BIS Policy Statement on Controls that May Apply to Advanced Computing Integrated Circuits and Other Commodities Used to Train SI Models

May 13, 2025

As an update to previous advisory opinions issued by the Bureau of Industry and Security (BIS), the following types of activities may be subject to an export authorization under the Export Administration Regulations (EAR), 15 C.F.R. parts 730 - 774. Specifically, BIS has determined that access to advanced computing integrated circuits (ICs) and commodities subject to the EAR for training SI models has the potential to enable military-intelligence and weapons of mass destruction (WMD) end uses in Country Group D:5 countries (including China) or Macau.[1]

> Advanced computing ICs and commodities that contain such ICs include items classified under Export Control Classification Numbers (ECCNs) 3A090.a, 4A090.a, and .z items in Categories 3, 4, and 5, such as servers classified as ECCN 5A992.z.

The following activities may trigger a license requirement under the catch-all controls of part 744 of the EAR when there is "knowledge" (see inset below for further information about "knowledge" under the EAR) that the SI model will be used for a WMD or military-intelligence end use/user:

- Exports, reexports, or transfers (in-country) of advanced computing ICs and commodities subject to the EAR to any party, such as foreign Infrastructure as a Service (IaaS) providers (*e.g.*, data center providers), when the exporter, reexporter, or transferor has "knowledge" that the IaaS provider will use these items to conduct training[2] of SI models for or on behalf of parties headquartered in D:5 countries (including China) or Macau.[3]

- Transfers (in-country), defined as a change in end use or end user, of advanced computing ICs and commodities subject to the EAR already in the possession of parties such as IaaS providers, if there is "knowledge" that the items will be used by the transferee to train SI models for or on behalf of parties headquartered in D:5 countries (including China) or Macau.

- A "U.S. person"[4] provides any 'support'[5] or performs any contract, service, or employment, when there is "knowledge" such activity will be used for or may assist the training of SI models for or on behalf of parties headquartered in D:5 countries (including China) or Macau.

Parties that do not obtain prior BIS authorization to engage in these transactions or activities may be subject to potential civil or criminal enforcement action if a violation of the EAR occurs. In

[1] See supplement no. 1 to part 740 of the EAR.
[2] Training involves feeding large quantities of data into the model while using optimization algorithms to evaluate the quality of the program's outputs and improve its performance.
[3] See e.g. § 744.22(a) of the EAR.
[4] See § 772.1 of the EAR.
[5] See § 744.6(b)(6) of the EAR.

addition, foreign parties acting contrary to U.S. national security and foreign policy interests, including by training SI models that could support WMD or military-intelligence end uses for or on behalf of parties headquartered in Country Group D:5 (including China) or Macau, may be added to the Entity List, even where no violation of the EAR occurs.

Parties are prohibited from proceeding with a transaction when parties have "knowledge," as defined in part 772 of the EAR, that a violation has occurred, is about to occur, or is intended to occur. Exporters, reexporters, and transferors also may not self-blind to avoid license requirements. BIS has issued guidance identifying transactional and behavioral red flags (in addition to the *"Know Your Customer"* and *Red Flag Guidance* available on the BIS website and set forth at supplement no. 3 to part 732 of the EAR) and due diligence actions that can assist companies in evaluating whether a party or an identified activity may be involved in activities that may trigger a BIS license requirement, including training of SI models for or on behalf of parties headquartered in D:5 countries (including China) or Macau.