

Treasury Proposes Major Expansion of Outbound Investment Controls Under the COINS Act

October 29, 2026

Summary

On October 22, 2026, the US Department of Treasury (Treasury) announced a Notice of Proposed Rulemaking (NPRM) as part of the implementation of the Comprehensive Outbound Investment National Security Act (COINS Act). The NPRM would create 31 CFR Part 851, but it would keep Part 850's prohibit-or-notify structure while widening the countries, sectors and prohibitions covered. Part 850 contains Treasury's regulations governing outbound investments from US persons into specific national security technologies and products in designated countries of concern. Comments on the new proposed regulations are due December 7, 2026.

Key changes and developments in the new proposed regulations:

- **More countries** – Treasury's rule unsurprisingly adds Cuba, Iran, North Korea, Russia and Venezuela (Maduro regime) to the existing list of the People's Republic of China (PRC), Hong Kong, and Macau.
- **More sectors** – The NPRM adds high-performance computing, hypersonics, and biotechnology to semiconductors, quantum, and AI.
- **Super intelligence (SI) prohibition** – Investments in the development of any "super intelligence" (also known as artificial intelligence or AI) system would be prohibited, with no notification tier.
- **Biotechnology** – In one of the newest and most significant developments, the NPRM would create a new, prohibition-only sector spanning pharmaceuticals, biomanufacturing, biofuels, sequencing and lab tools, bioinformatics, and brain-computer interfaces.
- **Tighter diligence** – Treasury will weigh whether investors considered information it provided and listed-entity triggers now include the 1260H and BIOSECURE lists plus affiliates.
- **Few new relief valves** – The draft regulation proposes a US\$50,000 de minimis exception (notification only), bank lending, and underwriting exceptions, as well as a non-binding feedback process.

Background and structure

Congress enacted the [COINS Act](#) on December 18, 2025, in the FY26 National Defense Authorization Act (NDAA), codifying the outbound program as Title VIII of the Defense Production Act (50 U.S.C. 4581–4589). The statute directed Treasury to issue or update regulations within 450 days of enactment. To implement the COINS Act, Treasury proposes a separate Part 851 rather than amending Part 850 and would add §850.105 to fix Part 850's applicability dates. Part 850 will continue to govern conduct from January 2, 2025, until the final rule takes effect, and Treasury preserves its enforcement authority during the interim period.

Title VIII changes the vocabulary: "notifiable technology" and "prohibited technology" replace the transaction-based labels, "covered national security transaction" replaces "covered transaction," and "covered foreign person" is defined by relationship to a country of concern rather than by technology. Treasury maps these terms back to Part 850 concepts to limit compliance cost. As before, the US person must determine whether a deal is prohibited, notifiable or excepted. The draft rule does not contemplate a transaction screening process.

Major changes from Part 850

The table below tracks noteworthy changes.

Area	Proposed Part 851	Part 850 baseline
Countries	Adds Cuba, Iran, North Korea, Russia and Venezuela under the Maduro regime. The NPRM indicates that Venezuela currently falls outside the definition (US recognition of the Rodríguez government on March 5, 2026).	PRC, Hong Kong and Macau
Sectors	Adds high-performance computing and supercomputing, hypersonics, and biotechnology. While not included in the COINS Act text, the Treasury secretary used designation authority to add biotechnology to the list of sectors where transactions are prohibited.	Semiconductors and microelectronics, quantum and AI
AI to SI	Prohibits development of any SI system and drops the notification tier. Uses “SI” per Executive Order 14434 (September 29, 2026). Broadens the definition to generative systems, agentic harnesses and embodied systems.	Tiered by compute and end use: prohibited, notifiable or uncovered
Quantum	Prohibits quantum computers and critical components, sensing, networking and communications, and adds development of algorithms and applications (with an end-use limit), as well as software for designing, simulating, or controlling quantum computers.	Prohibits quantum computers and critical components, sensing, networking and communications
Semiconductors	Treasury retained the structure from 850. Adds high-bandwidth memory above 2 GB/s per mm ² (aligned to ECCN 3A090). The fact sheet also lists photonic and radiation-hardened integrated circuits (ICs) as additions, though the NPRM calls some of these consistent with Part 850.	Prohibits advanced integrated circuit design, fabrication, packaging and key equipment; notification for other integrated circuit activity
High-performance computing	Keeps the supercomputer prohibition (100+ double-precision petaflops in 41,600 cubic feet) and adds notification for high-bandwidth, low-latency interconnects.	Supercomputer prohibition
Hypersonics	Prohibits hypersonic systems (Mach 5+, civil and military), propulsion, fuels, certain materials, test facilities and digital twin or thread work. Notification for sensors, guidance and control, software and other materials.	Not covered
Listed entities	Prohibition if the target appears on specified US lists such as the Entity List, adds the 1260H Chinese military company list and the BIOSECURE Act list and extends the trigger to affiliates and subsidiaries of a notifiable-technology target.	Prohibition if the target appears on specified US lists, such as the Entity List
Knowledge standard	Adds a factor: whether the investor appropriately considered information Treasury provided. Controlled foreign entity knowledge now counts for notification.	Reasonable and diligent inquiry

Area	Proposed Part 851	Part 850 baseline
Knowingly directing	Extends to notifiable transactions, as Title VIII requires.	Applies to prohibited transactions
Key definitions	"Covered foreign person" keeps individual citizens and permanent residents, and a more-than-50% attribution test (revenue, net income, capex or operating expenses). "Develop" expressly reaches affiliates and high-level oversight. "Principal place of business" now includes headquarters and the location of main business activity.	Person of a country of concern
Exceptions	Retains public securities, investment companies, LP investments up to US\$2 million, derivatives, buyouts, intracompany transfers, uncalled commitments, syndicated-loan default, employment equity, third-country measures and adds a US\$50,000 de minimis exception (notification only), bank lending, underwriting, prime brokerage, custody, equity research and ordinary or administrative transactions. Transactions that predate the COINS Act are excepted.	Public securities, investment companies, LP investments up to US\$2 million, derivatives, buyouts, intracompany transfers, uncalled commitments, syndicated-loan default, employment equity and third-country measures
New processes	Adds non-binding feedback and anonymized public guidance for actual deals, a confidential channel for evidence on covered foreign persons and expanded notification content (§851.405).	Notification portal, FAQs and self-disclosure
Enforcement	Penalties can include an International Emergency Economic Powers Act (IEEPA)-tethered maximum civil penalties or up to double the value of the transaction, whichever is greater. US parties may also face compelled divestment of prohibited transactions. The NPRM outlines a self-disclosure process.	Civil penalties and divestment under existing framework

Biotechnology expansion

The NPRM breaks new ground by including certain biotechnologies in the NPRM, and the NPRM prohibits transactions instead of requiring notifications. Treasury says it added the sector, with interagency partners and the Executive Office of the President, because biotech in countries of concern enables military, intelligence and surveillance capabilities. The NPRM cites weapons proliferation, brain-computer interfaces, supply chain security and indigenization of advanced technology.

The proposed prohibition reaches developing, engineering or using a biological system to modify, enhance, produce or control five categories: export-controlled or novel agents and toxins, energetic precursors and materials, novel or high-performance functional materials, pharmaceutical compounds and their delivery systems, and biofuels. It also reaches brain-computer interfaces, biomanufacturing equipment and facilities (ECCNs 2B352, 2D352 and 2E001), sequencing technology, certain flow cytometers, cell sorters and mass spectrometers, as well as bioinformatics tools and laboratory automation.

Who is most impacted?

The proposed rule will sweep through several new industries and sectors. Below we have highlighted certain activities and segments captured within the proposed rule and flagged where Treasury specifically asks whether to narrow the scope of the NPRM.

Industry	What is captured	Note
Pharma and biopharma	Small molecules, polymers, vaccines, blood products, allergenics, cell and gene therapies, monoclonal antibodies and other recombinant proteins and delivery systems	Treasury asks whether to limit this to advanced or frontier technologies.
Biomanufacturing and contract development and manufacturing organizations (CDMOs)	Biomanufacturing equipment, components, software and facilities	Overlaps with export-control equipment lists, so existing classifications will matter.
Life-science tools	Short- and long-read sequencing, certain flow cytometers and cell sorters and certain Liquid chromatography-mass spectrometry (LC-MS) instruments	Treasury asks whether to tighten the technical parameters.
Computational biology and lab automation	Bioinformatics tools, robotics and software for automated discovery and cloud lab infrastructure	Intersects with AI-driven drug discovery, which may also trigger the SI prohibition.
Neurotechnology and medtech	Development or production of brain-computer interfaces	No scoping questions asked, so probable that the definition will be read broadly.
Advanced materials, defense and energetics	Bio-derived coatings, self-assembling or self-repairing materials, biosensors, energetic precursors and materials	Treasury asks whether “novel or high-performance functional material” can borrow definitions from export controls.
Energy and industrial biotech	Biofuels from bio-based feedstock	Treasury asks how to exclude fuels that pose no acute risk, such as ethanol.

Biotechnology scope and thresholds – Unlike semiconductors, the biotech prohibition has few quantitative parameters, so investors must judge whether any use of a biological system to make a drug falls inside the contemplated regulation. Commenters may also want to weigh in on how to describe the covered biological systems; whether to focus on activity using the listed equipment; how to exclude low-risk biofuels such as ethanol; how to define “novel or high-performance functional material”; how to limit “pharmaceutical compounds” to frontier technology and how to scope the equipment parameters. Treasury also acknowledges possible public health and business harms.

Policy analysis

The proposed biotechnology restrictions reflect a broader US effort to limit American support for capabilities deemed to pose national security risks and reduce dependence on Chinese biotechnology. Related measures include the recently enacted BIOSECURE Act, which establishes restrictions on federal procurement and funding involving equipment or services from designated biotechnology companies of concern, and the Department of Defense’s June addition of WuXi AppTec to its Section 1260H list of “Chinese military companies.”¹ That list also includes BGI Group, MGI Tech and Novogene, and has provided a basis for lawmakers to press for closer scrutiny of listed companies and their business relationships.

The NPRM also advances the National Security Commission on Emerging Biotechnology’s recommendation to bring biotechnology within outbound investment controls, although Treasury’s proposed prohibitions go further than the commission’s initial emphasis on notification. House Select Committee on the Chinese Communist Party (CCP) [Chairman John Moolenaar’s response](#) connects the proposal’s national security rationale to concerns about US industrial competitiveness. He welcomed the restrictions as a way to prevent American capital from supporting competing Chinese capabilities, strengthen domestic drug research and manufacturing and reduce reliance on China. These developments suggest that investment and procurement restrictions increasingly serve both national security and industrial policy objectives, affecting access to capital and participation in federally funded business. Potentially affected companies should assess their investment and supplier relationships together, since a single Chinese partner may create exposure under several authorities with different requirements and effective dates.

¹ On August 7, a federal court preliminarily barred enforcement of WuXi AppTec’s designation.

Comments on the NPRM

Treasury invites comment on the whole rule, asks for empirical data and flags specific questions. Comments are public, so parties who submit information should understand that confidential information could be publicized. Parties can submit comments through Regulations.gov by December 7, 2026.

Nothing changes until Treasury issues a final rule with an effective date, but companies should start planning now. Some key steps that companies should examine might include:

1. Mapping current and expected transactions against the six sectors and the expanded country list, including indirect exposure through funds and joint ventures
2. Revisiting diligence protocols and documenting the inquiry, since Treasury will weigh both the quality of the inquiry and any information it was supplied in determining whether conduct meets the standard
3. Identifying uncalled commitments, convertible instruments and controlled foreign entity operations that predate the effective date
4. Deciding on a comment strategy before December 7, 2026, and whether to comment individually or through a trade association

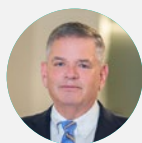
Parties may wish to include comments on the rule focusing on these topics and others, and lawyers and policy professionals at our firm are ready to assist you with analyzing the proposed rule's impact on you and developing a comment strategy to provide feedback as the rule progresses.

Contacts



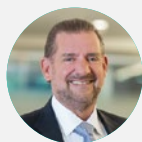
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