



## **Participation in IEEE Activities by Entities on the BIS Entity List Frequently Asked Questions and Answers (“FAQs”)**

*Issued: 2 June 2019 (supersedes original FAQs issued on 24 May 2019)*

*These FAQs should not be considered legal advice; readers may wish to consult with their legal advisors. These FAQs may be updated at any time at the discretion of IEEE.*

On Thursday, 16 May 2019, the U.S. Department of Commerce’s Bureau of Industry and Security (“BIS”), which administers and enforces the U.S. Export Administration Regulations (“EAR”), added Huawei and 68 of its affiliates to the BIS “Entity List” found in Supplement No. 4 to EAR Part 744. The BIS Entity List is a list of certain foreign entities, including businesses, research institutions, government and private organizations, and individuals (“Listed Persons”), that are subject to specific license requirements for the export, re-export, and in-country transfer of certain items subject to the EAR.

IEEE has prepared these FAQs to provide guidance to IEEE volunteers, members, and staff on interacting with a Listed Person or an employee of a Listed Person or another individual directly funded by a Listed Person (collectively, “LP Employee”) who seeks to participate in IEEE activities.

### **GENERAL**

#### **1. What is the Entity List maintained by the U.S. Commerce Department’s Bureau of Industry and Security (“BIS”)?**

The Entity List (supplement no. 4 to part 744) identifies persons reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States. The entities are added to the Entity List pursuant to sections of part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the Export Administration Regulations (EAR) (15 CFR, subchapter C, parts 730–774).

#### **2. Where can I find the BIS Entity List?**

The BIS Entity List is available [here](#).

#### **3. Is being on the BIS Entity List different from being sanctioned under the economic sanctions and trade embargoes administered by the U.S. Treasury Department’s Office of Foreign Asset Control (“OFAC”)?**

Yes. The BIS Entity List is maintained by the U.S. Commerce Department and prohibits exports, reexports, and in-country transfers to Listed Persons of items subject to the EAR.

OFAC is a separate agency from BIS, and has its own list of sanctioned countries, groups, and designated persons. OFAC determines when to impose economic sanctions and trade embargoes that prohibit certain activities with sanctioned parties by persons subject to OFAC’s jurisdiction. Listed Persons may

also be subject to the OFAC economic sanctions. If a Listed Person is also subject to the OFAC economic sanctions, then there may be additional or different guidance from that provided in the IEEE Statement on Participation of Members/Volunteers on BIS Entity List or IEEE Standards Association's (IEEE-SA) Statement.

#### **4. Where can I find IEEE's Statement on Participation of Members/Volunteers on BIS Entity List and IEEE Standards Association's ("IEEE-SA") Statement?**

IEEE's and IEEE-SA's Statements are available [here](#).

### **IEEE VOLUNTEER ACTIVITIES**

#### **5. Am I permitted to participate in IEEE technical groups if I am an LP Employee?**

Yes, you can participate in IEEE technical groups (including standards) if the meetings are open to any interested parties, even if there are membership criteria for participation. These technical meetings are within the EAR exemptions permitting a) "unlimited distribution" of information at a "conference, meeting, [or] seminar...generally accessible to the interested public" and b) distribution of a wide range of written materials or "representations of knowledge" to "organizers of open conferences or other open gatherings." If you are serving in a role in a leadership group such as an executive committee, administrative committee, or similar body (or a subcommittee of such a body) you may participate in meetings (including closed meetings) for purposes of discussing or voting on business, logistics, nominations, elections, or other aspects of organizational governance (although rules governing conflicts of interest will still apply).

See FAQ 11 for additional guidance with respect to the publications process. See also [IEEE's and IEEE-SA's Statements](#).

#### **6. What is meant by an "open" or "public" meeting/activity?**

A meeting or activity may be considered "open" or "public" in circumstances where any charges for attendance are limited to fees reasonably related to the cost of the meetings, and there is an intent that all interested and technically qualified persons are able to attend. Attendees must be permitted to take notes or otherwise make a personal record (not necessarily a recording) of the proceedings and presentations. A meeting or activity is not "open" if attendees are prohibited from note taking.

**7. If I am an LP Employee, what IEEE activities can I participate in?**

You can participate in all open or public meetings (see FAQ 6), submit articles for publications and conference proceedings, serve as an editor or peer reviewer, participate in standards, and other activities as described in the IEEE Statement. You can also attend conferences, other events, and governance or leadership meetings.

See FAQ 11 for additional guidance with respect to publications processes. See also [IEEE's and IEEE-SA's Statements](#).

**8. I am employed by Company A, which is a subsidiary of Parent. Parent is a Listed Person, but Company A is not. Does IEEE still consider me an LP Employee when I participate in individual-based activities?**

No. In an individual-based activity, IEEE does not consider you to be an LP Employee if your employer is not a Listed Person. The IEEE and IEEE-SA Statements on Participation do not restrict your participation in individual-based activities (including governance and leadership meetings).

**9. I am employed by Company A, which is a subsidiary of Parent. Parent is a Listed Person, but Company A is not. Does IEEE still consider me an LP Employee when I am participating in entity-based activities on behalf of Company A?**

Yes. You are considered an LP Employee when you participate in entity-based activities because, under IEEE-SA rules, Parent can assume the membership from Company A and direct the position and voting of Company A. If there are any restrictions on Parent's participation, those same restrictions will apply to you when you participate in entity-based activities on behalf of Company A.

**10. I am an LP Employee and serve as an officer of an IEEE group. In that role, I receive communications from group members regarding procedural questions and agenda requests. Can I continue to receive these communications?**

Yes. These specific communications are not technical in nature.

**a) But what if the communication includes some technical information (for example, a question about a technical paper or technology proposal)?**

Communications can continue, even if they include technical submissions, provided the submissions are directed to an open IEEE technical group and/or have been submitted with the intent for inclusion in IEEE journals, white papers, conference proceedings, standards, or other technical publications.

**b) What if the request is posted on the technical group's reflector? Does that make it a public communication?**

Yes. The request is considered a public communication if the technical group reflector is open to interested parties, or a public archive of the reflector is available.

**11a Can an LP Employee be an Editor-in-Chief (“EiC”) or Associate Editor on an IEEE Editorial Board**

Yes, because these activities fit within the published information exemption in the EAR. The LP Employee can serve in these roles.

**11b Can an LP Employee be a peer reviewer in either a periodical or a conference proceeding?**

Yes, because these activities fit within the published information exemption in the EAR. The LP Employee can serve in these roles.

**12. Can an LP Employee participate in IEEE online communities?**

Yes, if the IEEE online community is open (see FAQ 6).

**13. Are Conference Organizer or Standards Committee meetings considered “planning, leadership, and governance meetings”?**

Yes.

**14. Can an LP Employee participate in closed governance/leadership meetings involving technical discussion? Are such leadership and governance meetings different from technical group meetings in terms of openness?**

Governance and leadership meetings can include closed portions of the meetings (executive sessions, permitting only the committee members and IEEE staff to attend, etc.), and LP Employees are not permitted to participate in closed technical discussions.

**15. I am not a U.S. citizen and I reside outside the U.S. Do the actions of the U.S. Department of Commerce apply to me when I participate in IEEE activities?**

Yes. IEEE is a not-for-profit corporation organized in New York State and is subject to U.S. laws. When participating in IEEE activities, you must comply with all applicable laws.

**16. What if BIS has granted a temporary general license for a specific technical activity? Is an LP Employee then permitted to participate in all activities related to the technical area permitted by the BIS license?**

Yes. An LP Employee can participate to the full extent permitted under the license. An example of a BIS temporary general license can be found [here](#).

## **OTHER IEEE ACTIVITIES**

**17. Can IEEE reimburse LP Employees for travel to, food and beverage at, or accommodations at, IEEE meetings or provide a travel grant?**

Yes. The restrictions against a Listed Person do not regulate the transfer of funds to LP Employees.

**18. Can IEEE accept sponsorship or advertising funds from Listed Persons?**

Yes.

**19. Can a Listed Person purchase exhibitor space at an IEEE conference?**

Yes. Providing exhibitor space to a Listed Person does not violate the EAR.

**20. Can IEEE provide tangible products as gifts or awards to LP Employees?**

Yes. IEEE can provide gifts or awards to LP Employees in person at IEEE events or that are shipped to their personal residences.