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## U.S. Government Announces Ban on U.S. investments in China High Tech Sectors

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On August 14, 2023, pursuant to a Presidential executive order issued several days earlier, the U.S. Department of the Treasury released an Advance Notice of Proposed Rulemaking (the Proposed Rulemaking) announcing a ban on investment by U.S. persons, including U.S.-registered business entities, in three advanced technology sectors in China – quantum computing, artificial intelligence, and semiconductors. The Proposed Rulemaking also proposes a notification requirement to the U.S. government if U.S. persons invest in other strategic industries in China. This outbound investment regime will become effective once the Treasury Department issues implementing regulations in subsequent months.

The agency is currently soliciting public comments for the next 45 days on many topics to assist the Treasury Department in drafting the pertinent regulations, including the definition and scope of “prohibited transactions” and “notifiable transactions.”

The combined executive order and Proposed Rulemaking highlight the U.S. government’s desire to cut off not only U.S. capital that funds technology development in China, but also intangible management know-how that is often conveyed to support the commercialization of technologies into commercial and military products. Treasury Department officials are considering restrictions on funding via private equity, venture capital, joint ventures, and greenfield investments that fuel the growth of industries in China’s economy that the U.S. government deems to be national security threats to the U.S. Various U.S. industry groups have already begun voicing concern about how the new outbound investment restrictions could affect U.S. businesses needing to capitalize subsidiaries and affiliates in China, among many issues.

If you wish to submit comments to influence the U.S. government’s outbound investment final rule, or are a U.S. or foreign business seeking advice on how to comply with and implement the proposed outbound investment restrictions involving China, please contact Akana Ma.



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