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## **The Russell Group export control practitioners group/HEECA adopted note<sup>1</sup> on complying with the National Security and Investment (NSI) Act**

This document aims to record discussions arising from a meeting between BEIS and the representatives of several Higher Education (HE) Institutions hosted by the University of Cambridge on 4 August 2021 as further clarified from October to December 2021.

The document is based around the initial set of questions raised by the HE attendees at the meeting. It is divided into two sections:

1. A potential approach to triage for universities seeking to decide under the NSI Act whether to make a voluntary notification that has been developed following discussions with BEIS.
2. Notes on key topics arising from a questions and answer session held with BEIS on the 4 August 2021.

It is understood that nothing in this document constitutes formal guidance from BEIS on the NSI Act. It is solely a record of discussions to guide HE thinking on compliance with the Act.

### **1. Potential voluntary notification triage**

#### Rationale

Paras 38 and 33 of the Secretary of State's Statement on the expected exercise of the call-in power say "Overall, the Secretary of State expects to call in rarely acquisitions of assets compared to acquisitions of entities." and "Acquisitions of control over qualifying assets are... in scope of the call-in power.... principally so that acquisitions may be called in if an asset is acquired instead of an entity that owns it,"

The perspective of universities active in the field of science research is different from that of commercial businesses for whom obtaining clearance via voluntary notification is necessary to safeguard transactions from the risk of future call-in. HE institutions can add contractual conditions to research agreements to address the call-in risk by for example providing for orderly termination should that happen, with spent funds retained. Therefore HE's objectives in discussing a triage that universities might apply, is to contribute responsibly to the national security agenda by developing an initial understanding of which academic research projects the Government should be made aware of, in a way which is manageable for HE and BEIS to deliver. HE is keen to work closely with BEIS to fulfil this objective. To facilitate this, this document sets out a set of factors which HE institutions may wish to consider when deciding whether to make a voluntary notification. It is understood that the input of BEIS in this work does not constitute official endorsement of the triage and that nothing in this guidance fetters the Secretary of State's powers under the Act.

#### The Approach

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<sup>1</sup> The University of Cambridge (ref RB/RM) led on the development of this document for the Russell Group Export Control Practitioners Group. This is a living document, so please send any concerns regarding the accuracy of the Note to [rhus.morgan@admin.cam.ac.uk](mailto:rhus.morgan@admin.cam.ac.uk) in the first instance (please note that neither Cambridge, the Russell Group Export Control Practitioners Group nor HEECA can provide specific advice to other institutions).

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- i. Make a risk assessment, looking for example at whether the technology is on the UK export control lists or the collaborator is from a state which is subject to a partial or full arms embargo or military end user controls. Specific issues relating to the collaborator/partner should also be taken into consideration. Receipt of an end user notification from the Export Control Joint Unit (ECJU) regarding the collaborator would be a sign of high risk.
- ii. Consider, on the basis of your risk assessment, whether a voluntary notification should be made. You may also wish to consider some of the example scenarios in section 2 of this note to guide your decision making.
- iii. Where you judge that a voluntary notification should be made, this will insert the question into the formal process and timescales which start when the notification has been accepted as in the correct form. Clearance may be granted within 6 weeks but the Secretary of State may wish to call for further information. The form will be a web based form which will require significant time and information to complete.
- iv. An alternative is to use the informal enquiry route (see para v)<sup>2</sup>. This will be of particular use where clearance isn't your objective and a formal response is not needed, but rather the aim is to give BEIS sight of transactions which may be of interest to it and an informal response (that call-in is unlikely) is sufficient for your purposes. Note that under Section 2(2)(a) of the Act - a call-in notice may not be given after the end of the period of 6 months beginning with the day on which the Secretary of State became 'aware' of the trigger event.
- v. When making an informal enquiry:
  - identify the collaborator ("the acquirer")
  - briefly describe the technology ("the target")
  - state the 'area'
  - state whether it is a licence/assignment or acquisition of a shareholding of less than 25% ("control").

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<sup>2</sup> Investment Screening Inquiries [investment.screening@beis.gov.uk](mailto:investment.screening@beis.gov.uk). Informal queries to be sent to both the ISU (via the usual email address) and the RCAT. That will ensure that both the ISU and RCAT see them. BEIS will produce a single coordinated response on any particular query.

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## 2. Issues and queries raised by HE

### A: Establishment of spin outs by universities or their tech transfer companies

**NOTE:** Trigger events turn on **acquisition** of an entity – **creation** of an entity is **not** a trigger event

	Event	Comment	Mandatory Notification Required when there is acquisition of control <sup>3</sup> of a qualifying entity <sup>4</sup> if its activities are covered by the 17 sector definitions in the Notifiable Acquisition Regulations	Voluntary Notification Considered when there is acquisition of control <sup>5</sup> of a qualifying asset <sup>6</sup> where it falls within or close to <sup>7</sup> one of the 17 sector definitions
1	Conversion of an off the shelf 'shell' company and repurposing for a spin out	<ul style="list-style-type: none"> <li>Shell companies are sold with e.g. 2 shares, and e.g. 2 directors who are employees of the seller of the shell companies.</li> <li>The shell has no relevant technology</li> </ul>	Does not appear to fall within the mandatory notification requirements.	There is no trigger event (acquisition of a right to use or control a qualifying asset).
2	The university/tech transfer company work with the	<ul style="list-style-type: none"> <li>Prior to the issue of shares to the university/its</li> </ul>	This is the <i>creation</i> of a qualifying entity	The grant of a licence is a trigger event

<sup>3</sup> Sections 8(2) and (4) define control of an entity as the acquisition of a right or interest that allows the acquirer to increase its shares or voting rights in the entity:

- (a) from 25% or less to more than 25%;
- (b) from 50% or less to more than 50%; or
- (c) from less than 75% to 75% or more.

Sections 8(6) and (8) define control of an entity as the ability to secure/prevent the passage of any class of resolution and the ability to influence the policy of the entity.

<sup>4</sup> A qualifying entity is defined in sections 7(2) and (3) as any entity, whether or not a legal person, that is not an individual, and includes a company, a limited liability partnership, any other body corporate, a partnership, an unincorporated association and a trust that carries on activities or supplies goods or services in the UK.

<sup>5</sup> Control is defined in section 9(1)(a) and (b) – namely the occurrence of trigger events in relation to rights to use or control

<sup>6</sup> A qualifying asset is defined in sections 7(4) and (6) as:

- (a) land;
- (b) tangible (or, in Scotland, corporeal) moveable property;
- (c) ideas, information or techniques which have industrial, commercial or other economic value;

that is situated in the U.K or used in connection with activities or the supply of goods or services in the UK.

<sup>7</sup> Example: acquiring full control of a company which is not within one of the 17 areas, but 'close to' one of the sectors, means there is a material influence trigger, that is for a voluntary rather than a mandatory notification trigger

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	founders to convert the shell company, and the shares are issued to the university/its company in consideration of a licence	<p>company, the shell company has no relevant technology</p> <ul style="list-style-type: none"> <li>The shell company only gains relevant technology once the transaction is completed (the licence is granted)</li> </ul>	<ul style="list-style-type: none"> <li>At the point when the shares are issued the company, does not carry on activities specified in the 17 areas of the economy. The granting of the licence simply creates the opportunity to begin such activity.</li> <li>The issue of shares to the university/its company is not an acquisition of control of a qualifying entity which has relevant technology, even though the university might hold &gt;26% of the equity following this transaction</li> </ul>	
3	Assignment or exclusive licence rather than non-exclusive licence	<ul style="list-style-type: none"> <li>A non-exclusive licence is the grant of a right to use. An assignment or exclusive licence is the grant of the right to control.</li> </ul>	N/A	<p>The grant of a licence is a trigger event, whether non-exclusive or exclusive because even a non-exclusive licence provides a right to use an asset</p> <p>The subsequent grant of an assignment (or conversion of a non-exclusive to an exclusive licence) is a further trigger.</p>
4	Grants or loans (unsecured by shares) or funding without any		There is <u>no</u> acquisition of <u>control</u> of a qualifying entity	There is no acquisition of <u>control</u> or <u>right to use</u> of qualifying asset –

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	investor controls or licences to investors		- even if it is has relevant technology	even if the company has relevant technology
5	Loans (unsecured by shares) or funding but with investor rights of control e.g. restricting sale (standard investor consents)	See also row 9	This is a mandatory notification trigger event if lender gets voting rights above the specified thresholds OR any right which allows them to pass/block resolutions.  Section 6(2) of the Act and section 8(5)	Voluntary notification if the rights only amount to material influence <sup>8</sup>
6	Acquisition of shares in a company (i.e. subsequent to initial creation and licensing of technology in one of the 17 areas) which exceed 25% by the university/tech transfer company or investors.	If the company carries on activities in one of the 17 specified areas of the economy, it is a notifiable acquisition.  See Example 2.	Mandatory notification required	N/A
7	Acquisition of shares in a company by investors <u>at the same time</u> as the university/tech transfer company grants a licence of relevant technology (that is before it has any technology in one of the 17 areas).	<ul style="list-style-type: none"> <li>The investment makes a significant change to relevant technology; raw academic technology is normally a process patent which needs considerable investment to bring to market.</li> </ul>	Mandatory notification not required. Mandatory notification is only required if when the shares are issued the company is already carrying on activities specified in the 17 areas of the economy.  <b>Note: If in any doubt, make an informal enquiry</b>	The granting of a licence is a trigger event
8	Increase of share holding from:	Each is a trigger event acquisition of	Mandatory notification required	N/A

<sup>8</sup>See footnote 8.

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	25% or less to above 25%; 50% or less to above 50%; or below 75% to 75% or above	control over a qualifying entity - see section 8(2)		
9	Shareholder rights: Investors who invest when the technology has been proved/improved by earlier investment pay a higher share price for the shares and in return may secure shareholder rights to protect their investment	Such investors may have certain rights such as a veto on sale, so that the exit is at a price which will pay a reasonable return on their larger investment for the same or smaller equity shareholding as earlier investors who paid a lower price for their shares.	This is a mandatory notification trigger event if investor gets voting rights above the specified thresholds OR any right which allows them to pass/block resolutions (such as sale of the company).  Section 6(2) of the Act and section 8(5)	Voluntary notification if the rights amount to material influence
10	Shareholder rights: 3 investors together secure shareholder rights to protect their investment through having "an investor majority"	Their rights will be aggregated (added together to calculate the total % control the investors have gained) if they are part of the same group under company law or have entered into any contractual arrangement to exercise collective control.	Depends on aggregation	Depends on aggregation
11	A company with relevant technology is set up outside the UK	The setup is a creation of an entity, so out of scope. If a potential qualifying entity is formed or recognised outside UK, and shares are acquired once it has technology in one of 17 areas, it is only a qualifying entity if it carries on activities in the UK or supplies	Mandatory notification only relevant for entities which carry on (specified) activities in the UK – Section 6(4)	Voluntary notification of the initial licence either to the founders or the company is required.



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		goods or services to persons in the UK. Section 7(3)		
12	University/its company help founders to begin the steps towards getting investment, providing advice and mentoring.	The decisions at all times will rest with the directors/controlling shareholders - rather than the university tech transfer company.	Material influence is not a trigger event for mandatory notification.	Section 8(8) refers to material influence as a trigger for voluntary notification <sup>9</sup> .  For any trigger event there needs to be the “acquisition of a right or interest” in the entity or asset.  <u>Advice and mentoring does not amount to the acquisition of a right or interest.</u>
13	University assigns IP to its tech transfer company	This is within the scope of voluntary notification but it might be considered this is unlikely to raise a national security risk so institutions may decide not to notify	No	Is a trigger event for voluntary notification
14	Where a university tech transfer company is a wholly owned subsidiary of the University, and both receive shares, these have to be aggregated when calculating trigger event %	In addition to its direct shareholding, the University is treated as indirectly holding the shares, which the university tech transfer company has, because it has a majority stake in the university tech transfer company (by virtue of paragraph 3 of Schedule 1 to the Act). There are anti-	N/A	N/A

<sup>9</sup> Material influence only applies in respect of entities. There is information on the concept from page 22 onwards of the CMA's guidance. The Government has stated that it intends to apply the CMA's guidance so far as is appropriate in the context of national security.

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		avoidance provisions to ensure that transactions are not split up to get around the regime.		
15	The University or university tech transfer company only has 50% or less stake in a separate company acquiring shares	These shares do not have to be aggregated	N/A	N/A



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## B. Research collaborations and consortia

Event	Comment	Mandatory Notification Required when there is acquisition of control <sup>10</sup> of a qualifying entity <sup>11</sup> if its activities are covered by the 17 sector definitions in the Notifiable Acquisition Regulations <sup>12</sup>	Voluntary Notification Considered when there is acquisition of control <sup>13</sup> of a qualifying asset <sup>14</sup> where it falls within <i>or close to</i> <sup>15</sup> one of the 17 sector definitions
<b>Qualifying asset – intellectual property (note the broad definition)<sup>16</sup></b>			
1	Background IP - immediate licence to use for the purposes of the project	Assuming the acquirer does not already have the right to use background IP as described	N/A  Yes - trigger event for voluntary notification  Control has been acquired – i.e. to use the asset. However the asset

<sup>10</sup> Sections 8(2) and (4) define control of an entity as the acquisition of a right or interest that allows the acquirer to increase its shares or voting rights in the entity:

- (d) from 25% or less to more than 25%;
- (e) from 50% or less to more than 50%; or
- (f) from less than 75% to 75% or more.

Sections 8(6) and (8) define control of an entity as the ability to secure/prevent the passage of any class of resolution and the ability to influence the policy of the entity.

<sup>11</sup> A qualifying entity is defined in sections 7(2) and (3) as any entity, whether or not a legal person, that is not an individual, and includes a company, a limited liability partnership, any other body corporate, a partnership, an unincorporated association and a trust that carries on activities or supplies goods or services in the UK.

<sup>12</sup> The 17 sectors are defined in the *National Security and Investment Act 2021 (Notifiable Acquisition)(Specification of Qualifying Entities) Regulations 2021* at: <https://www.legislation.gov.uk/ukdsi/2021/9780348226935/contents>

<sup>13</sup> Sections 9(1)(a) & (b) define control of assets as the acquisition of a right or interest that allows the acquirer to:

- (a) use the asset, or use it to a greater extent than prior to the acquisition; or
- (b) direct or control how the asset is used, or direct or control how it is used to a greater extent than prior to the acquisition.

<sup>14</sup> A qualifying asset is defined in sections 7(4) and (6) as:

- (d) land;
- (e) tangible (or, in Scotland, corporeal) moveable property;
- (f) ideas, information or techniques which have industrial, commercial or other economic value; that is situated in the U.K or used in connection with activities or the supply of goods or services in the UK.

<sup>15</sup> Example: acquiring full control of a company which is not within one of the 17 areas, but 'close to' one of the sectors, means there is a material influence trigger, that is for a voluntary rather than a mandatory notification trigger

<sup>16</sup> A "qualifying asset" includes ideas, information or techniques which have industrial, commercial or other economic value. Section 7(4)(c) gives examples: trade secrets, databases, source code, algorithms, formulae, designs, plans, drawings and specifications, and software.

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				itself <i>may</i> be of less national security interest in this situation.
2	Foreground IP (the results arising from the research) - <i>option</i> for an assignment or licence	No immediate rights to use or control the foreground IP (save that asset owner is restrained from granting conflicting IP rights during the option period)	N/A	Yes – but seeking clearance is <i>may</i> only relevant when the IP is created and option is exercised and assignment or licence is granted <sup>17</sup>
3	Foreground IP (results arising from the research) - immediate <sup>18</sup> assignment or licence	Many collaborations or studentship contracts might have relevant IP provisions but no IP of interest is generated during the project	N/A	Yes - but seeking clearance is only relevant when IP is created <sup>19</sup>
<b>Qualifying entity - unincorporated association (e.g. a consortium agreement)</b>				
4	A new consortium is created which:	These arrangements are	No - as the consortium is <i>created</i>	N/A

<sup>17</sup> Section 10 preserves the call in power where rights are granted over future assets. While technically this is a trigger event, seeking clearance before it is apparent what IP or results have created will be of no assistance: BEIS would not be able to make an assessment until the nature of the technology is clear.

Section 10

- 1) Schedule 1 provides for particular cases in which a person is to be treated for the purposes of this Act as holding an interest or right.
- 2) A person is to be treated for the purposes of this Act as acquiring an interest or right (to the extent that the person would not otherwise be regarded as doing so) where:-
  - (a) the interest or right becomes treated as held by the person by virtue of Schedule 1, or
  - (b) the person is already treated as holding the interest or right by virtue of that Schedule and something occurs in relation to the interest or right which would be regarded as its acquisition by the person (including by virtue of paragraph (a)) if the person was not already treated as holding it.

Sch 1 para 6(1) Rights exercisable only in certain circumstances etc.

- (a) when the circumstances have arisen, and for so long as they continue to obtain, or
- (b) when the circumstances are within the control of the person.

<sup>18</sup> Both background and foreground IP licenses are in scope of the Act, as IP is a considered a qualifying asset. Voluntary notification would need to be considered for a non-exclusive as well as an exclusive licence

<sup>19</sup> See footnote 15

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	<p>(i) allocates voting rights that cross NSI percentage thresholds;</p> <p>(ii) allows the acquirer to pass or block resolutions governing the affairs of the consortium; or</p> <p>(iii) allows the acquirer to materially influence the policy of the consortium, appoint members of the steering group or affect its strategic direction</p>	normally contractual joint ventures created for the purpose of doing funded research	not acquired by its members	
5	New consortium members are introduced who acquire <u>control</u> over the unincorporated association as described in row 4(i) – (iii)	If the consortium already exists and new members join – they are acquiring rights in a qualifying entity so this is a trigger event	Mandatory notification is only relevant if the activities of the consortium are covered by the 17 sector definitions	N/A
6	New consortium members are introduced who acquire <u>licence</u> to use background IP		N/A	Yes, see row 1 – immediate rights are created
7	New consortium members are introduced who acquire <u>option</u> for an assignment or licence to use foreground IP		N/A	Yes - but seeking clearance is only relevant when the IP is created and option is exercised and assignment or licence is granted (see row 2)
8	New consortium members are introduced who acquire <u>immediate</u> assignment or licence to use foreground IP		N/A	Yes - but seeking clearance is only relevant when IP is created (see row 3)

## C. Mandatory notifications

Russell Group export practitioners group note on complying with the National Security and Investment (NSI) Act, version 1.2 16 March 2022 ([HEECA Adopted](#))

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Under section 6, the Secretary of State can amend the scope of the mandatory notification element of the NSI system – including by making exemptions from mandatory notification on the basis of the characteristics of the acquirer. See section 6(5)(b).

The mandatory notification form *has a free text box at the end of the form (Additional information). It is open to the notifier to use this to state any facts that they believe indicate an absence of national security issues.* For example:

- i. Shares are being issued only to a charitable/public research funder/university/university technology transfer office
- ii. All investors have been pre-approved (under a pre-approval scheme), e.g. either via FCA authorisation or specific approval for non-FCA funds (such as the University investment funds).

There is no safe harbour provision in the legislation as such.

#### D. Voluntary Notification Form

- The forms are now completed and HE institutions took part ([jennie.cartwright@beis.gov.uk](mailto:jennie.cartwright@beis.gov.uk) is the contact).
- BEIS want the form to be as slim as possible but there is a balance to be struck between ease of completion and getting enough information to be able to make a decision on the best possible information within the statutory time limit.
- The information is considered necessary and proportionate to the national security assessment required: BEIS will need a fair amount of information to make decisions. Otherwise there is a risk of stopping the clock to ask for more information.
- BEIS will seek HE's input on how the system works and will use the system itself to show where things are going. BEIS is content to discuss further how HE institutions are experiencing the Investment Security Unit and complying with the NSI Act.
- The NSI Act will be fully commenced on 4 January 2022. BEIS is happy to have conversations before then with anyone who wants to make informal notifications regarding acquisitions.

#### E. Approach to Call-in

The Section 3 Statement sets out how the Secretary of State expects to use their call-in power, and provides an indication of the circumstances in which the Secretary of State considers national security risks are more likely to arise. This is the main document<sup>20</sup> which parties should refer to when deciding whether to voluntarily notify.

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<sup>20</sup> Extracts (with some emphasis added): We expect parties to use the Section 3 Statement when deciding whether to submit a voluntary notification. The Section 3 Statement shows how the Secretary of State expects to use his power to call-in acquisitions. For example, the section 3 statement sets out that the call-in power is *more likely to be used* for qualifying acquisitions of assets that are, or could be, *used in connection with the activities* set out in the 17 mandatory areas, or closely linked activities. This is because these acquisitions are more likely to pose a risk to national security.

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BEIS expressed the view that for the most part assets are not expected to be called in and that call-in is envisaged for those cases where there is an attempt to evade mandatory notification. This is in line with para 32 and 28 of the Statement of Intent: "Overall, the Secretary of State expects to call in acquisitions of assets rarely" and "Acquisitions of control over qualifying assets are... in scope of the call-in power.... principally so that acquisitions may be called in if an asset is acquired instead of an entity that owns it...".

## F. Information Handling/Use

HE representatives asked whether notifications will be kept confidential bearing in mind potential for commercial interests and/or confidentiality undertakings in transactions. BEIS advised that the limits on confidentiality were set out in Section 54(2).

BEIS also noted that they are very used to handling sensitive information. An appropriate IT system will be used to ensure that things can be filed securely and that BEIS can hold it securely within BEIS too. BEIS recognise that there will be both commercial and other sensitive materials that are coming in, but BEIS has necessary resources to handle this.

## G. Timelines

HE requested guidance on the timetable that BEIS will be working to for acceptance of notification submission (bearing in mind submissions will be made online using a detailed web-form) given that the 30 working day clearance timetable does not start until acceptance of the notification form as complete. BEIS advised that they cannot set a strict timetable, but will want to deal with submissions promptly as it would not be consistent with the Act to delay processing unnecessarily.

HE also requested guidance on how investigation of cases would be handled and what notifications would be received. BEIS advised that the Act is precise in how the process is to be done, but internal processes are under development. While the system will allow BEIS to 'stop the clock' or take the time it needs, BEIS recognised that for the system to be credible it would not be possible for long delays between receipt of submission and acceptance.

There will be a contact to ask BEIS where the notification is on the system.

## H. National Innovation Strategy

The National Innovation Strategy

([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1009577/uk-innovation-strategy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1009577/uk-innovation-strategy.pdf)) underlines the importance of academic lead innovation.

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BEIS has also published guidance on the activities of entities in scope of 17 areas of the economy subject to mandatory notification, please use these to inform your decision-making about whether to provide a voluntary or mandatory notification. It is important to note that the Secretary of State expects *only rarely* to call in acquisitions of assets *compared* to acquisitions of entities. Each acquisition will be treated on an individual basis. Within six months of the Act commencing, the Government will provide market guidance notes to further aid interaction and compliance with the Act. They will draw on analysis of notifications received over time, as well as intelligence from the Investment Security Unit's market monitoring.

Russell Group export practitioners group note on complying with the National Security and Investment (NSI) Act, version 1.2 16 March 2022 ([HEECA Adopted](#))

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HE representatives highlighted potential friction between the NSI and NIS.

## I. Development of Market Guidance

HE representatives asked whether it was possible to be involved in the development of the market guidance. BEIS will seek views in some format but probably only on the final draft.

If further guidance is issued which is relevant to HE, BEIS will seek to engage constructively with HE on relevant guidance but the precise level of consultation will be dependent on the nature/timing of any future guidance products. HE hopes that the current discussions captured in this paper may be seen as a good example of the benefits of consultation which result in the necessary granular guidance being given.

## J. Trigger Events

- Some *Universities have regulations* which provide that the academic creator (not any third party) will own IP which they create during their research. There is no licence as such. This therefore would not be a trigger event for voluntary notification.
- A university tech transfer office or company may take an invention into their portfolio for commercialisation and then find it cannot find a licensee and there is limited potential for commercialisation through setting up a spin out. In those cases the office/company will *assign the IP back* to the inventor. It seems that technically this would be a trigger event for voluntary notification, but it is unlikely to be an acquisition of national security interest where the IP may be of little value and unlikely to garner investment to make it of commercial use.
- Where there are *multiple trigger events* for one transaction, e.g. different types of licence in one contract, these might be notified separately or together. BEIS suggested that the informal inquiry route should be used in the particular case to see what makes best sense.
- Clearance attaches to the trigger event and is effective. *Once cleared, the Secretary of State cannot revisit* that trigger event (unless false or misleading information was provided which materially affected their decision). If a *new* trigger event occurs in future the Secretary of State can call that in separately.

## K. Notification System

- Clearance notices will need to be given formally by the Secretary of State: A letter from the Secretary of State confirming no further action under the Act will be taken in relation to the trigger event.

## L. Protections for Notifiers

- It was queried how government will protect those who make voluntary notifications from claims of defamation or breaches of equality legislation by the third parties referred to in the notification.
- BEIS pointed out that mandatory and voluntary *notification are both private*. The only statutory requirement for *publication is the making of a final order*.