



G42
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Re: Comments on BIS Proposed Rule “Establishment of Reporting Requirements for the Development of Advanced Artificial Intelligence Models and Computing Clusters”

Reference Number: BIS-2024-0047; RIN 0694-AJ55; Docket Number 240905-0231

Group 42 Holding Ltd (“G42”), an artificial intelligence and cloud computing company, is pleased to have the opportunity to provide comments to the U.S. Department of Commerce, Bureau of Industry and Security (“BIS”) proposed rule, published at 89 Fed. Reg. 73612 (Sept. 11, 2024), establishing the reporting requirements for the development of advanced AI models and computing clusters under Executive Order 14110 regarding “Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence” (the “Proposed Rule”).

In order to carry out its obligations under Section 4.2(a)(i) of Executive Order 14110, the Department of Commerce in the Proposed Rule seeks to implement the notification and reporting process set forth in the executive order for “companies” developing or intending to develop dual-use foundation AI models and for “companies, individuals or other organizations or entities” that acquire, develop, or possess computing clusters that meet technical parameters as specified by the Secretary of Commerce.

G42 appreciates that the U.S. Government requires reliable reporting on dual-use foundation models as AI technology and development accelerates, and to that aim, G42 respectfully asks BIS to clarify the scope of covered persons subject to reporting.

BIS proposes to require reporting by all “covered U.S. persons” who are either “companies developing or intending to develop dual-use foundation AI models” or “companies, individuals or other organizations that acquire, develop or possess” computing clusters exceeding certain technical thresholds. Proposed Rule, 89 Fed. Reg. at 73614 (“Discussion of the Proposed Rule”). The term “covered U.S. persons” includes all U.S. persons subject to the reporting requirements of E.O. 14110,

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section 4.2(a), and is defined as “any individual U.S. citizen, any lawful permanent resident of the United States as defined by the Immigration and Nationality Act, entity—including organizations, companies, and corporations—organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person (individual) located in the United States.” 89 Fed. Reg. at 73616 (proposed 15 C.F.R. § 702.7(c)).

We recommend revising the definition of “covered U.S. persons” to mean “any individual U.S. citizen, any lawful permanent resident of the United States or any person located in the United States (each acting in their individual capacity) and any entity – including organizations, companies, or corporations organized under the laws of the United States or any jurisdiction within the United States.” It is apparent that the reference to “individuals” in both Section 4.2(a)(i) of the Executive Order and the Proposed Rule is intended to capture those natural U.S. persons who, in their individual capacity and independent of any “company” or “other organization,” acquires, develops or possesses a computing cluster capable of developing dual-use foundation models. However, the Proposed Rule as drafted could impose a reporting requirement on any U.S. national who is, on behalf of their employer, performing tasks that include “develop[ing]” computing clusters that exceed the technical thresholds.¹ Where that company or organization is itself a “covered U.S. person,” this could lead to a multiplicity of overlapping reporting requirements. Where that company or organization is not a “covered U.S. person,” (e.g., as in the case of a U.S. national working for a non-U.S. company located outside the United States), it would impose on that employee a reporting requirement that does not apply to their employer, which (among other things) could constitute a breach of employment and business confidentiality obligations. We do not believe that BIS intended the Proposed Rule to apply to such employees.²

Furthermore, we recommend additional clarification, consistent with other regulatory reporting regimes to state that “where the covered U.S. person is an entity (including organizations, companies or organizations organized under the laws of the United States or any jurisdiction within the United States), that covered entity is responsible for reporting under this section, not its employees.”

Thank you again for the opportunity to provide comments to the Proposed Rule.

Sincerely,



Peng Xiao
G42

¹ Presumably, such individual would not be deemed to “acquire” or “possess” a cluster that was actually acquired or possessed by their employer. Accordingly, this comment is limited to the “develop[ment]” prong reporting obligation as it applies to “individuals.”

² In the Proposed Rule, BIS estimates that zero to fifteen companies exceed the reporting threshold at the time publication. 89 Fed. Reg. at 73616. This suggests that BIS’s intent was to require reporting at the entity level and not from individual U.S. persons working at or for non-U.S. companies outside the United States.