

Treasury Proposes Expanded Outbound Investment Rules under the COINS Act

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Authors: Farhad Jalinous, Laura Black, Ryan Brady, Cristina Brayton-Lewis, Liz Abraham, David Jividen, Tim Sensenig, Davin Paley-Zimble, Wes Hutson, Grace Hochstatter

On October 22, 2026, the U.S. Department of the Treasury's ("Treasury") Office of Investment Security published a Notice of Proposed Rulemaking (the "Proposed Rule") to implement Subtitle C of the Comprehensive Outbound Investment National Security Act (the "COINS Act"), which Congress enacted on December 18, 2025 as part of the National Defense Authorization Act for Fiscal Year 2026. The COINS Act adds a new Title VIII to the Defense Production Act of 1950, building on the current Outbound Investment Security Program ("OISP") regulations. The OISP has operated since January 2, 2025 under regulations issued pursuant to Executive Order 14105 (the "Part 850 Regulations"), which instituted notification or prohibition requirements for U.S. persons in connection with certain investments in the semiconductor and microelectronics, artificial intelligence, and quantum information technology sectors in the People's Republic of China (including Hong Kong and Macau). The Proposed Rule, like the current OISP, would, upon implementation, apply to U.S. persons in connection with certain transactions ("covered national security transactions" in the Proposed Rule) that involve or would result in the establishment of a "covered foreign person," subject to the key changes summarized and discussed further below. The Proposed Rule would establish a new Part 851 of Title 31 of the Code of Federal Regulations to implement Title VIII. The Proposed Rule is open to public comments, which are due by December 7, 2026.

EXECUTIVE SUMMARY OF MAJOR CHANGES

- ♦ The Proposed Rule would expand the OISP to include the following additional countries of concern beyond China and its special administrative regions, Hong Kong and Macau: Cuba, Russia, North Korea, Iran, and the Bolivarian Republic of Venezuela under the Maduro Regime (which was included in the COINS Act, though Treasury notes this regime no longer exists).
- ♦ The Proposed Rule would significantly broaden the scope of technology coverage by adding three new discrete sectors: (1) high-performance computing and supercomputing, (2) hypersonic systems, and (3) biotechnology.
- ♦ The Proposed Rule also would expand coverage over the existing technology sectors covered by the OISP. Notably, AI, renamed "super intelligence" or "SI," coverage would be dramatically expanded through the removal of computational-capacity and end-use coverage thresholds. Under the Proposed Rule, it would fall entirely within the prohibited category.
- ♦ The Proposed Rule would introduce a control-based test to the definition of covered foreign person covering any entity "directly or indirectly subject to the direction or control" of a foreign person meeting the citizenship, incorporation, political-leadership, or government criteria of the current OISP. This is broader than the current Part 850 Regulations, where a comparable control concept appears only within the government-ownership prong, not as a freestanding basis for coverage irrespective of any ownership percentage.
- ♦ The "knowingly directing" prong, currently limited to prohibited transactions under the OISP, would be extended to transactions involving "notifiable technology" (the new phrasing for "notifiable transactions" under the Proposed Rule) as well — meaning U.S. officers, directors, and executives of non-U.S. entities who previously only needed to

recuse themselves from “knowingly directing” prohibited transactions must now extend that recusal practice to transactions involving notifiable technology, too (or file a notification with Treasury).

NEW “COVERED NATIONAL SECURITY TRANSACTIONS” AND EXPANDED RECUSAL REQUIREMENTS

“COVERED NATIONAL SECURITY TRANSACTIONS” AND EXCEPTIONS

Most of the existing OISP’s covered transaction categories (e.g., acquisition of an equity or contingent equity interest, entrance into a JV) would substantively carry over with the Proposed Rule, though they are now referred to as “covered national security transactions.”

Notably in the preamble to the Proposed Rule, Treasury clarifies that U.S. person investments in “funds of funds” (“FoF”) with pre-existing investments in a covered foreign person (essentially companies in a country of concern engaged in covered technology activities) may constitute a covered national security transaction. Conducting due diligence in the FoF context can be challenging given potentially large numbers of portfolio companies and less opportunity to conduct such diligence when an investment has already been made.

With respect to excepted transactions, the Proposed Rule would largely codify those outlined in the OISP, though some additional exceptions are proposed. Importantly, the exception for publicly traded securities would remain, as would the exception for limited partner investors in a fund that either (a) keeps its aggregated investment capped at \$2 million or (b) that obtains contractual assurance its capital will not be used for notifiable or prohibited transactions. New additions to the exempted transactions would include an exception for notifiable transactions that, in the aggregate over the preceding 12 months, do not exceed a value of \$50,000 and an explicit exception for underwriting. In some cases, the exceptions incorporated into the Proposed Rule were required by the COINS Act and are merely clarifications of activities that Treasury had previously stated were not covered, such as transactions secondary to a covered national security transaction, including, for example, equity research or analysis.

The Proposed Rule also seeks to clarify existing ambiguity in the OISP for certain intra-company transfers between a U.S. parent and its “controlled foreign entity” (e.g., its subsidiaries) in connection with “maintaining operations,” though it has deferred the issue to public comment. Under the OISP, a U.S. person parent may engage in an otherwise covered transaction to (a) support operations not in a notifiable or prohibited technology, or (b) maintain pre-existing notifiable or prohibited technology operations the entity was already engaged in before the final rule’s effective date. Treasury has not settled how broadly to construe “maintain operations” under the intracompany transfer exception and is seeking comment on three options of increasing permissiveness: (i) a narrow reading limiting the U.S. parent to funding only upkeep and maintenance of the controlled foreign entity’s existing notifiable or prohibited technology operations; (ii) an intermediate reading that would allow upgrading or improving those operations but not expanding production; and (iii) the broadest reading, which would permit expanded production or improved capabilities altogether, so long as the entity does not shift into a different or more restricted notifiable or prohibited technology.

EXPANDED RECUSAL REQUIREMENTS

The current OISP requires officers, directors, and those U.S. persons with similar executive decisionmaking responsibilities at non-U.S. entities to recuse themselves from “knowingly directing” a transaction that would be prohibited if engaged in by a U.S. person. The Proposed Rule effectively extends the scope of this recusal requirement to transactions involving notifiable technology. One important exception, however, is that the acquisition of an LP interest in a pooled fund itself is exempted from the “knowingly directing” prong. The Proposed Rule does not explicitly address the potential role of a U.S. person at a foreign entity in the notification process, but it appears Treasury expects, in instances of notifiable technology, recusal or the possibility of the U.S. person notifying Treasury of the notifiable technology in lieu of recusal. Combined with the Proposed Rule’s broader definitions of covered technology sectors and countries of concern (discussed further below), expanding the scope of “knowingly directing” to all covered national security transactions would meaningfully increase the compliance burden on executive U.S. persons and their associated non-U.S. entities, since many more transactions will implicate the recusal requirement under the new framework.

EXPANDED SCOPE: NEW COUNTRIES OF CONCERN

The Proposed Rule would expand the list of “countries of concern” from the current OISP coverage. In addition to the People’s Republic of China (including Hong Kong and Macau), the Proposed Rule would add Cuba, Iran, North Korea, Russia, and Venezuela under the regime of Nicolás Maduro. Treasury notes, however, that the Maduro regime no longer exists (though it did at the time the COINS Act was passed). Since most of these added jurisdictions are already subject to various sanctions regimes limiting investment, as a practical matter, we would expect China to remain the key jurisdiction relevant to most transaction parties.

EXPANDED SCOPE: COVERED FOREIGN PERSON

A covered foreign person is a foreign person connected to a country of concern — whether through incorporation or principal place of business therein, membership in that country’s political leadership, government ownership or control therefrom, or a new control-based test. As noted in the Preamble to the Proposed Rule, Treasury proposes to define the term in a manner largely consistent with the “person of a country of concern” concept under the current OISP regulations, so market participants already familiar with that OISP term should find the core concept largely unchanged, subject to the expansion described below.

As noted above, the Proposed Rule would introduce a control-based test that covers any entity “directly or indirectly subject to the direction or control” of a foreign person meeting the citizenship, incorporation, political-leadership, or government criteria, defined functionally: control exists where the controlling government, individual, or entity has the power, directly or indirectly, to direct or cause the direction of the subject entity’s management or policies, whether through voting securities, contract, or otherwise. Treasury explains this tracks Title VIII’s own statutory definition, which includes persons “subject to the direction or control” of a country of concern or related entity.

EXPANDED SCOPE: TECHNOLOGY SECTORS

NEW TECHNOLOGY SECTORS

The Proposed Rule also would substantially broaden the OISP’s coverage by adding three new covered technology sectors: (1) high-performance computing and supercomputing, (2) hypersonic systems, and (3) biotechnology. The first two are mandated by the COINS Act; biotechnology was added at Treasury’s discretion rather than as a COINS Act-mandated addition, signaling that the current Administration is concerned about China’s biotechnology program in general and the U.S. biomedical supply chain’s reliance on China specifically. Note, too, that, as indicated above, Title VIII uses the terms “notifiable technology” and “prohibited technology” to capture the relevant technologies for coverage largely in place of the terms “notifiable transaction” and “prohibited transaction” found in the Part 850 Regulations; the Proposed Rule uses this same construction.

- ♦ **High-Performance Computing and Supercomputing:** The Proposed Rule would break out high-performance computing and supercomputing into its own functional category, apart from current OISP coverage under semiconductors and microelectronics, which also includes coverage for certain enabling or related technologies under the notifiable threshold. Treasury’s stated rationale is to capture interconnect and enabling technologies that scale high-performance and supercomputing systems, even though these technologies alone would not necessarily constitute high-performance computing or supercomputing. Under the proposed rule, high-performance and supercomputing would be classified pursuant to the below categories.
 - ◊ Prohibited technology in the high-performance computing and supercomputing sector would include:
 - development, installation, sale, or production of any supercomputer enabled by advanced integrated circuits that can provide a theoretical compute capacity of 100 or more double-precision (64-bit) petaflops or 200 or more single-precision (32-bit) petaflops of processing power within a 41,600 cubic foot or smaller envelope,

or components designed for enabling any of such capabilities of a supercomputer — a threshold that would remain unchanged from the existing Part 850 regulations.

- ◇ Notifiable technology related to high-performance computing and supercomputing would include development or production of:
 - high-bandwidth, low-latency interconnects for high-performance computing, including interconnects for system-on-chip, system-in-package, scale-up networks, and scale-out networks, not otherwise covered as prohibited technology.
- ◆ **Hypersonic systems:** The Proposed Rule proposes a baseline definition for “hypersonic systems” as “a vehicle or weapon delivery system capable of sustained atmospheric or very low Earth orbit flight at speeds of Mach 5 or greater,” which can apply to, for example, hypersonic glide vehicles, hypersonic cruise missiles, hypersonic air-launched or aero-ballistic missiles, maneuvering reentry vehicles, and reusable hypersonic vehicles.
 - ◇ Prohibited technology in the hypersonic systems sector would include the development or production of:
 - any hypersonic system, or a propulsion system capable of enabling hypersonic flight — including rocket-based propulsion, hypersonic airbreathing propulsion such as ramjets and scramjets, and combined cycle propulsion, or fuels or propellants for hypersonic propulsion systems;
 - specified materials designed for, or intended by the covered foreign person to be used for, a hypersonic system — namely, refractory metals or alloys; refractory or ultra-high temperature ceramics or ultra-high temperature ceramic matrix composites; carbon-carbon or carbon-matrix composites; and stealth coatings or other materials designed to minimize external observation of a hypersonic system, such as spectral or multispectral absorption materials;
 - specialized infrastructure or facilities capable of testing a hypersonic system, including hypersonic arc jet facilities, wind tunnels, and ground test beds; and
 - digital twin technology for modeling, simulating, monitoring, or optimizing a hypersonic system, or digital thread technology that collects, manages, or represents the data flows related to a hypersonic system.
 - ◇ Notifiable technology related to hypersonic systems would include development or production of any of the following technologies when capable of use in or for a hypersonic system or its components not otherwise covered as prohibited technology:
 - sensor, guidance, navigation, or control equipment or systems;
 - software for research, modeling and simulation, analysis, or testing; or
 - metals, alloys, composites, ceramics, coatings, or other materials.
- ◆ **Biotechnology:** The Proposed Rule itself does not define “biotechnology” as a specific term; instead, it relies on the description of its coverage as a prohibited technology to scope coverage across a broad range of related types of biotechnology. **There is no notifiable technology relating to the broad concept of “biotechnology.”**
 - ◇ Prohibited technology in the biotechnology sector would include:
 - **Biological systems used to modify, enhance, produce, or control sensitive compounds or materials** — the development, engineering, or use of a biological system, or any component of one, to modify, enhance, produce, or control:
 - export-controlled agents or toxins (under 7 CFR part 331, 9 CFR part 121, 42 CFR part 73, 22 CFR part 121, or 15 CFR part 774), or novel agents or toxins capable of causing death, disease, or other biological malfunction in a living organism, deterioration of food, water, equipment, supplies, or material, or deleterious alteration of the environment;
 - energetic precursors or energetic materials, including propellants, explosives, and pyrotechnics;
 - novel or high-performance functional materials — bio-derived products exhibiting novel or enhanced properties, such as adaptive or protective coatings, bio-cement or other agile-infrastructure materials, self-repairing or self-assembling materials, and biosensors;

- pharmaceutical compounds, including small molecules, polymers, vaccines, blood and blood components, allergenics, cell and gene therapies, and monoclonal antibodies or other recombinant therapeutic proteins, as well as their delivery mechanisms; or
- biofuels (fuel made or derived from bio-based feedstock).
- **Brain-computer interfaces** — development or production of brain-computer interfaces, including invasive, partially invasive, non-invasive, and hybrid systems that enable interaction between the brain and its environment, as well as associated software.
- **Biomanufacturing equipment** — development, construction, or production of biomanufacturing equipment, including components and associated software or technology, as identified in ECCNs 2B352, 2D352, or 2E001 on the Commerce Control List.
- **Other biotechnology equipment and technology** — development or production of:
 - biological sequencing technology, including short-read or long-read sequencing;
 - flow cytometers and cell sorters designed for spectral analysis or containing 26 or more detectors or channels;
 - liquid chromatography mass spectrometry instruments designed for top-down proteomic analysis;
 - computational or bioinformatics tools for research, design, optimization, modeling and simulation, discovery, or assessment of biological systems or processes; and
 - hardware, robotics, or software for automated scientific discovery or experimentation, including laboratory automation or cloud lab infrastructure.

EXPANSION AND OTHER CHANGES TO EXISTING TECHNOLOGY SECTORS

AI SYSTEMS RECLASSIFIED AS PROHIBITED AND RENAMED “SI SYSTEMS”

Under the Proposed Rule, coverage relative to artificial intelligence, referred to in the Proposed Rule as “Super Intelligence” or “SI,” would be significantly expanded.¹ Under the current OISP, development of “AI systems” meeting certain technical thresholds or specified end uses (or intended end uses) classified under the notifiable category, with investments in other AI systems treated as prohibited based on analysis using similar criteria with differing thresholds. The Proposed Rule would remove the computational thresholds and end-use determinations and would move development of SI systems entirely into the prohibited technology category without qualification, while also expanding the existing definitional coverage of SI systems (AI systems under the current regulations).

The Proposed Rule carries over the current OISP definition of AI to define an SI system as:

- a. A machine-based system that can, for a given set of human-defined objectives, generate content or make predictions, recommendations, or decisions influencing real or virtual environments, i.e., a system that:
 1. Uses data inputs to perceive real or virtual environments;
 2. Abstracts such perceptions into models through automated or algorithmic statistical analysis; and
 3. Uses model inference to generate content or make a classification, prediction, recommendation, or decision.
- b. Any data system, software, hardware, application, tool, or utility that operates in whole or in part using an SI system defined in paragraph (a) of this section, including an SI agent harness and an embodied SI or physical SI system (e.g., SI-enabled: industrial robots, bipedal or humanoid robots, quadruped robots, other mobile robots, autonomous vehicles, and unmanned systems).

¹ Consistent with Executive Order 14434, “Inaugurating the Era of Super Intelligence” (September 29, 2026), which directs executive departments and agencies to use “Super Intelligence” and “SI” in place of “Artificial Intelligence” and “AI” in certain documents, the Proposed Rule renames the relevant technology as a “super intelligence (SI) system.”

The Proposed Rule would classify development of any SI system as prohibited technology, with two clarifications addressing where development begins and ends for purposes of third-party models. First, where an application or tool (such as an agentic harness) operates using a third-party SI model, the covered foreign person is treated as developing an SI system if it enhances or extends that model's capability. Second, merely using an off-the-shelf third-party SI system strictly for internal, non-commercial purposes, including customizing, configuring, or fine-tuning it for internal use only (not for sale or licensing), does not by itself constitute development.

EXPANSION OF SEMICONDUCTOR AND MICROELECTRONICS AND QUANTUM COMPUTING COVERAGE

In addition to AI (or, as explained above, now called "SI" under the Proposed Rule), the existing OISP also regulated certain transactions in the semiconductor and microelectronic sector, as well as the quantum computing sector. The Proposed Rule would further expand coverage in both of these existing categories:

- ♦ **Semiconductors and Microelectronics:** beyond carrying forward existing notifiable coverage of integrated circuit design, fabrication, and packaging not already prohibited, the Proposed Rule would add a new notifiable technology: equipment not covered as prohibited technology that is designed or intended for use in designing, fabricating, or packaging any integrated circuit — closing a potential loophole in notifiable coverage.

For DRAM, the Proposed Rule would add specific prohibited technology thresholds: a memory cell area under 0.0026 μm^2 ; a memory density above 0.20 gigabits per square millimeter; or more than 3,000 through-silicon vias per die. It also would add these as a prohibited technology:

- ♦ Compound semiconductors: integrated circuits from silicon carbide, gallium-based, III-V, or ultrawide bandgap compound semiconductors — broader than the current rule, which covers only gallium-based compounds;
 - ♦ Radiation-hardened ICs (specified dose/fluence thresholds);
 - ♦ Photonic integrated circuits (optical components, co-packaged optics, silicon-photonics); and
 - ♦ High-bandwidth memory above 2 GB/s per square millimeter.
- ♦ **Quantum Computing:** the Proposed Rule would prohibit development of a quantum computer or production of its critical components (e.g., dilution refrigerators, two-stage pulse tube cryocoolers), adding "or operate" to the current rule's "produce" standard, plus development of related design/control software and — new relative to current OISP rules — development of algorithms and applications for quantum information science.

Following the text of this client alert in Annex 1 is a side-by-side comparison of the current OISP regulations on semiconductors and microelectronics, high-performance computing and supercomputing, and quantum computing, highlighting the differences between the scope of coverage under the current OISP and the Proposed Rule.

OTHER NOTABLE CHANGES

LIST-BASED "AUTOMATIC UPGRADE" OF NOTIFIABLE TECHNOLOGY TO PROHIBITED TECHNOLOGY

Under current rules, a covered foreign person's (or, for certain joint ventures, the relevant joint venture's) engagement in a notifiable transaction is treated as merely notifiable rather than prohibited, unless that covered foreign person or joint venture itself appears on one of the specified U.S. government lists, which then moves the investment into the prohibited category. The Proposed Rule would expand this treatment in two key respects: first, it would extend the prohibition trigger beyond the covered foreign person or joint venture itself to also capture any of its affiliates or subsidiaries appearing on a specified list; and second, it would expand the roster of specified lists from six to eight by adding the BIOSECURE Act list and the Department of War's 1260H list.

MECHANISM FOR NON-BINDING FEEDBACK

The Proposed Rule would create a new process allowing a party with a non-hypothetical transaction and a direct financial interest in that transaction to request confidential non-binding feedback from Treasury on whether a prospective investment would be prohibited. Before submitting a request, the party is expected to have conducted sufficient diligence on the transaction to provide Treasury with the information needed to evaluate it, including details on the requester and all

transaction parties, the deal structure, the technologies or activities involved, and all operative documents and material term sheets. Treasury is not obligated to respond, and may in its discretion provide anonymized public guidance, issue confidential written feedback, or decline to respond altogether. In addition, any feedback from Treasury is non-binding and does not preclude future enforcement action. Given the submission is non-binding on Treasury and requires detailed information about a specific transaction, parties should consult closely with counsel before engaging in this new process (should it be implemented).

CONTENTS OF NOTIFICATIONS

The Proposed Rule would materially expand the scope of information required in a notification for transactions involving notifiable technology, adding more detail regarding the investment target, the U.S. person investor, and the rationale for the transaction than is required under the current OISP. These new information requests track questions that Treasury has been posing while reviewing notifications under the current OISP. Key additions would include: (1) a more detailed description of the U.S. person, including the identity and citizenship of board members, officers, and other key personnel; (2) a more detailed description of the commercial rationale for the transaction, including the U.S. person's plans for involvement in the target's operations and expected return drivers and timeline, whether the U.S. person plans to transfer or second employees to the target, how the U.S. person learned of the opportunity, and a timeline of the U.S. person's consideration of and negotiations toward the investment; (3) more information concerning the covered foreign person, including customer make-up and key suppliers; (4) a description of any past, current, or future commercial arrangements between the U.S. person and investment target; and (5) a requirement to submit a copy of all transaction documentation.

IMPLICATIONS FOR INVESTORS

Though the Proposed Rule is not yet in effect and could be revised through the rulemaking process, investors, asset managers, and strategic acquirers active in the semiconductor, AI/SI, quantum, high-performance computing, hypersonic systems, and biotechnology sectors should reassess pending and prospective transactions involving the six countries of concern in light of the Proposed Rule's broader scope, with particular attention to the specific technology sectors covered. The scope appears designed, in many respects, to capture underlying technologies as prohibited technologies, while enabling and supporting technologies for those prohibited technologies may themselves fall within the scope of notifiable technologies.

In the near term, investors should:

1. **Among the new and expanded covered activity categories, closely examine investments for AI/SI triggers.** Given the broad scoping of the proposed AI/SI coverage, many companies not typically considered active in the AI space could be swept into coverage under the Proposed Rule. Thus, careful diligence should be conducted to rule out prohibited technology under the new SI prong.
2. **Look beyond percentages in diligence.** Screening processes should start probing for contractual or minority control arrangements held by restricted-country persons, since control — not just equity stakes — can now trigger potential coverage.
3. **Note the existence of compliance obligations for U.S. parent entities with foreign subsidiaries.** U.S. parents are required to ensure the compliance of their foreign subsidiaries with outbound investment requirements. Indeed, Treasury [issued a significant penalty](#) to a U.S. entity earlier this month for failure to notify Treasury of an investment by its controlled foreign subsidiary into a Chinese AI company.
4. **Get ahead of the U.S.-person liability issue.** Non-U.S. organizations with U.S. persons in senior roles or on investment committees should have formal recusal procedures ready before the rule takes effect (to the extent they do not already have such procedures in place with respect to the current OISP).
5. **Analyze and prepare comments.** Given the Proposed Rule is not yet final, interested parties should consider submitting comments where applicable to potentially influence the final drafting and to gain additional clarity through Treasury's responses to the comments received.

Finally, because the existing Part 850 Regulations continue to govern transactions until the final Part 851 rules take effect, investors should continue to evaluate current transactions under the existing framework while monitoring the rulemaking process and considering engagement with Treasury, including through the new non-binding feedback process once available, for transactions implicating the expanded scope described above.

ANNEX 1

Semiconductors and Microelectronics	
Prohibited Under Current 31 CFR 850.224	Prohibited Under Proposed 31 CFR 851.226
<p>(a) Develops or produces any electronic design automation software for the design of integrated circuits or advanced packaging;</p> <p>(b) Develops or produces any:</p> <p>(1) Front-end semiconductor fabrication equipment designed for performing the volume fabrication of integrated circuits, including equipment used in the production stages from a blank wafer or substrate to a completed wafer or substrate (i.e., the integrated circuits are processed but they are still on the wafer or substrate);</p> <p>(2) Equipment for performing volume advanced packaging; or</p> <p>(3) Commodity, material, software, or technology designed exclusively for use in or with extreme ultraviolet lithography fabrication equipment.</p> <p>(c) Designs any integrated circuit that meets or exceeds the performance parameters in Export Control Classification Number 3A090.a in supplement No. 1 to 15 CFR part 774, or integrated circuits designed for operation at or below 4.5 Kelvin;</p> <p>(d) Fabricates any of the following:</p> <p>(1) Logic integrated circuits using a non-planar transistor architecture or with a production technology node of 16/14 nanometers or less, including fully depleted silicon-on-insulator (FDSOI) integrated circuits;</p> <p>(2) NOT-AND (NAND) memory integrated circuits with 128 layers or more;</p> <p>(3) Dynamic random-access memory (DRAM) integrated circuits using a technology node of 18 nanometer half-pitch or less;</p> <p>(4) Integrated circuits manufactured from a gallium-based compound semiconductor;</p> <p>(5) Integrated circuits using graphene transistors or carbon nanotubes; or</p> <p>(6) Integrated circuits designed for operation at or below 4.5 Kelvin;</p>	<p>(a) Development or production of any electronic design automation software for the design of integrated circuits or advanced packaging;</p> <p>(b) Development or production of any:</p> <p>(1) Front-end semiconductor fabrication equipment designed for performing the volume fabrication of integrated circuits, including equipment used in the production stages from a blank wafer or substrate to a completed wafer or substrate (i.e., the integrated circuits are processed but they are still on the wafer or substrate);</p> <p>(2) Equipment for performing volume advanced packaging; or</p> <p>(3) Commodity, material, software, or technology designed or intended for use in or with deep ultraviolet lithography fabrication equipment or extreme ultraviolet lithography fabrication equipment;</p> <p>(c) Design of any integrated circuit that meets or exceeds the performance parameters in Export Control Classification Number 3A090.a in supplement no. 1 to 15 CFR part 774, or any integrated circuit designed for operation at or below 4.5 Kelvin;</p> <p>(d) Fabrication of any:</p> <p>(1) Logic integrated circuit using a non-planar transistor architecture or with a production technology node of 16/14 nanometers or less, including any fully depleted silicon-on-insulator (FDSOI) integrated circuit;</p> <p>(2) NOT-AND (NAND) memory integrated circuit with 128 layers or more;</p> <p>(3) Dynamic random-access memory (DRAM) integrated circuit having:</p> <p>(i) A memory cell area of less than 0.0026 μm^2;</p> <p>(ii) A memory density greater than 0.20 gigabits per square millimeter; or</p> <p>(iii) More than 3000 through-silicon vias per die;</p> <p>(4) Integrated circuit using graphene transistors or carbon nanotubes; or</p> <p>(5) Integrated circuit designed for operation at or below 4.5 Kelvin;</p> <p>(e) Development or production of any:</p> <p>(1) Integrated circuit manufactured from silicon carbide or a gallium-based compound semiconductor, III-V compound semiconductor, or ultrawide bandgap semiconductor;</p>

(e) Packages any integrated circuit using advanced packaging techniques.	<p>(2) Integrated circuit designed to, or rated radiation hardened to, withstand any of the following:</p> <p>(i) A total dose of 5×10^3 Gy (Si), or higher;</p> <p>(ii) A dose rate upset of 5×10^6 Gy (Si)/s, or higher; or</p> <p>(iii) A fluence (integrated flux) of neutrons (1 MeV equivalent) of 5×10^{13} n/cm² or higher on silicon, or its equivalent for other materials; or</p> <p>(3) Photonic integrated circuit, including development of optical components, co-packaged optics, or silicon-photonics integration;</p> <p>(f) Packaging of any integrated circuit using advanced packaging techniques;</p> <p>(g) Development or production of high-bandwidth memory with a memory bandwidth density greater than 2 gigabytes per second per square millimeter.</p>
Notifiable Under Current 31 CFR 850.217	Notifiable Under Proposed 31 CFR 851.218
<p>(a) Designs any integrated circuit that is not described in § 850.224(c);</p> <p>(b) Fabricates any integrated circuit that is not described in § 850.224(d);</p> <p>(c) Packages any integrated circuit that is not described in § 850.224(e).</p>	<p>(a) Design of any integrated circuit that is not described in § 851.226(c);</p> <p>(b) Fabrication of any integrated circuit that is not described in § 851.226(d);</p> <p>(c) Development or production of any integrated circuit that is not described in § 851.226(e);</p> <p>(d) Packaging of any integrated circuit that is not described in § 851.226(f);</p> <p>(e) Development or production of equipment not described in § 851.226(b) that is designed or intended for use in the design, fabrication, or packaging of any integrated circuit.</p>

Quantum Information Technologies	
Prohibited Under Current 31 CFR 850 .224	Prohibited Under Proposed 31 CFR 851.226
<p>Develops a quantum computer or produces any of the critical components required to produce a quantum computer such as a dilution refrigerator or two-stage pulse tube cryocooler;</p> <p>(h) Develops or produces any quantum sensing platform designed for, or which the relevant covered foreign person intends to be used for, any military, government intelligence, or mass-surveillance end use;</p> <p>(i) Develops or produces any quantum network or quantum communication system designed for, or which the relevant covered foreign person intends to be used for:</p>	<p>Development of a quantum computer or production of any of the critical components required to produce or operate a quantum computer (such as a dilution refrigerator or two-stage pulse tube cryocooler), or development of software for the purpose of designing, simulating, testing, or controlling a quantum computer, or for identifying, implementing, costing, or optimizing algorithms and applications for a quantum computer;</p> <p>(j) Development of any algorithm or application for quantum information science technologies;</p> <p>(k) Development or production of any quantum sensing platform designed for, or that the relevant covered foreign person intends to be used for, any military, government intelligence, or mass-surveillance end use;</p> <p>(l) Development or production of any quantum network or quantum communication system designed for, or that the relevant covered foreign person intends to be used for:</p>

<p>(1) Networking to scale up the capabilities of quantum computers, such as for the purposes of breaking or compromising encryption;</p> <p>(2) Secure communications, such as quantum key distribution; or</p> <p>(3) Any other application that has any military, government intelligence, or mass-surveillance end use.</p>	<p>(1) Networking to scale up the capabilities of any quantum computer, such as for the purposes of breaking or compromising encryption;</p> <p>(2) Secure communications, such as quantum key distribution; or</p> <p>(3) Any other application that has any military, government intelligence, or mass-surveillance end use.</p>
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High-Performance Computing and Supercomputing	
Prohibited Under Current 31 CFR 850.224	Prohibited Under Proposed 31 CFR 851.226
<p>Develops, installs, sells, or produces any supercomputer enabled by advanced integrated circuits that can provide a theoretical compute capacity of 100 or more double-precision (64-bit) petaflops or 200 or more single-precision (32-bit) petaflops of processing power within a 41,600 cubic foot or smaller envelope.</p> <p>Not separately itemized in the current rule and currently covered as part of semiconductors and microelectronics.</p>	<p>Development, installation, sale, or production of any supercomputer enabled by advanced integrated circuits that can provide a theoretical compute capacity of 100 or more double-precision (64-bit) petaflops or 200 or more single-precision (32-bit) petaflops of processing power within a 41,600 cubic foot or smaller envelope, or components designed for enabling any of such capabilities of a supercomputer.</p>
Notifiable Under Current 31 CFR 850.217	Notifiable Under Proposed 31 CFR 851.118
Not applicable	<p>Development or production of high bandwidth, low latency interconnects for high-performance computing, including interconnects for system-on-chip, system-in-package, scale-up networks, and scale-out networks.</p>

White & Case LLP
701 Thirteenth Street, NW
Washington, District of Columbia 20005-3807
United States

T +1 202 626 3600

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