

NEW TRUMP POLICY SIGNALS SIGNIFICANT CHANGES TO CFIUS AND THE NEW OUTBOUND INVESTMENT SECURITY PROGRAM

On February 21, 2025, the White House released the [America First Investment Policy](#) National Security Presidential Memorandum ("NSPM"), a policy directive which includes potential significant changes to the Committee on Foreign Investment in the United States ("CFIUS") process and the new US Outbound Investment Security Program ("OIP"). The NSPM also indicates that the Trump Administration may take additional measures to deter investment in the People's Republic of China ("PRC") military-industrial sector, including, for example, economic sanctions.

CFIUS

The NSPM contemplates heightened investment restrictions for foreign adversaries, which are defined in the NSPM to include the People's Republic of China (including Hong Kong and Macau), Cuba, Iran, North Korea, Russia, and the regime of Venezuelan politician Nicolás Maduro. The NSPM introduces measures to make foreign investment in sensitive areas easier for certain investors, broadening the scope of CFIUS jurisdiction, and making significant changes to how mitigation measures are used.

- **Higher scrutiny for foreign adversary-related investments, other than purely passive investments:** The NSPM emphasizes concerns about certain foreign adversary-affiliated investments, specifically calling to restrict such investments in technology, critical infrastructure, healthcare, agriculture, energy, raw materials, or other strategic sectors, as well as farmland and real estate near sensitive facilities. That said, the NSPM also states that the United States will welcome and encourage purely passive investments from *all* foreign persons. Such investments cannot confer governance rights, managerial influence, or access to sensitive information but do offer an avenue for investors that would otherwise face CFIUS challenges.
- **Easing the CFIUS process for certain investors that avoid business with foreign adversaries.** The NSPM states that restrictions on foreign investment in sensitive US businesses (including critical technology, critical infrastructure, and personal data) will ease in proportion to the foreign

Key takeaways

- This NSPM lays out the Trump administration's strategy for safeguarding critical US technologies and national security interests in investment transactions from potential threats posed by foreign adversaries, while also extending incentives to foreign investors that take steps to align with US national security interests.
- The NSPM introduces several key policy directives, which are summarized below.

investors' *"verifiable distance and independence from the predatory investment and technology-acquisition practices of the PRC and other foreign adversaries."* A key element of the NSPM is to incentivize foreign investors to align with the United States over foreign adversaries.

- **Creating a "fast track" process for certain investors:** As another incentive for aligning with US national security priorities, the United States *"will 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."* It is not clear from the NSPM whether this would leverage the current fast-track declaration process already implemented under the CFIUS regulations, nor how the process for specifying such investors will be handled. The NSPM does specify, however, that availability for such fast-tracking will be subject to security provisions, *"including requirements that the specified foreign investors avoid partnering with United States foreign adversaries."* The NSPM also states (without reference to security measures) that investments over US\$1 billion will benefit from expedited environmental reviews.
- **Expanding jurisdiction to include greenfield investments:** The Trump Administration intends to strengthen CFIUS authority over greenfield investments, which are not currently subject to CFIUS jurisdiction. This would mark a significant change as CFIUS is currently only able to review foreign investments in existing "US businesses" (albeit a concept defined and interpreted broadly by CFIUS) and certain real estate transactions. Additionally, the NSPM intends to restrict foreign adversary access to US talent and operations in sensitive technologies (especially AI) and expand what is covered by *"emerging and foundational"* technologies in the CFIUS context (which in practice would also increase the pool of transactions triggering mandatory CFIUS filings).
- **New approach to CFIUS mitigation agreements:** The NSPM directs potentially significant changes to how CFIUS uses mitigation measures, which is notable as CFIUS has increasingly deployed mitigation agreements as a condition to clear transactions in recent years. The Trump Administration will *"cease the use of overly bureaucratic, complex, and open-ended 'mitigation' agreements for United States investments from foreign adversary countries. In general, mitigation agreements should consist of concrete actions that companies can complete within a specified time, rather than perpetual and expensive compliance obligations."* Ceasing complex mitigation agreements for investments by foreign adversaries will likely not have a substantial impact on new deals since this has already become much less common. By contrast, the general emphasis on measures that can be completed quickly rather than ones involving perpetual compliance measures could bring significant changes in the approach to CFIUS risk mitigation. For example, CFIUS may use structural measures like divestment or stricter separation measures more frequently to address national security concerns rather than more complex provisions that can facilitate increased business integration between parties.

OUTBOUND INVESTMENT SECURITY PROGRAM

The NSPM signals possible expansion of the OIP, which has only been in effect since January 2, 2025 (our previous briefing on the OIP is available [here](#)).

- **Expanding scope of covered technologies and sectors:** The NSPM contemplates potentially adding additional sectors to the scope of the OIP, including biotechnology, hypersonics, aerospace, advanced manufacturing, directed energy, and “*other areas implicated by the PRC’s national Military-Civil Fusion strategy.*” There may also be additional covered technologies and related activities in the artificial intelligence, quantum computing, and semiconductor sectors already subject to the OIP.
- **Additional investment restrictions:** There may also be expansion of OIP restrictions on certain types of investments, including private equity, venture capital, greenfield investments, corporate expansions, and publicly traded securities. It appears that such changes to “covered transactions” may be limited to certain investors, which may include “*pension funds, university endowments, and other limited-partner investors.*”

POTENTIAL ADDITIONAL MEASURES

The NSPM states that “*The United States will also use all necessary legal instruments to further deter United States persons from investing in the PRC’s military-industrial sector.*” This may include issuing additional sanctions pursuant to the International Emergency Economic Powers Act (“**IEEPA**”) or taking other administrative actions, including through existing national security-related executive orders. The NSPM also directs consideration of various economic- and tax-related changes to disincentivize US investments into foreign adversaries.

CONCLUSION

The America First Investment Policy represents a shift in the United States’ strategy to balance the benefits of foreign investment with the need to protect national security. This includes clear attempts to wall off investment from and to foreign adversaries while incentivizing transactions that align with US national security interests. It is not clear how or when the changes contemplated by the NSPM will be implemented, and certain proposals will require regulatory or statutory revisions. We will continue to closely monitor these developments.

Read our other coverage of International Trade under the Trump Administration [here](#).

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