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Final Regulations Issued by Treasury Restrict US Investment in Chinese Tech Sector

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Key Points

- Treasury has issued a **Final Rule** to implement President Biden's 2023 **EO** targeting U.S. investments in Chinese companies engaged in certain activities related to semiconductors, quantum computing or AI.
- Once the Final Rule becomes effective on January 2, 2025, U.S. persons will be prohibited from engaging in certain transactions in these sectors involving China or Chinese persons, while others will require a notification to the U.S. government. The focus is on equity investments, though some debt financing as well as greenfield, brownfield and joint venture-related investments will be covered.
- The rules squarely apply to private equity and venture capital funds with a U.S. general partner. In addition, some U.S. limited partner investments in funds with non-U.S. general partners will also be captured, effectively shifting some of the compliance burden to foreign general partners that take U.S. investment.
- Certain majority-owned Chinese companies and parents of Chinese companies in third countries will be covered, which will necessitate greater due diligence than if the focus were solely investment directly into China. In addition, U.S. persons will need to take steps to ensure compliance by their subsidiaries in third countries, including preventing them from making investments that they themselves would not be permitted to make. Although the set of prohibited transactions is relatively narrow, the notification obligation will apply to a broad set of transactions and require a significant amount of information to be notified to Treasury.

- We recommend that U.S. persons conduct diligence on prospective investments to identify entities and activities that may trigger these prohibitions and notification requirements and implement any necessary compliance procedures to avoid violations.

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