
# China Business Weekly

25 June 2019

## ACTIVITIES SUPPORTED BY FCCC

### FIT: Princely mission to China – 16 to 22 November 2019

China is one of the largest economies in the world and the second-largest importer. It is also one of the biggest countries with an enormous consumer market: the number of people in China's middle class is increasing yearly. It is Flanders' 10$^{th}$ export destination and the third outside Europe.

China's economic development involves technical-scientific progress and innovations. At the same time, China faces big challenges in the fields of environment, energy, transport, health and foodstuffs.

Discover this exiting market during an economic mission from 16 to 22 November 2019, headed by HRH Princess Astrid.

**On the program:**

- **Beijing**: the political center of China and **Shanghai**, China's commercial heart.
- As an option, Flanders Investment & Trade is offering a third destination: a program in Guangzhou or Hong Kong.
- During this multi-sectoral mission, Flanders will focus on **cleantech, life sciences** and **sports & entertainment technology**.
- Other key sectors which will be covered include: diamonds, agro-food, smart economy, artificial intelligence, robotics, space, transport and logistics, e-commerce, architecture, sustainability and tourism.

**What to expect:**

- Establish useful high-level contacts in one week.
- FIT will prepare a tailor-made program in Beijing, Shanghai and optionally in Guangzhou or Hong Kong, irrespective of the sector in which you are active.
- During seminars, visits and numerous networking moments, you will acquire a lot of information from your colleagues-entrepreneurs.

**Registration** is open till 19 August 2019.

**Organization:** Flanders Investment & Trade in cooperation with the Agency for Foreign Trade, AWEX and hub Brussels Invest & Export.

**More information** (in Dutch) is available on the FIT website.

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## B2B cleantech program in China – November 2019

From 17 till 22 November I²PCC is organizing a B2B-program for cleantech companies in China. An extraordinary opportunity to get to know the Chinese market and to network with Chinese companies.

I²PCC? The inter-provincial international project Cleantech China. Four Flemish provinces are cooperating to help Flemish cleantech-SMEs to extend their activities to our partner regions in China. China is facing today (and in the coming years) big challenges in the environmental field. Companies are looking for solutions. Our Flemish cleantech companies are No 1 in Europe and can show their services (and products) in China. It's time to prospect.

Participate in the B2B program and meet in a short time period several Chinese companies interested in cleantech solutions. Company visits are also possible.
Participation in the program is free of charge. You only pay fees for transport, accommodation and individual translator (if required).

This B2B cleantech program of I²PCC is linked to the economic mission of Belgium to China, presided over by HRH Princess Astrid. Participation in both programs is possible.

For more info and registration, click here.

# FOREIGN TRADE

## Mixed expectations for Xi-Trump meeting

**U.S. and Chinese trade negotiators are scrambling to put a plan together for the meeting between President Xi Jinping and his U.S. counterpart Donald Trump in Osaka**, Japan at the end of the week. The trade negotiators have not talked in the six weeks since the talks collapsed in early May, but a phone conversation between Xi and Trump, during which the two confirmed their meeting in Osaka, has rekindled the process. Eleven rounds of talks have brought both sides close to consensus on most parts of a deal, it is believed, but the remaining differences will be difficult to resolve.

Companies and experts warned that intensifying Sino-U.S. **trade disputes could lead to a breakdown of the global value chain**, as the United States Trade Representative (USTR) started a seven-day public hearing on the proposed additional tariffs on about USD300 billion worth of Chinese exports. The hearing was held from June 17 to 21, and continue from June 24 to 25. More and more data point to **the U.S. and China** reversing a decades-long trend of increased interdependence that some called 'Chimerica', and **beginning to decouple**. While low- to medium-end manufacturing is relatively simple to disentangle, there are chasms and barriers appearing all over the U.S.-China economic relationship, suggesting that a broad-based break-up may be under way, even in more complex sectors.The decoupling of investment is already clear. Last year, Chinese acquisitions of American companies plunged 95% from their peak in 2017 after the U.S. Congress gave the Committee on Foreign Investment in the U.S. authority to broaden the scope of its reviews of Chinese acquisitions on national security grounds.

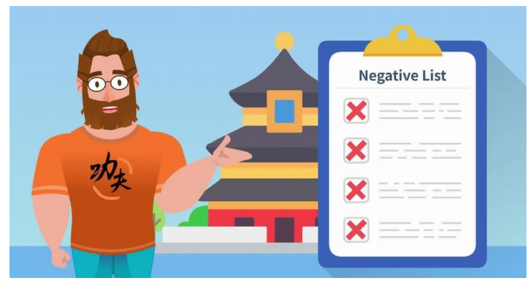
Earlier this month, more than 600 U.S. companies and trade associations including Walmart, Target and Costco sent a letter to U.S. President Donald Trump, warning that tariffs on Chinese exports will have a longterm negative impact on U.S. businesses. “We remain concerned about the escalation of tit-for-tat tariffs. Tariffs are taxes paid directly by U.S. companies, not China,” the letter said, stressing that escalated trade tensions were not in the U.S. best interests and both sides would stand to lose.

Li Daokui, Director of the Academic Center for Chinese Economic Practice and Thinking at Tsinghua University, said that “Sino-U.S. trade relations are a vital part of the global value chain. **Damaging Sino-U.S. relations**, in fact, **damages the global production and value chain**”. Tara Joseph, President of the American Chamber of Commerce in Hong Kong (AmCham), said it would be a “real shame” if Hong Kong became a pawn in the U.S.-China trade war. Hong Kong’s GDP growth slipped to 0.6% year-on-year in the first quarter of 2019, the slowest pace in a decade.

**A trade agreement between China and the United States is “within reach”** as long as Donald Trump and Xi Jinping have the “courage” to compromise. “Let them get to the word ‘yes’ – we have an agreement”, **Craig Allen, President of the U.S.-China Business Council**, told a seminar at Renmin University in Beijing. In a carefully worded speech, Allen listed the U.S. concerns behind the lingering trade tensions and called on Beijing to address them, saying it would benefit the country in the long run. “There is a need for continued economic reform and opening and 2019 would be a great time to do that,” Allen said. “China should not have a nationalist industrial policy, nor should America, we should work together,” he said.

**China and Britain have clinched GBP500 million worth of deals** as Chinese Vice Premier Hu Chunhua visited London. In the light of the ongoing trade war with the U.S., **China appears eager to re-establish the “golden era” with Britain**, an idea that started during Xi’s state visit in 2015. While in London, Hu co-chaired the latest China-UK Economic and Financial Dialogue with Chancellor of the Exchequer Phillip Hammond and officiated at the launch of the long-awaited London-Shanghai Stock Connect project, which enables companies listed in Britain to sell shares in China. Britain has hailed the deals with China as a diplomatic success amid the business uncertainties looming over Brexit. Britain also secured permission from China to export beef by the end of the year at the earliest, ending more than two decades of a Chinese government ban implemented in response to the BSE outbreak.

## Only negative list will limit foreign investment




**China will remove all access restrictions on foreign investment in areas outside the negative list by the end of this year**, as part of the country’s overall effort to further open up the economy and pursue high-quality development, Meng Wei, Spokeswoman for the National Development and Reform Commission (NDRC) said. The revised negative list on market access of foreign investment and the catalog of encouraged foreign investment industries is to be released by the end of the month. “Our negative lists will only be shortened further,” Meng added. “By the end of this year, China will lift all barriers to foreign investment not included on the negative list, and China will encourage more foreign investment in more fields, especially for the central and western regions.” A negative list indicates areas where investment is prohibited, while all other areas are presumed to be open.

Li Gang, Director of the Academic Committee at the Chinese Academy of International Trade and Economic Cooperation, said that “in the era of economic globalization, shutting our door to the outside world would not help China. We need to foster a better business environment and widen market access to attract more foreign investment, which will help fuel innovation, and improve industrial upgrading and high-quality economic development in China.”

**China’s foreign direct investment (FDI) grew 6.8% year-on-year to CNY369.06 billion in the first five months of this year**, according to the Ministry of Commerce (MOFCOM). Manufacturing FDI in China reached

CNY112.89 billion, up by 12.4% year-on-year. According to the World Investment Report 2019 published by the United Nations Conference on Trade and Development (UNCTAD), China was ranked as the world's second-largest FDI recipient after the United States, accounting for more than 10% of total global FDI. China ranked 46th out of 190 economies in the World Bank's newly released ease of doing business rankings for 2018, compared with 78th place in 2017, the China Daily reports. There will be one list for pilot free trade zones and one for the rest of the country.

# HUMAN RESOURCES

## China's top talent prefers domestic firms to big multinationals


While in the 1990's **Chinese students graduating abroad** preferred to get a job with large foreign multinationals, their sons and daughters **now prefer to work for domestic Chinese tech companies** such as Xiaomi. They are convinced that Chinese startups can offer them the same opportunities today as foreign multinationals in the 1990s. The career choices of two different generations of foreign-educated Chinese students reflect a wider trend. Once upon a time, foreign multinationals could cherry-pick top Chinese talent from universities with the promise of large salaries, generous benefits and the chance to work at market-leading companies. Today, China's cutting-edge technology companies – often referred to as China Tech Corporation (CTC) – are the most sought-after employers among many Chinese students.

This marks another blow for multinational corporations (MNCs) already struggling to do business in China amid restrictions and growing hostility towards them as the U.S.-China trade and tech war gathers pace. **New graduates** are looking less to get a high salary, but **care more about personal improvement and access to the best resources** a company can offer to develop new products. Moreover many Chinese today perceive a "bamboo ceiling" in the U.S., where they are more often seen as engineers rather than executives. One Chinese executive who now oversees the technology unit of a listed finance and insurance firm in China said that he used to lead a team of 20 engineers at one of the world's most valuable tech companies in Silicon Valley. "My job was to keep optimizing the performance of a product. But within three years in China, I was promoted to be Chief Scientist of our entire company, leading a team of 1,000," he said.

**LinkedIn compiled a list of the top 25 most desired employers in China, and about 60% were local Chinese companies**, with 13 of them internet firms. Alibaba, Baidu and Bytedance topped the list. Tesla ranked sixth behind its Chinese challenger Nio. Amazon, the only other foreign company on the list, ranked eighth. Li Qiang, Executive Vice President of Zhaopin, one of China's largest online recruiters, described the rising status of CTC among jobseekers as "the dawning of a new era". "Nowadays, there is nothing a multinational can offer that a domestic firm cannot, be it a compensation package or the chance to be part of international expansion," he said. "Jobseekers are not particularly looking for domestic firms or multinational firms. They are after good firms and most of the good firms in China these days happen to be domestic tech firms," he added, as reported by the South China Morning Post.

A survey by Zhaopin in late 2018 found that 28% of Chinese university students said MNCs were their employer of choice, down from 33.6% in 2017. A recent survey by Universum shows that **Apple and Siemens were the only two Western names in the top 10 ideal employers** for Chinese students in the engineering sector this year, while there were four foreign firms in the top 10 list in 2017. Huawei Technologies ranked top in the Universum list. Xiaomi ranked second, while Apple ranked seventh. It seems that China's rising clout in the world is now an attractive factor for jobseekers.

# ADVERTISEMENT AND SPONSORSHIP

# CHINA NEWS ROUND-UP

## Founder confident that Huawei will rebound

**Attacks from the United States will not stop Huawei from moving forward, Founder and CEO Ren Zhengfei said.** Ren estimated that the company's revenues could drop to around USD100 billion this year and the next, but he expected a revival in 2021. He made the remarks during a dialogue with U.S. futurist George Gilder and Nicholas Negroponte, co-founder of the Massachusetts Institute of Technology's Media Lab, at Huawei's headquarters in Shenzhen. Huawei will invest USD100 billion in the next five years to make network infrastructure more efficient and reliable, Ren said. Despite the financial blows, Ren said there was no plan to reduce research spending and he promised to make more contributions to theoretical science in the future.

He said Huawei will neither split nor sell its mainstream businesses, and it has no plans for a mass layoff. In answering a question about Huawei's plan to sell its submarine cable business unit, Ren said the company had long wanted to dispose of this business. This was not in response to external attacks, but because it had little relevance to the company's mainstream businesses. He also said there are "absolutely no backdoors" in Huawei's equipment and the company is willing to sign no-backdoor agreements with other countries.

He said issues of network security and information security should be viewed separately. The network of human society must not be prone to problems as it connects 6.5 billion people and tens of millions of banks and countless enterprises. Thirty years of applications in 170 countries and regions have proven that Huawei's network, which serves 3 billion people, is secure, Ren said. However, information security is another question. He described Huawei as a provider of "pipelines" and "faucets," saying operators and content providers must be responsible for contents "running in the pipelines," the Shanghai Daily reports.

Ren confirmed that **Huawei's overseas smartphone business may drop by 40% this year**, but the company has seen big growth in smartphones in China. Nicholas Negroponte said at the dialogue in Shenzhen that the U.S. is not an absolute leader in semiconductors anymore, and it is impossible for the U.S. administration to use Chinese companies' reliance on foreign semiconductor products to pressure them. Lu Tingjie, Telecom Professor at Beijing University of Posts and Telecommunications, said any harm to Huawei will have broader ripple effects across the global tech arena and beyond due to the company's huge size and its technological prowess in 5G.

Meanwhile, **Huawei has filed a lawsuit against the U.S. Department of Commerce at the District Court in Washington** for withholding Huawei's equipment – a server and Ethernet switch – shipped to an independent lab in California to undergo certification testing in 2017. In September that year, when the equipment was to be shipped back to China, the U.S. government detained the shipment in Anchorage, Alaska, as the Commerce Department took time to investigate whether an export license was needed to ship it. In its lawsuit, Huawei said it had been waiting for almost two years for a decision. The U.S. government has "unlawfully withheld and unreasonably delayed" its responsibility to make a license determination and the equipment "remains in a bureaucratic limbo in an Alaskan warehouse," the filing said.

**U.S. President Donald Trump is also considering to require next-generation 5G cellular equipment used in the United States to be designed and manufactured outside China.** The U.S. administration has asked telecom equipment makers if they can develop hardware including cellular-tower electronics as well as routers, switches, and software outside China. A list of proposed rules and regulations is expected to be issued in October.

## More European firms seeking M&As in China

**Interest from European companies in acquiring Chinese assets**, including state-owned enterprises, **intensified last year**, while the U.S.-China trade war made American firms cautious and also curtailed outbound investments by Chinese companies, according to investment bankers. "As China continues to seek to attract foreign investment in larger SOEs which are undergoing reforms to make them more competitive, that creates many opportunities for foreign investors," said Samson Lo, head of mergers & acquisitions, Asia at UBS. As European firms seek more opportunities in China, China's outbound investment has declined. China's outbound investments stood at USD200 billion in 2016 but fell to USD70 billion in 2018 and are likely to fall further this year. However, the decline in M&A activity will be offset by inbound investment, as well as by transactions arising from the establishment of joint venture deals and the restructuring of SOEs in China.

**There were 49 deals in China involving European companies last year, up from 32% in 2017.** Their value jumped 856% to USD9.94 billion from USD1.04 billion in 2017, according to Dealogic. One of the biggest deals last year was Dutch brewer Heineken's acquisition of a 40% stake in state-owned CRH Beer for USD3.1 billion. SOEs willing to sell a majority stake are of particular interest to international buyers not only because of the bridgehead they offer into China but also because of the good relationships that the SOEs typically have with the Chinese government. Raghu Narain, head of investment banking at Natixis Asia-Pacific, said that for European firms it is "all about trying to get growth" which is what China offers.

According to UBS' Lo, the sectors where the Chinese government has relaxed restrictions such as insurance, asset management, banking and automobiles are attracting the most foreign investments, while consumer and health care continue to remain popular, the South China Morning Post reports.

## Apple asks suppliers to shift part of their production from China to Southeast Asia

**Apple has asked its largest suppliers to consider the feasibility of shifting 15% to 30% of its output from China to Southeast Asia** and asked major suppliers to evaluate the cost of such a migration. Suppliers included iPhone assemblers Foxconn Technology Group, Pegatron and Wistron, MacBook maker Quanta Computer, iPad maker Compal Electronics and AirPods makers Inventec, Luxshare-ICT and GoerTek. Most of iPhones and iPads are made in China and the country is also Apple's largest international market. If U.S.President Donald Trump goes ahead with new tariffs on about USD300 billion worth of Chinese goods, this would levy a punitive tax on Apple's most profitable products.

The company, however, has a backup plan if the U.S.-China trade war gets out of hand. Primary manufacturing partner Hon Hai Precision Industry has said it has **enough capacity to make all U.S.-bound iPhones outside China if necessary**. The Taiwanese contract manufacturer now makes most of the smartphones in the Chinese mainland and is the country's largest private employer.

"Apple has probably invested more in a China-centric supply chain than any successful company in recorded history. To just presume that they can jettison everything they have achieved with Foxconn and move to an alternative platform and get the same product with the same quality and the same assembly protocols without skipping a beat – I mean, anything is possible, but that to me sounds like a great tale of fiction," said Stephen Roach, Professor at Yale University and former Chairman of Morgan Stanley in Asia. China accounts for an important, but declining, share of Apple's revenue: 10.22% in the second quarter this year, according to Statista, down from 13.17% in the previous quarter and its all-time peak of 17.96% in the first quarter of 2018.

"**There is no question that if Apple goes, others will follow**," said Alex Capri, a visiting fellow at the National University of Singapore, who has been predicting decoupling for the past two years. "They are a primary link in the chain. There are a lot of links in that chain that are reliant on Apple. When you have something as big as Apple moving, others have to go where their customer needs them," the South China Morning Post reports.

## China issues new guidelines for AI research

**China has issued new guidelines for artificial intelligence (AI) research and applications**, that will serve as a framework for scientists and lawmakers to promote the "safe, controllable and responsible use" of AI for the benefit of mankind. The document was published by the National Governance Committee for New Generation Artificial Intelligence. The Committee consists of AI and public policy experts from different universities and research institutions who examine the effect of AI on laws, ethics and society. The eight general principles in the document say scientists developing AI and its applications should respect and uphold human values and ethics and prevent their work from being misused or abused by malicious actors.

In addition, AI research should be conducted in a fair, inclusive and open manner that protects the interests of all parties involved, from developers to consumers. Also emphasized are privacy protection, international cooperation, responsible use of AI, and creating timely regulations to keep up with AI's rapid development.
"AI technology is developing very fast and is changing everything in society, including economic structures, governance, national security and even international relations," said Xue Lan, Dean of Schwarzman College at Tsinghua University and Chairman of the Committee. He added that AI technology has also raised many new and complex issues, including spreading misinformation using "deepfake videos" – AI-manipulated footage that has

become increasingly difficult for ordinary viewers to recognize.

Earlier this month, the United States Congress held its first hearing on "deepfake media" and its role in degrading trust in government institutions and news outlets. Legislators warned such technology, if unregulated, could have a disastrous effect on elections. Zeng Yi, Researcher at the Institute of Automation of the Chinese Academy of Sciences (CAS), said that some 40 nations and international organizations have published guidelines on the technology. "It is crucial for China to be a part of the conversation and provide its own knowledge and experience, so everybody can learn best practices from each other and improve," he said. Li Renhan, Member of the National Governance Committee for New Generation Artificial Intelligence, said China's rapid AI progress in recent years is mainly due to four reasons: large data resources, wide application scenarios, high AI-related research output, and strong government support, the China Daily reports.

## China continues dominance in supercomputer numbers

**China continues to dominate a list of the world's fastest supercomputers by the number of systems**, according to a semi-annual ranking of the TOP500. China tops the supercomputer list with 219 systems, or 43.8% of the total, followed by the United States with 116, Japan third with 29 systems, followed by France, Britain and Germany. Major Chinese supercomputer vendors all improved their shares from six months ago. Lenovo claims the greatest number of systems on the list with 173, followed by Inspur with 71 and Sugon with 63.

The top of the list remained largely unchanged. Two U.S.-built supercomputers, Summit and Sierra, retain the first two positions, both powered by IBM Power 9 CPUs and NVIDIAV100 GPUs. The Summit delivered a record of 148.6 petaflops on the High Performance Linpack (HPL) test. China's Sunway TaihuLight supercomputer at the National Supercomputing Center in Wuxi holds the third position with 93.0 petaflops. China's Tianhe-2A (Milky Way-2A) at the National Supercomputer Center in Guangzhou is No 4 on the list. Frontera, a U.S. system at the Texas Advanced Computing Center of the University of Texas, is the only newcomer in the top 10.

For the first time in the 26-year history of the ranking, all systems that made the list are petaflop systems.

Those in the United States are on average more powerful, allowing the country to maintain its lead in overall HPL capacity, with 38.4% of the aggregate list performance. China comes second, with 29.9% of the total, the Shanghai Daily reports.

**The U.S. Commerce Department said it was adding five Chinese companies** and a government-owned institute involved in supercomputing with military applications **to its national security "entity list,"** which bars them from buying U.S. parts and components without government approval. The department said it was adding Sugon, the Wuxi Jiangnan Institute of Computing Technology, Higon, Chengdu Haiguang Integrated Circuit, and Chengdu Haiguang Microelectronics Technology to the list over concerns about the military applications of the supercomputers they are developing.

The Commerce Department said the companies "pose a significant risk of being or becoming involved in activities contrary to the national security and foreign policy interests of the United States."The Wuxi Jiangnan Institute of Computing Technology is owned by the 56th Research Institute of the General Staff of China's People's Liberation Army (PLA), the Commerce Department said, adding "its mission is to support China's military modernization", the China Economic Review reports.

# ANNOUNCEMENTS

## 2019 Sino Benelux Business Survey Executive Summary

The 2019 Sino Benelux Business Survey is organized by the Benelux Chamber of Commerce in Beijing, Shanghai and Guangzhou, supported by the official trade-and diplomatic representations of Belgium, The Netherlands and Luxembourg in China and in partnership with MSAdvisory. The organizers have investigated how the Benelux business community in China has performed in 2018, their experiences in the market and what their expectations are for 2019.

Similar to previous years, this survey was conducted so that the Benelux business community and other important stakeholders can better understand the Chinese business climate and how they may improve within its challenging business environment.

This year 139 companies have participated in the Sino-Benelux Business Survey. Most of the respondents come from Industrial Goods and Services (41%). The Industry with the second highest participation is Consumer Goods and Services (27%). On average, the respondents have operated in China for 12.1 years. More than 50% of the respondents are SMEs with revenue from RMB 1 million to RMB 100 million.

The performance of Benelux businesses in China remained fairly positive, with 86% of respondents reporting revenue growth and 85% reporting profits. SMEs (companies with 0-49 employees or up to RMB 10 million in revenue) represent the group with the highest percentage of revenue growth > 20%. The percentage of companies reporting no revenue growth or growth >20% increased for the first time since 2015; we observe a more volatile market with more winners and losers. Companies in the Consumer Goods sector reported the highest revenue growth; 45% of the respondents reported revenue growth over 20%.

Increased Turnover and Economies of Scale (28%) are the most significant positive drivers for Benelux business in China. This year, fewer companies perceive the Chinese Market to be favorable (58%) compared to last year (66%). Only 18% of the respondents came across BRI partnership and business opportunities, of which the majority are SMEs. Salary costs (24%) is the most significant negative driver in 2018, following a similar trend from previous years. The percentage of companies which perceive that the “Level Playing Field” and “Regulatory environment” has become more restrictive has increased. 37% of the respondents said they were affected by the China-U.S. Trade War.

Most participants have good expectations on their revenue and profit growth for 2019, with 89% expecting revenue growth and 93% expecting profits. Both Dutch and Belgian companies are much more optimistic about their profit expectations, with respectively 92% and 96% expect to make profit in 2019. All startups are expecting revenue growth, as well as over 80% of respondents from the Consumers Services industry. The majority of Benelux companies attributed the fact that they were making profits to revenue growth (49%), whereas a further 38% attributed this to both revenue growth and cost savings.

In their conclusion the organizers made following remarks:

- Despite recent reforms, we observe a continuous more negative perception of the Chinese business environment as compared to previous years.
- Salary Costs and Administration Costs are again a major concern for businesses in China.
- Companies from the Benelux actually felt the impact of the China-U.S. Trade War.
- In 2018, again business has been profitable for Benelux companies in China.
- In addition, the respondents have positive expectations for the growth in 2019, which is mostly driven by continuous Use of Technology and Increased Turnover which arises due to a very receptive market.
- More volatile market conditions which result in winners and losers.
- Negative perception but good results!

## Covington: China Cybersecurity and Data Protection – Major Legislative and Enforcement Developments (June 2019)

The past month has witnessed a flurry of activity from Chinese regulators that has resulted not only the publication of multiple standards and draft regulations in the areas of cybersecurity and data protection, but also two related enforcement initiatives with the potential to tangibly impact companies in China. Below we provide a brief summary of each of these important developments.

**Legislative Developments**

Measures related to the Cross-border Transfer of Personal Information. On ***June 13, 2019***, the Cyberspace Administration of China (“CAC”) issued the draft *Measures on Security Assessment of the Cross-border Transfer of Personal Information*, intending to create a cross-border data transfer mechanism to govern all transfers of personal information by network operators (*e.g.*, companies). (See our blog post here.) These draft measures introduce a broad jurisdictional scope for regulating cross-border transfers of personal information, and require all network operators to undergo a security assessment before transferring any personal information collected in China to recipients outside of China. Furthermore, network operators must implement contracts with personal information recipients outside of China, requiring them to fulfill certain data protection obligations and including a third-party beneficiary clause that would provide individuals with a legal means to enforce their rights and seek compensation for abuses of personal information, among other requirements.

Protection of Children's Personal Information Online. On ***May 31, 2019***, the CAC released the draft *Regulation on the Protection of Children's Personal Information Online*, which sets out heightened requirements for network operators when collecting, storing, using, transferring or disclosing the personal information of minors, defined as under 14 years old. (See our blog post here.) Notable requirements include: providing notice to and obtaining consent from guardians acting on behalf of minors; appointing an internal person responsible for overseeing the protection of children's personal information; implementing internal access controls; conducting data security assessments for certain data-sharing activities; implementing measures to facilitate the exercise of individuals' rights; and implementing an incident response plan. CAC may enforce these provisions in a variety of ways, including fines of up to RMB 1 million (~$145,000), closing down a website, revoking a business license, or even criminal prosecution.

Data Security Management. On ***May 28, 2019***, the CAC released the draft *Measures for Data Security Management*, which incorporate some previously issued requirements for personal information protection while also introducing several new rules for the protection of "important data." (See our blog post here.) Requirements to protect personal information address issues such as notice and consent, data subjects' rights, targeted advertising, data sharing, data retention, and incident response. Requirements to protect "important data" (*i.e.*, "data that, if leaked, may directly affect China's national security, economic security, social stability, or public health and security") include, for example, notifying the local CAC if a business collects important data or sensitive personal data for "operational purposes," and conducting a security assessment for cross-border transfers. The draft measures provide the CAC with a variety of means by which to enforce these provisions and punish violations – not only through fines and penalties, but also with the possibility of criminal prosecution.

Cybersecurity Review when Procuring Network Products and Services by CII. On ***May 24, 2019***, the CAC released the draft *Measures on Cybersecurity Review*, which have the objective of safeguarding the procurement of network products and services by Critical Information Infrastructure ("CII") operators that may impact the national security of China. (See our blog post here.) The cybersecurity review process laid out in these measures includes a self-assessment of risks associated with the procurement of network products and services. If the self-assessment flags specific risks, then the CII operator must undergo a review by an inter-agency body comprised of members from eleven different government agencies. In some ways similar to the CFIUS review process in the United States, members of the CAC review body will assess the national security risks associated with the procurement, considering factors such as: supply chain transparency and security; influence on technologies and industries relating to national defense, the military and CII; and whether the provider receives funds from or is controlled by a foreign government.

MLPS 2.0 Standards. On ***May 13, 2019***, China's State Administration for Market Regulation released three standards related to the country's Cybersecurity Multi-level Protection Scheme ("MLPS"), describing technical and organizational controls that companies must implement to comply with MLPS-related obligations. (See our blog post here.) These standards (commonly referred to as "MLPS 2.0") include provisions to: (i) significantly expand the applicability of the MLPS by broadening the definition of "information systems"; (ii) establish common controls for all types of systems; and (iii) establish extended controls for certain types of systems. The MLPS 2.0 standards introduce different technical and organizational controls for companies at different security classification levels and provide important technical guidance for companies that are making efforts to comply. Certain extended controls – such as localized infrastructure, storage, and maintenance for cloud computing systems – could, if they become mandatory, potentially raise significant compliance issues for global cloud service providers and their customers.

**Enforcement Initiatives**

MLPS Systems Audit. In early June, we understand from some of our multinational clients that the Public Security Bureaus ("PSBs") of both Beijing and Shanghai are requiring companies to submit information regarding "important systems" which must be certified under MLPS. This self-reporting can take the form of submitting spreadsheets to PSBs, identifying systems potentially in scope, and providing proof of MLPS certification. We further understand that after the completion of the PSB's collection of information from company systems, the next step in the process is for the PSB to conduct on-site inspection of company systems. Apparently, these inspections will be done at random, although it is believed that the PSB will focus on systems classified as Level 3 or higher. The on-site inspection may also involve the use of scanning tools to examine company systems, although it is unclear at this time exactly what tools the PSB may use.

Mobile Application Privacy Check. We have also received reports from multinational clients that regulators at both the central and the local levels (including but not limited to local PSBs) are currently carrying out a campaign to audit the collection and use of personal information via mobile applications. Specifically, some clients have received an audit report from PSB which identifies gaps in two main aspects of mobile application privacy compliance: collection of user data through API or SDK and privacy policy. Our clients were told that they must remediate these gaps in one month to avoid further regulatory action. Many of the requirements for compliance are quite prescriptive, as outlined in the CAC's "Guidelines for Self-Assessment on Illegal Collection and Use of Personal Information" and the "Identification Methods for Illegal Collection and Use of Personal Information by Apps." These rules focus particularly on the privacy notice (*e.g.*, its presentation, readability and consistency), and the means by which consent is obtained (*i.e.* whether an application obtain user data through API or SDK without obtaining explicit permission from users).

If you have any questions concerning the material discussed in this client alert, please contact the following members of our
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**Contact**

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