



BIS to Host Brain-Computer Interface Conference – Feb. 16 & 17, 2023

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The Department of Commerce’s Bureau of Industry and Security (“BIS”) recently announced a two-day hybrid conference later this month on brain-computer interface (“BCI”) technology. The conference will “further BIS’s and the public’s understanding of the current status . . . and anticipated future developments in research and applications” of BCI technology. BIS administers the U.S. government’s dual-use export controls regime under the Export Administration Regulations. Information presented by industry and other parties at the conference could influence whether and to what extent BIS imposes additional trade regulatory requirements on **companies that transact in or otherwise produce, design, test, manufacture, fabricate, or develop BCI hardware, software, and/or technology.**

Background

BCI technology enables bidirectional communication between users and external devices via neural signals from an enhanced or wired brain. The implementation of BCI allows users to communicate with tech-enabled devices more seamlessly, by removing inefficiencies caused by traditional interfaces like keyboards, computer cursors, phone screens, joysticks, and other hand-held controllers. This technology has a wide variety of potential uses, including medical rehabilitation, entertainment and multimedia applications, autonomous driving and piloting, human-machine robotics, and military enhancement.

BIS has previously identified BCI as a *potential* emerging technology under Section 1758 of the Export Control Reform Act of 2018 (“ECRA”).^[1] ECRA requires BIS to designate “emerging” and “foundational” technologies that may have serious national security implications but have not yet been captured by current U.S. export control laws and regulations. Should BIS designate BCI technology as a Section 1758 technology, U.S. companies that produce, design, test, manufacture, fabricate, or develop BCI hardware meeting BIS’s parameters and/or any associated software or technology will meet the definition of a “TID U.S. business” for Committee on Foreign Investment in the United States (“CFIUS”) purposes. (For additional information on U.S. government efforts to identify critical technologies with potential national security implications, see our post from Feb. 17, 2022.)

In October 2021, BIS published an advance notice of proposed rulemaking requesting public comments about the “potential uses of BCI technology, particularly with respect to its impact on U.S. national security.” However, BIS

received limited comments to this request and is therefore still working to understand the full implications of BCI technology, a key goal of the conference.

Conference Details

The conference will be held on February 16 and 17, 2023, starting at 9:00 a.m. EST each day. It will feature presentations from the “industry and other experts from academia” and will be hosted both in-person (at the Department of Commerce) and online. A recording will be made available online for those who cannot attend. Those who wish to attend in-person or speak, whether in-person or virtually, must notify BIS as described in the [Federal Register notice](#) by **5:00 p.m. EST on February 10, 2023**.

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■ For these purposes, BIS has focused on identifying technologies “1) that are not already subject to list-based controls through the U.S. Commerce Control List or multilateral export control regimes of which the United States is a member, and 2) for which effective controls can be implemented without negatively impacting U.S. leadership in the science, technology, engineering, and manufacturing sectors.”

3 Min Read

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