

**MEMO# 32954**

December 1, 2020

# **Letter to OFAC on Executive Order 13959 on Securities Investments in Communist Chinese Military Companies**

[32954]

December 1, 2020 TO: ICI Members

ICI Global Members SUBJECTS: International/Global RE: Letter to OFAC on Executive Order 13959 on Securities Investments in Communist Chinese Military Companies

On November 12, President Trump issued an Executive Order entitled “Executive Order on Addressing the Threat from Securities Investments that Finance Communist Chinese Military Companies” (EO 13959).[\[1\]](#) EO 13959 prohibits 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 certain identified Chinese companies that have been tied to the People’s Liberation Army (PLA).

EO 13959 could have a significant impact on the holdings and activities of regulated funds that invest in securities of entities that are or may be designated as a Communist Chinese Military Company (CCMC). Although EO 13959 imposes prohibitions on activities that are similar to those imposed under existing sanctions programs, it is novel in many respects and therefore raises numerous questions regarding its precise scope, and in particular its impact on regulated funds.

On November 24, we submitted the attached letter to the Office of Foreign Assets Control (OFAC) asking for responses to a number of questions regarding EO 13959 that are particularly relevant or unique to regulated funds. We urged OFAC to issue guidance with respect to these questions as soon as practicable to help US persons comply with the new prohibitions.

## **Summary of EO 13959**

The ban on transactions specified in EO 13959 takes effect at 9:30 a.m. on January 11, 2021. US persons, however, have until 11:59 a.m. on November 11, 2021, to divest any holdings in the identified companies that were held as of 9:30 a.m. on January 11, 2021. Any sales of those holdings would need to be to non-US persons, as US persons generally would be prohibited from purchasing such securities as of January 11. EO 13959 does not explicitly require divestment but suggests that any US person continuing to hold securities after November 11, 2021, would subsequently be unable to divest those securities or

conduct any new transactions involving those securities, effectively freezing the holding.

The first set of Chinese companies affected by EO 13959 are 31 companies previously identified by the Department of Defense (DOD) as having ties to the PLA.[\[2\]](#) The list is found at the bottom of this memorandum. Additional companies may be determined by the Secretary of Defense and the Secretary of the Treasury to be Communist Chinese military companies and added to the list. Restrictions on transactions for newly added companies will come into force 60 days after their designation, and divestments will be permitted for up to 365 days. The Secretary of the Treasury may issue rules or regulations pursuant to EO 13959 establishing procedures to license transactions otherwise prohibited under it.

The Chinese companies identified by DOD as linked to the PLA are the following:

1. Aviation Industry Corporation of China
2. China Aerospace Science and Technology Corporation
3. China Aerospace Science and Industry Corporation
4. China Electronics Technology Group Corporation
5. China South Industries Group Corporation
6. China Shipbuilding Industry Corporation
7. China State Shipbuilding Corporation
8. China North Industries Group Corporation (Norinco Group)
9. Hangzhou Hikvision Digital Technology Co., Ltd. (Hikvision)
10. Huawei
11. Inspur Group
12. Aero Engine Corporation of China
13. China Railway Construction Corporation
14. CRRC Corp.
15. Panda Electronics Group
16. Dawning Information Industry Co. (Sugon)
17. China Mobile Communications Group
18. China General Nuclear Power Corp.
19. China National Nuclear Corp.
20. China Telecommunications Corp.
21. China Communications Construction Company
22. China Academy of Launch Vehicle Technology
23. China Spacesat
24. China United Network Communications Group Co Ltd
25. China Electronics Corporation
26. China National Chemical Engineering Group Co., Ltd.
27. China National Chemical Corporation (ChemChina)
28. Sinochem Group Co Ltd
29. China State Construction Group Co., Ltd.
30. China Three Gorges Corporation Limited
31. China Nuclear Engineering & Construction Corporation

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## [Attachment](#)

### endnotes

[1] The Executive Order is *available at* <https://www.whitehouse.gov/presidential-actions/executive-order-addressing-threat-security-investments-finance-communist-chinese-military-companies/>. See ICI Memorandum No. 32912, dated November 13, 2020, *available at* [https://www.ici.org/my\\_ici/memorandum/memo32912](https://www.ici.org/my_ici/memorandum/memo32912).

[2] On June 24, 2020, DOD published a list of 20 Chinese companies with ties to the PLA. The list was originally requested in the 1999 National Defense Authorization Act, which requires the Secretary of Defense to create a list of “Communist Chinese military companies” operating “directly or indirectly” in the United States. On August 28, 2020, DOD updated its list of Chinese companies with ties to the PLA operating directly or indirectly in the United States, adding 11 more.

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