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Arrest of Executive of Leading Chinese Telecom Firm in Canada Evidences DOJ's Far-Reaching Tools to Effectuate Recently Announced Initiative

The recent arrest of a top executive of a Chinese company follows the U.S. Department of Justice's ("DOJ") newly announced "China Initiative." The initiative consists of a task force aimed at identifying suspected Chinese trade theft cases for investigation and enforcement. The arrest is a bold move by the U.S. government and one that reinforces DOJ's commitment to enforcing U.S. law against Chinese companies and executives.

On December 1, 2018, Meng Wanzhou, the CFO of Chinese telecommunications company Huawei Technologies Co., Ltd., was arrested for extradition to the U.S. while switching planes in Canada. Ms. Meng is the eldest daughter of Huawei's founder, Ren Zhengfei. Huawei confirmed that Ms. Meng faces prosecution in the Eastern District of New York. The charges against Ms. Meng were "unspecified" at the time of her arrest.

The arrest comes a month after the DOJ announced the new "China Initiative" targeting Chinese companies and individuals for unfair Chinese practices related to technology transfer and intellectual property. During the rollout of the initiative, then U.S. Attorney General Sessions announced that the DOJ had indicted a Chinese company for allegedly engaging in economic espionage. The issue of technology transfer and intellectual property is the most significant and contentious trade issue between the two countries, serving as the legal basis for the administration's decision to impose tariffs on \$250 billion in imports from China. The initiative also identified prosecution of the Foreign Corrupt Practices

Act ("FCPA") against Chinese companies that compete against U.S. companies as a goal.

Ms. Meng's arrest follows reports that Huawei has been under investigation by multiple U.S. government agencies. In 2012, a congressional report raised red flags about security risks posed by Huawei equipment. In 2016, the U.S. Department of Commerce issued subpoenas to Huawei related to potential export law violations and later that year, the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") issued a subpoena about a related sanctions investigation. In April of this year, reports surfaced that the DOJ was conducting a criminal investigation against Huawei for alleged violations of U.S. sanctions against Iran. Huawei is not the only Chinese company under scrutiny by the DOJ. Last year, another Chinese company pled guilty to violating U.S. sanctions laws by shipping U.S. telecom equipment to Iran, and agreed to pay over \$800 million in penalties imposed by the DOJ and the U.S. Treasury and Commerce Departments.

While the sanctions investigations into Huawei predate the China Initiative, the arrest of Ms. Meng demonstrates the DOJ's focus on enforcing U.S. law against Chinese companies. Given the stated policy of the DOJ, there are likely more prosecutions in store for Chinese companies and its executives for violations of U.S. law. The arrest of Ms. Meng is a reminder that U.S. prosecutors have a wide-array of far-reaching law enforcement tools in their arsenal to ensure compliance with U.S. laws. With Ms. Meng's arrest, these tools include cooperation by the international law enforcement community to share information and effectuate an arrest as well as, potentially, holding executives accountable for the conduct of their off-shore entities.

In light of the initiative and the recent actions taken by DOJ, Chinese companies should evaluate their past and present international trade practices to ensure ongoing compliance. Chinese companies also would be well-served to review their policies and procedures for protecting proprietary technology legally obtained from other companies, as well as procedures ensuring that technology does not enter the company inappropriately.

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