

## International Trade Update

January 2021

### Executive Order on Investments in Communist Chinese Military Companies Amended

#### Key Notes:

- U.S. persons must divest their holdings of publicly traded securities, derivatives and similar instruments of CCMCs by November 11, 2021.
- Holdings in mutual funds and other pooled investment vehicles are subject to the divestment requirement.

On January 13, President Donald Trump [amended](#) his previously issued Executive Order to address confusion over whether U.S. persons must divest publicly traded securities in certain “Communist Chinese Military Companies” (CCMCs). On November 12, 2020, the president issued [Executive Order 13959](#) prohibiting U.S. persons from transacting in publicly traded securities or derivatives or similar securities of publicly traded Chinese companies designated by the U.S. Department of Defense as enabling Chinese military aims. (See our *International Trade Update* [“Executive Order Prohibits U.S. Investment in ‘Communist Chinese Military Companies’”](#) for additional details.) The ban was effective January 11. Numerous questions were raised regarding the scope and intent of the Executive Order, which the Department of the Treasury’s Office of Foreign Assets Control (OFAC) sought to address by issuing several FAQs. (See our *International Trade Update* [“OFAC Issues Guidance Regarding Ban on Transacting in Securities of ‘Communist Chinese Military Companies.’”](#))

Nevertheless, significant questions remained as to whether U.S. persons would be required to divest such securities by November 11, 2021 or 60 days after listing of the company, whichever comes last. The original November 12, 2020 Executive Order did not expressly

mandate divestiture. The January 13 Executive Order amends Executive Order 13959 to clearly prohibit certain sales as well as purchases of publicly traded securities, or any securities that are derivative of or designed to provide investment exposure to such securities, of listed CCMCs. The amended Executive Order clarifies that U.S. persons who on January 11 held any securities in a CCMC must divest such holdings by November 11, stating, “Effective at 11:59 p.m. eastern standard time on November 11, 2021, possession of any such securities by a United States person is prohibited.” Further, should the Department of Defense designate additional Chinese companies as CCMCs, U.S. persons will have 365 days from the date of the designation to divest any securities held in those companies.

#### FOR MORE INFORMATION

Our International Trade group has extensive experience advising on compliance with sanctions and investment restrictions. For more information, please contact:

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