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October 7, 2024

Department of Commerce
Bureau of Industry and Security
1401 Constitution Ave. NW
Washington, DC 20230

Subject: RFC Related to “Establishment of Reporting Requirements for the Development of Advanced Artificial Intelligence Models and Computing Clusters” [Docket No. 240905-0231]

Dear Assistant Secretary Kendler:

IBM appreciates the opportunity to respond to the Bureau of Industry and Security’s (BIS) initial proposed rulemaking, as directed by Executive Order (EO) 14110, “Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence.” We recognize the importance of contributing to the development of reporting mechanisms for advanced AI systems to ensure the US government and other institutions have the most up-to-date information to inform policymakers’ decision-making regarding this important technology.

To that end, we appreciate the care and attention BIS has taken in issuing this RFC, and offer the following thoughts for the agency’s consideration as it moves forward in the rulemaking process:

- **Broad scope of reportable information.** As currently drafted, the proposed rule provides that once companies report that they are engaged in “reportable activities,” the agency will send questions to the reporting entity that must include *but are not limited to* four topics. Three of the four topics track with the language of the EO. The fourth topic – “other information pertaining to the safety and reliability of dual-use foundation models, or activities or risks that present concerns to U.S. national security” – is overly broad and is not included in the EO.

BIS should clarify the intended scope of reportable information and, if it intends to go beyond the scope as detailed by the EO, clearly explain the rationale for exercising discretion to expand the purview. However, we urge the agency to remain consistent with the original language, scope, and intent of the EO to avoid inadvertently burdening the AI marketplace and stymieing future economic growth.

- **Condensed reporting timelines.** As currently drafted, the proposed rulemaking requires companies to file an initial quarterly report regarding AI models and compute power that cross the articulated technical thresholds – either currently or if companies plan to develop such models or capabilities within the next 6 months. While those reporting timelines are not overly burdensome, the follow up responses to the questions that may be detailed by the agency pursuant to the broader scope of potentially reportable information (responses within 30 days

of inquiry and any follow-up questions within 7 days) are likely to present challenges depending on the nature of the inquiries.

BIS should provide more time for organizations to provide such responses.

Closer alignment with the intent of the EO will be key to communicating certainty to the market and ensuring the reporting framework is capable of effectively managing the information provided to the agency. As BIS proceeds with this rulemaking, we urge the agency to remain consistent with the scope and intent of the EO and recognize the need for more time to provide relevant responses to questions.

We appreciate the opportunity to reply to this proposed rulemaking and look forward to continuing to engage with the agency as it develops the rule further.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Christina Montgomery', with a long horizontal flourish extending to the right.

Christina Montgomery
Chief Privacy and Trust Officer
IBM Corporation