

CLIENT ALERT

Identifying and Defining "Emerging Technologies" Subject to Control for Export and Foreign Investment

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On November 19, 2018, the Bureau of Industry and Security (BIS) published an [advance notice of proposed rulemaking](#) (ANPRM) seeking comments on implementation of Section 1758 of the Export Control Reform Act of 2018. This section requires Commerce, in consultation with DoD and other CFIUS member agencies, to define “emerging technologies” sufficiently significant to U.S. national security interests to impose some level of export controls over the technology and potentially to trigger mandatory declarations of any foreign investment in companies involved in the development and production of such technology. This ANPRM identifies certain broad categories of emerging technologies (largely consistent with technologies identified in the [2018 DIUx China Report](#)) and seeks recommendations on defining specific technologies within these categories or others to control considering such factors as on the status of the technology development in the U.S. and other countries and the potential impact – pro or con – of such controls on U.S. technological superiority. Comments are due by December 19, 2018; BIS will issue a separate ANPRM for “foundational technologies.”

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Alan W. H. Gourley

Partner – Washington, D.C.
Phone: +1 202.624.2561
Email: agourley@crowell.com

Maria Alejandra (Jana) del-Cerro

Partner – Washington, D.C.
Phone: +1 202.624.2843
Email: mdel-cerro@crowell.com

Adelicia R. Cliffe

Partner – Washington, D.C.
Phone: +1 202.624.2816
Email: acliffe@crowell.com