

New Restrictions on Chinese Participation in US Technology Sector Anticipated This Week

June 25, 2018

The US government is poised to announce restrictions on Chinese participation in designated US technology sectors. The restrictions, which the Trump Administration is expected to release on June 29, 2018, are reported to include restrictions on Chinese investment as well as enhanced controls on US technology exports to China. For purposes of these restrictions, the Trump Administration is expected to invoke the president's authority under the International Emergency Economic Powers Act (IEEPA), which is a statute that allows the president to exercise broad authorities to regulate commerce after declaring a national emergency. It is the same statute that is often used to impose economic embargoes and trade sanctions against foreign countries and territories (e.g., Crimea, Cuba, Iran, North Korea and Syria).

The new investment restrictions are expected to include prohibitions or limitations on Chinese investment in designated technology sectors, including:

- integrated circuits
- next generation information technology
- numerical control machinery and robotics
- aviation and aerospace
- maritime engineering equipment and high-tech vessel manufacturing
- advanced rail equipment
- green technologies and electric vehicles
- advanced materials
- biomedicine and medical devices
- agricultural machinery and equipment

The Chinese government identified these sectors in its "Made in China 2025" plan as critical to the development of Chinese domestic capabilities. They were also the focus of [a recent report](#) by the Office of the US Trade Representative that was highly critical of Chinese efforts to acquire US intellectual property in many of these fields.

The enhancement of US export controls is expected to apply to US technology exports (e.g., hardware, software and technology) to China, Chinese companies and Chinese nationals. It is unclear, however, whether the enhanced controls will be implemented through existing regulations or imposed directly by the president under this IEEPA authority. Further, it is not known whether the controls will be applied to items (i.e., commodities, software and technology) that are currently controlled under the Commerce Control List or whether the US Government will identify new items for control.

To date, the Trump Administration has not released detailed descriptions of the specific restrictions contemplated. Companies operating in the technology sectors listed above will need to be prepared to assess the impact of these measures on current and future investments by Chinese investors and make changes to their export compliance policies and procedures in response to any

newly announced restrictions.

Cooley will be monitoring developments with respect to the anticipated restrictions and will issue an updated alert after they are issued. In the interim, please contact a member of our team if you have questions regarding the potential impact of the anticipated restrictions on current or future trade or investment activity related to China.

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