

On February 21, 2025, President Trump issued a National Security Policy Memorandum (“Investment NSPM”), subject “America First Investment Policy,” calling for high-level policy changes to increase scrutiny of inbound and outbound investment involving China and other “foreign adversaries,” revamp how the Committee on Foreign Investment in the United States (CFIUS) implements mitigation for foreign adversary investments, and facilitate (“fast-track”) investments from allied countries subject to certain conditions.

The Secretary of the Treasury, in conjunction with other agencies, is tasked with implementing these directives. While some of the directives memorialize existing practices, others call for new actions or rule makings. It is important to note that US foreign policy and what is viewed as a national security risk is rapidly changing, particularly with regard to China and Russia. As a result, how the directives in the Investment NSPM are implemented are subject to future uncertainty.

1. Changes to further restrict investments from China and “other foreign adversaries”

The Investment NSPM specifically singles out China as presenting a national security threat through its direct and indirect “investment in United States companies and assets to obtain cutting-edge technologies, intellectual property, and leverage in strategic industries.” Although China is referenced specifically, the directives that follow also apply to any “foreign adversary,” which is defined to include Peoples Republic of China (PRC), Russia, Cuba, Iran, North Korea, and the Maduro regime of Venezuela.

Easing of restrictions on investments “in proportion” to an investor’s “distance and independence” from foreign adversaries.

Section 2(b) of the Investment NSPM directs that, for investments in sensitive US businesses, restrictions against foreign investors “will ease in proportion to their verifiable distance and independence from the predatory investment and technology-acquisition practices of the PRC and other foreign adversaries or threat actors.”

This directive memorializes CFIUS’ existing practice of assessing an investor’s connections to China (or other foreign adversaries) to determine national security concerns – the more significant the relationships with a foreign adversary, the more likely CFIUS is going to find a potential national security threat or vulnerability. The Investment NSPM now directs that this CFIUS analysis will result in “proportional” restrictions on investments but provides no detail on what those restrictions could be (e.g., a form of mitigation or complete oppositions by CFIUS), nor does it clarify what constitutes “verifiable distance and independence from” China.

Use existing CFIUS authority and new rules to prohibit foreign adversary investment in sensitive US industries.

Section 2(f) of the Investment NSPM directs Treasury to use CFIUS “to restrict PRC-affiliated persons” from investing in US “technology, critical infrastructure, healthcare, agriculture, energy, raw materials, or other strategic sectors,” including steps to protect “farmland and real estate near sensitive facilities.” Section 2(e) of the Investment NSPM further directs Treasury to develop “new rules to stop . . . PRC-affiliated persons from buying up critical American businesses and assets . . .” Chinese investment already faces substantial pre-existing opposition, particularly with respect to US targets in sensitive industries or locations, but this directive is broad; it potentially signals an expansion of the sectors that are treated as the most sensitive industries under existing CFIUS regulations and solicits new rules to “stop” certain investments.

Take steps to expand review authority over greenfield investments.

Section 2(f) of the Investment NSPM also directs Treasury to, “in consultation with the Congress,” “strengthen CFIUS authority over ‘greenfield’ investments” in sensitive technologies (specifically citing AI).

Currently, CFIUS’ authority with respect to greenfield investments is limited to acquisitions of real property rights in limited geographic locations around the country. It is possible that the Administration intends to both (1) expand the scope of the real property subject to CFIUS review in the short-term and (2) push for a legislative change to give CFIUS authority over a broader category of greenfield investments, which could move forward this year.

New approach to foreign adversary mitigation: Keep it time-limited.

As to investments from foreign adversary countries, Section 2(g) of the Investment NSPM directs Treasury to “cease the use of overly bureaucratic, complex, and open-ended “mitigation” agreements,” and directs that any mitigation “consist of concrete actions that companies can complete within a specific time . . .” This provision suggests a shift in how CFIUS has historically handled mitigation, but only for those investments from foreign adversaries. It could support the view that only structural mitigation (e.g., carving out the sensitive components) are sufficient for such cases.

Although this change is limited to investments from foreign adversaries, it touches on a widely shared concern, both within government and in industry, that the current mitigation practice and monitoring processes would benefit from reform. We expect to learn more about Treasury's intentions as the year progresses.

2. Creation of a "fast-track" process for allies and partners that "avoid partnering" with foreign adversaries.

Section 2(c) of the Investment NSPM directs Treasury to "create an expedited 'fast-track' process, based on objective standards, to facilitate greater investment from specified allied and partner sources in United States businesses involved with United States advanced technology and other important areas." However, under the directive, any fast-track process will require that the "foreign investors avoid partnering with United States foreign adversaries."

Investors that have no connections with US foreign adversaries are already viewed more favorably in existing practice, but it is unclear how CFIUS will create a new fast-track process. CFIUS already has an abbreviated filing option, called a "declaration," which might be used as the mechanism for a new fast-track filing for investors that meet certain defined criteria (e.g., no connections to foreign adversaries). We would expect a rule-making process for any such change with details for how investors will be evaluated and what the process entails.

3. Expansion of US outbound investment restrictions to new industries and countries.

The Investment NSPM directs Treasury to implement new rules preventing investment in the PRC's military-industrial sector while the Administration conducts a review of existing outbound investment restrictions for sufficiency.

New rules to prohibit US investment in "industries that advance the PRC's national Military-Civil Fusion strategy".

Section 2(e) of the Investment NSPM directs Treasury to develop "new rules to stop United States companies and investors from investing in industries that advance the PRC's national Military-Civil Fusion strategy . . ." Section 2(i) similarly states that the US will take steps "to further deter United States persons from investing in the PRC's military-industrial sector . . ." While a new outbound investment regime has just been established this year, these directives indicate that additional restrictions may be forthcoming. Section 2(j) of the Investment NSPM provides that the US outbound investment rules, currently in force ([see our summary of those rules](#)), are being reviewed for sufficiency, and the Administration is considering expanding restrictions into other sectors, such as: "biotechnology, hypersonics, aerospace, advanced manufacturing, directed energy, and other areas implicated by the PRC's national Military-Civil Fusion strategy."

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