

MEMO# 33193

March 15, 2021

OFAC Issues New FAQs Related to Executive Order 13959; Preliminary Injunction Motion for Xiaomi Corporation Granted

[33193]

March 15, 2021 TO: ICI Members

ICI Global Members SUBJECTS: International/Global RE: OFAC Issues New FAQs Related to Executive Order 13959; Preliminary Injunction Motion for Xiaomi Corporation Granted

We wanted to inform you about two recent developments related to Executive Order 13959 – a preliminary injunction motion related to Xiaomi Corporation and two new FAQs on Xiaomi Corporation and Luokong Technology Corp.

As a reminder, President Trump on November 12, 2020, issued Executive Order 13959 prohibiting by any US person “any transaction in publicly traded securities, or any securities that are derivative of, or are designed to provide investment exposure to such securities” of as Communist Chinese Military Companies (CCMCs).[\[1\]](#)

On March 12, the US District Court for the District of Columbia issued a motion preliminarily enjoining the EO 3959 restrictions relating to Xiaomi Corporation[\[2\]](#) and, on March 14, the Office of Foreign Assets Control (OFAC) issued FAQ 880 stating that, pending further order from the Court, the prohibitions in EO 13959 do not apply with respect to Xiaomi Corporation. FAQ 880 states in full:

880. Do the prohibitions in Executive Order 13959, as amended (E.O. 13959), apply with respect to Xiaomi Corporation?

Answer: On January 14, 2021, the Secretary of Defense listed Xiaomi Corporation (“Xiaomi”), pursuant to section 4(a)(ii) of E.O. 13959. On March 12, 2021, the U.S. District Court for the District of Columbia issued an order in *Xiaomi Corporation v. Department of Defense* (Case No. 1:21-cv-00280-RC) preliminarily enjoining the implementation and enforcement of the E.O. 13959 prohibitions against Xiaomi. Consequently, the prohibitions in E.O. 13959 do not apply with respect to Xiaomi pending further order of the Court.

In addition, on March 9, the Secretary of Defense delisted Luokong Technology Corporation (LKCO) and listed Luokong Technology Corp. (LKCO) pursuant to section 4(a)(ii) of EO

13959 (the original listing was erroneous because the name was incorrect). On March 14, OFAC issued FAQ 881 clarifying when the prohibitions in EO 13959 apply with respect to Luokong Technology Corp. FAQ 881 states in full:

881. When do the prohibitions in Executive Order 13959, as amended (E.O. 13959), apply with respect to Luokung Technology Corp. (LKCO)?

Answer: On January 14, 2021, the Secretary of Defense listed Luokong Technology Corporation (LKCO), pursuant to section 4(a)(ii) of E.O. 13959. This listing was erroneous. Accordingly, on March 9, 2021, the Secretary of Defense delisted Luokong Technology Corporation (LKCO) and listed Luokung Technology Corp. (LKCO), pursuant to section 4(a)(ii) of E.O. 13959. As such, the prohibition in section 1(a)(ii) of E.O. 13959 will take effect with respect to Luokung Technology Corp. (LKCO) 60 days after March 9, 2021 (*i.e.*, May 8, 2021), and the prohibition in section 1(c) of E.O. 13959 will take effect with respect to Luokung Technology Corp. (LKCO) 365 days after March 9, 2021 (*i.e.*, March 9, 2022).

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endnotes

[1] EO 13959 is *available at* <https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-addressing-threat-at-securities-investments-finance-communist-chinese-military-companies/>, and amendments to it are *available at* <https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-amending-executive-order-13959-addressing-threat-securities-investments-finance-communist-chinese-military-companies/> and FAQs are *found at* <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/topic/5671>.

[2] The opinion is *available at* https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2021cv0280-21.