

United States Bans Certain Investments by U.S. Persons in Companies Linked to the Chinese Military

November 17, 2020 | Client Update

On November 12, 2020 President Trump issued a new Executive Order, “Executive Order on Addressing the Threat from the Securities Investments that Finance Communist Chinese Military Companies” (the “November 12 E.O.”) which bans, as of January 11, 2021, certain transactions by any United States person in publicly traded securities of entities determined to be associated with the Chinese military and listed in the Annex to the November 12 E.O. (“Communist Chinese military companies”). Transactions in derivatives of the Communist Chinese military companies’ securities or in securities “designed to provide investment exposure to” such companies’ securities are also prohibited. The November 12 E.O. does, however, permit sales and purchases of covered securities for the purpose of divestment until November 11, 2021. Although issued under the authority of the International Emergency Economic Powers Act (“IEEPA”) and drafted for implementation by the Treasury Department, the November 12 E.O. is unlike typical IEEPA-based sanctions programs in several respects, leaving important questions of scope to be clarified by agency regulations, guidance, FAQs or follow-up executive orders.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

James C. Lin

+852 2533 3368
james.lin@davispolk.com

John B. Reynolds III

+1 202 962 7143
john.reynolds@davispolk.com

Martin Rogers

+852 2533 3307
martin.rogers@davispolk.com

Will Schisa

+1 202 962 7129
will.schisa@davispolk.com

Yuan Zheng

+852 2533 1007
yuan.zheng@davispolk.com

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