SIA SEMICONDUCTOR INDUSTRY ASSOCIATION

John Neuffer, President & CEO

24 September 2021

The Honorable Ron Wyden
221 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Wyden,

The Semiconductor Industry Association (SIA), representing 98 percent of the U.S. semiconductor industry ecosystem, including companies that research and design chips, manufacture chips and those that integrate these functions, calls on Congress to adopt tax policies that strengthen the global competitiveness of the strategically vital semiconductor industry.

The U.S. commands nearly half of the $400 billion global market share of semiconductors and our companies directly employ 277,000 nationally and are responsible for supporting 1.6 million additional jobs indirectly. As you know, maintaining economic conditions which allow our industry to compete globally is essential for our competitiveness, national security, technological leadership and even addressing climate challenges. This is a critical time for the U.S. semiconductor industry as we face strong challenges to our industry leadership, and we urge you to carefully consider potential impacts to the entire semiconductor ecosystem as you navigate the many challenging and competing revenue raisers and expenditures in the Budget Reconciliation package. It is especially important to neither undermine nor neutralize the legislative efforts currently underway on which you and others in Congress have led and worked so hard.

The challenges are clear. In 2020, only 12 percent of global semiconductor manufacturing capacity was in the United States, down from 37 percent in 1990 due mostly to massive overseas incentives ranging from full/partial tax holidays, direct global subsidies, favorable loans, and reduced utility costs.[1] And while global demand for semiconductors is anticipated to require a 56 percent increase in manufacturing capacity over the next 10 years, our analysis indicates that the U.S. share of manufacturing will continue to decline to only 10 percent of the global share by 2030 without incentives to make the U.S. a more competitive investment destination.

Congress took an important step in addressing these concerns when it passed the Creating Helpful Incentives to Produce Semiconductors for America (CHIPS) Act,[2] which authorizes incentives for semiconductor manufacturing and investments in semiconductor research. A strong, bipartisan majority in the Senate passed funding for the CHIPS Act as part of the U.S. Competitiveness and Innovation Act (USICA) in June of this year to make these programs a

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[1] OECD, *Measuring distortions in international markets: The semiconductor value chain*, *OECD Trade Policy Papers*, No. 234 (2019), *available at* https://doi.org/10.1787/8fe4491d-en. Additional information on semiconductor incentives offered by foreign governments is available at https://www.semiconductors.org/global-governments-ramp-up-pace-of-chip-investments/. Semiconductor Industry Association and Boston Consulting Group, *Government Incentives and U.S. Competitiveness in Semiconductor Manufacturing*: https://www.semiconductors.org/wp-content/uploads/2020/09/Government-Incentives-and-US-Competitiveness-in-Semiconductor-Manufacturing-Sep-2020.pdf. (September 2020).

[2] This legislation was included in the FY 2021 National Defense Authorization Act, Pub. L. No. 116-283, § 9902 (2021)

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reality.[3] The House's passage of funding for the CHIPS Act, along with both chambers' passage of the bipartisan Facilitating American-Built Semiconductors (FABS) Act (S.2107) (which would provide a refundable investment tax credit (ITC) for semiconductor manufacturing) would strengthen the competitive position of the U.S. semiconductor ecosystem at this critical time.

As Congress continues its work to enact these vital pieces of legislation to strengthen our economy and national security, we are concerned the Budget Reconciliation package under consideration contains proposals that would diminish our global competitiveness. In addition to a competitive corporate rate that encourages continued domestic investments in our industry, we call on you to adopt tax policies to enhance our economy, maintain our technological leadership, and bolster national security by implementing the following recommendations:

- Preserve FDII – We encourage Congress to preserve the current foreign-derived intangible income regime (FDII) as it is critically important to supporting innovation in the United States, which in turn promotes domestic jobs in research and development, manufacturing, and other productive activities. The House Ways & Means Committee preserved this benefit and we strongly encourage the Senate to do the same. However, we strongly encourage Congress to maintain parity of the effective tax rates between FDII and global intangible low-taxed income (GILTI).[4] Providing a higher rate for FDII than for GILTI would make it more favorable to perform activities outside the U.S.

- Adoption of an enhanced FABS Act – We urge the Senate to include the FABS Act in the Budget Reconciliation package along with provisions that provide a design credit for the research of advanced semiconductors. To do so would provide certainty of an immediate incentive designed to both encourage increased manufacturing capacity of chips in this country and ensure that the most advanced research is also conducted here. Advanced semiconductor research can be done in many places around the globe, but we believe the design credit would help solidify our competitive advantage and ensure the research occurs in this country.

- Eliminate/delay amortization of research expenditures – The industry has been outspoken in its support of the elimination or delay of the provision requiring amortization of R&D expenses. We are strongly supportive of the delayed effective date until 2026 that was included in the Ways and Means Committee's bill. The U.S. semiconductor industry invests heavily to innovate and maintain technology leadership. The industry invests nearly one-fifth of revenues in research and development, amounting to $44 billion in 2020. Meanwhile, our technology leadership is at risk as global competitors increase their own investments.

- Global Intangibles Low Taxed Income (GILTI) - We urge Congress to keep in mind the global competitive challenges that would be created by the significant changes being proposed to the GILTI. Currently, the U.S. is the only country with a global minimum tax. The proposed amendments to the GILTI rules further increase the global minimum tax

[3] United States Innovation and Competition Act (USICA) of 2021, S. 1260, 117th Cong. § 1002 (2021)

[4] For example, to achieve parity under the Ways and Means Committee draft of the legislation, the FDII deduction rate needs to be 32.41% (vs 21.875% in the draft) to result in both the FDII and GILTI rates on foreign income equaling 17.43%.

burden on U.S. headquartered companies and puts them at a competitive disadvantage to their non-U.S. based competitors. We are concerned that further increasing taxes on U.S. semiconductor companies would reduce the amounts available for the significant investments needed to maintain technological leadership and manufacturing capacity to ensure a supply chain that is able to meet ever increasing demand.

In the last two years, companies in the industry have announced roughly $56 billion of planned investments in domestic manufacturing facilities, as well as commitments to invest in domestic research and development activity in an effort to alleviate supply chain pressures brought to bear by the COVID-19 pandemic. We call on you to ensure the Budget Reconciliation package adopts a balanced approach to maintaining the competitiveness of the U.S. semiconductor industry.

Please contact Erik Pederson at epederson@semiconductors.org with any questions or comments you may have.

Sincerely,

CC The Honorable Charles E. Schumer