

### § 740.3

### 15 CFR Ch. VII (1–1–04 Edition)

may inform an exporter, that before using any License Exception, a notice be submitted with BIS concerning the proposed export.

[61 FR 12768, Mar. 25, 1996, as amended at 61 FR 64274, Dec. 4, 1996; 62 FR 25457, May 9, 1997; 63 FR 2456, Jan. 15, 1998; 64 FR 13339, Mar. 18, 1999; 66 FR 36680, July 12, 2001; 67 FR 59725, Sept. 23, 2002; 68 FR 16211, Apr. 3, 2003]

#### § 740.3 Shipments of limited value (LVS).

(a) *Scope.* License Exception LVS authorizes the export and reexport in a single shipment of eligible commodities as identified by “LVS - \$(value limit)” on the CCL.

(b) *Eligible Destinations.* This License Exception is available for all destinations in Country Group B (see Supplement No. 1 to part 740), provided that the net value of the commodities included in the same order and controlled under the same ECCN entry on the CCL does not exceed the amount specified in the LVS paragraph for that entry.

(c) *Definitions—(1) order.* The term *order* as used in this § 740.3 means a communication from a person in a foreign country, or that person’s representative, expressing an intent to import commodities from the exporter. Although all of the details of the order need not be finally determined at the time of export, terms relating to the kinds and quantities of the commodities to be exported, as well as the selling prices of these commodities, must be finalized before the goods can be exported under License Exception LVS.

(2) *Net value: for LVS shipments.* The actual selling price of the commodities that are included in the same order and are controlled under the same entry on the CCL, less shipping charges, or the current market price of the commodities to the same type of purchaser in the United States, whichever is the larger. In determining the actual selling price or the current market price of the commodity, the value of containers in which the commodity is being exported may be excluded. The value for LVS purposes is that of the controlled commodity that is being exported, and may not be reduced by subtracting the value of any content that would not, if shipped separately, be subject to licensing. Where the total value of the

containers and their contents must be shown on Shipper’s Export Declarations under one Schedule B Number, the exporter, in effecting a shipment under this License Exception, must indicate the “net value” of the contained commodity immediately below the description of the commodity.

(3) *Single shipment.* All commodities moving at the same time from one exporter to one consignee or intermediate consignee on the same exporting carrier even though these commodities will be forwarded to one or more ultimate consignees. Commodities being transported in this manner will be treated as a single shipment even if the commodities represent more than one order or are in separate containers.

(d) *Additional eligibility requirements and restrictions—(1) Eligible orders.* To be eligible for this License Exception, orders must meet the following criteria:

(i) *orders must not exceed the applicable “LVS” dollar value limits.* An order is eligible for shipment under LVS when the “net value” of the commodities controlled under the same entry on the CCL does not exceed the amount specified in the “LVS” paragraph for that entry. An LVS shipment may include more than one eligible order.

(ii) *orders may not be split to meet the applicable LVS dollar limits.* An order that exceeds the applicable LVS dollar value limit may not be misrepresented as two or more orders, or split among two or more shipments, to give the appearance of meeting the applicable LVS dollar value limit. However an order that meets all the LVS eligibility requirements, including the applicable LVS dollar value limit, may be split among two or more shipments.

(iii) *orders must be legitimate.* Exporters and consignees may not, either collectively or individually, structure or adjust orders to meet the applicable LVS dollar value limits.

(2) *Restriction on annual value of LVS orders.* The total value of exports per calendar year to the same ultimate or intermediate consignee of commodities classified under a single ECCN may not exceed 12 times the LVS value limit for that ECCN; however, there is no restriction on the number of shipments provided that value is not exceeded.

This annual value limit applies to shipments to the same ultimate consignee even though the shipments are made through more than one intermediate consignee. There is no restriction on the number of orders that may be included in a shipment, except that the annual value limit per ECCN must not be exceeded.

(3) *orders where two or more LVS dollar value limits apply.* An order may include commodities that are controlled under more than one entry on the CCL. In this case, the net value of the entire order may exceed the LVS dollar value for any single entry on the CCL. However, the net value of the commodities controlled under each ECCN entry shall not exceed the LVS dollar value limit specified for that entry.

*Example to paragraph (d)(3):* An order includes commodities valued at \$8,000. The order consists of commodities controlled under two ECCN entries, each having an LVS value limit of \$5000. Commodities in the order controlled under one ECCN are valued at \$3,500 while those controlled under the other ECCN are valued at \$4,500. Since the net value of the commodities controlled under each entry falls within the LVS dollar value limits applicable to that entry, the order may be shipped under this License Exception.

(4) *Prohibition against evasion of license requirements.* Any activity involving the use of this License Exception to evade license requirements is prohibited. Such devices include, but are not limited to, the splitting or structuring of orders to meet applicable LVS dollar value limits, as prohibited by paragraphs (d)(1) (ii) and (iii) of this section.

(5) *Exports of encryption items.* For components or spare parts controlled for "EI" reasons under ECCN 5A002, exports under this License Exception must be destined to support an item previously authorized for export.

(e) *Reexports.* Commodities may be reexported under this License Exception, provided that they could be exported from the United States to the new country of destination under LVS.

(f) *Reporting requirements.* See §743.1 of the EAR for reporting requirements for

exports of certain commodities under License Exception LVS.

[61 FR 64274, Dec. 4, 1996, as amended at 63 FR 2456, Jan. 15, 1998; 63 FR 50520, Sept. 22, 1998]

#### § 740.4 Shipments to Country Group B countries (GBS).

License Exception GBS authorizes exports and reexports to Country Group B (see Supplement No. 1 to part 740) of those commodities controlled to the ultimate destination for national security reasons only and identified by "GBS—Yes" on the CCL. See §743.1 of the EAR for reporting requirements for exports of certain commodities under License Exception GBS.

[63 FR 2456, Jan. 15, 1998]

#### § 740.5 Civil end-users (CIV).

License Exception CIV authorizes exports and reexports controlled to the ultimate destination for national security reasons only and identified by "CIV—Yes" on the CCL, provided the items are destined to civil end-users for civil end-uses in Country Group D:1, except North Korea. (See Supplement No. 1 to part 740.) CIV may not be used for exports and reexports to military end-users or to known military uses. Such exports and reexports will continue to require a license. In addition to conventional military activities, military uses include any proliferation activities described and prohibited by part 744 of the EAR. A license is also required for transfer to military end-users or end-uses in eligible countries of items exported under CIV. See §743.1 of the EAR for reporting requirements for exports of certain commodities under License Exception CIV.

[61 FR 64275, Dec. 4, 1996, as amended at 63 FR 2456, Jan. 15, 1998; 65 FR 38150, June 19, 2000]

#### § 740.6 Technology and software under restriction (TSR).

(a) *Scope.* License Exception TSR permits exports and reexports of technology and software controlled to the ultimate destination for national security reasons only and identified by "TSR—Yes" in entries on the CCL, provided the software or technology is