

## Trump Administration Proposes Significant Changes to CFIUS and the Outbound Investment Review Processes

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On February 21, 2025, President Donald J. Trump released a National Security Presidential Memorandum (“Memorandum”) proposing broad revisions to the inbound and outbound investment screening review processes maintained and administered by the U.S. Department of the Treasury (“Treasury”), including the Committee on Foreign Investment in the United States (“CFIUS”).

The Memorandum simultaneously seeks to relax and heighten regulations and scrutiny of a broad array of investments and transactions.

- To facilitate and promote inbound U.S. investment and capital flows from investors based in U.S. allied countries, the Memorandum proposes to reduce regulatory scrutiny and expedite review timeframes, including for CFIUS.
- At the same time, the Memorandum seeks to significantly increase U.S. government regulatory oversight and CFIUS scrutiny of inbound investments from entities and individuals located in “foreign adversary countries,” which include China and Russia.
- Finally, in an effort to limit the ability of U.S. businesses and persons to invest into China, the Memorandum proposes to broaden Treasury’s recently implemented outbound investment regulations by subjecting additional industry sectors in China and new categories of transactions to the regulations.

The Memorandum is short on additional details and does not identify the specific regulations that are to be relaxed or enacted to implement its mandates. Release of the Memorandum will commence a series of regulatory—and possibly legislative—processes affecting each of the inbound and outbound investment screening regimes. These processes may take months to conclude and could be further impacted by the Trump administration’s ongoing efforts to confront China and pursue other trade-related and geopolitical objectives with U.S. allied countries.

Once implemented, the Memorandum will have notable impacts on investments undertaken by foreign investors directly into U.S. businesses, or indirectly through third-party countries. Of particular importance, the Memorandum could create opportunities for U.S. allied investors—including foreign-state affiliated investors in U.S. allied countries—to pursue investments that may have been off limits, or subject to heightened regulatory scrutiny, in recent years. Conversely, inbound investments from China-based entities will be heavily restricted and, in some cases, even prohibited by CFIUS. The ability of U.S. investors, businesses and lenders to undertake investments into a broader array of China-based entities may also be restricted.

### CFIUS and Inbound Investment Review Processes

In releasing the Memorandum, President Trump stated his administration’s intent to maintain a “strong, open investment environment” given its importance to the U.S. economy and the success of U.S. businesses. He also noted, however, that foreign investment from entities and individuals located in foreign adversary nations can create significant U.S. national security risks.

The Memorandum seeks to balance these competing interests by proposing to relax regulations and expedite foreign investments from entities and investors based in specified U.S. allied countries while, at the same time, seeking to enhance regulations and heighten scrutiny for inbound foreign investments originating from China, Russia and other foreign adversary nations.

The Memorandum specifically proposes to relax regulations and reduce CFIUS inbound investment scrutiny for specified U.S. allied countries that remain independent from—and do not otherwise partner or collaborate with—China and other foreign adversaries. The Memorandum does not specify how CFIUS or the Trump administration will assess a given country’s ties to China for purposes of relaxing inbound investment screening regulations, however, it notes that the administration will try to incentivize U.S. allied countries to further decouple from China and direct their foreign investment capital to the United States.

Countries that do so will be rewarded with an expedited, “fast-track” foreign investment review process, including for investments in U.S. advanced technology companies. According to the Memorandum, the countries eligible for this fast-track investment review include those with “tremendous sovereign wealth funds.” The contours of this “fast-track” process are not known at this point, but seemingly would include expedited CFIUS and other required regulatory reviews. The Fact Sheet accompanying the Memorandum notes that the fast-track process would include “conditions that prevent investors from partnering with our foreign adversaries in corresponding areas.” Additional details on these conditions are necessary to determine their potential scope and impact.

With respect to investments undertaken by investors from China, Russia and other adversary nations, the Memorandum proposes that CFIUS prohibit or otherwise restrict any such investments in key U.S. industry sectors, including technology, critical infrastructure, healthcare, agriculture, energy, raw materials, and other strategic sectors. For these investments, the Memorandum adopts a position that any U.S. national security risks arising from such investments cannot be mitigated and CFIUS should block such investments. On this point, the Memorandum adds the administration’s view that CFIUS mitigation agreements should not be overly complex or open-ended. Instead, they should include concrete actions that companies can complete within a specific time period, rather than perpetual and expensive compliance obligations.

Of particular importance, the Memorandum also notes that the administration will propose to provide CFIUS with authority over “greenfield” investments from China-based entities and individuals for the first time. It also proposes to restrict access by investors from foreign adversary nations to U.S. talent pools in sensitive technologies (especially artificial intelligence).

Lastly, even though the Memorandum seeks additional prohibitions and restrictions, it notes that passive investments from investors in China and other adversary nations will be permitted so long as they are non-controlling stakes and do not afford investors with voting rights, board representation or other similar governance rights or access to highly technical information about the relevant U.S. business.

## Outbound Investment Review Processes

The Memorandum proposes significant expansion of the “outbound investment” regulatory review program recently implemented by Treasury. This program prohibits, or requires notification for, investments that provide U.S. persons with direct or indirect voting interests in China-based entities that operate in three specific industry sectors: semiconductors and microelectronics, quantum information technologies and artificial intelligence.

The Memorandum seeks to expand the industries subject to the outbound investment rule to also include biotechnology, hypersonics, aerospace, advanced manufacturing, directed energy, and other possible areas. Under the construct proposed in the Memorandum, these sectors would be reviewed and updated regularly, including by the White House Office of Science and Technology Policy. Finally, the Memorandum also proposes to expand the types of investments subject to the rule to include greenfield investments, corporate expansions, and investments in publicly traded securities.

## Next Steps

Issuance of the Memorandum will kick off a regulatory process to update the prevailing CFIUS and outbound investment regulations. Certain of the proposals, including restrictions on U.S. greenfield investments by investors from foreign adversary countries, will likely also require legislative action. While the Trump administration undoubtedly wants to move quickly, these regulatory and legislative processes will take months to conclude, and they will be implemented in the context of the Trump administration’s ongoing geopolitical discussions with adversaries and allies alike. It thus remains likely that the administration’s proposals will continue to evolve and may not be fully settled or finalized for some time.

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