

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
WASHINGTON, D.C. 20230

In the Matter of:

GlobalFoundries U.S. 2 LLC  
1000 River Street  
Essex Junction, VT 05452

GlobalFoundries U.S. Inc.  
400 Stone Break Road Extension  
Malta, NY 12020

Respondent

ORDER RELATING TO  
GLOBALFOUNDRIES U.S. 2 LLC AND GLOBALFOUNDRIES U.S. INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified GlobalFoundries U.S. 2 LLC of Essex Junction, Vermont and GlobalFoundries U.S. Inc., of Malta, New York (collectively “GlobalFoundries”), of its intention to initiate an administrative proceeding against GlobalFoundries pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),<sup>1</sup> through the issuance of a Proposed Charging Letter to GlobalFoundries that alleges that GlobalFoundries

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<sup>1</sup> The Regulations originally issued under the Export Administration Act of 1979, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“EAA”), which lapsed on August 21, 2001. The President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, including the Notice of August 8, 2018 (83 Fed. Reg. 39,871 (Aug. 13, 2018)), has continued the Regulations in full force and effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2012) (“IEEPA”). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. §§ 4801-4852 (“ECRA”). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

committed 74 violations of the Regulations.<sup>2</sup> Specifically:

**STATEMENT OF CHARGES**

**Charges 1 - 74      15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct by Exporting Items Subject to the EAR to a Company on the BIS Entity List Without Authorization**

1. As described in greater detail below, between on or about February 16, 2021 and on or about October 26, 2022, GlobalFoundries—a semiconductor wafer manufacturing company headquartered in Malta, New York, with semiconductor fabrication facilities in the United States, Germany, and Singapore—engaged in conduct prohibited by the Regulations on 74 occasions when it exported from the United States without authorization from BIS approximately 5,697 silicon wafers, items subject to the EAR and valued at approximately \$17,101,679, to SJ Semiconductor (“SJS”), a company listed on the BIS Entity List.<sup>3</sup> GlobalFoundries reported those transactions to BIS in voluntary self-disclosure submissions dated April 8, 2023 and November 30, 2023
2. The items at issue in these charges are classified under Export Control Classification Number (“ECCN”) 5A991.g and controlled for anti-terrorism reasons, or designated EAR99.
3. The semiconductor wafers and die manufactured by GlobalFoundries are typically shipped to third party outsourced assembly and test service providers (“OSATs”), which test, assemble, and package those semiconductor wafers and die into finished integrated circuits. When GlobalFoundries completes the manufacture of semiconductor wafers and die for one of its customers, the semiconductor wafers and die are the property of that customer. At the customer’s instruction, GlobalFoundries may ship the semiconductor wafers and die directly to an OSAT designated by that customer.
4. In or about April 2019, GlobalFoundries began manufacturing semiconductor wafers and die for China-based Company 1. In or about February 2020, Company 1 notified GlobalFoundries that the semiconductor wafers and die manufactured for Company 1 were to be shipped to Company 1’s OSAT, SJS, for assembly and packaging into Company 1’s integrated circuits. Shipment of semiconductor wafers and die to the customer’s OSAT is a common industry practice. At the time that GlobalFoundries received that instruction from Company 1, SJS was not

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<sup>2</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2024). The charged violations occurred in 2021-2022. The Regulations governing the violations at issue are found in the 2021-2022 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2024 Regulations set forth the procedures that apply to this matter.

<sup>3</sup> See 85 FR 83416 (Dec. 22, 2020).

a restricted or Entity List party, and GlobalFoundries identified no “red flags” concerning shipments to SJS.

5. Subsequently, on December 22, 2020, the End User Review Committee (“ERC”) added SJS to the Entity List based on its affiliation with Semiconductor Manufacturing International Corporation Incorporated (“SMIC”). The ERC added SMIC and certain related entities, including SJS, to the Entity List “as a result of China’s military-civil fusion doctrine and evidence of activities between SMIC and entities of concern in the Chinese military industrial complex.”<sup>4</sup>
6. At all times relevant to the charges in this letter, BIS authorization was required to export, reexport, or transfer (in-country) all items subject to the EAR to SJS.
7. GlobalFoundries reported in its April 8, 2023 and November 30, 2023 voluntary self-disclosure submissions that, as part of its Export Management and Compliance Program (“EMCP”), all export transactions are screened through GlobalFoundries’ Oracle Global Trade Management (“GTM”) module in order to assure that no party to any export transaction is included on any of the United States Government’s lists of prohibited and restricted parties, including the Entity List. The “sold to” and “ship to” parties for each export transaction are, therefore, automatically screened by the GTM module against the various lists of prohibited and restricted parties.
8. When a GlobalFoundries customer directs GlobalFoundries to ship items directly to that customer’s OSAT, GlobalFoundries’ order entry procedures require that the name and address of the OSAT be entered into the GlobalFoundries Oracle system as the “ship to” party. Due to a data entry error, which occurred prior to the Entity List listing of SJS, when Company 1 was entered into the GlobalFoundries Oracle system, Company 1, rather than SJS, was identified in that system as the “ship to” party. As a result of that data entry error, SJS was not identified in the transaction screening of any transaction involving the shipment of semiconductor wafers and die to Company 1, in care of SJS. Notably, SJS’ name and the address associated with SJS were identified in the address field in the Oracle system for all of the exports at issue in this letter.
9. Another GlobalFoundries customer, Company 2, also used SJS as its OSAT. For Company 2 transactions, SJS was correctly entered into the GlobalFoundries Oracle system as the “ship to” party. Accordingly, when SJS was added to the Entity List, shipments of semiconductor wafers and die to Company 2, in care of SJS, were blocked until Company 2 obtained an export license from BIS, authorizing shipment of those semiconductor wafers and die to SJS. On June 25, 2021, GlobalFoundries submitted to BIS its own license application for authorization to export items to SJS on Customer 2’s behalf. BIS approved the license, which became effective on August 30, 2021. Thus, at the same time

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<sup>4</sup> See *id.*

GlobalFoundries was making shipments to SJS on behalf of Company 2 pursuant to authorization from BIS because it was aware that SJS had been added to the Entity List, it was also making unauthorized exports to SJS on behalf of Company 1, due to the data entry error

10. By exporting items to a company on the Entity List without the required license, GlobalFoundries committed 74 violations of Section 764.2(a) of the Regulations.<sup>5</sup>

WHEREAS, BIS and GlobalFoundries have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations, whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein;

WHEREAS, GlobalFoundries admits committing the alleged conduct described in the Proposed Charging Letter; and

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, GlobalFoundries shall be assessed a civil penalty in the amount of \$500,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of this Order.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2012)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and if payment is not made by the due date specified herein, GlobalFoundries will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

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<sup>5</sup> Additionally, each time GlobalFoundries exported items to SJS as outlined in Charges 1 through 74, GlobalFoundries submitted or caused to be submitted inaccurate Electronic Export Information through the Automated Export System.

THIRD, that the full and timely payment of the civil penalty in accordance with the payment schedule set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to GlobalFoundries. Accordingly, if GlobalFoundries should fail to pay the civil penalty in a full and timely manner, the undersigned may issue an order denying all of GlobalFoundries's export privileges under the Regulations for a period of one year from the date of failure to make such payment.

FOURTH, the Proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.



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Matthew S. Axelrod  
Assistant Secretary of Commerce  
for Export Enforcement

Issued this 13<sup>th</sup> day of November, 2024.

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
WASHINGTON, D.C. 20230

In the Matter of:

GlobalFoundries U.S. 2 LLC  
1000 River Street  
Essex Junction, VT 05452

GlobalFoundries U.S. Inc.  
400 Stone Break Road Extension  
Malta, NY 12020

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between GlobalFoundries U.S. 2 LLC of Essex Junction, Vermont and GlobalFoundries U.S. Inc., of Malta, New York (collectively “GlobalFoundries”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (the “Regulations”).<sup>1</sup>

WHEREAS, GlobalFoundries filed a voluntary self-disclosure with BIS’s Office of Export Enforcement in accordance with Section 764.5 of the Regulations concerning

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<sup>1</sup> The Regulations originally issued under the Export Administration Act of 1979, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“EAA”), which lapsed on August 21, 2001. The President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, including the Notice of August 8, 2018 (83 Fed. Reg. 39,871 (Aug. 13, 2018)), has continued the Regulations in full force and effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2012) (“IEEPA”). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. §§ 4801-4852 (“ECRA”). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

the transactions at issue herein and has made investment in and improvement of its compliance program;

WHEREAS, BIS has notified GlobalFoundries of its intention to initiate an administrative proceeding against GlobalFoundries, pursuant to the Regulations;<sup>2</sup>

WHEREAS, BIS has issued a Proposed Charging Letter to GlobalFoundries that alleges that GlobalFoundries committed 74 violations of the Regulations, specifically:

#### **STATEMENT OF CHARGES**

**Charges 1 - 74      15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct by Exporting Items Subject to the EAR to a Company on the BIS Entity List Without Authorization**

1. As described in greater detail below, between on or about February 16, 2021 and on or about October 26, 2022, GlobalFoundries—a semiconductor wafer manufacturing company headquartered in Malta, New York, with semiconductor fabrication facilities in the United States, Germany, and Singapore—engaged in conduct prohibited by the Regulations on 74 occasions when it exported from the United States without authorization from BIS approximately 5,697 silicon wafers, items subject to the EAR and valued at approximately \$17,101,679, to SJ Semiconductor (“SJS”), a company listed on the BIS Entity List.<sup>3</sup> GlobalFoundries reported those transactions to BIS in voluntary self-disclosure submissions dated April 8, 2023 and November 30, 2023
2. The items at issue in these charges are classified under Export Control Classification Number (“ECCN”) 5A991.g and controlled for anti-terrorism reasons, or designated EAR99.
3. The semiconductor wafers and die manufactured by GlobalFoundries are typically shipped to third party outsourced assembly and test service providers (“OSATs”), which test, assemble, and package those semiconductor wafers and die into finished integrated circuits. When GlobalFoundries completes the manufacture of

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<sup>2</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2024). The charged violations occurred in 2021-2022. The Regulations governing the violations at issue are found in the 2021-2022 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2024 Regulations set forth the procedures that apply to this matter.

<sup>3</sup> See 85 FR 83416 (Dec. 22, 2020).

semiconductor wafers and die for one of its customers, the semiconductor wafers and die are the property of that customer. At the customer's instruction, GlobalFoundries may ship the semiconductor wafers and die directly to an OSAT designated by that customer.

4. In or about April 2019, GlobalFoundries began manufacturing semiconductor wafers and die for China-based Company 1. In or about February 2020, Company 1 notified GlobalFoundries that the semiconductor wafers and die manufactured for Company 1 were to be shipped to Company 1's OSAT, SJS, for assembly and packaging into Company 1's integrated circuits. Shipment of semiconductor wafers and die to the customer's OSAT is a common industry practice. At the time that GlobalFoundries received that instruction from Company 1, SJS was not a restricted or Entity List party, and GlobalFoundries identified no "red flags" concerning shipments to SJS.
5. Subsequently, on December 22, 2020, the End User Review Committee ("ERC") added SJS to the Entity List based on its affiliation with Semiconductor Manufacturing International Corporation Incorporated ("SMIC"). The ERC added SMIC and certain related entities, including SJS, to the Entity List "as a result of China's military-civil fusion doctrine and evidence of activities between SMIC and entities of concern in the Chinese military industrial complex."<sup>4</sup>
6. At all times relevant to the charges in this letter, BIS authorization was required to export, reexport, or transfer (in-country) all items subject to the EAR to SJS.
7. GlobalFoundries reported in its April 8, 2023 and November 30, 2023 voluntary self-disclosure submissions that, as part of its Export Management and Compliance Program ("EMCP"), all export transactions are screened through GlobalFoundries' Oracle Global Trade Management ("GTM") module in order to assure that no party to any export transaction is included on any of the United States Government's lists of prohibited and restricted parties, including the Entity List. The "sold to" and "ship to" parties for each export transaction are, therefore, automatically screened by the GTM module against the various lists of prohibited and restricted parties.
8. When a GlobalFoundries customer directs GlobalFoundries to ship items directly to that customer's OSAT, GlobalFoundries' order entry procedures require that the name and address of the OSAT be entered into the GlobalFoundries Oracle system as the "ship to" party. Due to a data entry error, which occurred prior to the Entity List listing of SJS, when Company 1 was entered into the GlobalFoundries Oracle system, Company 1, rather than SJS, was identified in

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<sup>4</sup> See *id.*



that system as the “ship to” party. As a result of that data entry error, SJS was not identified in the transaction screening of any transaction involving the shipment of semiconductor wafers and die to Company 1, in care of SJS. Notably, SJS’ name and the address associated with SJS were identified in the address field in the Oracle system for all of the exports at issue in this letter.

9. Another GlobalFoundries customer, Company 2, also used SJS as its OSAT. For Company 2 transactions, SJS was correctly entered into the GlobalFoundries Oracle system as the “ship to” party. Accordingly, when SJS was added to the Entity List, shipments of semiconductor wafers and die to Company 2, in care of SJS, were blocked until Company 2 obtained an export license from BIS, authorizing shipment of those semiconductor wafers and die to SJS. On June 25, 2021, GlobalFoundries submitted to BIS its own license application for authorization to export items to SJS on Customer 2’s behalf. BIS approved the license, which became effective on August 30, 2021. Thus, at the same time GlobalFoundries was making shipments to SJS on behalf of Company 2 pursuant to authorization from BIS because it was aware that SJS had been added to the Entity List, it was also making unauthorized exports to SJS on behalf of Company 1, due to the data entry error.
10. By exporting items to a company on the Entity List without the required license, GlobalFoundries committed 74 violations of Section 764.2(a) of the Regulations.<sup>5</sup>

WHEREAS, GlobalFoundries has reviewed the Proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

WHEREAS, GlobalFoundries fully understands the terms of this Agreement and the Order (“Order”) that the Assistant Secretary of Commerce for Export Enforcement, or appropriate designee, will issue if he approves this Agreement as the final resolution of this matter;

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<sup>5</sup> Additionally, each time GlobalFoundries exported items to SJS as outlined in Charges 1 through 74, GlobalFoundries submitted or caused to be submitted inaccurate Electronic Export Information through the Automated Export System.

WHEREAS, GlobalFoundries enters into this Agreement voluntarily and with full knowledge of its rights, after having consulted with counsel;

WHEREAS, GlobalFoundries states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, GlobalFoundries admits committing the alleged conduct described in the Proposed Charging Letter; and

WHEREAS, GlobalFoundries agrees to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over GlobalFoundries, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. The following sanctions shall be imposed against GlobalFoundries:
  - a. GlobalFoundries shall be assessed a civil penalty in the amount of \$500,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions.
  - b. The full and timely payment of the civil penalty agreed to in Paragraph 2.a, above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to GlobalFoundries. Failure to make full and timely payment of

the civil penalty may result in the denial of all of GlobalFoundries's export privileges under the Regulations for one year from the date of the failure to make such payment.

3. Subject to the approval of this Agreement pursuant to Paragraph 7 hereof, GlobalFoundries hereby waives all rights to further procedural steps in this matter, including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. GlobalFoundries also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Proposed Charging Letter or in connection with collection of the civil penalty or enforcement of this Agreement and the Order, if issued, from the date of the Order, until GlobalFoundries pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement.

4. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a above, BIS will not initiate any further administrative proceeding against GlobalFoundries in connection with any violation of the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

5. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement, or appropriate designee, pursuant to Section

766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

6. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if issued; nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

7. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement, or appropriate designee, approves it by issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

8. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.

9. Each signatory affirms that he/she has authority to enter into this Settlement Agreement and to bind his/her respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND SECURITY  
U.S. DEPARTMENT OF COMMERCE

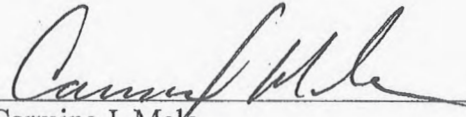
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John Sonderman  
Director of Export Enforcement

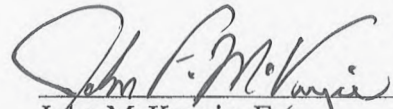
Date: 11/1/2024

GLOBALFOUNDRIES U.S. 2 LLC  
GLOBALFOUNDRIES U.S. INC.

  
Carmine J. Mele  
Sr. Director, Legal Counsel

Date: 11/1/2024

Reviewed and approved by:

  
John McKenzie, Esq.  
Baker McKenzie LLP  
Counsel for GlobalFoundries

Date: 11/1/2024

PROPOSED CHARGING LETTER

VIA EXPRESS COURIER

GlobalFoundries U.S. 2 LLC  
1000 River Street  
Essex Junction, VT 05452

GlobalFoundries U.S. Inc.  
400 Stone Break Road Extension  
Malta, NY 12020

*Attention:* Carmine J. Mele, Sr.  
Director, Legal Counsel

Dear Mr. Mele,

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that GlobalFoundries U.S. 2 LLC and its parent company GlobalFoundries U.S. Inc. (collectively, “GlobalFoundries”) committed 74 violations of the Export Administration Regulations (the “Regulations” or “EAR”).<sup>1</sup> Specifically, BIS charges the following violations:

**STATEMENT OF CHARGES**

**Charges 1 - 74      15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct by Exporting Items Subject to the EAR to a Company on the BIS Entity List Without Authorization**

1. As described in greater detail below and in the attached Schedule of Violations, between on or about February 16, 2021 and on or about October 26, 2022, GlobalFoundries—a semiconductor wafer manufacturing company headquartered in Malta, New York, with semiconductor fabrication facilities in the United States, Germany, and Singapore—engaged in conduct prohibited by the Regulations on 74 occasions when it exported from the United States without authorization from BIS approximately 5,697 silicon wafers, items subject to the EAR and valued at approximately \$17,101,679, to SJ Semiconductor (“SJS”), a company listed on the BIS Entity List.<sup>2</sup> GlobalFoundries reported those transactions to BIS in voluntary self-disclosure submissions dated April 8, 2023 and November 30, 2023.

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2024). The charged violations occurred in 2021 through 2022. The Regulations governing the violation at issue are found in the 2021 through 2022 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2020 - 2021)). The 2024 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> See 85 FR 83416 (Dec. 22, 2020).

2. The items at issue in these charges are classified under Export Control Classification Number (“ECCN”) 5A991.g and controlled for anti-terrorism reasons, or designated EAR99.
3. The semiconductor wafers and die manufactured by GlobalFoundries are typically shipped to third party outsourced assembly and test service providers (“OSATs”), which test, assemble, and package those semiconductor wafers and die into finished integrated circuits. When GlobalFoundries completes the manufacture of semiconductor wafers and die for one of its customers, the semiconductor wafers and die are the property of that customer. At the customer’s instruction, GlobalFoundries may ship the semiconductor wafers and die directly to an OSAT designated by that customer.
4. In or about April 2019, GlobalFoundries began manufacturing semiconductor wafers and die for China-based Company 1. In or about February 2020, Company 1 notified GlobalFoundries that the semiconductor wafers and die manufactured for Company 1 were to be shipped to Company 1’s OSAT, SJS, for assembly and packaging into Company 1’s integrated circuits. Shipment of semiconductor wafers and die to the customer’s OSAT is a common industry practice. At the time that GlobalFoundries received that instruction from Company 1, SJS was not a restricted or Entity List party, and GlobalFoundries identified no “red flags” concerning shipments to SJS.
5. Subsequently, on December 22, 2020, the End User Review Committee (“ERC”) added SJS to the Entity List based on its affiliation with Semiconductor Manufacturing International Corporation Incorporated (“SMIC”). The ERC added SMIC and certain related entities, including SJS, to the Entity List “as a result of China’s military-civil fusion doctrine and evidence of activities between SMIC and entities of concern in the Chinese military industrial complex.”<sup>3</sup>
6. At all times relevant to the charges in this letter, BIS authorization was required to export, reexport, or transfer (in-country) all items subject to the EAR to SJS.
7. GlobalFoundries reported in its April 8, 2023 and November 30, 2023 voluntary self-disclosure submissions that, as part of its Export Management and Compliance Program (“EMCP”), all export transactions are screened through GlobalFoundries’ Oracle Global Trade Management (“GTM”) module in order to assure that no party to any export transaction is included on any of the United States Government’s lists of prohibited and restricted parties, including the Entity List. The “sold to” and “ship to” parties for each export transaction are, therefore, automatically screened by the GTM module against the various lists of prohibited and restricted parties.
8. When a GlobalFoundries customer directs GlobalFoundries to ship items directly to that customer’s OSAT, GlobalFoundries’ order entry procedures require that the name and address of the OSAT be entered into the GlobalFoundries Oracle system as the “ship to” party. Due to a data entry error, which occurred prior to the Entity List listing of SJS,

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<sup>3</sup> See *id.*

when Company 1 was entered into the GlobalFoundries Oracle system, Company 1, rather than SJS, was identified in that system as the “ship to” party. As a result of that data entry error, SJS was not identified in the transaction screening of any transaction involving the shipment of semiconductor wafers and die to Company 1, in care of SJS. Notably, SJS’ name and the address associated with SJS were identified in the address field in the Oracle system for all of the exports at issue in this letter.

9. Another GlobalFoundries customer, Company 2, also used SJS as its OSAT. For Company 2 transactions, SJS was correctly entered into the GlobalFoundries Oracle system as the “ship to” party. Accordingly, when SJS was added to the Entity List, shipments of semiconductor wafers and die to Company 2, in care of SJS, were blocked until Company 2 obtained an export license from BIS, authorizing shipment of those semiconductor wafers and die to SJS. On June 25, 2021, GlobalFoundries submitted to BIS its own license application for authorization to export items to SJS on Customer 2’s behalf. BIS approved the license, which became effective on August 30, 2021. Thus, at the same time GlobalFoundries was making shipments to SJS on behalf of Company 2 pursuant to authorization from BIS because it was aware that SJS had been added to the Entity List, it was also making unauthorized exports to SJS on behalf of Company 1, due to the data entry error.
10. By exporting items to a company on the Entity List without the required license, GlobalFoundries committed 74 violations of Section 764.2(a) of the Regulations.<sup>4</sup>

\* \* \* \* \*

Accordingly, Global Foundries is hereby notified that an administrative proceeding is instituted against it pursuant to Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including, but not limited to any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$364,992 per violation,<sup>5</sup> or twice the value of the transaction that is the basis of the violation;<sup>6</sup>
- Denial of export privileges;
- Exclusion from practice before BIS; and/or
- Any other liability, sanction, or penalty available under law.

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<sup>4</sup> Additionally, each time GlobalFoundries exported items to SJS as outlined in Charges 1 through 74, GlobalFoundries submitted or caused to be submitted inaccurate Electronic Export Information through the Automated Export System.

<sup>5</sup> See 15 C.F.R. § 6.3(c)(6). This amount is subject to annual increases pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Sec. 701 of Public Law 114-74, enacted on November 2, 2015. See 88 Fed. Reg. 89,300 (Dec. 27, 2023) (adjusting for inflation the maximum civil monetary penalty under ECRA from \$353,534 to \$364,992, effective January 15, 2024).

<sup>6</sup> See Export Control Reform Act of 2018, 50 U.S.C. § 4819(c)(1)(A) (2019).



If Global Foundries fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. *See* 15 C.F.R. §§ 766.6 and 766.7. If Global Foundries defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Global Foundries. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

Global Foundries is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with their answer. *See* 15 C.F.R. § 766.6. Global Foundries is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent them. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should Global Foundries have a proposal to settle this case, Global Foundries should transmit it to the attorneys representing BIS named below.

Global Foundries is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Global Foundries may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Global Foundries' answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center  
40 S. Gay Street  
Baltimore, Maryland 21202-4022

In addition, a copy of Global Foundries' answer must be served on BIS at the following address:

Chief Counsel for Industry and Security  
Attention: Gregory Michelsen, Esq. & Jonathan Vukicevich, Esq.  
Room H-3839  
14th Street and Constitution Avenue, N.W.  
Washington, D.C. 20230

Gregory Michelsen and Jonathan Vukicevich are the attorneys representing BIS in this case; any communications that Global Foundries may wish to have concerning this matter should occur through them. Mr. Michelsen and Mr. Vukicevich may be contacted via email at [gmichelsen@doc.gov](mailto:gmichelsen@doc.gov) and [jvukicevich@doc.gov](mailto:jvukicevich@doc.gov), respectively.

Sincerely,

John Sonderman  
Director  
Office of Export Enforcement

**SCHEDULE OF VIOLATIONS**

<b>Charge</b>	<b>Date of Export</b>	<b>Value</b>	<b>Destination</b>	<b>Violation</b>
1	February 16, 2021	\$20,000	China; SJS Semiconductor	764.2(a)
2	March 31, 2021	\$24,412.80	China; SJS Semiconductor	764.2(a)
3	April 6, 2021	\$51,877.20	China; SJS Semiconductor	764.2(a)
4	May 19, 2021	\$18,309.60	China; SJS Semiconductor	764.2(a)
5	May 27, 2021	\$186,150.00	China; SJS Semiconductor	764.2(a)
6	May 28, 2021	\$183,668.00	China; SJS Semiconductor	764.2(a)
7	June 1, 2021	\$369,818.00	China; SJS Semiconductor	764.2(a)
8	June 4, 2021	\$538,594.00	China; SJS Semiconductor	764.2(a)
9	June 9, 2021	\$193,596.00	China; SJS Semiconductor	764.2(a)
10	June 14, 2021	\$13,195.20	China; SJS Semiconductor	764.2(a)
11	June 29, 2021	\$732,190.00	China; SJS Semiconductor	764.2(a)
12	July 22, 2021	\$9,154.80	China; SJS Semiconductor	764.2(a)
13	August 18, 2021	\$9,154.80	China; SJS Semiconductor	764.2(a)
14	September 10, 2021	\$13,464.00	China; SJS Semiconductor	764.2(a)
15	September 14, 2021	\$56,500.00	China; SJS Semiconductor	764.2(a)
16	September 15, 2021	\$14,058.00	China; SJS Semiconductor	764.2(a)
17	September 15, 2021	\$9,154.80	China; SJS Semiconductor	764.2(a)
18	September 17, 2021	\$16,494.00	China; SJS Semiconductor	764.2(a)
19	September 20, 2021	\$8,643.60	China; SJS Semiconductor	764.2(a)
20	September 28, 2021	\$25,773.00	China; SJS Semiconductor	764.2(a)
21	October 1, 2021	\$15,258.00	China; SJS Semiconductor	764.2(a)
22	October 8, 2021	\$58,575.00	China; SJS Semiconductor	764.2(a)
23	October 13, 2021	\$8,643.60	China; SJS Semiconductor	764.2(a)
24	October 19, 2021	\$56,500.00	China; SJS Semiconductor	764.2(a)
25	October 20, 2021	\$8,643.60	China; SJS Semiconductor	764.2(a)
26	November 4, 2021	\$920,799.00	China; SJS Semiconductor	764.2(a)
27	November 8, 2021	\$16,830.00	China; SJS Semiconductor	764.2(a)
28	November 10, 2021	\$9,896.40	China; SJS Semiconductor	764.2(a)
29	November 11, 2021	\$56,232.00	China; SJS Semiconductor	764.2(a)
30	November 16, 2021	\$67,135.20	China; SJS Semiconductor	764.2(a)
31	November 17, 2021	\$9,154.80	China; SJS Semiconductor	764.2(a)
32	November 18, 2021	\$58,575.00	China; SJS Semiconductor	764.2(a)
33	November 23, 2021	\$19,792.80	China; SJS Semiconductor	764.2(a)
34	December 3, 2021	\$639,639.00	China; SJS Semiconductor	764.2(a)
35	December 3, 2021	\$58,575.00	China; SJS Semiconductor	764.2(a)
36	December 6, 2021	\$19,792.80	China; SJS Semiconductor	764.2(a)
37	December 10, 2021	\$58,575.00	China; SJS Semiconductor	764.2(a)
38	December 10, 2021	\$117,150.00	China; SJS Semiconductor	764.2(a)
39	December 16, 2021	\$56,232.00	China; SJS Semiconductor	764.2(a)

40	December 21, 2021	\$9,896.40	China; SJS Semiconductor	764.2(a)
41	December 23, 2021	\$18,744.00	China; SJS Semiconductor	764.2(a)
42	December 28, 2021	\$55,946.00	China; SJS Semiconductor	764.2(a)
43	January 7, 2022	\$145,197.00	China; SJS Semiconductor	764.2(a)
44	January 14, 2022	\$38,719.20	China; SJS Semiconductor	764.2(a)
45	January 18, 2022	\$21,930.48	China; SJS Semiconductor	764.2(a)
46	January 26, 2022	\$319,433.40	China; SJS Semiconductor	764.2(a)
47	February 1, 2022	\$12,818.52	China; SJS Semiconductor	764.2(a)
48	February 7, 2022	\$235,541.80	China; SJS Semiconductor	764.2(a)
49	February 7, 2022	\$483,990.00	China; SJS Semiconductor	764.2(a)
50	February 7, 2022	\$238,768.40	China; SJS Semiconductor	764.2(a)
51	February 9, 2022	\$235,541.80	China; SJS Semiconductor	764.2(a)
52	February 25, 2022	\$87,230.00	China; SJS Semiconductor	764.2(a)
53	February 28, 2022	\$161,330.00	China; SJS Semiconductor	764.2(a)
54	February 28, 2022	\$161,330.00	China; SJS Semiconductor	764.2(a)
55	February 28, 2022	\$87,230.00	China; SJS Semiconductor	764.2(a)
56	March 3, 2022	\$638,866.80	China; SJS Semiconductor	764.2(a)
57	March 3, 2022	\$1,709,708.00	China; SJS Semiconductor	764.2(a)
58	March 11, 2022	\$152,295.00	China; SJS Semiconductor	764.2(a)
59	March 11, 2022	\$77,438.40	China; SJS Semiconductor	764.2(a)
60	March 15, 2022	\$12,561.12	China; SJS Semiconductor	764.2(a)
61	April 13, 2022	\$467,857.00	China; SJS Semiconductor	764.2(a)
62	May 5, 2022	\$390,418.60	China; SJS Semiconductor	764.2(a)
63	May 13, 2022	\$400,098.40	China; SJS Semiconductor	764.2(a)
64	May 17, 2022	\$11,615.76	China; SJS Semiconductor	764.2(a)
65	June 3, 2022	\$16,133.00	China; SJS Semiconductor	764.2(a)
66	June 3, 2022	\$1,048,645.00	China; SJS Semiconductor	764.2(a)
67	July 8, 2022	\$1,664,166.40	China; SJS Semiconductor	764.2(a)
68	September 1, 2022	\$2,752,505.60	China; SJS Semiconductor	764.2(a)
69	September 9, 2022	\$12,561.12	China; SJS Semiconductor	764.2(a)
70	September 16, 2022	\$54,852.20	China; SJS Semiconductor	764.2(a)
71	September 16, 2022	\$377,691.60	China; SJS Semiconductor	764.2(a)
72	September 20, 2022	\$12,561.12	China; SJS Semiconductor	764.2(a)
73	October 3, 2022	\$13,440.00	China; SJS Semiconductor	764.2(a)
74	October 26, 2022	\$224,409.90	China; SJS Semiconductor	764.2(a)