

→ Supply Chain Management

Modern global supply chains are complicated and raise a host of legal, business, and ethical issues to carefully manage. The regulatory environment is complex and constantly changing – particularly for companies in highly-regulated industries, such as defense, healthcare, life sciences, and telecommunications.

Sheppard Mullin's Supply Chain Management Team can help your company navigate this regulatory environment, identify the key risk areas in your supply chain, and build out best practices to mitigate these risks. Whether fine-tuning cybersecurity compliance, implementing plans to detect and avoid counterfeit or nonconforming parts, ensuring products meet various Buy American requirements, or managing obligations under U.S. export controls, securing the supply chain demands a careful examination of risks by an interdisciplinary team that can help manage and solve problems from multiple perspectives.

Our Supply Chain Management Team has years of experience advising clients on supply chain compliance. We regularly design and implement corporate compliance programs, policies, and procedures. We also have substantial experience in handling sensitive internal investigations related to potential violations of federal statutes and administrative regulations.

Buy American and Country of Origin Requirements

We are dedicated to advising U.S. and non-U.S. clients through issues and investigations relating to country of origin and domestic content requirements, most particularly those relating to the Buy American Act (BAA), the Trade Agreements Act (TAA), and various other "Buy America," requirements (including the Build America, Buy America (BABA) requirements under the 2021 Infrastructure Investment and Jobs Act (IIJA)) that commonly accompany federal, state, and local projects that utilize federally-appropriated funds.

Cybersecurity and Data Protection

Nearly every facet of a company's operations is subject to a complex array of legal and business challenges related to privacy and data security. Companies need practical advice from experienced counsel who thoroughly understand the cybersecurity landscape to prevent cyber incidents and potential disasters in their supply chain. Our team has experience counseling clients subject to cybersecurity supply chain regulations and guidance, including compliance with requirements for secure software development and mitigating risks in the software supply chain (including Software Bill of Materials (SBOMS)), data protection standards for subcontractors and vendors (including cloud service providers), prohibited sources and Section 889, and Cybersecurity Supply Chain Risk Management (C-SCRM).

Commercial and Government Contracting

Our attorneys are readily available for the day-to-day counseling that corporations require to solve the myriad of issues arising in federal and state procurement, contract claims, prime and subcontractor disputes, contract performance, and subcontractor agreements all tied to their supply chain management. Our Supply Chain Management Team also has extensive experience working with non-traditional government contractors, such

as commercial products or commercial services organizations who do not typically do business with government customers.

Export Controls

When exporting U.S.-origin goods and technologies (and even certain non-U.S. products made from those items) in your supply chain, it is essential to understand whether products or technologies are controlled under the Department of State, International Traffic in Arms Regulations (ITAR) or the Department of Commerce, Bureau of Industry and Security, Export Administration Regulations (EAR), the classification of the export, where it will be sent, its end use, and its end user. We help clients address all of these issues, seek licenses or other authorizations, make disclosures to government agencies as needed, and navigate changing export controls (i. e., on semiconductors, artificial intelligence, advanced computing, supercomputers, and other emerging technologies). We can also advise clients on structuring their product development to manage (and in some cases minimize) the impact of U.S. export controls.

Customs and Imports

International tensions are increasingly burdening sourcing, manufacturing, delivery, and other retail functions. New trade agreements like the United States-Mexico-Canada Agreement (USMCA) have significantly complicated the qualifying rules of origin. U.S. Customs has increasingly targeted shipments of goods suspected to be the product of forced labor. Special retaliatory duties have proliferated. Our international team regularly advises on U.S. Customs and Border Protection (CBP) and non-U.S. Customs compliance, Free Trade Agreements (FTAs), Section 301 duties on other imports from China, Section 232 duties, anti-dumping and countervailing duties (AD/CVD), CBP protests, product classifications, valuation, rules of origin, labeling, marking, seizures, forced labor compliance including under the Uyghur Forced Labor Prevention Act (UFLPA) and in CBP Forced Labor Risk Analysis and Survey Assessments (RASA), and other areas of customs compliance. Our team aims to help enhance compliance in your supply chain while reducing the burden of the various regulations.

Subcontracting and Reseller Agreements

Every year, the U.S. government awards hundreds of billions of dollars to prime contractors to deliver products and provide needed services. But a significant portion of this funding flows through the prime contractors down to subcontractors and vendors – entities who ultimately have no direct contractual relationship with the federal government, yet still are subject to a whole host of laws, policies, and regulations governing their performance. Federal laws also place significant burdens on prime contractors in selecting their subcontracting partners and effectively managing such arrangements. Our Supply Chain Management Team has extensive experience in assisting commercial and non-commercial government contractors with navigating the complex world of subcontracting, including doing business with small business partners and resellers/distributors.

Intellectual Property

We cover all laws governing patents, trademarks, copyrights, trade secrets, false advertising, unfair competition, counterfeiting, grey marketing, and other matters involving intellectual property. We routinely address practical concerns related to the Internet, intranets, e-mail and document and data retention policies, as well as offer cutting edge advice in important related areas such as antitrust, unfair competition, counterfeiting, grey

marketing and product diversion.

Tax

Tax considerations affect every aspect of business, investment and individual income and wealth—and the practice of tax law requires innovation and creativity. Sheppard Mullin's tax attorneys provide sophisticated advice in all areas of corporate, partnership, real estate, renewable energy, tax credit transactions, and international taxation; employee benefits; executive compensation and more.

Sanctions

Economic sanctions and embargoes are constantly evolving in response to the changing geopolitical, foreign policy, and national security landscape. Sheppard Mullin's Supply Chain Management Team helps clients comprehend and navigate the complex obligations under U.S. Department of Treasury, Office of Foreign Assets Control (OFAC), European Union (EU), and United Kingdom (UK) sanctions laws and regulations. Our attorneys draw on decades of experience to provide practical advice, develop effective compliance strategies, and represent companies in government and internal investigations. We regularly advise clients on project planning, market entry, sourcing, responding to OFAC subpoenas, sanctions compliance programs and policies, OFAC licenses, audits, voluntary self-disclosures, and other agency interactions.

Finance & Bankruptcy

Aside from the regulatory environment, most supply chains operate as a matter of logistics. Companies sign contracts; supplier deliver products; and companies sell to their customers in the normal course of business. But what happens when financing gets a little tight? Or if your suppliers are on the verge of bankruptcy? Our attorneys can help navigate these difficulties in real-time to help ensure that your supply chains are not unduly disrupted based on cashflow considerations, including (potentially) securing inventory and payment as part of a bankruptcy process.

Supply Chain Logistics

In our modern world, every type of consumer good depends on a reliable supply chain. Whether retail products, automobiles, or even the food that you ate for lunch, nearly everything travels through a port or rides on a truck or train. When these logistical hubs get pinched, there are inevitably downstream effects on anyone selling goods or services. Our attorneys can help you understand and navigate the logistics relating to shipping, receiving, and customer-facing sales (including retail operations), especially on issues relating to product labeling and public disclosures.