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## New Regulations on Overseas Investments

On May 5, 2026 PRC State Council promulgated the *Regulations of the State Council on Overseas Investment* (the “**New ODI Regulation**”), adding a key piece of state regulation on Chinese<sup>1</sup> overseas investments<sup>2</sup> (“**ODI**”). While preserving the stability of the existing regulatory ODI framework, the New ODI Regulation fills regulatory gaps and formally integrates recent PRC regulatory priorities, particularly, national security review, export controls, data compliance, and countermeasures against foreign discriminatory measures, into the ODI regime. Although the New ODI Regulation contains multiple updates, this newsletter focuses on the two issues most likely to affect Chinese investments in Europe.

### Chinese ODI Transactions May Require Additional Approvals

#### A. The Previously Existing Approval Requirements

Prior to the introduction of the New ODI Regulation, China’s ODI process largely depended on a mix of approvals and filings/registrations with three sets of regulators:

1. **NDRC/local counterparts** under the 2017 *Administrative Measures on Overseas Investment by Enterprises*;
2. **MOFCOM/local counterparts** under the 2014 *Administrative Measures on Overseas Investment*; and
3. **SAFE/banks** under the 2009 *Regulations on Foreign Exchange Administration for Direct Overseas Investment by Domestic Institutions* and related rules

All the above rules, collectively the “**Previously Existing Approval Requirements**” focused mainly on whether an ODI transaction aligns with China’s industrial policy (including whether it involves sensitive countries/industries<sup>3</sup>).

#### B. Technology Exports Approval

With the New ODI Regulation taking effect on July 1, 2026, to complete an overseas investment, in addition to completing the previously required approvals/record-filings under the Previously Existing Approval Requirements, it must also be assessed whether the transaction would violate China’s technology export control policies. The New ODI Regulation set forth that Chinese investors, in the course of their overseas investments, shall not export or use goods, technologies, services, and related data whose exports are prohibited or restricted (unless a license has been obtained). It also explicitly prohibits the transfer of such goods, technologies, services,

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<sup>1</sup> Applicable only to investors (including individuals and companies) within the territory of the PRC (excluding Hong Kong SAR, Macau SAR and Taiwan).

<sup>2</sup> Including direct or indirect acquisitions of ownership, control, operational management rights, or other related interests in companies, assets, or the like in countries (regions) outside of the PRC, regardless of whether by contributing assets, equity, or by providing financing or guarantees or otherwise.

<sup>3</sup> Weapons and military equipment, cross-border development and utilization of water resources, news and media, real estate, hotels, movie theatres, entertainment industry, sports clubs and equity investment funds.

and related data to foreign countries through means such as:

- cross-border dispatch of technical personnel;
- relocating personnel abroad;
- providing cross-border technical guidance; and
- arranging cross-border trainings.

While China has long regulated technology imports/exports, ODI enforcement historically paid less attention to this area. The New ODI Regulation reflects the concern that certain ODI structures can effectively function as technology transfers (e.g., through personnel deployment and related know-how/data flows). As a result, early-stage screening for potential transfer of export-controlled assets (including sensitive data) is becoming critical.

### C. ODI National Security Review

The New ODI Regulation also introduces a policy-level mechanism extending national security review to ODI transactions. The PRC position is that certain overseas activities, such as cross-border movement of sensitive technologies or the disposition of strategic overseas assets, may affect national security. Unlike the prior framework (which largely focused on foreign investment into China, not ODI by China into other countries), the New ODI Regulation requires competent authorities to conduct national security reviews of:

- overseas investments; and
- transfers or dispositions of overseas assets and interests that affect (or may affect) China's national security.

Detailed procedures are expected to be issued later.

### **Countermeasures Against Foreign Restrictions to Protect Chinese Investors' Interests**

The New ODI Regulation also establishes mechanisms for the protection of Chinese investors' rights and interests in their overseas investments and introduces countermeasures against discriminatory restrictions on overseas investments by Chinese investors that have become increasingly prevalent in recent years.

It states that, in cases where foreign countries (regions) or international organizations impose discriminatory prohibitions, restrictions, or other similar measures against China in violation of international law and the basic norms of international relations, the Chinese government may take measures to protect the rights and interests of the Chinese investors and their overseas investments. It also clarifies that countermeasures against such discriminatory restrictions may be implemented in accordance with the *Anti-foreign Sanctions Law* and its supporting regulations, specifically, foreign organizations and individuals directly or indirectly involved in formulating, deciding, or implementing relevant discriminatory measures may be placed on the countermeasure list, thereby subjecting them to corresponding countermeasures<sup>4</sup>.

Building on this, and taking into account the characteristics of ODI transactions, the New ODI Regulation further expands the scope of persons subject to countermeasures to include any foreign entity or individual (including any entity under their control or in which they participate in the establishment or operation) that:

- i. disrupts normal transactions with Chinese companies, other organizations, or individuals in violation of

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<sup>4</sup> E.g. denial of entry or deportation, confiscation of assets in China, prohibition of transactions involving China, prohibition of investment in China, fines, etc.

normal market transaction principles;

- ii. adopts discriminatory measures against Chinese investors and their investments; or
- iii. unreasonably deprives or restricts rights and interests of Chinese investors and their investments.

Because the New ODI Regulation can “pierce” through to controlled entities (including subsidiaries operating in China), the impact may extend well beyond a single project or transaction. For heavily China-linked multinationals, consequences could affect broader business operations in China.

Potential countermeasures include (depending on the situation) restrictions or prohibitions on:

- import/export, investment, trade, and cooperation with China;
- entry of individuals/products/vehicles; and
- work, stay, or residence status in China.

### **Link to ODI National Security Review**

Importantly, the national security review mechanism applies not only to overseas investments but also to dispositions of Chinese-owned overseas assets. Therefore, if Chinese investors face divestment or asset disposition orders by foreign governments (a trend seen in recent years), those dispositions may be subject to prior PRC national security review, increasing risks for any party involved in acquiring such assets/investments.

### **Concluding Remarks**

Following the implementation of the New ODI Regulation, when executing Chinese investments in Europe, technology exports and national security reviews should be factored into early-stage assessments by the parties and their advisors in order to increase transaction certainty and avoid wasting resources and, when participating in the implementation of restrictive measures against Chinese investments, European businesses should fully consider and assess the potential economic impact of China’s countermeasures. The Chinese government is expected to issue further implementing regulations, and we will continue to monitor any development.

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