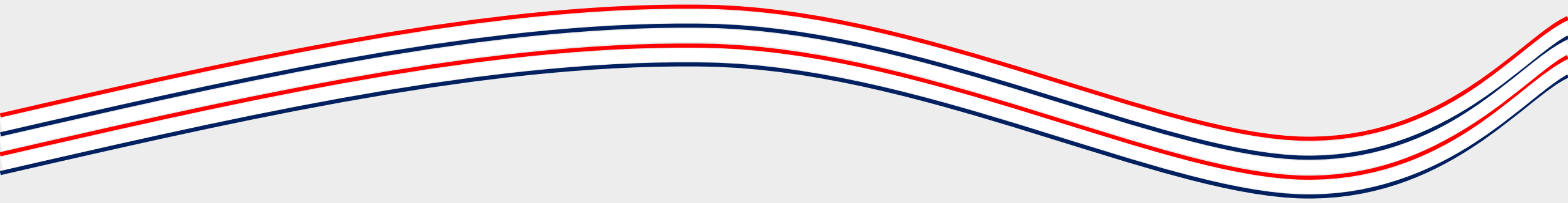


Export & Security Controls Tightening: Contractors Require a Discerning View of Risk

Nathaniel T. Millsap Jr.

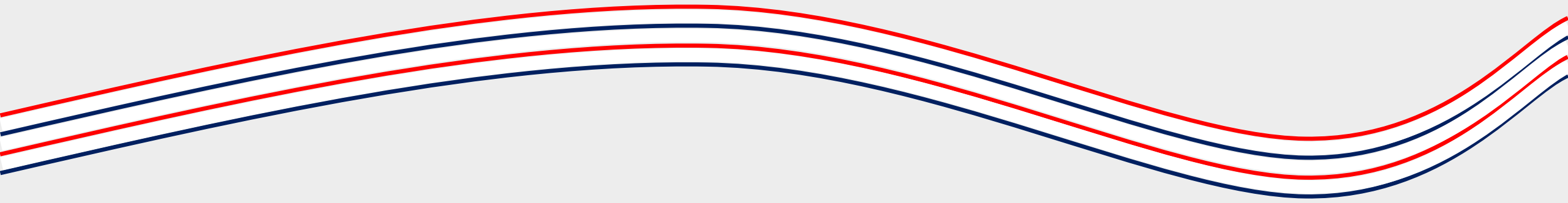
Director, Industrial Security & Technology

Fincantieri Marinette Marine

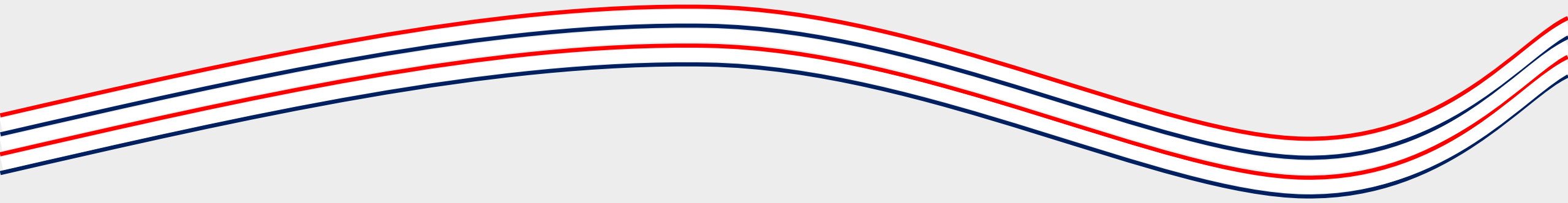
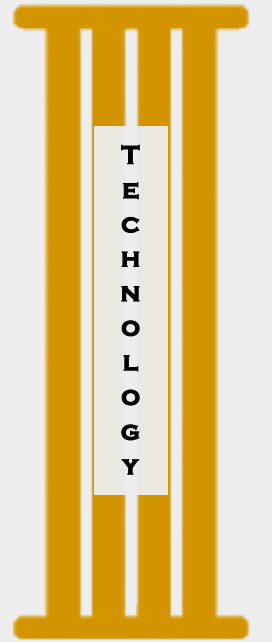
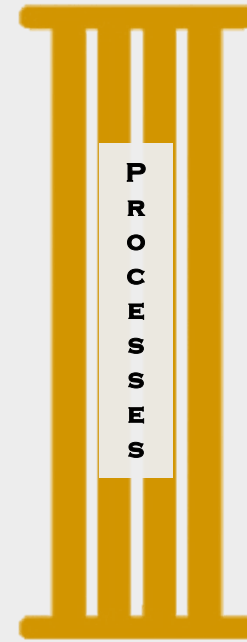
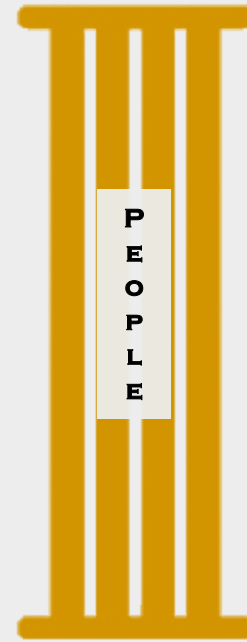
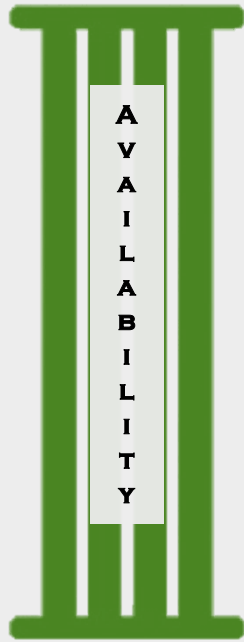
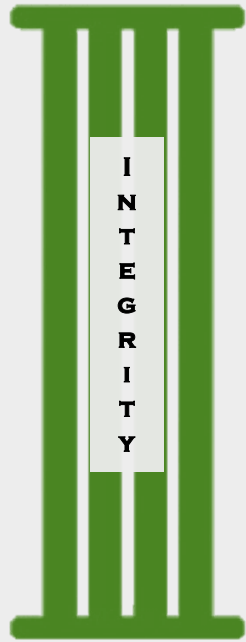
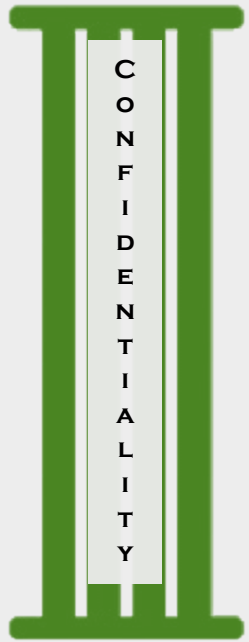


Why the shift?

- Increasing release of technology that threatens U.S. national and economic security
- Theft of U.S. proprietary information
 - Cybersecurity breaches
 - Reverse engineering of products
- Access through mergers and acquisitions
- Inadvertent public release of sensitive data

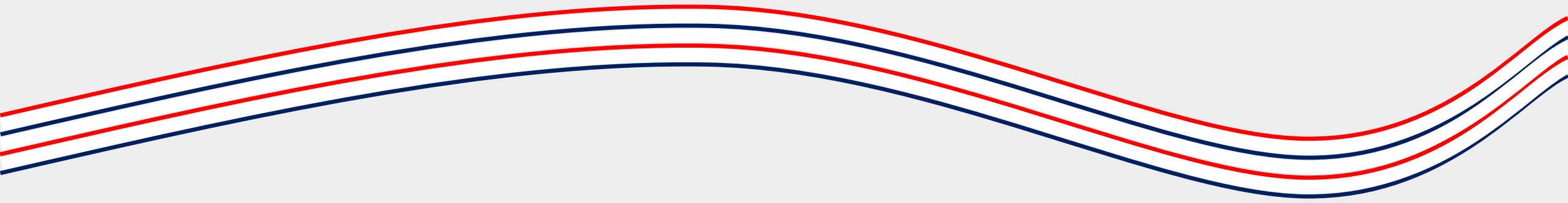


Current pillars of security



Export & Security – current approach

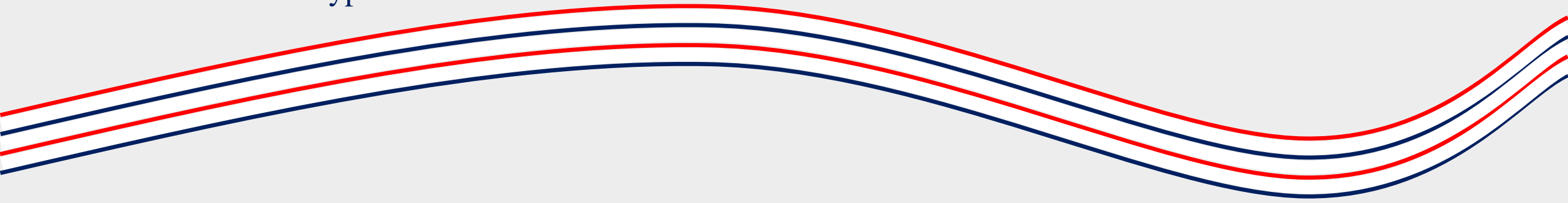
- Current regime is **prescriptive**
 - Contractor will comply...
 - Contractor shall submit...
- Current regime is also **proscriptive**
 - Contractor is prohibited from...
 - Contractor requires permission prior to...



Where are you going to see the shift?

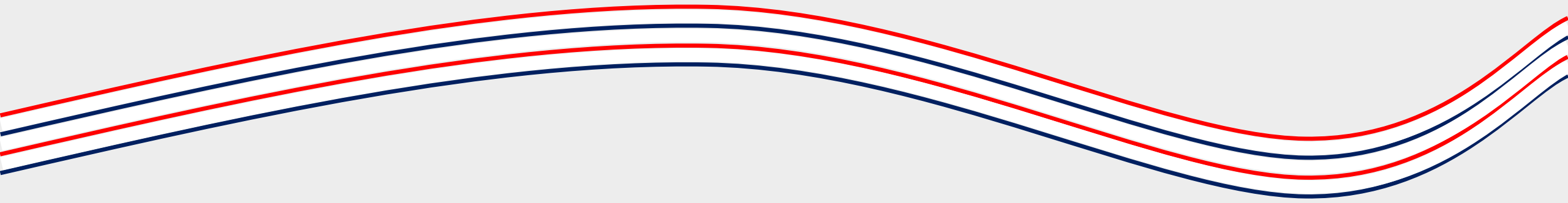
Federal government controls tightening in many areas

- Committee on Foreign Investment in the U.S. (CFIUS)
- Foreign Ownership, Control, and Influence (FOCI)
- Increased use and enforcement of DoD Distribution Statements
- Increase in export license provisos
- Decreased access to information previously available to the public
 - RFIs / RFPs
 - Government policies, directives, forms, etc.
- Increased reliance on cyber controls
 - PKI certificates / identity credentials
 - Encryption



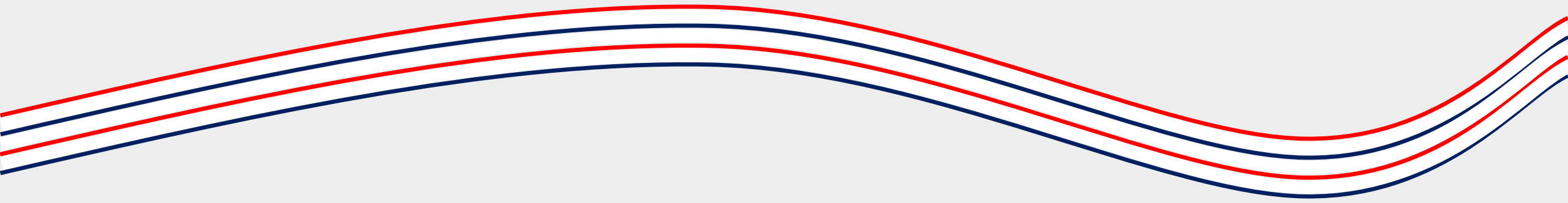
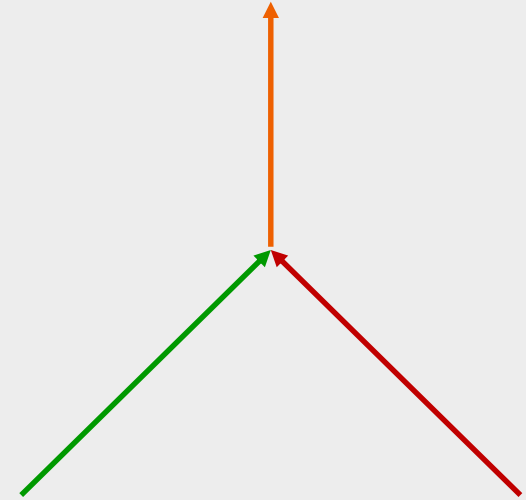
Current compliance requirements cause confusion

- Have you been told?
 - You need a security clearance
 - You need an export license
 - You need to be ITAR certified
 - You need to be cybersecurity compliant
- Has someone placed these terms on your stress receptors?
 - DFARS Cybersecurity
 - ITAR
 - NISPOM
 - CMMC
 - EAR



Confusion is caused by the changing angles of approach

- Current regime is **prescriptive**
 - Contractor will comply...
 - Contractor shall submit...
- Current regime is also **proscriptive**
 - Contractor is prohibited from...
 - Contractor requires permission prior to...
- But, the regime is evolving towards **introspection** and **self-regulation**

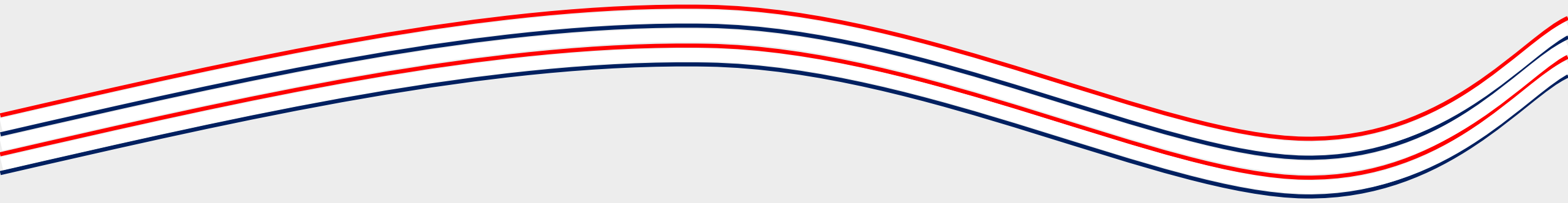


Risk Management is the “new” standard

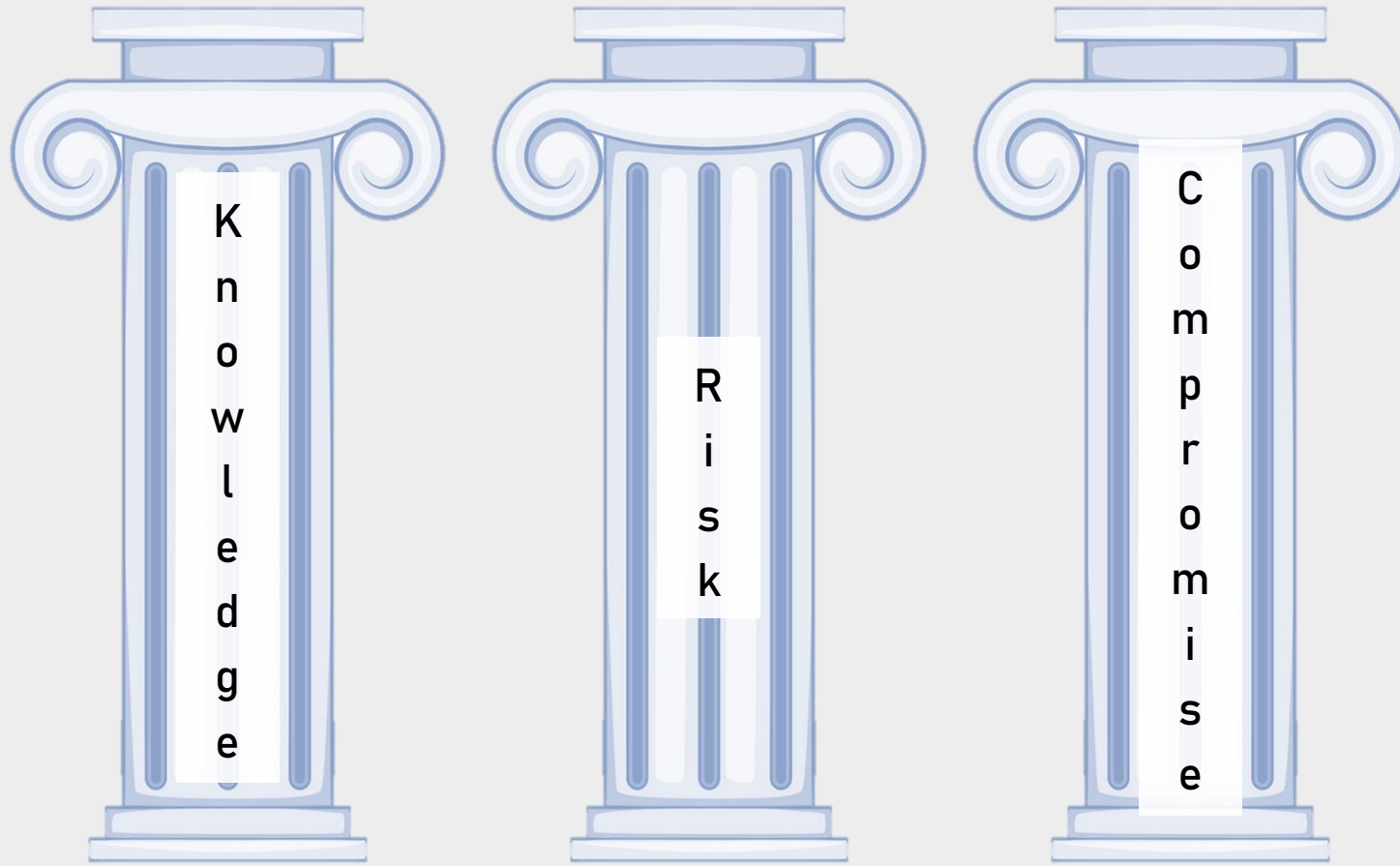
The expectation is that no one knows your company and the information at risk better than you.

- The government will identify what information shared with industry is considered sensitive
- Evolving cybersecurity rules are risk based and dependent upon your individual organization’s operating structure
- Supply chain management is focused on detecting and deterring introduction of counterfeit components
- DoD shifting to utilization of tailored security plans with comprehensive security reviews for cleared contractors

Manning resources are low, threat is high, does your company balance risk well?

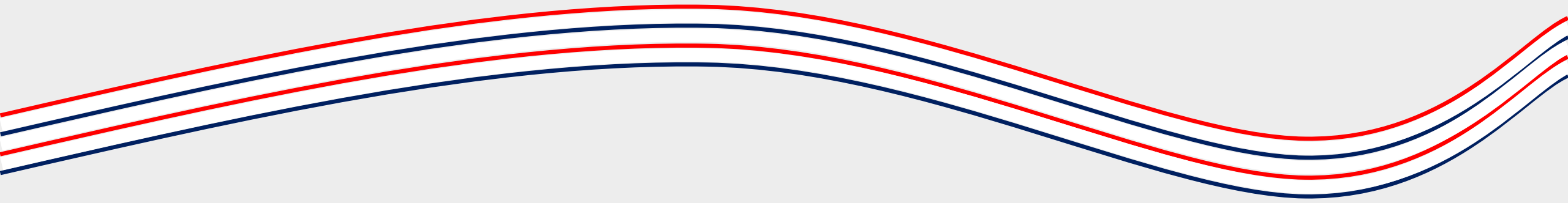


Consider three alternative pillars of security



Look behind the veil

- You can probably navigate the first set of hurdles yourself
 - Patience
 - Reading
 - A cup of coffee
 - Ask questions
 - More reading
- Make an informed decision on what compliance actions need to be taken based on your need for access to information and your need to share information with others



Example: ITAR or Joint Certification Program

- International Traffic in Arms Regulations or Joint Certification Program (JCP)?
 - ITAR registration: \$2,250 / year
 - DS 2032 – Statement of Registration Form
 - Enables ability to apply for export licenses for defense articles and services
 - Not needed if the company is not exporting
 - “ITAR certification” does not exist
 - JCP registration: \$0.55 for 5 years
 - DD 2345 – Militarily Critical Technical Data Agreement
 - Language mirrors the ITAR
 - Enables ability to receive DoD information controlled under a distribution statement
 - <https://www.dla.mil/HQ/LogisticsOperations/Services/JCP/>
- 
- The bottom of the slide features a decorative graphic consisting of several wavy, overlapping lines in red and dark blue, creating a stylized, flowing border.

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