



Tyler McGaughey Discusses Treasury's Proposed Rule on Outbound Investments in China with *Foreign Investment Watch*

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Winston & Strawn partner Tyler McGaughey commented on a recent survey of venture capital firms, private equity firms, corporations, and institutional investors conducted by *Foreign Investment Watch* in the wake of a new rule proposed by the U.S. Department of Treasury that would regulate U.S. outbound investment in China relating to certain technologies and products that pose a “particularly acute” national security threat to the U.S. The survey revealed that the majority of venture capital firms believe they will not be impacted much by the rule, with only 16% of respondents saying they would be impacted “significantly.” Tyler noted that firms “appear to have already taken steps to minimize the impact of the regulations.”

“It’s intended to be tightly focused on investments in a narrow set of cutting-edge technologies that could have an impact on national security,” Tyler stated. “For investment firms that are not investing in those specific technologies, the outbound investment program shouldn’t have a large impact.”

Tyler remarked that because the outbound investment program likely won’t go into effect until sometime next year, “there’s a good chance that some firms have not studied the regulations yet.” He added that “you have to study the proposed definitions in the Advance Notice of Proposed Rulemaking (ANPRM) pretty carefully to fully appreciate how the outbound investment regime could apply even if the investor is not located in the U.S. and the target company is not located in China.”

He asserted that now is a good time to engage with Treasury and reflect on how definitions in the ANPRM could apply to their business activities, “and propose thoughtful solutions that would allow Treasury to address the national security concerns identified in the President’s Executive Order without unnecessarily curtailing their investment activities.”

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J. Tyler McGaughey