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To: Semiconductor Manufacturing Supply Chain

From: Scott Talbott, Senior Vice President Government Relations
Electronics Transactions Association

Date: April 5, 2021

Re: **BIS-2021-0011**
Risks in the Semiconductor Manufacturing and Advanced Supply Chain

The Electronic Transactions Association (“ETA”) respectfully submits these written comments in the above-referenced matter. These comments are submitted in response to the notice published in the *Federal Register* by the Bureau of Industry and Security (“BIS”) of the U.S. Department of Commerce (“Commerce”) on March 15, 2021,¹ which requires that comments be submitted no later than April 5, 2021. Accordingly, these comments are timely.

The ETA is the global trade association of the payments technology industry. ETA represents over 500 companies involved in electronic transactions processing products and services. ETA’s membership spans the breadth of the payments industry to include independent sales organizations (“ISOs”), payments networks, financial institutions, transaction processors, mobile payments products and services, payments technologies, and software providers (“ISV”) and hardware suppliers. Our comments follow:

(vi) Potential impact of the failure to sustain or develop elements of the semiconductor supply chain in the United State on other key downstream capabilities

Our members rely on a steady supply of semiconductor chips to power the many devices on which we all rely daily. For example, Point-of-Sale (“POS”) products are standalone products used in the payments industry to facilitate or execute a transaction. Semiconductor chips are essential components that power POS products.

BIS’s request comes when our members—and those in other downstream industries²—are experiencing a global semiconductor shortage. These chips are essential components to a myriad

¹ *Risks in the Semiconductor Manufacturing and Advanced Supply Chain*, 86 Fed. Reg. 14308 (March 15, 2021) (“**the Notice**”) (seeking public comment and information to assist Commerce in preparing the report required by Executive Order 14017 dated February 24, 2021 (regarding America’s Supply Chains) (“**the EO**”).

² See, e.g., William Boston, *et. al.* “How Car Makers Collided With a Global Chip Shortage,” *The Wall Street Journal* (Feb. 12, 2021), available at https://www.wsj.com/articles/car-chip-shortage-ford-vw-gm-11613152294?mod=searchresults_pos20&page=1 (last accessed March 30, 2021) (global semiconductor supply chain issues causing a chip shortage and production difficulties for automakers whose products relying increasingly on semiconductors).

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of critical downstream products. This shortage is causing the delays experienced across many downstream industries.

Roughly a year ago, however, BIS published several notices in the *Federal Register*.³ At the time, it was anticipated that the rules would have the largest impact on semiconductor industry equipment manufacturers, *i.e.*, by imposing additional license requirements to supply Chinese foundries supplying integrated circuits to the People’s Liberation Army (“**PLA**”) or targeting semiconductor component manufacturers (*e.g.*, for high performance computers, switches, *etc.*). It was also anticipated that there would be a trickle-down effect to supply chains where there were no alternative U.S. suppliers.

(vii) Policy recommendations or suggested executive, legislative, regulatory changes, or actions to ensure a resilient supply chain for semiconductors

The ETA echoes the comments of others who support and encourage the policy objectives listed in the EO.⁴ But in moving towards a policy that creates a resilient and secure supply chain for semiconductors,⁵ the ETA requests respectfully that BIS take into consideration the impact that its policies are having on downstream producers who require steady access to reliable semiconductors. Accordingly, while not detracting from the laudable goals of strengthening the resilience of America’s semiconductor supply chain, the ETA suggests that BIS take into consideration how its policies are impacting the availability of semiconductors as the United States makes this transition and what impact, if any, this has on downstream industries, the duration of any such impact, how to quantify any such impact (*e.g.*, the impact on the availability of downstream products, the economic costs to downstream producers, *etc.*), and how to mitigate any impact on downstream manufacturers and ultimately U.S. consumers that rely on such products.

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³ *Expansion of Export, Reexport, and Transfer (in-Country) Controls for Military End Use or Military End Users in the People’s Republic of China, Russia, or Venezuela*, 85 Fed. Reg. 23459 (April 28, 2020) (“Expansion of License Requirements”) (expanding the licensing requirements for China to include “military end users” in addition to “military end use,” broadening the list of items for which the licensing requirements and review policy apply); *Elimination of License Exception Civil End Users (CIV)*, 85 Fed. Reg. 23470 (April 28, 2020) (“Removing License Exception CIV”) (requiring a license for national security-controlled items on the Commerce Control List (“**CCL**”) to countries of national security concern, allowing U.S. government review prior to export, reexport or transfer). *See also*, *Modification of License Exception Additional Permissive Reexports (APR)*, 85 Fed. Reg. 23496 (April 28, 2020) (“Modify License Exception APR”) (collectively, the “**Notices**”) (proposed rule removing provisions that authorize reexports of certain national security-controlled items on the CCL).

⁴ *See, e.g.*, Comments from Integrated Biometrics dated March 17, 2021, available at <https://www.regulations.gov/comment/BIS-2021-0011-0004> (last accessed March 30, 2021).

⁵ The EO at Section 1 (“The United States needs resilient, diverse, and secure supply chains to ensure our economic prosperity and national security.”).