

**MEMO# 33575**

June 4, 2021

## **President Biden Issues Executive Order on China**

[33575]

June 4, 2021

TO: ICI Members

ICI Global Members SUBJECTS: International/Global RE: President Biden Issues Executive Order on China

On June 3, 2021, President Biden signed a new Executive Order Addressing the Threat from Securities Investments that Finance Certain Companies of the People's Republic of China (EO)[\[1\]](#) and the Office of Foreign Assets Control (OFAC) published a number of new FAQs and updated others related to the new EO.[\[2\]](#)

The new EO prohibits United States persons from engaging in the purchase or sale of any publicly traded securities of any person listed in the Annex to the EO or determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, as the Secretary of the Treasury deems appropriate, the Secretary of Defense: (1) to operate or have operated in the defense and related materiel sector or the surveillance technology sector of the economy of the PRC; or (2) to own or control, or to be owned or controlled by, directly or indirectly, a person who operates or has operated in any sector described above, or a person who is listed in the Annex to this EO or who has otherwise been determined to be subject to the prohibitions in this EO.

The prohibitions against the 59 entities listed in the Annex take effect beginning at 12:01 a.m. eastern daylight time on August 2, 2021. OFAC has also listed these 59 entities on its new Non-SDN Chinese Military-Industrial Complex Companies List (NS-CMIC List). Many of these entities are holdovers from the CCMC list, but there are some new additions including some subsidiaries of previously-listed companies. Some companies previously listed on the CCMC list are not included, such as Xiaomi and Luokung and other Tranche 5 entities.

The new FAQs provide guidance and clarity with respect to certain key questions. FAQ 899 specifies that only exact names that are on the list are prohibited. FAQ 902 states that "U.S. persons are not prohibited from providing investment advisory, investment management, or similar services to a non-U.S. person, including a foreign entity or foreign fund, in connection with the non-U.S. person's purchase or sale of a covered security, provided that the underlying purchase or sale would not otherwise violate E.O. 13959, as amended" and FAQ 903 states that "U.S. persons employed by non-U.S. entities are not prohibited from

being involved in, or otherwise facilitating, purchases or sales related to a covered security on behalf of their non-U.S. employer, provided that such activity is in the ordinary course of their employment and the underlying purchase or sale would not otherwise violate E.O. 13959, as amended."

Eva M. Mykolenko  
Associate Chief Counsel - Securities Regulation

#### **endnotes**

[1] The new EO is available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/06/03/executive-order-on-addressing-the-threat-from-securities-investments-that-finance-certain-companies-of-the-peoples-republic-of-china/>. The notice of the EO and fact sheet are available at <https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20210603> and <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/03/fact-sheet-executive-order-addressing-the-threat-from-securities-investments-that-finance-certain-companies-of-the-peoples-republic-of-china/>.

[2] OFAC FAQs are available at <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/topic/5671>. The new FAQs are: 898, 899, 900, 901, 902, 903, 904, 905; the updated FAQs are: 857, 859, 860, 861, 863, 865, and 871.