

FAQs on Mergers, Acquisitions, and Divestitures (MAD)

Q: My company, which is not an ITAR registrant, just bought an ITAR registrant. Will my company assume the registration code of the ITAR registrant?

A: No. The registration code is an identifier unique to a specific entity. One entity cannot assume another entity's registration code. If the parent company wants or needs to register, then the parent company must register in its own name and fold the previous ITAR registrant under the parent company's registration as a subsidiary/affiliate.

Q: My ITAR-registered company has acquired another ITAR-registered company, which will require name, address, and/or registration code changes to existing Department of State authorizations (e.g., licenses/agreements). Will these authorizations transfer automatically once the buyer and seller provide the 5-day notifications to DTCC? Is there anything else I need to do?

A: Submitting the 5-day notifications does NOT automatically transfer Department of State authorizations from one name, address, and/or registration code to another. Pursuant to Section 122.4(a) of the ITAR, both the buyer and seller must provide complete 5-day notifications (see https://www.pmdotc.state.gov/ddtc_public; then select "Conduct Business", "Registration", "Updating a Registration", and "Mergers/Acquisitions/Divestitures"). Please include the following language in the buyer's notification: "(Insert name) assumes all rights, responsibilities, liabilities, and obligations regarding the licenses, agreements, or other approvals (including any conditions, limitations, provisos, or amendments), or any requirements under the Arms Export Control Act or the International Traffic in Arms Regulations for the licenses, agreements and other approvals." Upon receipt of such a letter, DTCC will issue the buyer an acknowledgment letter.

The buyer should then submit this acknowledgement letter as an attachment to a General Correspondence request (see https://www.pmdotc.state.gov/ddtc_public; then select "Conduct Business", "Licenses and Agreements", "Guidelines and Instructions", "Modifications to Existing Authorizations", and "General Correspondence for Amendment of Existing ITAR Authorizations Due to U.S. Entity Name/Address and/or Registration Code Changes") to the Office of Defense Trade Controls Licensing (DTCL) that provides the name, address, and/or registration code change for the relevant Department of State authorizations. If the buyer does not take each of the steps described above, a new authorization request must be submitted to DTCL under the buyer's registration code to engage in activity approved in a prior authorization under the seller's authorization code.

Q: My ITAR-registered company will acquire another ITAR registrant (that is, not an asset sale). Will both registration codes survive post-acquisition?

A: No. Once the required 5-day notifications are submitted, the Office of Defense Trade Controls Compliance (DTCC) will cancel the seller's registration. Unless the buyer chooses to dissolve the seller as a legal entity, DTCC will fold the seller under the buyer's surviving registration as a subsidiary/affiliate.

Q: We have changed our legal business name. Will we keep our registration code? Also, is there anything we need to provide to DTCC?

A: Yes. The registrant will maintain its registration code if it undergoes a legal name change. In this event, pursuant to Section 122.4(a) of the ITAR, the registrant must submit a notification in DECCS. Please attach to your notification the state government legal documentation evidencing the legal business name change or conversion from the old name to the new name (please note that a legal name change is different than an asset sale, which is addressed in a separate FAQ).

Q: My company, which is not an ITAR registrant, purchased the assets of an ITAR-registered company. Will my company assume the ITAR registrant's registration code?

A: No. DTCC would not consider this transaction to be a name change for the purposes of ITAR registration, but rather an asset sale/acquisition. The registration code is an identifier unique to a specific entity. One entity cannot assume another entity's registration code. Thus, in this instance, the seller retains its registration code, which it may or may not choose to cancel. If the buyer will be in the business of manufacturing, exporting, and/or temporarily importing defense articles or furnishing defense services, it must register in its own name.