Outbound Investment Screening Becomes a Reality

by Justin T. Huff and Lawrence Ward

On August 9, after months of deliberations, President Biden issued a new *Executive Order on Addressing United States Investments in Certain National Security Technologies and Products in Countries of Concern* (the "EO"). Simultaneously, the Department of the Treasury issued a draft advance notice of proposed rulemaking ("ANPRM") seeking public comment on the Executive Order's implementing regulations.

This EO is focused on preventing China, including the Special Administrative Regions of Hong Kong and Macau, from developing national security technologies and products. National security technologies and products include items in numerous industry sectors that are critical for Chinese military, intelligence, surveillance, or cyber-enabled capabilities. The targeted industry sectors will include semiconductors and microelectronics, quantum information technologies, and artificial intelligence but could be expanded in the future.

The EO requires the Secretary of the Treasury, in consultation with the Secretary of Commerce and other relevant departments and agencies, to issue regulations that will require U.S. persons to provide the U.S. Government information about certain overseas investments and that will outright prohibit certain investments by U.S. persons. Although the draft ANPRM is available now, it will not be published officially until August 14. Interested parties will have 45 days to submit comments on the proposed implementing regulations.

Dorsey's National Security team is currently studying the regulations announced under the ANPRM and will issue an update in the coming days. We will also host a Dorsey U CLE on the EO and implementing regulations in the coming weeks.

Related People

- Justin T. Huff
- Lawrence Ward

Related Capabilities

- Corporate Governance & Compliance
- Government Enforcement & Corporate Investigations
- National Security Law
- Technology
- Asia-Pacific
- China