



News & Types: Client Advisories

U.S. Begins Process of Banning Huawei

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President Trump's May 15, 2019 executive order entitled "Securing the Information and Communications Technology and Services Supply Chain," bans the acquisition, sale, importation, or installation of communications technology (or service) if the communications technology was designed, developed, manufactured, or supplied by anyone owned, controlled, or under the jurisdiction of a "foreign adversary." Commentators have suggested that this latest executive order is aimed squarely at Chinese telecommunications giant Huawei. No regulation or order has been proposed yet with any specific targets named. We should not expect any new regulations for another 60 days. However, on the same day the President signed the executive order, the U.S. Department of Commerce placed Huawei and 70 affiliates on its Entity List, effectively banning sales by U.S. businesses to Huawei unless a business can somehow convince the Commerce Department to issue a license for the sale.

Prudent businesses have been advised since August 2018 to be cautious about relations with Huawei and ZTE. At that time, Congress passed a law banning the purchase of Huawei or ZTE equipment by any federal government agency. In roughly the same timeframe, the governments of Australia, New Zealand, Japan, and Taiwan have banned the use of Huawei in their wireless networks. At the start of this week, while the British government continued to mull over its proposal for a limited ban on Huawei equipment, Huawei's owner promised to sign "no spy" agreements with various governments. The British government's concerns stem from two studies this year concluding that the integrity of Huawei's equipment could no longer be guaranteed. Denmark, Sweden, and the Netherlands continue to also consider limits on the use of Huawei, after France and Germany determined that they would increase scrutiny of Huawei equipment. Huawei's compatriot, ZTE, has been banned in Japan, and Australia, with bans being considered in Germany and Canada.

Chinese commentators link the bans on Chinese telecoms giants to the U.S. / China trade war. However, the international press has published numerous comments from serving and former intelligence officers from several countries raising serious concerns over reliance on Chinese telecoms equipment. This, together with reports from national legislatures raising similar concerns demonstrates that policymakers do not consider the security issue to be linked to the raising of import tariffs between the U.S. and China. Accordingly, businesses are well advised to continue to be cautious about dealings with Huawei and ZTE, regardless of the outcome of U.S. / China trade negotiations.