



## RISK ALERT

DIVISION OF EXAMINATIONS

January 6, 2021

### Executive Order on Securities Investments that Finance Communist Chinese Military Companies

The Division of Examinations (“Division”)<sup>1</sup> is issuing this Risk Alert to notify investment advisers, broker-dealers, and other market participants of a recent action relating to investments in securities associated with Communist Chinese military companies, as well as investors transacting in such securities.

On November 12, 2020, President Trump signed Executive Order 13959, “Addressing the Threat from Securities Investments that Finance Communist Chinese Military Companies” (the “EO”).<sup>2</sup> The EO states that beginning on **January 11, 2021 at 9:30 a.m. EST**, U.S. persons, which includes both individuals and entities, will be prohibited from transacting in certain securities and derivatives of Communist China military companies (“CCMCs”), unless such transactions are for purposes of divestment and occur through **November 11, 2021**.<sup>3</sup> The Treasury Department’s Office Foreign Asset Control (“OFAC”)<sup>4</sup> has published guidance concerning the EO on several occasions, available here: <https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions>.

We encourage firms to review and assess the impact of the EO, for their own investments as well as on behalf of investors and clients, and to evaluate their related processes. We also encourage firms to continue to review OFAC’s website for additional guidance.

Finally, we are always interested in hearing more about new and emerging risk areas and products as well as how the Division can be more effective in its mission. Our contact information can be found at: <https://www.sec.gov/contact-information/sec-directory>. Please

---

<sup>1</sup> The views expressed herein are those of the staff of the Division. This Risk Alert is not a rule, regulation, or statement of the Securities and Exchange Commission (the “SEC” or the “Commission”). The Commission has neither approved nor disapproved the content of this Risk Alert. This Risk Alert has no legal force or effect: it does not alter or amend applicable law, and it creates no new or additional obligations for any person. This document was prepared by Division staff and is not legal advice.

<sup>2</sup> <https://www.whitehouse.gov/presidential-actions/executive-order-addressing-threat-securities-investments-finance-communist-chinese-military-companies>; 85 Fed. Reg. 73185 (Nov. 17, 2020).

<sup>3</sup> “Examples of financial instruments covered by this provision include, but are not limited to, derivatives (e.g., futures, options, swaps), warrants, American depository receipts (ADRs), global depository receipts (GDRs), exchange-traded funds (ETFs), index funds, and mutual funds, to the extent such instruments also meet the definition of ‘security’ as defined in section 4(d) of E.O. 13959.” Office of Foreign Assets Control of the U.S. Department of Treasury, Frequently Asked Question 860 (Dec. 28, 2020). <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/860>.

<sup>4</sup> OFAC administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals. <https://home.treasury.gov/policyissues/office-of-foreign-assets-control-sanctions-programs-and-information>.

engage with our staff. If you suspect or observe activity that may violate the federal securities laws or otherwise operates to harm investors, please notify SEC staff at <https://www.sec.gov/tcr>.

---

*This Risk Alert is intended to highlight for firms risks and issues that Division staff has identified. In addition, this Risk Alert describes risks that firms may consider to (i) assess their supervisory, compliance, and/or other risk management systems related to these risks, and (ii) make any changes, as may be appropriate, to address or strengthen such systems. Other risks besides those described in this Risk Alert may be appropriate to consider, and some issues discussed in this Risk Alert may not be relevant to a particular firm's business. The adequacy of supervisory, compliance and other risk management systems can be determined only with reference to the profile of each specific firm and other facts and circumstances.*

---