AMD

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Re: Interim Final Rule entitled "Implementation of Additional Export Controls: Certain Advanced Computing items; Supercomputer and Semiconductor End use; Updates and corrections"

AMD submits these comments in response to the request from the Bureau of Industry and Security (BIS) in the above captured rule.

1.) Deemed exports and Deemed reexports:

We would like to thank BIS for not imposing a deemed export requirement on technology and software for the development and production of 3A090 and 4A090 items. Imposing a deemed export and deemed reexport license requirement on 3A090 and 4A090 technology and software would significantly impact our ability to use resources from impacted countries for our work force. The pool of qualified resources to design and develop high-performance computing items is comprised significantly of foreign nationals who have been educated by US Universities that wish to apply their experience working for the most advanced technology companies in the world, which are headquartered in the U.S. In order for U.S. companies to remain the worldwide leader in the development and production of advanced computing items, access to the most qualified resources is integral to our success.

If a deemed export or deemed export license requirement were imposed, it would cause a significant burden on the U.S. semiconductor industry to find qualified resources. Additionally, the deemed export and reexport license burden would be levied not only on industry but BIS and the agencies involved in the license application reviews. We anticipate a large volume of license applications will be submitted to BIS, which in the last four years has become much more cumbersome and significantly slows or prevents U.S. semiconductor companies from achieving product roadmap deliverables.

2.) Creation Z ECCN numbers:

We appreciate BIS adding a number of .z paragraphs to specific sections of the CCL to make it easier for foreign manufacturers to comply with the Advanced Computing Foreign Direct Product Rule (FDPR). However, it would be even more beneficial if each ECCN code with the designated .z code had sub-paragraphs to identify the applicable 3A090.a, 3A090.b or 4A090.a control. Without sub paragraphs, it

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Advanced Micro Devices, Inc.
2485 Augustine Drive
Santa Clara, CA 95054

causes a great deal of confusion for foreign exporters. Additionally, this change also places an additional burden on exporters to customize destination control statements as mandated in 758.6. Most ERP systems are not flexible to amend general statements and many license determination strategy algorithms are solely based on an ECCN code and ship to location.   The addition of .z sub-paragraphs would ease the burden on exporters and help streamline automated processes.

3.) License exception NAC:

The creation of the NAC license exception creates another level of complexity for exporters. Currently, the NAC license exception only applies to hardware items. The NAC license exception should also apply to software and technology for the NAC eligible hardware items. It is our understanding that the NAC license exception applied to software and technology for NAC eligible commodities would be in line with current BIS policy objectives.

Additionally, it would benefit industry if NAC was expanded to include a notification requirement for the export of 3D001, 3E001, 4D001 or 4E001 software and technology for 3A090 or 4A090 items to foreign locations in D:1, D:4 and D:5 countries where the company is HQ in a supplement 3 country. This change would follow a similar approach currently used for encryption outlined in license exception ENC section 740.17 of the EAR.

Thank you for the opportunity to comment on the Export Control Regulations introduced October 7, 2022. If you have any additional questions or would like to discuss our comments, please contact Donald.jarry@amd.com