

# China's First Overarching Outbound Investment Regulation: What Foreign Companies Need to Know

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The Regulations of the State Council on Outbound Investment (Order No. 837 of the State Council of the People's Republic of China, hereinafter referred to as the “**Outbound Investment Regulations**”), China's first overarching administrative regulation governing outbound investment, were promulgated by the State Council of the PRC on May 5, 2026, and took effect on July 1, 2026. Initially, the national security review under the Outbound Investment Regulations will be jointly led by the National Development and Reform Commission (the State Council's investment authority) and the Ministry of Commerce (the State Council's commerce authority), together with other relevant State Council departments on a case-by-case basis. Amid the deepening trend of Chinese enterprises expanding globally, the Outbound Investment Regulations systematically restructure China's regulatory framework for outbound investment services, regulatory oversight and overseas rights protection. They place particular focus on the national security review system, while upgrading and consolidating previously fragmented departmental rules into a unified, high-level administrative regulatory framework.

While the core legislative objective of the Outbound Investment Regulations is to regulate outbound investment activities of Chinese entities, the security review rules, compliance requirements and investment guidance it establishes will directly shape the approval timelines, cooperation models and compliance boundaries of Chinese outbound investment projects. If the Outbound Investment Regulations mandated approvals are not obtained or the review procedure was not attempted, the transaction could be unwound post-closing. Therefore, these changes are highly relevant to all U.S. enterprises engaging in mergers and acquisitions, joint ventures, industrial cooperation, licensing agreements and commercial transactions with Chinese investors or transactions related to overseas assets held by Chinese entities. A solid understanding of the core institutional changes prompted by the Outbound Investment Regulations is a necessary precondition for foreign counterparties dealing with Chinese entities outside of China to assess project compliance risks, forecast transaction progress and build stable cooperative relationships.

## Key Takeaways

- *Parallel inbound and outbound national security review:* China already reviews foreign investment into China that may affect national security. The Outbound Investment Regulations establish a unified, comparable regulatory review framework for Chinese outbound investment and codify the national security review mechanism for overseas investment in administrative regulations at the state level, thereby reinforcing the legal foundation for outbound investment security reviews.
- *Expanded full-chain regulatory coverage:* The review covers outbound investments by all investment entities, including domestic enterprises, domestic organizations and, for the first time, individual residents of China. It also spans the entire life cycle of an investment – from initial investment through asset and interest disposal – so all future sales or disposals of overseas assets by Chinese companies would be under the purview of the Outbound

Investment Regulations. In addition, the scope of transaction potentially covered is also very expansive and would include any material technology licenses of technologies held by Chinese enterprises overseas.

- *No established standard for national security concerns yet:* At present, there are no specific definitions or unified guidance for determining which categories of outbound investment may give rise to “national security concerns” and therefore subject to the Outbound Investment Regulations. Transactions involving sensitive sectors, including the defense industry, semiconductors and artificial intelligence, as well as sectors subject to existing export control regimes, generally would warrant heightened scrutiny. In practice, the competent review authorities under the Outbound Investment Regulations are expected to make determinations on national security concerns on a case-by-case basis.
- *Strengthened penalties for violations:* For noncompliant investments that endanger national security, regulators may order suspension of investment activities and asset disposal within a specified timeframe, alongside a one- to three-year prohibition on outbound investment. Liability may also be extended to relevant “persons-in-charge” and “directly responsible personnel.”
- *Elevated cross-border M&A compliance requirements:* When Chinese domestic entities or natural persons acquire, sell or otherwise transact in foreign entities or assets, foreign sellers must assess the obligations under the Chinese party’s outbound security reviews and verify the compliance procedures of cross-border investments to avoid the regulatory risks of the deal being unwound after closing.

## **I. Expanded Regulatory Coverage: A Full Life Cycle Governance System**

The Outbound Investment Regulations significantly broaden the boundaries of security review regulation across two dimensions: the entities subject to the Outbound Investment Regulations and the stages of outbound investment they cover, addressing gaps in previous rules and enabling end-to-end management of outbound investment national security risks.

### **1. Expanded coverage of applicable entities**

Pursuant to Article 2 of the Outbound Investment Regulations, entities subject to outbound investment regulation (and thus potentially within the scope of security review) include all enterprises, organizations and individual residents domiciled in China. Whereas previous departmental rules primarily focused on corporate entities, this legislation formally brings the outbound investment activities of domestic individual residents under the security regulatory framework as well, achieving full coverage of all forms of outbound investments.

### **2. Full life cycle governance of investment activities**

Article 15 of the Outbound Investment Regulations explicitly brings “the transfer and disposal of outbound investments and related assets and interests” within the security review scope, breaking the prior limitation of regulating only pre-investment entry steps such as new setups and acquisitions. This means security review applies across the full investment life cycle — from establishment and operational restructuring to asset disposal — effectively preventing investors from evading national security regulation scrutiny through offshore asset divestments, equity restructuring or interest transfers. For example, if a Chinese company previously acquired a U.S. technology business and later proposes to transfer that U.S. subsidiary’s equity, IP, data assets or key business line to another offshore vehicle or strategic partner, that later restructuring or disposal

will be subject to the Outbound Investment Regulations, even though the original acquisition was completed before the Outbound Investment Regulations were put in place. For U.S. counterparties, a key practical risk lies in transactions with Chinese counterparties or JV partners related to assets that are outside of China. Such deals may be held up, subject to additional conditions or even reversed should the Chinese party skip its obligatory national security review.

## **II. Upgraded Legal Liabilities and Penalties: Strengthened Regulatory Enforcement**

Article 27 and Article 28 of the Outbound Investment Regulations set out a comprehensive legal liability regime covering violations in prohibited investment sectors, approval and filing irregularities and breaches of security review obligations. The Outbound Investment Regulations should not be read as automatically reopening every Chinese outbound investment completed before July 1, 2026. However, legacy investments can still become relevant if, after the Outbound Investment Regulations take effect, a Chinese investor restructures, transfers, reinvests or disposes of previously completed outbound investment assets or interests.

### **1. Tiered penalty system for violations**

Article 27 sets out targeted penalties for investments in state-prohibited sectors and breaches of approval and filing requirements, complementing the security review-specific liability rules under Article 28 to form a complete enforcement framework. Article 28 sets out tiered penalties for breaches of security review obligations.

For U.S. companies, these penalty rules matter less because the U.S. counterparty itself is unlikely to be the direct target of Chinese outbound investment penalties. However, the remedy for violations of the Outbound Investment Regulation can disrupt the transaction itself. If regulators conclude that a Chinese party's outbound investment violates the Outbound Investment Regulations or endangers national security, they may require suspension, divestment or disposal of relevant shares or assets. That creates a practical risk that a signed or even closed transaction could be delayed, restructured or unwound.

### **2. Personal liability attribution mechanism**

In general, the formal outbound investment filing and review obligations principally fall on the Chinese investor and other Chinese organizations or individuals subject to the Regulations, rather than on the U.S. counterparty as such. However, a U.S. party may still be affected in practice because regulators may request information about the target, assets, technology, data or transaction structure, and the Chinese party's inability to obtain clearance can delay closing or require changes to the deal terms. If the U.S. party has a China affiliate, personnel in China or actively participates in submissions to Chinese regulators, it should also take care to ensure that any information provided through the Chinese counterparty is complete and accurate.

## **III. Compliance Reminders for Foreign Companies: Security Review Risks and Practical Guidelines for Cross-Border M&A**

Although the Outbound Investment Regulations directly regulate outbound investment by Chinese domestic entities, in transactions involving Chinese investors — including cross-border M&A, joint venture formations and asset acquisitions — the compliance obligations of the Chinese party directly impact the legal validity, closing timeline and commercial stability of the deal. For foreign companies, it is necessary to conduct due diligence with respect to China's outbound investment

regulatory rules to avoid transaction delays, invalidation or material commercial losses arising from compliance failures on the Chinese side.

## **1. Pre-transaction due diligence: Verification of Chinese investor involvement, particularly in sensitive industries**

Foreign companies should make sure to verify the Chinese counterparty's compliance, or plans to comply with, the Outbound Investment Regulations in early due diligence, as this would affect transaction assessment and deal structuring.

For transactions in sensitive sectors such as artificial intelligence, semiconductors, quantum information and critical data processing, foreign parties must confirm that the Chinese investor has obtained (or has a clear path to obtain) all required regulatory approvals, specifically including the approvals under the Outbound Investment Regulations, for the transaction to manage deal certainty risks.

## **2. Investments that may involve national security: Build approval into transaction timeline and negotiate risk allocation**

Under the independent security review system established by Article 15, outbound investments that affect or may affect national security may only proceed after completion of the review. Foreign enterprises should build corresponding safeguards into transaction timelines and negotiate clear risk allocation and indemnification obligations in the transaction documents.

The completion of outbound investment security review and project approval/filing should be a closing condition. Sufficient time for review and approval should be allocated in the transaction schedule. The Chinese party should be required to provide comprehensive representations and warranties and covenants regarding the compliance under the Outbound Investment Regulations, including confirmation that all approval and filing procedures have been lawfully completed, that no ongoing or potential security review investigations exist and that no export control or data security rules have been breached.

## **Conclusion**

The Outbound Investment Regulations mark a key step in the standardization of China's outbound investment governance, balancing strengthened national security oversight with greater rule transparency for cross-border transactions. For foreign companies transacting with Chinese investors outside of China, prioritizing pre-deal compliance due diligence and embedding clear risk allocation provisions related to these Outbound Investment Regulations into transaction agreements will help effectively manage regulatory risks and support the steady progress of cross-border transactions.

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