INTELLIGENCE COMMUNITY POLICY GUIDANCE

710.2/403.5

Application of Dissemination Controls: Foreign Disclosure and Release Markings

A. AUTHORITY: The National Security Act of 1947, as amended; Executive Order (EO) 12333, as amended; EO 13526; EO 13556; 32 CFR Part 2001; and other applicable provisions of law.

B. PURPOSE: To provide direction and guidance on the use of control markings under Intelligence Community Directive (ICD) 710, *Classification Management and Control Marking System,* as applied to foreign disclosure and release under ICD 403, *Foreign Disclosure and Release of Classified National Intelligence*. This Policy Guidance carries both numbers for ease of reference.

C. APPLICABILITY

1. This ICPG applies to the Intelligence Community (IC), as defined by the National Security Act of 1947, as amended, and to such elements of any other department or agency as may be designated an element of the IC by the President, or jointly by the Director of National Intelligence (DNI), and the head of the department or agency concerned.

2. This ICPG applies, pursuant to ICD 710, to intelligence information that requires safeguarding through the use of dissemination controls for the foreign disclosure or release of such information.

3. This ICPG does not apply to information that is not intelligence or intelligence-related information, which may otherwise be protected by statute or presidential directive.

D. GUIDANCE

1. Foreign disclosure and release control markings are applied to intelligence information when a disclosure or release decision has been made in accordance with ICD 403 and applicable IC element processes and procedures that are consistent with the provisions of ICD 403.

2. Foreign disclosure and release control markings shall be applied in accordance with ICD 710, and shall be consistent with the IC markings system, protocols, and implementation guidance established in the IC Markings System Register and Manual (formerly known as the CAPCO Register and Manual).

3. Foreign disclosure and release control markings are permitted, but not required, for unclassified intelligence information. These markings shall be applied in accordance with ICD 710 and IC elements' internal processes and procedures for unclassified information, as well as applicable provisions of law and regulation.

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4. Documents containing multiple portions with different foreign disclosure or release control markings shall be marked overall with the most protective marking.

5. The Senior Foreign Disclosure and Release Authority (SFDRA) or Foreign Disclosure and Release Officer (FDRO), as defined in ICD 403, is authorized to re-mark any intelligence information with new foreign disclosure and release markings after the originator has cleared that intelligence for disclosure or release to a new intended recipient. Such remarking must take place prior to dissemination beyond the U.S. Government to protect U.S. national intelligence relationships. A version of the document with its original markings must be maintained.

6. Reporting on the use of foreign disclosure and release markings on disseminated analytic products shall be included as part of the annual reporting requirements of ICD 710.

7. The training conducted pursuant to EO 13526, Sections 1.3(d) and 2.1(d), ICD 403, and ICD 710 shall include training on the proper use, application, safeguarding, processes for requesting disclosure, and derivative use of foreign disclosure and release control markings.

E. FOREIGN DISCLOSURE AND RELEASE CONTROL MARKINGS: The following markings are authorized to communicate foreign disclosure and release decisions. For those markings that require the identification of specific countries, international organizations, and coalition partners, the appropriate markings are provided in the IC Markings System Register and Manual, Annexes A, B, and C.

1. Not Releasable to Foreign Nationals (NOFORN):

a. The NOFORN marking shall be applied when the intelligence information may not be disclosed or released in any form to foreign governments, international organizations, coalition partners, and other foreign entities without prior consent from the originating IC element. Criteria for intelligence that may not be disclosed or released to foreign recipients can be found in Intelligence Community Policy Guidance (ICPG) 403.1, *Criteria for Foreign Disclosure and Release of Classified National Intelligence*, Section D.3.

b. In accordance with ICD 710, Section E.5.c(2), and in the absence of any other applicable foreign disclosure and release guidance, the NOFORN marking shall be applied when classified intelligence information from a disseminated analytical product created before 28 June 2010, bearing no explicit foreign disclosure and release marking, is derivatively used in the production of a new classified disseminated analytic product.

c. This is the most restrictive foreign disclosure and release marking.

2. Authorized for Release To (REL TO [USA, LIST]):

a. The REL TO marking shall be applied to intelligence information when a determination has been made to permit the release of specific intelligence information to the foreign entity or entities listed. For example, this marking is often used to indicate a determination to release pursuant to an existing foreign intelligence sharing arrangement between an IC element and the receiving entity or entities or an ad hoc decision pursuant to ICPG 403.2, *Procedures for Foreign Disclosure and Release Requiring Interagency Coordination, Notification, and DNI Approval.*

b. Release in any form to foreign entities not listed with the REL TO marking is prohibited without prior consent from the originating IC element.

c. If the REL TO marking is used in conjunction with the ORCON or ORCON-USGOV marking, the originating IC element is explicitly indicating a decision to release that intelligence information to the foreign recipients on original distribution. Further dissemination of that information is not authorized without advanced permission of the originator.

3. Releasable by Information Disclosure Official (RELIDO):

a. The RELIDO marking shall be applied when an originator explicitly defers the foreign disclosure and release determination to a SFDRA. This marking does not, by itself, indicate an affirmative decision to disclose or release information.

b. Use of the RELIDO marking is strongly encouraged to ensure efficient foreign disclosure and release decisions in support of identifiable U.S. benefits such as those described in ICPG 403.1, Section D.1.b.

c. Intelligence information bearing no dissemination controls created on or after 28 June 2010 shall be handled in the same manner as information bearing the RELIDO marking. Consistent with ICD 710, Section E.5.c(1), the RELIDO marking shall be applied when classified intelligence information from a disseminated analytical product created on or after 28 June 2010, bearing no explicit foreign disclosure and release marking, is used in the production of a new classified disseminated analytic product.

d. When RELIDO and REL TO markings are combined, originating IC elements are explicitly deferring further disclosure or release determinations to a SFDRA without requiring prior consultation with the originating IC element.

4. Display Only (DISPLAY ONLY [LIST]):

a. The DISPLAY ONLY marking shall be applied to intelligence information to indicate the information is authorized for foreign disclosure, without providing a physical or electronic copy in any form for retention.

b. Disclosure in any form to foreign entities not listed with the DISPLAY ONLY marking is prohibited without prior consent from the originating IC element.

c. Originators may apply the DISPLAY ONLY marking alone or in conjunction with the REL TO marking, consistent with the IC Markings System Register and Manual.

d. A decision to use the DISPLAY ONLY marking shall be consistent with ICD 403 and established intelligence sharing arrangements and procedures.

e. The originator shall apply a standard warning caveat to communicate a determination that reuse of information in whole or in part in other products is prohibited. This caveat can be found in the IC Markings System Register and Manual.

F. FURTHER DISSEMINATION OF INTELLIGENCE INFORMATION MARKED FOR FOREIGN DISCLOSURE AND RELEASE

1. When an identifiable benefit can be expected to accrue to the U.S., authorized recipients are encouraged to consider seeking further foreign disclosure and release approval through established channels.

2. If an authorized holder of intelligence information believes that a foreign disclosure or release control marking has been incorrectly applied, the authorized holder may challenge the application of the marking in accordance with DNI Guidance for Intelligence Community Marking Challenges (NCIX 260-11, 18 January 2012). If an authorized holder of intelligence information desires to appeal a foreign disclosure or release decision, that holder shall follow guidance provided in ICD 403, Section E.7.

G. ROLES & RESPONSIBILITIES

1. The Assistant Director of National Intelligence for Partner Engagement (ADNI/PE) shall:

a. Coordinate with the Office of the National Counterintelligence Executive to issue standard criteria for foreign disclosure and release markings training;

b. Establish a website on a classified network that makes available each IC element's foreign disclosure and release policies and procedures; and

c. Facilitate the resolution of disputes related to requests for foreign disclosure and release that cannot be resolved between IC elements, consistent with ICD 403, Section E.7.

2. The National Counterintelligence Executive (NCIX) shall:

a. Coordinate with IC elements to establish additional foreign disclosure and release markings, or eliminate or modify existing markings;

b. Promulgate changes to markings guidance in the IC Markings System Register and Manual;

c. Coordinate with ADNI/PE to resolve disputes related to the application of foreign disclosure and release markings that cannot be resolved between IC elements; and

d. Coordinate with ADNI/PE and the Classification Marking Implementation Working Group to issue standard criteria for foreign disclosure and release markings training.

3. Heads of IC elements shall:

a. Make foreign disclosure and release determinations in accordance with ICD 403;

b. Apply foreign disclosure and release control markings consistent with ICD 710, the IC Markings System Register and Manual, and this Guidance;

c. Ensure element policies and markings implementation guidance reflect current foreign disclosure and release control marking requirements;

d. Ensure employees are trained on the proper application of foreign disclosure and release control markings;

e. Report annually to the NCIX on the use of foreign disclosure and release control markings; and

f. Make emergency foreign disclosure and release decisions consistent with the criteria and conditions described in ICPG 403.3, *Criteria and Conditions for Emergency Foreign Disclosure and Release.*

H. EFFECTIVE DATE: This Policy Guidance becomes effective on the date of signature.

James R. Clapper
Director of National Intelligence

20 MARCH 2014
Date