

Treasury Proposes Expanded Outbound Investment Restrictions Under the COINS Act

Client Alerts

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On October 22, 2026, the US Department of the Treasury released its proposed rule to implement the outbound investment provisions of the Comprehensive Outbound Investment National Security (COINS) Act. Comments are due by December 7, 2026.

The proposed rule would expand the existing Outbound Investment Security Program (OISP), implemented at 31 CFR part 850, and adopt several consequential interpretations of the COINS Act. Until a final rule takes effect, the current outbound investment rules continue to apply.

Key Highlights of the Proposed Outbound Investment Rule

- Prohibits all covered artificial intelligence (AI) transactions, rather than permitting them with notice to Treasury
- Adds biotechnology as a prohibited technology sector
- Expands the definition of covered foreign persons
- Expands the government lists that trigger prohibitions on otherwise notifiable transactions
- Narrows several statutory exceptions

COINS Act Requirements for Prohibited and Notifiable Transactions

The COINS Act codified and expanded the OISP by giving Treasury the statutory authority to (1) prohibit a “United States person, including its controlled foreign entities, from knowingly engaging in a covered national security transaction in any prohibited technology” involving a covered foreign person tied to a country of concern (prohibited transaction) and (2) require any covered national security transaction in notifiable technologies (notifiable transaction) to be reported to Treasury within 30 days after completion.

Covered Technology Categories Under the COINS Act

The COINS Act lists five covered technology categories for both prohibited and notifiable technologies:

- Semiconductors and microelectronics
- AI systems
- Quantum information technologies
- High-performance computing and supercomputing
- Hypersonic systems

Treasury may also add categories by regulation, in consultation with specified US congressional committees and subject to notice and comment.

Countries of Concern Under the COINS Act

The COINS Act defines countries of concern to include China (including Hong Kong and Macau), Cuba, Iran, North Korea, Russia, and Venezuela under the Maduro regime.

Statutory Exceptions to Prohibited and Notifiable Transactions

The COINS Act includes exceptions to the prohibition and notification requirements, including:

- De minimis transactions
- Categories the Treasury Secretary determines are in the national interest
- Publicly traded securities, registered investment company securities, and derivatives of either
- Limited partner (LP) investments at or below a de minimis amount (aggregated across investment and co-investment vehicles), or made with a binding contractual assurance
- Ancillary financial institution transactions
- Full buyouts of a covered foreign person's interest
- Intracompany transfers
- Transactions secondary to a covered national security transaction
- Ordinary or administrative business transactions defined by regulation
- Transactions completed before December 18, 2025

Key Provisions of the Proposed Rule Implementing the COINS Act

The proposed rule would develop the COINS Act outbound investment provisions in six respects.

Prohibition on All Covered AI and Quantum Transactions

The proposed rule would prohibit US persons from entering into covered transactions with covered foreign persons that develop any AI system (now termed a “Super Intelligence” or “SI” system, which includes robotic or other autonomous or unmanned systems that operate using an SI system) or engage in certain specified quantum activities. Covered transactions include equity investments, certain loans, joint ventures, and certain LP interests. Accordingly, the proposed rule would eliminate the current rule’s tier of AI transactions that require only notice to Treasury.

Biotechnology Added as a Prohibited Technology Area

The proposed rule would prohibit transactions with covered foreign persons that engage in specified biotechnology activities, including the use of biological systems to modify, enhance, produce, or control pharmaceutical compounds.

Expanded List-Based Prohibitions Under the Proposed Rule

Under the current rules, a transaction that would otherwise only be notifiable is prohibited where the target, or any of its affiliates or subsidiaries, is on specified US government lists, such as the US Department of Commerce’s Bureau of Industry and Security (BIS) Entity List and the US Department of the Treasury’s Office of Foreign Assets Control (OFAC) Specially Designated Nationals and Blocked Persons (SDN) List. The proposed rule would add the US Department of War’s section 1260H list of Chinese military companies and the BIOSECURE Act list of biotechnology companies of concern.

Expanded Definition of Covered Foreign Persons

The COINS Act defines “covered foreign persons” to include:

- Entities incorporated or organized in, or with a principal place of business in, a country of concern
- Members of a country of concern’s political leadership
- Persons subject to a country of concern’s direction or control
- Entities 50% or more owned by a country of concern or by persons in the first two categories

The Notice of Proposed Rulemaking (NPRM) would add, among others:

- Individual citizens and permanent residents of countries of concern (that are not also US citizens or permanent residents)
- The government of a country of concern, including political subdivisions and agencies
- Entities directly or indirectly subject to the direction or control of such individuals
- Entities that directly or indirectly hold a board seat, a voting or equity interest, or contractual control rights in covered foreign persons engaged in a notifiable or prohibited technology, and that

derive more than 50% of their revenue, net income, capital expenditure, or operating expenses from those covered foreign persons

Confirmed Knowledge Requirements for US Persons

The proposed rule would confirm that, similar to the existing rules, relevant knowledge includes knowledge that the target engages in covered technology activities. Knowledge would continue to include actual knowledge, awareness of a high probability, and reason to know. If a US person fails to conduct a “reasonable and diligent inquiry” at the time of a transaction, Treasury may find the US person had reason to know of such fact or circumstance (and therefore, for purposes of the proposed rule, knew). The proposed rule would also add a factor in assessing that inquiry: whether the US person considered information Treasury provided before the transaction, including Treasury’s assessments of the target.

Revised Exceptions to the Prohibition and Notification Rules

The proposed rule would add, modify, and decline to adopt various exceptions to the prohibition and notification rules. Among others, the proposed rule would define the available de minimis exceptions, exempting notifiable transactions that are \$50,000 or less (aggregated over 12 months) or LP investments of \$2 million or less in committed capital. However, prohibited transactions would have no de minimis exception.

The exceptions for public securities, investment companies, LP interests, and derivatives would not apply where the investment gives the US person specified governance rights beyond standard minority shareholder protections. The proposed rule would also narrow the buyout exception by requiring the acquisition of all interests held by all covered foreign persons, rather than the total interest held by a single covered foreign person.

The proposed rule would, however, retain certain current exceptions that the COINS Act does not include, such as for binding, uncalled capital commitments made before the effective date. The proposed rule would not adopt the optional statutory exception for qualifying non-US investment companies.

Treasury Enforcement and Investor Due Diligence Implications

The proposed rule follows Treasury’s first OISP penalty and signals greater due diligence requirements for investors. On October 7, 2026, Treasury announced that it had fined Amidi, LLC, \$200,000 for failing to notify Treasury of a roughly \$92,000 investment made by a controlled foreign entity in a Chinese embodied-AI company. Treasury identified the transaction through its own market monitoring. Treasury’s enforcement posture, together with the confirmed scope of the knowledge definition, indicates US investors should expect more extensive diligence and compliance obligations.

Jenner & Block’s lawyers advise clients on outbound investment and other national security regulatory matters. Our lawyers can evaluate whether a planned transaction is prohibited or

notifiable under the COINS Act and the proposed rule, review diligence and compliance procedures, and prepare comments for submission to Treasury before the December 7, 2026 deadline.

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