

CLIENT ALERT

Treasury CFIUS Pilot Program Overlaps with Made in China 2025 Sectors

Nov.08.2018

On October 10, Treasury announced interim regulations to implement certain provisions of the Foreign Investment Review Modernization Act (FIRRMA), which President Trump signed into law on August 13, 2018. As part of that announcement, Treasury will initiate a pilot program imposing mandatory declarations on transactions involving certain sensitive sectors. That pilot program is due to go into effect on November 10, 2018. For additional details on Treasury's interim rules and the mandatory declaration pilot program, please see our [client alert](#) from October 17.

Although updates to the CFIUS review process do not specifically target Chinese investment, the amount of government influence in China's outbound investment has figured heavily in the drafting of FIRRMA as well as in discussions of how Treasury will choose to implement FIRRMA.

China plays a large role in how the current Administration approaches trade and investment decision making, particularly when dealing with high-tech and advanced manufacturing sectors. China's industrial policy, Made in China 2025, is one of the primary issues cited by USTR's Section 301 investigation and [report](#), which then led to the current U.S. tariff regime with levies in place on roughly \$250 billion worth of Chinese imports.

After Treasury released its pilot program for mandatory declarations, including the list of 27 covered "pilot program industries," one of the questions for analysis that has emerged is to what extent those sectors intersect with Made in China 2025 priority industries. Figure 1 and Figure 2 below provide an indication of just how closely aligned they are.

[Figure 1.](#)

Figure 2.

Made in China 2025	Sections Covered by Interim CUSC Reg
New Information and Communications Technology (ICT) Industry	Electronic Computer Manufacturing (NAICS Code: 334111) Semiconductor Machinery Manufacturing (NAICS Code: 333342) Semiconductor and Related Device Manufacturing (NAICS Code: 334423) Computer Storage Device Manufacturing (NAICS Code: 334112) Telephone Apparatus Manufacturing (NAICS Code: 334210) Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing (NAICS Code: 334213)
Aerospace	Aircraft Manufacturing (NAICS Code: 336410) Aircraft Engine and Engine Parts Manufacturing (NAICS Code: 336412) Guided Missile and Space Vehicle Manufacturing (NAICS Code: 336414) Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Parts Manufacturing (NAICS Code: 336415) Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing (NAICS Code: 336419)
Electricity Equipment	Storage Battery Manufacturing (NAICS Code: 335911) Turbine and Turbine Generator Set Units Manufacturing (NAICS Code: 335912) Primary Battery Manufacturing (NAICS Code: 335913) Nuclear Electric Power Generation (NAICS Code: 221113) Power, Distribution, and Specialty Transformer Manufacturing (NAICS Code: 335211)
New Materials	Alumina Refining and Primary Aluminum Production (NAICS Code: 332123) Ball and Roller Bearing Manufacturing (NAICS Code: 332991) Other Basic Inorganic Chemical Manufacturing (NAICS Code: 282300) Secondary Smelting and Alloying of Aluminum (NAICS Code: 332314) Powder Metallurgy Part Manufacturing (NAICS Code: 332117)
Biopharmaceutical and High-Performance Medical Equipment	Research and Development in Biotechnology – except Nanotechnology (NAICS Code: 5417-14)
Ocean Engineering Equipment and High-Tech Ships	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing (NAICS Code: 344211)
Advanced Numerical Control Machine Tools and Robotics	
Energy Saving and Smart Vehicles	
Agriculture Equipment	
Rail Transportation Equipment	
	Research and Development in Nanotechnology (NAICS Code: 5417-13)
	Optical Instrument and Lens Manufacturing (NAICS Code: 333214)
	Petroleum Refining (NAICS Code: 332110)
	Military Armored Vehicle, Tank, and Tank Component Manufacturing Generation (NAICS Code: 336991)

*This table represents the "Made in China 2025" initiative.
<http://www.madeinchina2025.com/>



**Note: In developing the figures above, the CFIUS pilot program industries were matched with corresponding Made in China 2025 (MIC 2025) industries conceptually, based on where there is likely to be overlap. Because the MIC 2025 categories are broader, in reality China's industrial policy may or may not include the specific products covered by the NAICS code listed in the CFIUS regulation. There could also be alignments between some CFIUS-referenced sectors and MIC 2025 industries that are not noted here.*

C&M International LLC and Crowell & Moring LLP are tracking these rulemaking developments out of Treasury as they relate to new investment regulations and trade disputes through our regulatory work with government officials in both countries.

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

Robert Holleyman

Partner and C&M International President & CEO – Washington, D.C.

Phone: +1 202.624.2505

Email: rholleyman@crowell.com

Alan W. H. Gourley

Partner – Washington, D.C.

Phone: +1 202.624.2561

Email: agourley@crowell.com

Adelicia R. Cliffe

Partner – Washington, D.C.

Phone: +1 202.624.2816

Email: acliffe@crowell.com

Evan Yu

C&M International Senior Consultant – Washington, D.C.

Phone: +1 202.508.8846

Email: eyu@crowell.com