

**MEMO# 35466**

October 3, 2023

# ICI Response to Treasury ANPRM on Outbound Investments

[35466]

October 02, 2023

TO: ICI Members

ICI Global Members SUBJECTS: Compliance

International/Global

Portfolio Oversight RE: ICI Response to Treasury ANPRM on Outbound Investments

In early August, President Biden issued an [Executive Order](#) on "Addressing United States Investments in Certain National Security Technologies and Products of Countries of Concern." That same day Treasury issued an [Advance Notice of Proposed Rulemaking](#) (ANPRM) regarding the establishment of an outbound investment regime that addresses the national security threat posed by "countries of concern" seeking feedback on their proposed approach. A copy of our comment letter is attached.

Our feedback to the ANPRM focused on its application to U.S. asset managers and the funds they manage. We addressed areas that would benefit from greater clarity and precision to enable asset managers and funds to implement a workable and effective compliance program that is consistent with the goals of the U.S. government regarding the U.S. outbound investment program (U.S. Outbound Investment Program). We provide below the executive summary from our response.

## Executive Summary

We support national security. A thoughtful and carefully calibrated U.S. Outbound Investment Program will prescribe actionable requirements for U.S. Persons that achieve Treasury's goals while mitigating unintended consequences.

We support the proposed exception for publicly traded securities. Treasury has appropriately recognized that investments in publicly traded securities are highly unlikely to present the risks that the Executive Order aims to address. The Chinese Military Companies Sanctions (CMIC) program already provides a mechanism for designating the publicly traded securities of issuers that raise a national security concern.

We support the proposed exception for investments into index funds, mutual funds, exchange-traded funds, or similar instruments. We recommend that Treasury clarify the intended scope of the exception so that this important exception achieves its intended

purpose without creating unintended ambiguity.

We urge Treasury to adopt a government-issued, list-based approach for identifying Covered Foreign Persons. We believe such an approach would more effectively achieve the U.S. government's intended goals and prove better suited for broad implementation.

Clarification and/or guidance regarding certain of the terms as proposed to be defined by Treasury would assist U.S. Persons in the operationalization of the program and would improve the effectiveness of the program.

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