

ALERT

U.S. Department of State Proposes Amendment to the International Traffic in Arms Regulations Relating to Brokers and Brokering Activities

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December 22, 2011

On December 19, 2011, the Department of State (the Department) proposed an amendment to the International Traffic in Arms Regulations (ITAR) regarding brokers and brokering activities. The proposed rules change key provisions involving licensing, registration, reporting procedures and exemptions. Some of the proposed amendments lessen the burden placed on persons engaging in brokering activities. For example, the amended ITAR would eliminate the requirements for prior notification, propose new exemptions and provide detailed guidance on obtaining a broker authorization. Moreover, brokers are no longer required to file a separate transmittal letter although certain certifications must be made in the Statement of Registration.

The proposed regulations further clarify the definitions of "broker" and "brokering activities" by indicating activities which do not constitute brokering. The new "brokering activities" regulation specifies that brokering does not include activities that do not extend beyond administrative services such as providing or arranging office space and equipment, advertising, hospitality, clerical, visa, or translation services, or does not include activities beyond the provision of legal advice by an attorney to his client. Further, the proposed amendments provide additional clarification regarding the applicability of the ITAR to foreign brokers operating overseas. Although, these rules propose some regulatory changes, many brokering provisions remain the same. Under the amended regulations, brokers must still pay the annual \$2,250 registration fee,

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submit documentation that it is authorized to do business in the United States and a senior officer must sign the Statement of Registration.

The Department will accept comments on these proposed amendments until February 17, 2012.