

IEEE Statement on Participation of Members/Volunteers from BIS Entity List Entities

Issued: 2 June 2019 (supersedes original statement issued on 22 May 2019)

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 offers a wide range of activities and benefits for its members and volunteers (such as sponsoring more than 1,800 annual conferences and events worldwide and providing access to over 4.8 million publications on IEEE Xplore). In providing these services, IEEE (as a corporation organized in New York State) must comply with its legal obligations under the laws of the United States and other jurisdictions. The EAR's restrictions on Listed Persons apply to all IEEE activities, whether based in the U.S. or another country. Specifically, the EAR covers physical goods, software and technical information that is transferred to a restricted entity and such transfers can occur in the form of an exported product, an in person transfer that occurs in the U.S. or another country, or even an email exchange or a conversation. Violations of the EAR can be prosecuted either civilly or criminally, and the penalties include significant fines or prison sentences.

IEEE has prepared this statement 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.

Guidance. The EAR prohibits the export, re-export, or in-country transfer of any item that is subject to the EAR where the intended end-user is an individual or entity that is named on the Entity List (collectively, "Listed Persons"). The EAR also provides several exemptions relevant to IEEE activities. To ensure its own compliance with applicable law, IEEE provides the following guidance to members and volunteers:

- 1. Membership and Participation.** An LP Employee may continue to be an IEEE member in good standing and continue to be eligible for membership-grade elevation. An LP Employee may place orders for IEEE products (such as an IEEE hat, sweatshirt, coffee mug, or other non-publication tangible item) that would be shipped from the United States to their personal residence.
- 2. Subscriptions and Delivery of Publications.** An LP Employee may continue to order and receive subscriptions and make other purchases of IEEE publications, as well as access materials publicly available on IEEE Xplore.
- 3. Conferences and Technical Meetings.** An LP Employee may attend IEEE-sponsored conferences (whether inside or outside of the United States) that are open to interested members of the public. An LP Employee may speak or make presentations at such conferences and may submit materials for inclusion in such conference proceedings or for publication in post-conference written proceedings (to the extent otherwise permitted under the conference rules). The public accessibility of conferences and other technical meetings within the EAR exemptions permit (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."
- 4. Conference/Publication Planning Meetings.** An LP Employee may participate in business, logistics, and other meetings relating to conference planning or evaluation.

5. *Leadership Meetings of Societies and Other Bodies.* An LP Employee may participate in meetings of a leadership group such as executive committees, administrative committees, or similar bodies (or subcommittees of such bodies) for purposes of discussing or voting on business, logistics, nominations, elections, strategic planning, or other aspects of organizational governance (although rules governing conflicts of interest will still apply).

6. *Submissions for Publication.* An LP Employee may continue to submit articles and other materials for consideration for publication. IEEE volunteers and staff may continue to provide editorial and peer review support for any such LP Employee author.

7. *Participation in Peer Review.* An LP Employee may serve as an editor or peer reviewer in the peer review process for both periodicals and conference proceedings.

8. *Use of Email Accounts and Reflectors.* An LP Employee may continue to join or use an email reflector for nontechnical discussions. An LP Employee can continue to join or use an email reflector for technical discussions where the reflector is open or can be accessed through a publicly available archive. An LP Employee may continue to use an @ieee.org email account, but IEEE members should be aware that LP Employees may have @ieee.org accounts and their own communications of technical information to such addresses (or to any other email addresses of an LP Employee) may be subject to the EAR.

9. *Sponsorships and Donations.* A Listed Person or an LP Employee may provide funds for conference sponsorships, scholarships, or awards (to the extent otherwise permitted under, and in compliance with, IEEE rules).

10. *Private or Personal Discussions.* Any private or personal communications outside the scope of open and public sessions or the publications process, between an LP Employee and any other participants are beyond the scope of this IEEE statement. Entities and individuals should consult their company or individual legal counsel for guidance about such discussions.

Reminder. This statement merely provides IEEE guidance for membership, publications, conference/event attendance and participation in IEEE activities, and does not constitute legal advice. IEEE members and volunteers should contact their company or personal legal counsel for legal advice. IEEE staff members who have questions should contact the IEEE Legal and Compliance Department.