

Treasury Proposes Sweeping Expansion of US Outbound Investment Restrictions Under COINS Act

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On October 22, 2026, the US Department of the Treasury (Treasury) proposed a sweeping expansion of the US Outbound Investment Security Program (OISP), implementing the Comprehensive Outbound Investment National Security (COINS) Act and marking the most significant tightening yet of restrictions on US capital flowing to China, Russia and other foreign adversaries. The notice of proposed rulemaking (NPRM) would broaden the list of “countries of concern,” add new covered technology sectors and impose an outright ban on covered transactions involving super intelligence (SI) systems (formerly artificial intelligence), specified biotechnologies and key semiconductor technologies, including photonics.

Comments on the NPRM are due December 7, 2026, and the COINS Act requires Treasury to finalize implementing regulations by March 13, 2027.

Key takeaways

1. Coverage would expand beyond China

The existing OISP applies only to the People’s Republic of China (PRC), including Hong Kong and Macau. The proposed rule would expand “country of concern” to also include Cuba, Iran, North Korea, Russia and Venezuela under the regime of Nicolás Maduro Moros.

This expansion matters well beyond the countries themselves: OISP restrictions reach not just entities based in a country of concern, but any person who is a citizen or permanent resident of one. As a result, companies located elsewhere – including in the United States – can still fall within scope if they are majority owned or controlled by a covered foreign person.

2. Biotechnology would become a new prohibited technology sector

Perhaps the most significant sectoral expansion is biotechnology, where specified activities would be prohibited outright rather than merely notifiable. Covered activities are:

- Development, engineering or use of a biological system (or any component) to modify, enhance, produce or control specified agents or toxins, energetic precursors or materials, functional materials, pharmaceutical compounds or biofuels.
- Brain-computer interfaces.
- Specified biomanufacturing equipment.
- Biological sequencing technologies.
- Certain flow cytometers, cell sorters and mass-spectrometry instruments.
- Computational and bioinformatics tools.
- Hardware, robotics or software used for automated scientific discovery or experimentation, including laboratory automation and cloud-lab infrastructure.

Notably, “pharmaceutical compounds” expressly includes vaccines, cell and gene therapies, monoclonal antibodies, and other recombinant therapeutic proteins. If the final rule is adopted as currently drafted, it would prohibit all investments by US persons in covered foreign persons engaged in the biotechnology activities described above. Given the potential impact on public health and commercial activity, Treasury has specifically requested comments on this scope.

3. ‘Artificial intelligence’ becomes ‘super intelligence’ – and the restrictions get broader

Beyond the terminology shift from “AI system” to “super intelligence” or “SI system,” the NPRM would jettison the current tiered structure – which splits covered AI transactions into prohibited or notifiable categories – along with the existing compute-training thresholds used to trigger coverage. In their place, the proposed rule would prohibit all covered national security transactions involving the development of SI systems.

The definition of “SI system” would also expand to expressly capture systems that generate content or enhance or extend the capability of a third-party model, including agentic harnesses, embodied SI systems, industrial or humanoid robots, autonomous vehicles and unmanned systems.

4. High-performance computing, supercomputing and hypersonics become covered technology sectors

The COINS Act added high-performance computing, supercomputing and hypersonic systems as statutory technology areas. The NPRM defines this expansion as follows:

- **High-performance computing and supercomputing** – The NPRM would retain existing restrictions on specified supercomputers and add a new notification requirement for developing or producing high-bandwidth, low-latency interconnects used in high-performance computing.
- **Hypersonics** – The proposal would prohibit investments in the development or production of hypersonic systems, qualifying propulsion systems, specified high-temperature and stealth materials, testing infrastructure, and certain digital-twin and digital-thread technologies. Other sensors, guidance and control equipment, software, and materials capable of use in hypersonic systems would generally be subject to notification rather than prohibition.

5. Photonics named a prohibited semiconductor technology

The NPRM also materially expands the semiconductor and microelectronics provisions. Most notably, Treasury proposes to designate the development or production of any photonic integrated circuit as prohibited technology, expressly including optical components, co-packaged optics and silicon-photonics integration.

Photonics also intersects with the NPRM’s high-performance computing and supercomputing provisions: Treasury notes that photonic integrated circuits – including optical components, co-packaged optics and silicon-photonics integration – are increasingly relevant to advanced computing infrastructure.

The semiconductor provisions would also expand in other respects, including additional restrictions on radiation-hardened integrated circuits, high-bandwidth memory, compound-semiconductor integrated circuits and additional advanced semiconductor equipment.

6. Addition of new exceptions to prohibitions and notification requirements

The NPRM adds new exceptions to covered national security transactions, including:

- **De minimis exception** – A transaction that would otherwise be notifiable is excepted where neither the value of the transaction nor the funds or other consideration provided to the relevant covered foreign person or joint venture exceeds \$50,000 in the aggregate over the preceding 12 months.
- **Secondary transactions** – Transactions secondary to a covered national security transaction are also excepted, including, without limitation, certain contractual arrangements, bank lending, processing, clearing, or sending of payments by a bank, and underwriting services.

7. New diligence factor added

Treasury would retain the existing “knowledge” standard, under which a US person can be deemed to know facts it could have identified through reasonable, diligent inquiry. The NPRM adds one new diligence factor: whether the US person appropriately considered any information Treasury made available before the transaction closed, including any Treasury assessment that the relevant covered foreign person may be engaged in a notifiable or prohibited technology.

As a practical matter, US persons subject to the regulations continue to bear primary responsibility for determining whether a transaction is prohibited, notifiable or outside the scope of the regulations.

8. Introduction of a nonbinding feedback process for difficult transactions

The NPRM proposes a new process allowing a person with a direct financial interest in an actual, prospective transaction to seek confidential, nonbinding feedback – or anonymized public guidance – on whether the transaction would be prohibited.

The mechanism could prove useful for transactions raising difficult technical classification questions, but it is not a formal clearance process. Treasury would have discretion whether to respond, and any feedback would not constitute an authorization, license, exemption or waiver, nor otherwise bind Treasury.

What investors and companies should do now

The NPRM is only a notice of a proposed rulemaking and is not a final regulation; it does not yet change substantive obligations under the existing OISP, which Treasury will continue to enforce until the final rule takes effect.

Still, the proposal's scope – particularly its expansion into biotechnology, photonics, SI, hypersonics and additional countries – means investors and companies should begin assessing how the new framework could affect their activities and diligence processes. Those with particular concerns about the breadth or technical parameters of the proposed definitions should consider submitting comments to Treasury by December 7, 2026.

If you have questions about the NPRM or how it may affect your business, or would like help submitting comments to Treasury, please contact a member of the Cooley team listed below.

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