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# Treasury Proposes Rule Expanding Outbound Investment Restrictions Under the COINS Act

On October 22, 2026, the U.S. Department of the Treasury (“Treasury”) issued a notice of proposed rulemaking (“NPRM”) to implement the Comprehensive Outbound Investment National Security Act of 2025 (the “COINS Act”). The proposal would significantly expand the Outbound Investment Security Program (“OISP”), including by extending its geographic reach, prohibiting covered investments in developers of any “super intelligence” system and adding biotechnology and hypersonic technologies to its coverage. As forecasted in our national security year-in-review memorandum, these developments have potentially broad consequences for private equity and other investment activity.<sup>1</sup>

The NPRM proposes a final rule that would establish a new 31 C.F.R. Part 851 (“Part 851”) while preserving the applicability of the existing 31 C.F.R. Part 850 (“Part 850”) to earlier activity. Treasury requests comment by December 7, 2026, with the subsequent final rule establishing the effective date.<sup>2</sup> Below, we discuss the proposed framework, the key changes from Part 850, and practical considerations for investors.

## The Proposed Rule

The NPRM proposes a rule that builds on the existing Part 850 framework and implements directives contained in the COINS Act. At a high level, it restricts U.S. persons’ ability to engage in “covered national security transactions,” defined as a U.S. person’s direct or indirect transaction that acquires an interest in a “covered foreign person” that the U.S. person “knows at the time of the acquisition is a covered foreign person that engages in a notifiable technology or a prohibited technology[.]”<sup>3</sup> In further detail, its key provisions are as follows:

***U.S. Persons and Controlled Foreign Entities.*** The proposal would apply to U.S. citizens and lawful permanent residents, entities organized under U.S. law, including their foreign branches, and any person in the United States (collectively, “U.S. persons”).<sup>4</sup> It would also impose obligations concerning their “controlled foreign entities.” U.S. parents—persons holding more than 50% of voting interests or board voting power, general partners or managing members and investment advisers to

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<sup>1</sup> Press Release, U.S. Dep’t of the Treasury, Treasury Issues Proposed Rule to Implement Comprehensive Outbound Investment National Security Act (Oct. 22, 2026), [available here](#). U.S. Dep’t of the Treasury, Outbound Investment Security Program Regulations, 31 C.F.R. pts. 850 and 851 (Oct. 22, 2026) (proposed rule) (the “NPRM”), [available here](#); Paul, Weiss, 2025 Year in Review: National Security, “CFIUS & Outbound Investment Regulation” (Jan. 23, 2026), [available here](#).

<sup>2</sup> NPRM at 1–2, 10–11, [available here](#). U.S. Dep’t of the Treasury, Fact Sheet & FAQs, Treasury Department Issues Notice of Proposed Rulemaking on Implementation of the Comprehensive Outbound Investment National Security (COINS) Act, at 7–8 (Oct. 22, 2026) (the “Fact Sheet”), [available here](#).

<sup>3</sup> NPRM § 851.209(a)(1).

<sup>4</sup> *Id.* §§ 851.234; 851.206.

pooled investment funds—would be required to take all reasonable steps to prevent their controlled foreign entities from undertaking prohibited transactions and to notify Treasury of relevant notifiable transactions by those entities.<sup>5</sup>

**Covered Transactions.** Covered transactions, in other words, those types of transactions regulated by the proposed rule, would include, for example, direct or indirect equity and contingent-equity acquisitions, equity-like or convertible debt financing, equity conversions, joint ventures, greenfield investments and other corporate expansions, and certain limited partner (“LP”) investments.<sup>6</sup> An ordinary commercial relationship would not become covered merely because it involves a technology business—it must involve a “notifiable technology” or a “prohibited technology” (currently semiconductors and microelectronics, SI systems, quantum information technologies, high-performance computing and supercomputing, hypersonic systems, and biotechnology)<sup>7</sup> and an interest in a “covered foreign person.”<sup>8</sup>

**Covered Foreign Person.** A “covered foreign person” would be defined by its relationship to a country of concern, rather than by the technologies in which it engages. This departs from Part 850, where the same term has a different meaning.<sup>9</sup> The term would include, for example, entities incorporated in, organized under the laws of, or with a principal place of business in a country of concern; members of the CCP Central Committee or the political leadership of a country of concern; entities owned 50 percent or more by, or subject to the direction or control of, a country of concern or such persons; and certain citizens or permanent residents of a country of concern.<sup>10</sup> It would also include certain holders of interests in covered foreign persons to which more than 50 percent of their revenue, net income, capital expenditure, or operating expenses is attributable.<sup>11</sup>

**Maintains the Definition of “Person of a Country of Concern” from Part 850, Which Differs from the COINS Act.** The proposed regulation, borrowing from Part 850, expands the definition of “covered foreign person” for individuals past the language of the COINS Act. Regarding individual persons, the statute only covers “member[s] of the Central Committee of the Chinese Communist Party (CCP) or . . . member[s] of the political leadership of a country of concern.”<sup>12</sup> The proposed rule and Part 850, however, cover “certain individual foreign persons who are citizens or permanent residents of a country of concern.”<sup>13</sup> The Treasury reasons that “Title VIII provides no indication that it was intended to limit the application of the program in ways that would permit easy circumvention,” and deems this “inclusion” as “necessary” to prevent the regulation from being undermined.<sup>14</sup>

**Knowledge and Diligence.** The proposal would retain the existing knowledge framework: actual knowledge, awareness of a high probability or reason to know of relevant facts or circumstances. Treasury could find knowledge where an investor failed to conduct a “reasonable and diligent inquiry.”<sup>15</sup> The NPRM would expressly add consideration of whether the investor appropriately assessed information Treasury supplied before the transaction, including an assessment of the target’s technology activities. It also would clarify application of the knowledge standard to controlled foreign entities.<sup>16</sup>

**Prohibition and Notification.** A covered national security transaction where a “covered foreign person” or relevant joint venture is engaged in “prohibited technology” would be prohibited; one involving “notifiable technology,” but not prohibited technology, would generally be permitted subject to notification.<sup>17</sup> The investor would be responsible for determining the transaction’s status. This would not be a transaction-screening or preclearance process. Notifications generally would be due

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<sup>5</sup> *Id.* §§ 851.221; 851.302; 851.402.

<sup>6</sup> *Id.* § 851.209(a).

<sup>7</sup> *Id.* §§ 851.218; 851.226.

<sup>8</sup> *Id.* § 851.208.

<sup>9</sup> *Id.* at 6.

<sup>10</sup> *Id.* § 851.208(a).

<sup>11</sup> *Id.* § 851.208(a)(8), (c)–(d).

<sup>12</sup> *Id.* at 15.

<sup>13</sup> *Id.* at 16; *see also* § 851.208(a)(1)(i).

<sup>14</sup> *Id.* at 16.

<sup>15</sup> *Id.* § 851.104.

<sup>16</sup> *Id.* at 11–13, 26 (discussing proposed §§ 851.104 and 851.217).

<sup>17</sup> *Id.* §§ 851.227; 851.219; 851.301–.406.

within 30 days after completion. If the investor later acquired actual knowledge of facts that would have made the transaction covered, notification generally would be due within 30 days after acquiring that knowledge.<sup>18</sup>

**Exceptions and Enforcement.** The proposal would preserve conditional exceptions for publicly traded securities, investment-company securities, certain LP investments and derivatives, qualifying buyouts, specified intracompany transfers and pre-existing binding capital commitments, among others. Certain exceptions would be unavailable where an investment provides governance rights beyond standard minority-shareholder protections. U.S. persons also could seek a national-interest exemption from a prohibition. Violations could result in civil penalties tied to IEEPA's maximum and compelled divestment;<sup>19</sup> Treasury would consider qualifying voluntary self-disclosures in determining its response.<sup>20</sup>

### Key Changes from Part 850

**A Much Broader Prohibition for AI Development.** The NPRM replaces "AI systems" with "super intelligence (SI) systems," reflecting Executive Order 14434. The definition broadly tracks the existing AI definition while expressly including generative, agentic and embodied systems. Treasury has determined that "rapid advances in super intelligence capabilities of countries of concern warrant a broad prohibition on U.S. person investment in that sector."<sup>21</sup> Development of any SI system would therefore be prohibited, eliminating Part 850's compute- and end-use-based distinctions and its AI notification category; in Treasury's view, "no single measure, benchmark, or threshold is currently sufficient to distinguish advanced models."<sup>22</sup> The proposal would clarify when use of third-party systems constitutes development, so it should not be read to cover every business that uses AI. "Develop" would also expressly reach collaboration through affiliates and high-level oversight, direction or strategic planning before serial production.<sup>23</sup>

**New Biotechnology Prohibitions.** Treasury would add biotechnology as a prohibited-technology sector, with no notification category. The proposal reaches specified bioengineering and biomanufacturing activities, including pharmaceutical compounds and delivery systems, biofuels, brain-computer interfaces, sequencing technologies, bioinformatics and automated scientific-discovery equipment or software. Licensing is not yet covered by the biotechnology restrictions, but the pending Biotech Investment National Security Act would subject it to Treasury review if enacted.<sup>24</sup> Acknowledging that the restrictions "may potentially have countervailing effects on national security to the extent restrictions lead to significant public health risks or harm U.S. businesses in this sector,"<sup>25</sup> Treasury seeks comment on narrowing aspects of these provisions, including pharmaceuticals and fuels such as ethanol.<sup>26</sup>

**Broader Geographic and Control Nexus.** The proposal would add Cuba, Iran, North Korea and Russia to China, Hong Kong and Macau. The definition also lists Venezuela "under the regime of Nicolás Maduro Moros." Treasury states that "that regime no longer exists,"<sup>27</sup> so Venezuela does not currently qualify, although Venezuelan investments could still be covered through ownership or control connections. A covered foreign person would be defined by its country-of-concern relationships, with the technology nexus moved to the transaction provisions.<sup>28</sup>

**Expanded Semiconductor and Computing Coverage.** Core advanced-semiconductor prohibitions would be retained. They would be expanded to cover radiation-hardened and photonic-integrated circuits, high-bandwidth memory and additional advanced chips. Non-prohibited integrated-circuit activities and specified equipment would remain notifiable. Part 850's

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<sup>18</sup> NPRM at 9–10, 30; Fact Sheet at 5, 9.

<sup>19</sup> Treasury announced its first civil penalty under OISP on October 7, 2026. For more information, see Paul, Weiss, Treasury Announces First-Ever Penalty Under the Outbound Investment Security Program (Oct. 8, 2026), [available here](#).

<sup>20</sup> Fact Sheet at 3–7.

<sup>21</sup> NPRM at 27 (emphasis omitted).

<sup>22</sup> *Id.* at 35.

<sup>23</sup> *Id.* §§ 851.210, 851.226(h).

<sup>24</sup> See Press Release, Elissa Slotkin, Slotkin, Ricketts Introduce Bipartisan Legislation to Keep Biotech Industry in America, Not China (Aug. 6, 2026), [available here](#).

<sup>25</sup> NPRM at 41.

<sup>26</sup> *Id.* at 39–42.

<sup>27</sup> *Id.* at 15.

<sup>28</sup> *Id.* at 6, 8–9, 15, 20–21.

supercomputer prohibition would be preserved, and certain high-bandwidth, low-latency interconnects would become notifiable.<sup>29</sup>

***Quantum Restrictions Are Expanded, Not Newly Created.*** The NPRM would maintain Part 850's quantum prohibitions. It would add quantum-computing software, as well as algorithms and applications for quantum information science technologies, the latter subject to an end-use limitation "recognizing that similar technologies could have important civilian purposes."<sup>30</sup> There would be no quantum notification category, but not every civilian quantum activity would be prohibited.<sup>31</sup>

***New Hypersonics Coverage.*** The hypersonics prohibitions would reach military and civilian systems—Treasury notes that the covered examples "may include systems intended for spaceflight"<sup>32</sup>—as well as propulsion, fuels, specialized materials, testing infrastructure and specified digital technologies. Certain sensors, controls, software and dual-use materials would be notifiable.<sup>33</sup>

***Revised Exceptions.*** A new notification-only exception would cover transactions not exceeding \$50,000 over the preceding 12 months; it would not authorize a prohibited investment, because Treasury considers that a prohibited transaction below this threshold "could raise national security concerns."<sup>34</sup> The \$2 million LP exception would be retained, alongside a contractual-assurance alternative. Secondary and ancillary exceptions would address bank lending, payment processing and underwriting. Intracompany support would cover only non-covered operations or the maintenance of technology operations that predate the final rule.<sup>35</sup>

***New Feedback and Information Channels.*** Parties with a direct financial interest in an actual—"not hypothetical"<sup>36</sup>—transaction could seek confidential non-binding feedback or anonymized public guidance. Treasury could decline to respond, and any feedback "would not bind the Treasury Department, any other Federal or local department or agency, or any court[.]"<sup>37</sup> A separate mechanism would allow confidential submissions about covered foreign persons. Treasury is actively considering whether to establish a database.<sup>38</sup>

### Key Takeaways

- **Review exposure across structures.** LP commitments, indirect investments, controlled foreign entities and joint ventures all require analysis. Investors should not assume non-U.S. funds or third-country targets fall outside the program.<sup>39</sup>
- **Front-load diligence.** Country and list screening alone would not suffice. Diligence should cover beneficial ownership, contractual control, affiliates and technology development, and should be documented to support the knowledge standard.<sup>40</sup>
- **Reassess governance arrangements.** Minority investments are not automatically passive or excepted, and expanded directing exposure warrants revisiting recusal procedures.<sup>41</sup>

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<sup>29</sup> *Id.* at 27–29, 33–34, 38.

<sup>30</sup> *Id.* at 37.

<sup>31</sup> *Id.* at 28, 37–38.

<sup>32</sup> *Id.* at 25.

<sup>33</sup> *Id.* at 25, 29–30, 39.

<sup>34</sup> *Id.* at 59.

<sup>35</sup> *Id.* at 53–54, 56–60.

<sup>36</sup> *Id.* at 65; *id.* § 851.901(c).

<sup>37</sup> *Id.* at 67.

<sup>38</sup> *Id.* at 7, 65–68.

<sup>39</sup> NPRM at 23, 61–62; *id.* §§ 851.209(a)(3), (a)(6)–(7), (d), 851.302; Fact Sheet at 10.

<sup>40</sup> See NPRM § 851.104(c); Fact Sheet at 10.

<sup>41</sup> See NPRM at 55.

- **Coordinate across regimes.** Compliance with sanctions or export controls would not resolve outbound investment issues. AI and biotechnology investors should reassess transactions previously outside Part 850.<sup>42</sup>
- **Prepare without treating the proposal as law.** Part 850 remains enforceable until the new regime takes effect, and the NPRM confirms that its provisions “will not have retroactive effect.”<sup>43</sup> Comments are due December 7, 2026.<sup>44</sup>

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This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

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<sup>42</sup> See NPRM § 851.102(a); Fact Sheet at 8–9.

<sup>43</sup> NPRM at 10.

<sup>44</sup> NPRM at 2, 10; *id.* § 851.102(b)–(c); Fact Sheet at 7–8, 10.