



IMMIGRATION PRACTICE

# ALERT

## ATTENTION EMPLOYERS OF H-1B, L-1 OR O-1 WORKERS! Export Control Questions on I-129 Petition Form.

By Catherine V. Wadhvani and Robert S. Whitehill

Beginning **February 20, 2011**, when filing an I-129 Petition for a Nonimmigrant Worker form, you must begin answering the following questions.

**With respect to the technology or technical data the petitioner will release or otherwise provide access to the beneficiary, the petitioner certifies it has reviewed the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR) and has determined:**

- 1. A license is not required from either the U.S. Department of Commerce and/or the U.S. Department of State to release such technology or technical data to the foreign person; or**
- 2. A license is required from the U.S. Department of Commerce and/or the U.S. Department of State to release such technology or technical data to the beneficiary and the petitioner will prevent access to the controlled technology or technical data by the beneficiary until and unless the petitioner has received the required license or other authorization to release it to the beneficiary.**

The meaning of "export" in this context is expansive and includes the release of controlled technology or technical data to foreign persons in the United States by an employer. Such release is deemed to be an export to the employee's country(ies) of nationality.

If you need an export control license, you will need to allow time for the preparation of a license application and the government's adjudication of the same.

For more information regarding the information in this alert, or if you need assistance in answering the questions set forth above, contact Catherine V. Wadhvani at 412.394.5540 or [cwadhvani@foxrothschild.com](mailto:cwadhvani@foxrothschild.com) or Robert S. Whitehill at 412.394.5595 or [rwhitehill@foxrothschild.com](mailto:rwhitehill@foxrothschild.com) for a referral to one of our export control attorneys, or contact any other member of our [Immigration Practice](#).

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