

Davis Polk Client Memorandum: United States Bans Certain Investments by U.S. Persons in Companies Linked to the Chinese Military

By [John B. Reynolds](#), [Will Schisa](#), [Jane Faulkner](#), [James C. Lin](#), [Martin Rogers](#), [Joyce Chow](#), [Joshua Friedman](#) & [Yuan Zheng](#) on November 18, 2020

POSTED IN [ECONOMIC SANCTIONS](#), [EXECUTIVE ORDER](#)

On November 12, 2020 President Trump issued a new [Executive Order](#), “Executive Order on Addressing the Threat from the Securities Investments that Finance Communist Chinese Military Companies” (the “November 12 E.O.”) which bans, as of January 11, 2021, certain transactions by any United States person in publicly traded securities of entities determined to be associated with the Chinese military and listed in the Annex to the November 12 E.O. (“Communist Chinese military companies”). Transactions in derivatives of the Communist Chinese military companies’ securities or in securities “designed to provide investment exposure to” such companies’ securities are also prohibited. The November 12 E.O. does, however, permit sales and purchases of covered securities for the purpose of divestment until November 11, 2021. Although issued under the authority of the International Emergency Economic Powers Act (“IEEPA”) and drafted for implementation by the Treasury Department, the November 12 E.O. is unlike typical IEEPA-based sanctions programs in several respects, leaving important questions of scope to be clarified by agency regulations, guidance, FAQs or follow-up executive orders.

Our [client memo](#) provides an overview of the November 12 E.O.