

Treasury Seeks Public Comment on Implementation of Executive Order Addressing U.S. Investments in Certain National Security Technologies and Products in Countries of Concern

August 9, 2023

WASHINGTON — The U.S. Department of the Treasury (Treasury) today issued an Advance Notice of Proposed Rulemaking (ANPRM) seeking public comment related to the implementation of the Executive Order of August 9, “Addressing United States Investments in Certain National Security Technologies and Products in Countries of Concern” (the E.O.). In the E.O., the President identified the People’s Republic of China, along with the Special Administrative Region of Hong Kong and the Special Administrative Region of Macau, as a country of concern.

The Biden Administration is committed to keeping America safe and defending America’s national security through appropriately protecting technologies that are critical to the next generation of military innovation. The E.O. provides for the establishment of a new and targeted national security program to be implemented and administered by Treasury, in consultation with other relevant executive departments and agencies. This narrowly targeted action will complement our existing export control and inbound investment screening tools, and protect our national security while maintaining our longstanding commitment to open investment.

The E.O. also directs the Secretary of the Treasury (the Secretary) to issue regulations that (1) prohibit U.S. persons from engaging in certain transactions involving certain technologies and products that pose a particularly acute national security threat to the United States and (2) require U.S. persons to notify Treasury of certain other transactions involving certain technologies and products that may contribute to the threat to the national security of the United States. The E.O. identifies three categories of national security technologies and products to be covered by the program: semiconductors and microelectronics; quantum information technologies; and artificial intelligence.

In implementing the E.O., Treasury is taking the optional step of issuing an ANPRM to seek early stakeholder participation in the rulemaking process. The public is invited to offer comments, including providing data and other information, that may be useful to inform the development of the program. While the ANPRM does not itself implement the E.O., it offers additional clarity and transparency, and provides the public an opportunity to contribute to the formulation of the new program. Specifically, the ANPRM provides initial details on key terms and aspects of the program's implementation. Among other things, Treasury seeks input on the sub-sets of national security technologies and products related to semiconductors, quantum information technology, and artificial intelligence systems described in the ANPRM.

The United States benefits from an open investment climate and this new program will not change that. It is narrowly targeted at investments in highly sensitive technologies and products for the purposes of protecting U.S. national security. Treasury anticipates excepting certain transactions, including potentially those in publicly-traded instruments and intracompany transfers from U.S. parents to subsidiaries.

Treasury welcomes comments and views from a wide range of stakeholders on all aspects of how the Secretary should implement this new program. Treasury will take this input into account as it develops draft regulations, including refining the definitions of key terms, setting forth the notification requirements, and establishing the penalty and enforcement processes for violations, among other things.

[Written comments on the ANPRM may be submitted within 45 days here.](#) The ANPRM will be followed by draft regulations at a later date.

[Click here for additional information.](#)

###