

The Fundamental Research Exclusion

Fundamental Research described by the Export Administration Regulations means “research in science, engineering, or mathematics, the results of which ordinarily are published and shared broadly within the research community, and for which the researchers have not accepted restrictions for proprietary or national security reasons.” This exclusion allows the **results** of research performed as fundamental research, as defined above, to be excluded from export control laws and regulations.

The Fundamental Research Exclusion is nullified if the university accepts any contract that:

- Prohibits the participation of foreign persons,
- Allows the sponsor a right to withhold or provide approval of any publications resulting from the research, or
- Other participation restrictions and/or restrictions of access to and disclosure of research results.

Prepublication review by a sponsor does not change the status of the research as fundamental research as long as the review is solely to ensure that the publication does not compromise patent rights or inadvertently divulge proprietary information that the sponsor has furnished to the researchers. However, if the sponsor will consider as part of its prepublication review whether it wants to hold the research results as trade secrets, then the research would no longer qualify as fundamental.

It’s important to note that the fundamental research exclusion applies only to the dissemination of research data and information, not to the transmissions of material goods. Some examples of items that the fundamental research exclusion doesn’t apply to are:

- Physical goods
- Software and Encryption
- Research in which the results are not intended to be published
- Research conducted outside the U.S.

If you think your research protocol may have export control implications, please contact the Export Compliance Program at exportctrl@vcu.edu or the Export Compliance Officer, Nicole Porter, portern@vcu.edu.