

ALERT

Congress Advances Legislation Targeting U.S.-China Competition and High-Tech Investment

April 26, 2021

On April 21, 2021, Congress took action on two bills aimed at strengthening U.S. competitiveness vis-à-vis the People's Republic of China (PRC or China). First, the Senate Foreign Relations Committee voted to advance the Strategic Competition Act of 2021. Second, Senators Chuck Schumer (D-NY) and Todd Young (R-IN), along with Representatives Ro Khanna (D-CA) and Mike Gallagher (R-WI), introduced the Endless Frontier Act. These bills are part of a broader wave of legislative action in Congress responding to Chinese policies that the U.S. government recognizes as posing threats to U.S. national and economic security.

The 281-page Strategic Competition Act presents findings that "the PRC has chosen to pursue state-led, mercantilist economic policies, an increasingly authoritarian governance model . . . and an aggressive and assertive foreign policy." In response, the bill targets an array of notable economic and geopolitical priorities for the U.S. Government, including:

- Promoting supply chain diversification by authorizing the U.S. Departments of State and Commerce (DOS and DOC) to establish a program to assist U.S. companies in relocating production facilities outside of China, diversifying input procurement using non-Chinese sources, and augmenting tools to identify non-Chinese alternatives for production and sourcing. The program would prioritize assistance to micro-, small-, and medium-sized enterprises.
- Expanding the review of foreign direct investments in the United States by the Committee on Foreign Investment in the United States (CFIUS) to include certain foreign gifts to U.S.

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Practice Areas

CHIPS and Science Act
Committee on Foreign Investment in the United States (CFIUS)
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universities in excess of \$1 million or related to research, development, or production of critical technologies.

- Expanding cooperation with U.S. allies on export control policies through the establishment of a Technology Partnership Office at the Department of State. The office would complement and expand the multilateral export control process currently in place by increasing oversight of technology coordination efforts including with respect to export controls and supply chain resiliency and diversification of critical technologies.

The 160-page Endless Frontier Act targets domestic U.S. technology competitiveness, noting that “[t]he Federal Government must catalyze United States innovation by boosting research investments focused on discovering, creating, commercializing, and demonstrating new technologies and manufacturing those technologies domestically” The bill identifies an initial list of ten key emerging and foundational technologies, including artificial intelligence, semiconductors, robotics, disaster prevention, advanced communications, biotechnology, cybersecurity, batteries, and advanced materials. To support U.S. competitiveness in these sectors, the bill does the following:

- Establishes a Directorate for Technology and Innovation within the National Science Foundation and authorizes \$100 billion over five years for the Directorate to pursue research, commercialization, and innovation in technology sectors of geostrategic significance.
- Authorizes \$10 billion over five years for the Department of Commerce to designate 10 or more “regional technology hubs.”
- Establishes a Supply Chain Resiliency and Crisis Response Program within the Department of Commerce to monitor supply chains, identify vulnerabilities, and make investments to diversify supply chains for products that are critical to U.S. national security.

The Senate and House of Representatives continue to develop aggressive legislative responses to address the United States’ strategic competition with China in the areas of national and economic security. These ongoing efforts build on previous actions to address vulnerabilities created by China’s “military-civil fusion” strategy and the growing threats posed by the country’s sizeable military apparatus. The extent to which U.S. investments and technologies may be vulnerable to or inadvertently used to advance China’s military activities has motivated other recent legislative efforts to regulate certain transactions and to safeguard critical U.S. supply chains from significant disruptions by high-threat actors. This includes the Foreign Investment Risk Review Modernization Act of 2018, which expands reviews of specific foreign direct investments in the United States for national security risks including supply chain risks; the Export Control Reform Act of 2018, which establishes, in part, enhanced export controls on emerging and foundational technologies; and the Creating Helpful Incentives to Produce Semiconductors for America Act (CHIPS for America Act) in the 2021 National Defense Authorization Act (NDAA), which authorizes support for establishing safe and secure supply chains for semiconductors and other microelectronics.

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