

CLIENT ALERT

# The App Store Cold War Expands: New Executive Order Prohibits U.S. Transactions with the Owners and Developers of Chinese Connected Software Applications

January 11, 2021

## AUTHORS

**David Mortlock** | **Britt Mosman** | **William J. Stellmach** | **Michael J. Gottlieb**  
**Nikki M. Cronin** | **Ahmad El-Gamal**

In the final weeks of the Trump administration, the president has again targeted Chinese platforms for sanctions by issuing an Executive Order on January 5, 2021, "[Addressing the Threat Posed by Applications and Other Software Developed or Controlled by Chinese Companies](#)" (the "EO"). The EO will prohibit certain transactions, beginning February 19, 2021, involving the following Chinese connected software applications: Alipay, CamScanner, QQ Wallet, SHAREit, Tencent QQ, VMate, WeChat Pay, and WPS Office (the "Eight Chinese Connected Applications"). The particular transactions that will be prohibited and the specific persons to which the restrictions shall apply, however, have yet to be announced.

The EO finds that "a number of Chinese connected software applications automatically capture vast swaths of information from millions of users in the United States, including sensitive personally identifiable information and private information," which can be used to advance China's economic and national security agendas. The EO declares that "aggressive action" must be taken to protect U.S. national security.

Specifically, the EO prohibits U.S. persons from engaging in any transaction with persons that develop or control the Eight Chinese Connected Applications, or with their subsidiaries, as and when those transactions and persons are identified by

---

## The App Store Cold War Expands: New Executive Order Prohibits U.S. Transactions with the Owners and Developers of Chinese Connected Software Applications

the Secretary of Commerce (the “Secretary”). Notably, the EO does not identify the persons that will be the subject of the prohibitions in connection with the named applications nor does it identify the type of transactions that will be prohibited. Instead, the Secretary has been provided a 45-day period to identify the relevant persons and transactions, after which the prohibitions of the EO will go into effect (*i.e.*, on February 19, 2021, as noted above). Complicating implementation further, the EO states that the Secretary shall identify the persons and transactions subject to the prohibitions *no earlier* than 45 days after its issuance, ostensibly on the same day the prohibitions go into effect, February 19. This means that implementation of the EO will be left to the incoming Biden administration, raising questions as to how the EO will ultimately be implemented. In a [press statement](#), U.S. Commerce Secretary Wilbur Ross advised that he has “directed [his] Department to begin implementing the EO’s directives, including identifying prohibited transactions related to certain Chinese connected software applications.”

The EO follows on the heels of the Trump administration’s issuance of two prior EOs related to Chinese-controlled apps, EOs [13942](#) and [13943](#) (August 6, 2020), which mandated a prohibition on certain transactions with Chinese social media platforms TikTok and WeChat, respectively, as described in our prior [client alert](#). To date, Commerce Department implementation of the TikTok- and WeChat-related EOs has been halted by federal courts that have issued injunctions preventing the prohibitions from going into effect. It is likely that the new EO also will be the subject of similar legal challenges, depending on the persons identified and the types of transactions prohibited, either by the Trump or Biden administrations. In the meantime, U.S. persons should plan for the EO prohibitions to go into effect on February 19, 2021 and prepare for compliance. We will continue to monitor implementation of these restrictions and provide further updates.

---

## The App Store Cold War Expands: New Executive Order Prohibits U.S. Transactions with the Owners and Developers of Chinese Connected Software Applications

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

---

**David Mortlock**

202 303 1136

dmortlock@willkie.com

**Britt Mosman**

202 303 1057

bmosman@willkie.com

**William J. Stellmach**

202 303 1130

wstellmach@willkie.com

**Michael J. Gottlieb**

202 303 1442

mgottlieb@willkie.com

**Nikki M. Cronin**

202 303 1203

ncronin@willkie.com

**Ahmad El-Gamal**

202 303 1142

ael-gamal@willkie.com

Copyright © 2021 Willkie Farr & Gallagher LLP.

This alert is provided by Willkie Farr & Gallagher LLP and its affiliates for educational and informational purposes only and is not intended and should not be construed as legal advice. This alert may be considered advertising under applicable state laws.

Willkie Farr & Gallagher LLP is an international law firm with offices in New York, Washington, Houston, Palo Alto, San Francisco, Chicago, Paris, London, Frankfurt, Brussels, Milan and Rome. The firm is headquartered at 787 Seventh Avenue, New York, NY 10019-6099. Our telephone number is (212) 728-8000 and our fax number is (212) 728-8111. Our website is located at [www.willkie.com](http://www.willkie.com).