

CFIUS Focuses on Chips, Lawyers Say; Expert Seeks Balanced US Approach to China

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The Committee on Foreign Investment in the U.S. is focused on sectors including semiconductors, monitoring Chinese firms that could try to evade recent stricter U.S. license restrictions on sales of chips and other technology to China and Huawei, trade lawyers said on a Crowell & Moring panel. Another expert called for a balanced U.S. approach to China, speaking on a podcast also released Tuesday. Adelia Cliffe of Crowell & Moring said CFIUS is increasing scrutiny in an attempt to catch Chinese investors that “may take advantage of vulnerable companies that have been affected by the pandemic.” Cliffe expects “a lot of scrutiny, particularly in the technology sector, for smaller emerging companies that may be desperate for capital during this time.” CFIUS also is taking a closer look at transactions involving personal information and customer data sets, said Caroline Brown, also of the law firm. “But semiconductors, as we know, are front and center,” she said. “It’d be surprising if any deal involving a semiconductor target would not receive scrutiny on the basis of its critical technology.” Increasingly stringent CFIUS reviews and tight export controls against China are expected to continue regardless of the outcome of the upcoming presidential election, said Maria Alejandra del-Cerro, also of Crowell & Moring. “We’ve seen bipartisan support for export controls on new commercial technology to China. We’ve seen Democratic leaders just as active and questioning the Commerce Department’s decision to issue certain export licenses ... for Huawei,” she said. “That pressure on China would continue.” CFIUS didn’t comment Wednesday. In Samm Sacks’ work on Chinese issues, she keeps in mind that there’s a paradox, she told the newly released Technology Policy Institute podcast. “How do we maintain the openness of the U.S. system” while “knowing that that openness has been exploited,” asked New America Cybersecurity Policy and China Digital Economy Fellow Sacks. “Are we putting those guardrails in the right places? And I would argue that we probably aren’t right now, but we need them.” She mentioned U.S. actions involving Huawei, chips and CFIUS investigating TikTok. TPI President Scott Wallsten called the latter company “a particularly fascinating case.” The Chinese platform, which didn’t comment now, “falls into all of these debates,” noted Wallsten, the podcast’s co-emcee. “On the other hand, it is providing direct competition to Facebook and Instagram and all of these companies that so many of the same people who are critical of China, those same people also worry about competition among big tech companies.”

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