

China Enforcement Task Force

A multi-disciplinary team

For more information,
please contact:



Robert J. Cleary, Partner
+1.212.969.3340
rjcleary@proskauer.com



Yuval Tal, Partner
+852.3410.8008
ytal@proskauer.com

Proskauer's China Enforcement Task Force is comprised of a multi-disciplinary team of lawyers dedicated to assisting clients impacted by, or at risk from, the enforcement efforts of the U.S. Department of Justice (DOJ) targeting companies and individuals based in China or conducting business there. Our members have particular expertise in the following focal points of the DOJ's China-directed prosecution initiative.

Trade Secret Theft

Proskauer's China Enforcement Task Force includes lawyers who have decades of experience working on trade secret matters across a wide range of disciplines and business sectors. Our trade secret lawyers are pioneers in the field who have collectively litigated hundreds of cases, both civil and criminal, in federal and state courts in the United States and the United Kingdom, as well as in international and domestic arbitrations. Their market-leading experience has proven invaluable to numerous clients in efficiently and successfully resolving trade secret disputes and fending off accusations of trade secret theft.

As many of our trade secret lawyers' representations involve cross-border elements, including in Hong Kong and Mainland China, they apply vast experience and knowledge to the unique set of challenges that foreign companies and individuals face in trade secret matters.

Computer Intrusions and Hacking

The cybersecurity lawyers on Proskauer's China Enforcement Task Force are internationally recognized leaders in that field. They have specialized in this area for more than twenty years, as far back as the discipline has existed, and they have assisted clients in virtually every industry, worldwide. Our Task Force's cybersecurity lawyers have handled substantial hacking cases over the years, including complex intrusions into both on-premises networks and cloud-hosted environments. This talented team includes lawyers with deep technical expertise, including a litigator with an electrical engineering degree.

In addition to their extensive experience in this substantive field, our cybersecurity lawyers regularly interface with U.S. law enforcement and regulators, including the DOJ, the FBI, the Cybersecurity & Infrastructure Security Agency, the Federal Communications Commission, and the Federal Trade Commission. They draw on their well-developed understanding of the key concerns and priorities of these government agencies to successfully lead clients through investigative and prosecutorial matters.

Our cybersecurity lawyers also use their technical backgrounds, coupled with their litigator instincts and experience, to challenge and defeat theories created by technical experts, law enforcement, and regulators, to expose inconsistencies and omissions in the evidence, to establish that the evidence is insufficient to allow a complete re-creation of events, and to propose plausible alternative theories.

Economic Espionage

Our Task Force's white collar lawyers have an extraordinary depth of experience in the area of economic espionage. Economic espionage is the unlawful targeting or acquisition of (i) sensitive financial, trade or economic policy information, (ii) proprietary economic information, or (iii) technological information. The DOJ as well as the FBI and other U.S. law enforcement agencies have made the investigation and prosecution of economic espionage a top priority, and that enforcement effort is a centerpiece of the DOJ China Initiative. As such, foreign entities and individuals are at risk of being ensnared in U.S.-based investigations and prosecutions targeting such conduct.

The white collar lawyers on our Task Force include former U.S. federal prosecutors and officials, a number of whom have investigated and prosecuted economic espionage cases as government lawyers. These white collar specialists use firsthand knowledge of how government agencies conduct investigations and prosecutions of economic espionage to assist our clients in navigating those processes successfully.

Sanctions Violations

Proskauer's China Enforcement Task Force includes lawyers who offer strategic insights and solutions to clients on the application of global sanctions, export controls, and national security regulations. One of them is a former chief of the criminal litigation unit of the DOJ that investigates and prosecutes sanctions enforcement cases.

In the United States, several federal agencies administer and enforce an interrelated set of regulations that fall at the intersection between foreign policy and national security. Violations of these regulations can trigger serious consequences, including criminal and civil liability, monetary penalties, and administrative sanctions, including the loss of export privileges. In addition, the U.S. Treasury Department's Office of Foreign Assets Control (OFAC) administers regulations that prohibit transactions with targeted countries, entities and individuals. OFAC sanctions impact all kinds of business relationships and dealings around the world, including international investment decisions, merger and acquisition activity, and other financial transactions. These regulations are being increasingly used in the DOJ China Initiative.

Our lawyers have the knowledge, experience, and global footprint to handle the wide array of sanctions and export control matters involving these agencies. Their practice includes forward-looking compliance advice and enforcement defense for institutional and individual clients.

FCPA Violations

Over the past decade, the Foreign Corrupt Practices Act (FCPA) has been aggressively enforced by U.S. prosecutors and regulators. It is now a key part of the arsenal used in the DOJ China Initiative, focusing especially on Chinese companies with a “footprint” in the United States, including those listed on the U.S. stock exchanges.

The white collar lawyers on Proskauer’s China Enforcement Task Force have successfully represented numerous clients in investigations and prosecutions of FCPA violations, including in what was at the time the largest FCPA case ever prosecuted. In addition to conducting FCPA internal investigations around the globe, our FCPA practitioners routinely represent clients – including companies that operate in China – in investigations and enforcement proceedings before the DOJ and the Securities and Exchange Commission. They also regularly advise clients on all relevant aspects of FCPA compliance programs.

CFIUS Violations

On January 13, 2020, the U.S. Department of Treasury issued final regulations implementing most of the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA). These rules, which are already being used in the DOJ China Initiative, introduce significant changes to the law governing reviews of investments by foreign persons in U.S. companies and assets. The Committee on Foreign Investment in the United States (CFIUS) now has the authority to block transactions or to cause acquirers to divest of their investments post-closing. It also has the power to impose restrictions or conditions on investments. The new rules are expected to lead to enforcement actions in situations that were not traditionally viewed as being subject to CFIUS review. Indeed, recent enforcement decisions resulted in the unwinding of an acquisition by Chinese companies of a dating app and a healthcare startup, as well as an investment in a cybersecurity business, due to the involvement of certain Russian investors. Further, on March 6, 2020, President Trump issued an executive order requiring a publicly traded Chinese company to divest of its 2018 acquisition of a U.S.-based hotel management software company.

Proskauer’s China Enforcement Task Force has extensive experience advising foreign investors of all kinds – including companies, individuals, sovereign funds, and private equity and hedge funds – in all types of investments. Our work has entailed not only interface with the CFIUS staff, but also guidance on structuring transactions so as to maintain and ensure U.S. control in compliance with CFIUS, assessment of general compliance with CFIUS requirements, advice in determining whether to file with CFIUS, and the drafting and submission of filings with CFIUS.