

## National Security Roundup

FEBRUARY 27, 2024

2024 is already shaping up to be a big year on the national security front. In less than two months, there have already been several notable national security developments. A federal appellate court granted a preliminary injunction preventing Florida from enforcing a new law that overlaps with the federal government's authority to monitor real estate transactions for national security risks. The White House published an updated list of critical and emerging technologies that are potentially significant to U.S. national security, and the U.S. Department of the Navy formed a new council to help counter adversarial foreign investments.

1. On February 1, 2024, the United States Court of Appeals for the Eleventh Circuit issued a preliminary injunction preventing the State of Florida from enforcing a new state statute that restricts certain foreign nationals from owning real estate.

- In 2023, Florida enacted SB 264 to restrict foreign nationals from certain “foreign countries of concern” from owning real estate near military installations and critical infrastructure. The law also prohibits Chinese nationals who are not U.S. permanent residents from owning any real property in the state.
- The Eleventh Circuit granted a preliminary injunction because it determined that the plaintiffs—Chinese individuals and entities—had shown a likelihood of success on the merits that the new Florida statute is preempted by federal law—specifically, the federal law that grants authority to the Committee on Foreign Investment in the United States (CFIUS) to review real estate transactions for national security risks. One judge wrote a concurring opinion noting that she believes the state law also violates the Equal Protection Clause.
- As other states adopt new laws in the national security arena, especially ones that overlap with CFIUS's authorities, we expect to see more legal challenges similar to the one currently being litigated in Florida. [The Eleventh Circuit's order granting the preliminary injunction can be found here.](#)

2. On February 12, 2024, the White House issued an updated list of critical and emerging technologies.

- The list was initially published two years ago to identify advanced technologies that are significant for national security. The updated list is largely the same as the initial list, with a few modifications.
- For example, the updated list now includes a category for “Positioning, Navigation, and Timing (PNT) Technologies,” highlighting the importance of these technologies to U.S. national security. The updated list also

merges two older categories into a new category called, “Clean Energy Generation and Storage,” reinforcing the Biden administration’s emphasis on energy transition technologies.

- Dealmakers who are interested in understanding which technologies are regarded as sensitive from a national security perspective should consult this list. Although the list is not published by CFIUS, several CFIUS member agencies participated in the process for publishing the updated list. Because of this, the list provides a good, high-level roadmap of the technologies that might trigger greater scrutiny from CFIUS. [The White House’s updated list of critical and emerging technologies can be found here.](#)

3. On February 22, 2024, the Secretary of the Navy announced the formation of the Maritime Economic Deterrence Executive Council (MEDEC).

- MEDEC brings together several commands that are already focused on countering adversarial economic activities and is aimed at synchronizing the department’s efforts in four areas: mitigating adversarial foreign investment risks, innovation and technology protection, supply chain integrity initiatives, and coordination and protection of research efforts.
- Although the new council does not have a formal role in CFIUS, it may serve to coordinate the U.S. Department of the Navy’s views on the national security risks posed by specific transactions relating to maritime power. Unfortunately for dealmakers, more bureaucracy likely means that transactions with the U.S. Department of the Navy’s equities will likely take longer to negotiate the CFIUS process. [A copy of the Secretary of the Navy’s speech announcing the formation of MEDEC can be found here.](#)

If you have any questions about these or any other national security developments, please reach out to the authors or your relationship partner.

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