determined that Seagate engaged in conduct prohibited by the Export Administration Regulations (EAR) by ordering or causing the reexport, export from abroad, or transfer (in-country) of more than 7.4 million HDDs subject to the Huawei FDP rule without BIS authorization.

“The Department of Commerce is committed to robust and stringent enforcement of U.S. export controls in every corner of the world,” said **Deputy Secretary of Commerce Don Graves**. “Today’s historic action could not be possible without the deep commitment to justice and tireless work of our agents and analysts, who are contributing to the wider effort of protecting our national security.”

“Even after Huawei was placed on the Entity List for conduct inimical to our national security, and its competitors had stopped selling to them due to our foreign direct product rule, Seagate continued sending hard disk drives to Huawei,” said **Assistant Secretary for Export Enforcement Matthew S. Axelrod**. “Today’s action is the consequence: the largest standalone administrative resolution in our agency’s history. This settlement is a clarion call about the need for companies to comply rigorously with BIS export rules, as our enforcement team works to ensure both our national security and a level playing field.”

“Those who would violate our FDP rule restrictions are now on notice that these cases will be investigated and charged, as appropriate,” said **Director of the Office of Export Enforcement John Sonderman**. “Any company exporting to an entity subject to the additional FDP rule restrictions needs to evaluate its entire manufacturing process to determine if specified U.S. technologies or software were used in building the essential tools used in production. Companies that discover violations should submit voluntary self-disclosures to OEE.”

***Additional Background on Today’s Action:***

BIS issued an order today against Seagate imposing an administrative penalty of \$300 million, mandatory multi-year audit requirement, and a five-year suspended Denial Order. As part of the BIS settlement, Seagate admitted to the conduct set forth in the Proposed Charging Letter involving Seagate US and Seagate Singapore.

***BIS Case Background:***

As described and alleged in greater detail in the Proposed Charging Letter (PCL), between approximately August 17, 2020, and September 29, 2021, Seagate US and Seagate Singapore, working with other Seagate entities, engaged in conduct prohibited by the EAR on 429 occasions. As alleged in the PCL, Seagate ordered or caused the reexport, export from abroad, or transfer (in-country) of approximately 7,420,496 foreign-produced HDDs, valued at approximately \$1,104,732,205, to Huawei entities listed on the BIS Entity List or where such entities were a party to a transaction without authorization from BIS. The two other companies capable of making HDDs promptly—and publicly—indicated that they had ceased sales to Huawei. Of the three, only Seagate refused to stop sales and transactions involving Huawei. BIS’s \$300 million monetary penalty is more than twice what BIS estimates to be the company’s net profits for the alleged illegal exports to or involving Huawei.

As the transactions progressed, Seagate US repeatedly authorized extending lines of credit to Huawei totaling more than \$1 billion dollars between January and September 2021 resulting in an increasing volume of HDD exports to Huawei that the entity was otherwise unable to obtain. In March 2021, Seagate and Huawei even entered into a *Long-Term Agreement* involving a purchase agreement of over 5 million HDDs and naming Seagate a “key strategic supplier.” All the while, Seagate’s competitors declined similar exports.

The BIS Order, Settlement Agreement, and Proposed Charging Letter are available [online here](#).

***Additional Background on Huawei and the Foreign-Produced Direct Product Rule:***

On May 16, 2019, Huawei and certain of its non-U.S. affiliates were added to the Entity List, imposing licensing requirements on exports, reexports, and transfers (in-country) of all items subject to the EAR destined to or involving the listed Huawei entities. The Entity List designation was based on a determination made by the End User Review Committee, composed of the Departments of Commerce, Defense, State, Energy and, where appropriate, the Treasury “that there is reasonable cause to believe that Huawei has been involved in activities contrary to the national security or foreign policy interests of the United States.”

On August 17, 2020, BIS imposed controls over certain foreign-produced items “to better address the continuing threat to U.S. national security and U.S. foreign policy interests posed by Huawei and its non-U.S. affiliates.” Specifically, effective August, 17, 2020, BIS imposed a license requirement on certain foreign-produced items when (1) there is knowledge that a listed Huawei entity is a party to the transaction and (2) the foreign-produced item is produced by an overseas plant or major component of a plant that is itself a direct product of U.S.-origin technology or software subject to the EAR and specified in certain Export Control Classification Numbers.

As a consequence of the controls described above, for items subject to the FDP rule, Huawei may not receive such items or act as a party to the transaction, e.g., the “purchaser,” “intermediate consignee,” “ultimate consignee,” or “end-user,” without a license from BIS.

***Additional Information:***

Report suspected export control violations through the BIS online tip portal. You can also call the Enforcement Hotline at 1-800-424-2980 or email: [EELead@bis.doc.gov](mailto:EELead@bis.doc.gov). These BIS actions were taken under the authority of the Export Control Reform Act of 2018 and its implementing regulations, the EAR. BIS controls exports and reexports of dual-use commodities, technology, and software for reasons of national security, missile technology, nuclear non-proliferation, chemical and biological non-proliferation, crime control and regional stability. Criminal and administrative sanctions can be imposed for violations of the EAR. For more information, please visit: <https://www.bis.doc.gov/index.php/enforcement>.

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