

THICKER THAN ARTIFICIAL INTELLIGENCE

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Saudi Arabia and the United States have a strong history together. As Saudi Arabia implements Vision 2030, it may do so in a way that jeopardizes this longstanding relationship. Saudi Arabia is in the midst of creating an artificial intelligence hub in Saudi Arabia. However, with continuing U.S.-People's Republic of China (PRC) tensions, Saudi Arabia will likely have to choose between the United States and the People's Republic of China, as intimated by Executive Order 14105 and the Foreign Investment Risk Review Modernization Act of 2018. While Saudi Arabia has announced that it would divest from Chinese AI if the United States required it to, it also has a history of hedging with the country that will help it accomplish its security and economic goals. This Column predicts that Saudi Arabia will abandon the People's Republic of China's AI to appease the United States.

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INTRODUCTION

On May 31, 2024, Aramco's Prosperity7 Ventures, LLC became the only foreign investor in Chinese start-up Zhipu AI.¹ On October 30, 2024, Saudi Arabia's sovereign wealth fund, the Public Investment Fund (PIF), entered into a partnership with Google Cloud to create an "AI hub" in Saudi Arabia.² On October 31, 2024, Saudi Arabia entered into talks with billionaire Elon Musk regarding funding for Musk's start-up xAI.³ Saudi Arabia has a stated goal of becoming a powerhouse for artificial intelligence (AI).⁴ To Saudi Arabia, accomplishing this goal includes bringing foreign businesses to Saudi Arabia. However, Washington views sharing U.S. AI innovation with China as an inherent risk to U.S. national security due to China's use of major technological advancements to aid its military and domestic surveillance. It seems clear that with increasing U.S. regulation on investments in Chinese technology and the careful balancing of security and economy by all three countries, Saudi Arabia will likely need to choose China or the United States as its partner in accomplishing its goal. Based on Saudi Arabia's history, it will abandon China *when* America asks.

AI can be harnessed to advance the world,⁵—the health care,⁶ law,⁷ and business⁸ industries have already implemented AI into their day-to-day—but AI can also be manipulated to harm the world.⁹ For example, weapons can be

¹ Eleanor Olcott, *Saudi fund inv. in China effort to create rival to OpenAI*, FIN. TIMES (May 31, 2024), <https://www.ft.com/content/87a40ffe-c791-4c90-8123-3f75aa0ed26b> [<https://perma.cc/HUZ4-8EAZ>].

² Press Release, Pub. Inv. Fund, *PIF and Google Cloud to create advanced A.I. hub in Saudi Arabia*, PUB. INV. FUND (30 October 2024), <https://www.pif.gov.sa/en/news-and-insights/press-releases/2024/pif-and-google-cloud-to-create-advanced-ai-hub-in-saudi-arabia/#:~:text=PIF%20and%20Google%20Cloud%20today,in%20Saudi%20Arabia's%20Eastern%20Province> [<https://perma.cc/YA5Z-YHKN>].

³ George Hammond et al., *Elon Musk in funding talks with Middle East invs. to value xAI at \$45bn*, FIN. TIMES (Oct. 31, 2024), <https://www.ft.com/content/ed5450fe-c529-43e2-a46b-115860ab32c2> [<https://perma.cc/72A6-Z388>].

⁴ See Camille Lons, *China's Blossoming Relationship with Saudi Arabia and the UAE*, EUR. COUNCIL ON FOREIGN RELS. (May 2024), <https://ecfr.eu/wp-content/uploads/2024/05/East-meets-middle-Chinas-blossoming-relationship-with-Saudi-Arabia-and-the-UAE.pdf>.

⁵ See Exec. Ord. No. 141,10, 88 C.F.R. Title III Proclamation No. 141,10, 88 Fed. Reg. 210 (Oct. 30, 2023) ("Responsible AI use has the potential to help solve urgent challenges while making our world more prosperous, productive, innovative, and secure.").

⁶ Cf. Sara Gerke, *Health A.I. for Good Rather Than Evil? The Need for A New Regul. Framework for A.I.-Based Med. Devices*, 20 YALE J. HEALTH POL'Y, L. & ETHICS 432, 435 (2021).

⁷ Cf. Nyasha West, *Transforming the Legal Landscape: How A.I. Is Revolutionizing Law Firms*, 2023 TRIAL REP. (MD.) 18, 19 (2023).

⁸ Cf. Michael R. Siebecker, *Making Corps. More Humane Through A.I.*, 45 J. CORP. L. 95, 96 (2019).

⁹ See Exec. Ord. No. 141,10, 88 C.F.R. Title III Proclamation No. 141,10, 88 Fed. Reg. 210 (Oct. 30, 2023) ("[I]rresponsible use could exacerbate societal harms . . . and pose risks").

built with AI faculties, and AI can assist in mass killings.¹⁰ Concrete military risks aside, AI can also exacerbate disinformation, “manipulate public opinion and undermine social trust through deep fake videos, online bots, and fake news.”¹¹ America is doing what it can to protect its market and mitigate the national security risks that can arise with the worldwide use of AI.¹² One principle that shades American efforts is President Joe Biden’s belief that “AI reflects the principles of the people who build it, the people who use it, and the data upon which it is built.”¹³

I. THE IMPACT OF BIDEN’S EXECUTIVE ORDER

Biden signed Executive Order 14105 (“the Order”) on August 9, 2023, “Addressing United States Investments in Certain National Security Technologies and Products in Countries of Concern.”¹⁴ The Order aims to prevent “U.S. Persons” from investing in threats to national security.¹⁵ These potential threats include artificial intelligence systems as “[t]he potential military, intelligence, surveillance, and cyber-enabled applications of these technologies and products pose risks to U.S. national security particularly when developed by a country of concern such as the [People’s Republic of China].”¹⁶ Order violations can result in both criminal and civil penalties, ranging from a civil fine to imprisonment of up to twenty years.¹⁷

The private sector has increasingly financed and developed advanced technologies, that “underpin military innovations.”¹⁸ These private investments fund “the basis of next-generation military, intelligence, surveillance, and cyber-enabled capabilities.”¹⁹ The Order predicts that AI “will

¹⁰ See Isabelle Brundieck, *The Validity of Trade Restrictions on A.I. Tech. Under the Gen. Agreement on Tariffs and Trade’s Nat’l Sec. Exception*, 39 AM. U. INT’L L. REV. 119, 132 (2024).

¹¹ *Id.* at 133.

¹² See, e.g., Exec. Ord. No. 141,10, 88 C.F.R. Title III Proclamation No. 141,10, 88 Fed. Reg. 210 (Oct. 30, 2023).

¹³ *Id.*

¹⁴ Exec. Ord. No. 141,05, 31 C.F.R. Ch. VIII. Proclamation No. 14,105 88 Fed. Reg. 155 (Aug. 14, 2023), <https://home.treasury.gov/system/files/206/Provisions%20Pertaining%20to%20U.S.%20Investments%20in%20Certain%20National%20Security%20Technologies%20and%20Products%20in%20Countries%20of%20Concern.pdf> [hereinafter, EO 14105]; Press Release, *FACT SHEET: Addressing U.S. Invs. in Certain Nat’l Sec. Techs. and Prods. in Countries of Concern*, THE WHITE HOUSE (Oct. 28, 2024), <https://www.whitehouse.gov/briefing-room/statements-releases/2024/10/28/fact-sheet-addressing-u-s-investments-in-certain-national-security-technologies-and-products-in-countries-of-concern/> [https://perma.cc/SX8W-AKR6].

¹⁵ See EO 14105 at 54961–62.

¹⁶ *Id.* at 54962.

¹⁷ Grace Hochstatter, *US Outbound Inv. Program Takes Effect in January: What You Need to Know*, White & Case LLP (Nov. 13, 2024), <https://www.whitecase.com/insight-alert/us-outbound-investment-program-takes-effect-january-what-you-need-know>.

¹⁸ See EO 14105 at 54961–62.

¹⁹ *Id.*

underpin military innovations that improve the speed and accuracy of military decision-making, planning, and logistics; enable the compromise of encryption and other cybersecurity controls; and advance mass surveillance capabilities.”²⁰ This prediction is not wrong. In 2023, Dubai held a police conference, debuting many military and surveillance innovations made possible by technological advancements.²¹ A conference attendee could purchase: a machine that detects lies through reading brain waves; a vape pen, car key remote, or coffee cup that contains a recording device; or even AI software that identifies, tracks, and stores information on any person within range.²² Countries’ surveillance capabilities have greatly expanded over the years, and investments in semiconductors and AI will only strengthen these countries’ military capabilities.²³

The *mens rea* for the order is knowledge, which means all Americans must do due diligence before choosing to invest in or choosing not to disclose an investment.²⁴ The direct effects the Order will have on Saudi Arabia may not be immediately apparent as the Order applies to “United States Person[s]” defined “as any United States citizen, lawful permanent resident, entity organized under the laws of the United States or any jurisdiction within the United States, *including any foreign branches* of any such entity, and *any person* in the United States.”²⁵ This means that the Order “can impact foreign entities that employ U.S. Persons as well as those that have employees who may conduct business activities when physically located in the United States.”²⁶ The Order also applies to “transactions carried out by their foreign subsidiaries . . . [and] a foreign entity that employs a US individual in a management role.”²⁷ Before delving into how the Order can harm Saudi Arabia’s investments in the United States and United States’ investments in Saudi Arabia, it is helpful to understand why China is labeled a “country of concern.”²⁸

²⁰ *Id.*

²¹ See Paul Mozur & Adam Satariano, A.I., *Brain Scans and Cameras: The Spread of Police Surveillance Tech*, N.Y. TIMES (Mar. 30, 2023), <https://www.nytimes.com/2023/03/30/technology/police-surveillance-tech-dubai.html>.

²² See *id.*

²³ See EO 14105 at 54962.

²⁴ See Grace Hochstatter, *US Outbound Inv. Program Takes Effect in January: What You Need to Know*, White & Case LLP (Nov. 13, 2024), <https://www.whitecase.com/insight-alert/us-outbound-investment-program-takes-effect-january-what-you-need-know>.

²⁵ EO 14105 at 54963—64 (emphasis added).

²⁶ Grace Hochstatter, *US Outbound Inv. Program Takes Effect in January: What You Need to Know*, White & Case LLP (Nov. 13, 2024), <https://www.whitecase.com/insight-alert/us-outbound-investment-program-takes-effect-january-what-you-need-know>.

²⁷ *Id.* (“[T]he Rule prohibits US persons from knowingly directing a transaction that would be prohibited This means that US person management personnel (e.g., at an investment firm) would need to fully recuse themselves from being involved in the non-US company’s decisions relating to such a transaction.”)

²⁸ See EO 14105 at 54962.

A. The Impact of China-U.S. Relations

The PRC is a “country of concern” because of its stated goal to “ensure that new innovations [in AI] simultaneously benefit its military[,]” and the PRC does so “to confer a decisive advantage to its military intelligence, surveillance, and cyber-enabled services.”²⁹ To be sure, this goal may not be inherently dangerous, but the country with that goal—the PRC—is.³⁰ The PRC has started to implement this goal, as evinced by its “encourage[ment of] a growing number of PRC entities to undertake military research and development, including weapons production, which exploit private investments in pursuit of this goal.”³¹ The Order describes U.S. investments as “more valuable than capital” due to their “intangible benefits.”³² These benefits include “enhanced standing and prominence, managerial assistance, investment and talent networks, market access, and enhanced access to additional financing.”³³ The Order expresses a worry that China will “exploit” U.S. investments to “accelerate the development of sensitive technologies or products in ways that negatively impact the strategic military position of the United States.”³⁴

The U.S.-PRC relationship is extremely complex.³⁵ As outlined by the Council of Foreign Relations, the U.S.-PRC relationship has been riddled with both “tension and cooperation,” beginning with the rise of communism and the People’s Republic of China.³⁶ American national security and the American economy have been affected by China since the beginning of the United States’ relationship with the People’s Republic of China. The threat of the PRC government aside, the United States is also concerned about China’s international commitments to North Korea, Russia, and Iran.³⁷ What started under the pretext of an ideological battle—communism versus democracy—has morphed into the national security and economic battle that the United States and the People’s Republic of China are still fighting today.

²⁹ *Id.*

³⁰ See FED. BUREAU OF INVESTIGATIONS, THE CHINA THREAT, (last visited Dec. 18, 2024) <https://www.fbi.gov/investigate/counterintelligence/the-china-threat> (deeming the Chinese Communist Party “a grave threat to the economic well-being and democratic values of the United States.”).

³¹ EO 14105 at 54962.

³² See *id.*

³³ Exec. Ord. on Addressing U.S. Invs. in Certain Nat’l Sec. Techs. and Prods. in Countries of Concern, THE WHITE HOUSE (Aug. 9, 2023), <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/08/09/executive-order-on-addressing-united-states-investments-in-certain-national-security-technologies-and-products-in-countries-of-concern/> [<https://perma.cc/SX8W-AKR6>].

³⁴ EO 14105 at 54962.

³⁵ See 1949–2024 U.S.-China Rels., COUNCIL ON FOREIGN RELS., <https://www.cfr.org/timeline/us-china-relations>.

³⁶ See *id.*

³⁷ See 1949–2024 U.S.-China Rels., COUNCIL ON FOREIGN RELS., <https://www.cfr.org/timeline/us-china-relations>.

B. Saudi's U.S. Investments

The United States will likely deem investment in Chinese AI a national security threat. While the Order does not explicitly target Saudi Arabia's investments, the Committee on Foreign Investment in the United States (CFIUS) under the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA)³⁸ might recommend that it should or choose to implement the rule in this way. CFIUS is tasked with monitoring investments that are threats to national security.³⁹ CFIUS reviews "covered transactions," i.e., "any merger, acquisition, or takeover . . . by or with any foreign person that could result in foreign control of any United States business, including such a merger, acquisition, or takeover carried out through joint venture."⁴⁰ After initiating a review and determining the national security threat of the transaction, CFIUS is then able to "negotiate, enter into or impose, and enforce any agreement or condition with any party to the covered transaction to mitigate any risk to the national security of the United States that arises as a result of the covered transaction."⁴¹ CFIUS can reach Saudi Arabia's investments in Chinese AI through its power to review:

[A] foreign person in an unaffiliated United States business that . . . (II) produces, designs, tests, manufactures, fabricates, or develops one or more critical technologies; or (III) maintains or collects sensitive personal data of United States citizens that may be exploited in a manner that threatens national security.⁴²

CFIUS does not see an issue enforcing rules against foreigners, particularly in data collection and technology. Additionally, the similarities between what is subject to CFIUS review and what the Order aims to prevent can explain why CFIUS might interpret the Order to extend to Saudi Arabia's investments. As such, the investments subject to CFIUS review mirror the fear described in the Order of a "country of concern" receiving the "intangible benefits" of the U.S. market.⁴³ Additionally, CFIUS also reviews:

[The investments that afford foreign persons in U.S. businesses either] direct[ly] or indirect[ly] (1)] access to any material

³⁸ See Foreign Investment Risk Rev. Modernization Act of 2018, Pub. L. No. 115-232, § 1703, 132 Stat. 1636, 2174–2207 (2018) https://home.treasury.gov/sites/default/files/2018-08/The-Foreign-Investment-Risk-Review-Modernization-Act-of-2018-FIRRMA_0.pdf [https://perma.cc/2ZY4-QYKV].

³⁹ See U.S. DEP'T OF THE TREASURY, THE COMM. ON FOREIGN INV. IN THE U.S. (CFIUS), (last visited Dec. 19, 2024) <https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius> [https://perma.cc/F34F-CM5N].

⁴⁰ 50 U.S.C.A. § 4565(B)(i) (2021).

⁴¹ 50 U.S.C.A. § 4565(D)(i)(I–III) (2021).

⁴² 50 U.S.C.A. § 4565(B)(iii)(II–III) (2021).

⁴³ See EO 14105 at 54962.

nonpublic technical information in the possession of the United States business. [Or (2)] membership or observer rights on the board of directors . . . or the right to nominate an individual to a position on the board of directors [in U.S. business]. . . . [Or (3)] any involvement, other than through voting shares, in substantive decisionmaking [sic] of the United States business regarding—a) the use, development, acquisition, safekeeping or release of sensitive personal data of United States citizens maintained or collected by the United States business; (bb) the use, development, acquisition, or release of critical technologies⁴⁴

The managerial power and market power that the Order is concerned with “persons of concern” receiving is also flagged by CFIUS as national security threats. And as described below, the PIF maintains investments in these categories.

The PIF has significant investments in the United States; it has a \$3.5 billion investment in Uber Technologies Inc., a \$20 billion investment in Blackstone’s Infrastructure Investment Fund Program, and a majority stake with an \$8 billion investment in Lucid Group, Inc.⁴⁵ CFIUS may therefore take issue with Saudi Arabia’s investments in Chinese AI.⁴⁶ The “intangible benefits” of “market access” may also concern CFIUS when a foreign sovereign wealth fund has a controlling share in a U.S. E.V. company.⁴⁷ One might think that AI and E.V. production are entirely separate and that they are completely different technological entities, but as shown by Musk using Tesla resources to develop xAI, there is no clear line, and AI can and has been implemented

⁴⁴ Compare 50 U.S.C.A. § 4565(l)(3)(i) (2021), with EO 14105 at 54962 (intangible benefits include, “enhanced standing and prominence, managerial assistance, investment and talent networks, market access, and enhanced access to additional financing.”).

⁴⁵ See Ahmed Al Omran & Ivan Levingston, *Saudi Arabia’s wealth fund pivots from int’l invs.*, FIN. TIMES (Oct. 29, 2024), <https://www.ft.com/content/5004fbc6-23e2-4b9f-9885-14e1ea724ce2> [<https://perma.cc/G44T-HD29>]; Akash Sriram & Abhirup Roy, *Lucid gets up to \$1.5 bln in funding ahead of electric SUV rollout*, REUTERS (Aug. 5, 2024 6:57 PM EDT), <https://www.reuters.com/business/autos-transportation/lucid-gets-15-billion-cash-infusion-saudi-shareholder-quarterly-revenue-beats-2024-08-05/>.

⁴⁶ See COMM. ON FOREIGN INV. IN THE U.S., Foreign Investment Risk Rev. Modernization Act of 2018, H. R. 5515–538, https://home.treasury.gov/sites/default/files/2018-08/The-Foreign-Investment-Risk-Review-Modernization-Act-of-2018-FIRRMA_0.pdf [<https://perma.cc/2ZY4-QYKV>].

⁴⁷ See EO 14105 at 54962; Exec. Ord. on Addressing U.S. Invs. in Certain Nat’l Sec. Techs. and Prods. in Countries of Concern, THE WHITE HOUSE (Aug. 9, 2023), <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/08/09/executive-order-on-addressing-united-states-investments-in-certain-national-security-technologies-and-products-in-countries-of-concern/> [<https://perma.cc/SX8W-AKR6>]; Akash Sriram & Abhirup Roy, *Lucid gets up to \$1.5 bln in funding ahead of electric SUV rollout*, REUTERS (Aug. 5, 2024, 6:57 PM EDT), <https://www.reuters.com/business/autos-transportation/lucid-gets-15-billion-cash-infusion-saudi-shareholder-quarterly-revenue-beats-2024-08-05/>; *Supra* notes 68–69.

into E.V. production.⁴⁸ Further, Saudi Arabia will likely be unable to shirk this interpretation by providing written notice to the CFIUS chairperson for a good-faith review or investigation because if CFIUS investigates, the outcome will likely be a national security threat determination.⁴⁹ Finally, the fact that a foreign government controls the PIF places it at an acute risk of being reviewed for threats.

It is also of note that the U.S. has already pressured other countries that invest in the U.S. to stop investing in Chinese technology, and the U.S. has begun placing export controls on U.S. semiconductors to China.⁵⁰ This pressure was evident when G42, a United Arab Emirates investment firm, sold its stake in China's ByteDance, Ltd., and Japan's SoftBank did not invest in Chinese AI companies.⁵¹ The fact that Saudi Arabia is the *only* foreign investor in Chinese start-up Zhipu AI indicates that investing in Chinese AI could be seen as a red flag by the United States.⁵² That is, if other countries that invest in the U.S. thought they could invest in China without complication, they likely would have invested in Chinese AI.⁵³ That said, Chinese technology companies such as Alibaba and ByteDance have recently been recruiting AI teams in the U.S.⁵⁴

The PIF has recently decided to withdraw a significant amount of its foreign investments.⁵⁵ This decision aligns with a broader trend led by Crown Prince and Prime Minister Mohammed Bin Salman (MBS). MBS implemented Vision 2030 in 2016.⁵⁶ Vision 2030 is an effort by MBS to diversify Saudi Arabia's oil-driven economy. The plan has accomplished monumental

⁴⁸ See Meghan Bobrowsky, *How Elon Musk Is Using His Empire To Kickstart xAI*, WALL ST. J. (Aug. 11, 2024 5:30 am ET), <https://www.wsj.com/tech/elon-musk-tesla-shore-up-ai-business-d4e2187f>.

⁴⁹ *Cf. Ralls Corp. v. Comm. on Foreign Inv. in U.S.*, 758 F.3d 296, 302 (D.C. Cir. 2014).

⁵⁰ See Press Release, *FACT SHEET: Addressing U.S. Invs. in Certain Nat'l Sec. Techs. and Prods. in Countries of Concern*, THE WHITE HOUSE (Oct. 28, 2024), <https://www.whitehouse.gov/briefing-room/statements-releases/2024/10/28/fact-sheet-addressing-u-s-investments-in-certain-national-security-technologies-and-products-in-countries-of-concern/> [<https://perma.cc/SX8W-AKR6>]; Eleanor Olcott, *Saudi fund inv. in China effort to create rival to OpenAI*, FIN. TIMES (May 31, 2024), <https://www.ft.com/content/87a40ffe-c791-4c90-8123-3f75aa0ed26b> [<https://perma.cc/HUZ4-8EAZ>]; Press release, OFF. OF CONG. AND PUB. AFFS., *Com. Strengthens Exp. Controls to Restrict China's Capability to Produce Advanced Semiconductors for Mil. Applications*, BUREAU OF INDUS. & SEC. (Dec. 2, 2024), <https://www.bis.gov/press-release/commerce-strengthens-export-controls-restrict-chinas-capability-produce-advanced>.

⁵¹ See Eleanor Olcott, *Saudi fund inv. in China effort to create rival to OpenAI*, FIN. TIMES (May 31, 2024), <https://www.ft.com/content/87a40ffe-c791-4c90-8123-3f75aa0ed26b> [<https://perma.cc/HUZ4-8EAZ>].

⁵² See *id.*

⁵³ See *id.*

⁵⁴ Gordon Smith et al., *FirstFT: Chinese tech grps. expand A.I. teams in Silicon Valley*, FIN. TIMES (Nov. 19, 2024), <https://www.ft.com/content/a24d41a1-cc71-4646-a319-fbcc6f1028e6>.

⁵⁵ Ahmed Al Omran & Ivan Levingston, *Saudi Arabia's wealth fund pivots from int'l invs.*, FIN. TIMES (Oct. 29, 2024), <https://www.ft.com/content/5004fbc6-23e2-4b9f-9885-14e1ea724ce2> [<https://perma.cc/G44T-HD29>].

⁵⁶ See VISION 2030, (last visited Dec. 18, 2024), <https://www.vision2030.gov.sa/en/overview> [<https://perma.cc/3CHJ-RLEC>].

social and economic goals. Such as allowing women to get licenses and travel without a male chaperone, and bringing entertainment like concerts and sports to Saudi Arabia, and making Riyadh a global hub.⁵⁷ Since 2016, however, MBS has rolled back many of Vision 2030's original projects and has cut spending.⁵⁸ Saudi Arabia's latest move to cut PIF investments abroad from its 2020 height of thirty percent to eighteen to twenty percent is likely due to its recent trend in cutbacks.⁵⁹ Additionally, Saudi Arabia has a history of reinvesting PIF funds in its people before investing abroad.⁶⁰ However, this move can be a testament to Saudi Arabia's ability and willingness to divest abroad.

C. Impact of the Order

Aside from Saudi Arabia's U.S. investments, it may also be concerned about the effects of the Order on whether Google Cloud or Musk can invest in Saudi Arabia. Biden's Order could block Musk and Google Cloud from opening a Regional Headquarters (RHQ) that is consistent with Saudi Arabia's law.⁶¹ The Order provides restrictions on U.S. investments abroad. CFIUS review of "covered transactions" is not limited to monetary investments; for example, CFIUS' definition of "covered" real estate transactions includes, "(BB) could reasonably provide the foreign person the ability to collect intelligence on activities being conducted at such an installation, facility, or property; or (CC) could otherwise expose national security activities at such an installation, facility, or property to the risk of foreign surveillance."⁶² Additionally, CFIUS has been dramatically expanding its reach over these transactions. As recently as July 19, 2024, CFIUS proposed an amendment to expand its reach on real estate.⁶³ While this expansion only included U.S. states,

⁵⁷ See VISION 2030, KINGDOM OF SAUDI ARABIA EMBASSY, (last visited Dec. 18, 2024), https://www.saudiembassy.net/sites/default/files/u66/Saudi_Vision2030_EN.pdf [<https://perma.cc/N26X-N49Z>]; Karen Elliott House, *Saudi First*, BELFER CTR. iii (July 2023), https://www.belfercenter.org/sites/default/files/pantheon_files/files/publication/Paper_SaudiFirst_v7.pdf.

⁵⁸ Andrew England & Ahmed Al Omran, *Saudi Arabia tightens its belt*, FIN. TIMES (Oct. 16, 2024), <https://www.ft.com/content/b50b2763-3435-42f9-8025-8c70ed776957>.

⁵⁹ Ahmed Al Omran & Ivan Levingston, *Saudi Arabia's wealth fund pivots from int'l invs.*, FIN. TIMES (OCT. 29, 2024), <https://www.ft.com/content/5004fbc6-23e2-4b9f-9885-14e1ea724ce2> [<https://perma.cc/G44T-HD29>].

⁶⁰ See DAVID RUNDELL, VISION OR MIRAGE: SAUDI ARABIA AT THE CROSSROADS 161 (2020).

⁶¹ See EO 14105 at 54961–62; INV. SAUDI, <https://www.investsaudi.sa/en/sectors-opportunities/regionalHQ#:~:text=An%20RHQ%20is%20set%20up,in%20KSA%20for%20tax%20purposes%20>.

⁶² 50 U.S.C.A. § 4565(4)(B)(ii)(BB-CC) (2021).

⁶³ See Definition of Mil. Installation and the List of Mil. Installations in Reguls. Pertaining to Certain Transactions by Foreign Perss. Involving Real Est. in the U.S., 31 Fed. Reg. 802 (proposed Jul. 19, 2024), <https://www.govinfo.gov/content/pkg/FR-2024-07-19/pdf/2024-15221.pdf>.

it is not unimaginable that CFIUS review could extend to real estate beyond U.S. borders. Especially considering the Order targets investments abroad. The risks listed—of sensitive U.S. citizen data, as well as threats of foreign surveillance—remain potent abroad.

MBS wants Vision 2030 to attract a lot of foreign investment in Saudi Arabia.⁶⁴ Furthermore, MBS wants foreign investments, foreign companies to establish RHQs in the country, and manufacturing plants in Riyadh.⁶⁵ Notably, MBS has created a new Saudi Arabian airline to ensure people come and has brought live entertainment to ensure people stay.⁶⁶ But the U.S. Treasury Department's Final Rule definition of a "covered foreign person" does not stop at companies owned by or operated in the PRC. It extends to those with an interest of "more than 50 percent of the first person's revenue, net income, capital expenditure, or operating expenses is attributable to such person of a country of concern, individually or in the aggregate"⁶⁷ The concerns flagged in the Order will extend to U.S. companies in Saudi Arabia. This is clear from the fact that in 2023, the U.S. expanded export controls on American corporation Nvidia from exporting its advanced AI chips to China and countries in the Middle East.⁶⁸

However, it is plausible that because China is still receiving these chips, and U.S. technology firms have not been deterred from working with China, maybe U.S. Saudi Arabia investments won't be harmed. The New York Times investigated AI chips and China after the Order went into effect and noted that Nvidia AI Chips are still being exported to China through supposedly indirect supply chains.⁶⁹ For example, former executives of the Chinese military computing supplier, Sugon, formed Nettrix when Sugon was placed on the blacklisted entities list.⁷⁰ U.S. Technology giants such as Nvidia, Intel, and

⁶⁴ See VISION 2030, KINGDOM OF SAUDI ARABIA EMBASSY, (last visited Dec. 18, 2024), https://www.saudiembassy.net/sites/default/files/u66/Saudi_Vision2030_EN.pdf [<https://perma.cc/N26X-N49Z>].

⁶⁵ See *id.*

⁶⁶ See Reuters, *Saudi Arabia launches new nat'l airline*, REUTERS (Mar. 14, 2023, 5:33 AM EDT), <https://www.reuters.com/business/aerospace-defense/saudi-arabia-launches-new-national-airline-2023-03-12/>; VISION 2030, KINGDOM OF SAUDI ARABIA EMBASSY, (last visited Dec. 18, 2024), https://www.saudiembassy.net/sites/default/files/u66/Saudi_Vision2030_EN.pdf [<https://perma.cc/N26X-N49Z>].

⁶⁷ Provisions Pertaining to U.S. Inv. in Certain Nat'l Sec. Techs. and Prods. in Countries of Concern, 31 C.F.R. § 850 (Aug. 9, 2023) (to be in effect Jan. 2, 2025) https://home.treasury.gov/system/files/206/TreasuryDepartmentOutboundInvestmentFinalRuleWEBSITEVERSION_0.pdf.

⁶⁸ See Stephen Nellis & Max A. Cherney, *US curbs A.I. chip exps. from Nvidia and AMD to some Middle East Countries*, REUTERS (August 31, 2023 1:26 PM EDT), <https://www.reuters.com/technology/us-restricts-exports-some-nvidia-chips-middle-east-countries-filing-2023-08-30/>.

⁶⁹ See Ana Swanson, *Takeaways From Our Investigation Into Banned A.I. Chips in China*, N.Y. TIMES (Aug. 5, 2024), <https://www.nytimes.com/2024/08/04/technology/china-ai-microchips-takeaways.html>.

⁷⁰ *Id.*

Microsoft immediately began to create relationships with Nettrix.⁷¹ While secondary or even tertiary markets may be hard to regulate, Biden's Order will likely prevent Zhipu AI and xAI from mixing their supply chains in Riyadh.⁷²

II. SAUDI ARABIAN DIVESTMENT

China's Lenovo issued \$2 billion of convertible bonds to PIF subsidiary Alat in exchange for an RHQ and manufacturing plant in Riyadh.⁷³ Alat subscribed to zero-coupon, three-year convertible bonds, and these bonds could be exchanged for Lenovo shares.⁷⁴ Alat's CEO, Amit Midha, has stated, "he would 'divest' from China if forced to do so. 'The US is the number one partner for us and the number one market for AI, chips and semiconductor industry.'"⁷⁵ While Midha's sentiment is nice, there is no indication that he speaks for the PIF more generally. Additionally, what happens if China becomes "the number one market for AI, chips and semiconductor industry[?]"⁷⁶ Would Saudi Arabia still "divest"?⁷⁷

A. U.S.-Kingdom of Saudi Arabia (KSA) Relationship

A deeper dive into the history of the U.S.-KSA relationship may lend insight into whether Saudi Arabia intends to be a faithful partner to the United States going forward. Second to Saudi Arabia's security interests is Saudi Arabia's economic interests.⁷⁸ Saudi Arabia took its seat as a world leader following Ibn Saud's Aramco Agreement of 1933.⁷⁹ Saudi Arabia was never colonized, which has always allowed it to be completely independent

⁷¹ *Id.*

⁷² See EO 14105 at 54961–62.

⁷³ Eleanor Olcott, *Saudi fund inv. in China effort to create rival to OpenAI*, FIN. TIMES (May 31, 2024), <https://www.ft.com/content/87a40ffe-c791-4c90-8123-3f75aa0ed26b> [<https://perma.cc/HUZ4-8EAZ>].

⁷⁴ See P.R. Venkat & Sherry Qin, *Lenovo Expands Mideast Ties With \$2 Billion Convertible Bond, Saudi Fund Deal*, WSJ (May 28, 2024 8:46 PM ET), <https://www.wsj.com/tech/lenovo-to-issue-2-0-billion-convertible-bonds-to-saudi-sovereign-wealth-fund-70b1b408> ("Alat . . . will subscribe to an issuance of zero-coupon, three-year convertible bonds, with proceeds going toward repaying existing debt and meeting working capital needs. The bonds can be exchanged for Lenovo shares . . .").

⁷⁵ Eleanor Olcott, *Saudi fund inv. in China effort to create rival to OpenAI*, FIN. TIMES (May 31, 2024), <https://www.ft.com/content/87a40ffe-c791-4c90-8123-3f75aa0ed26b> [<https://perma.cc/HUZ4-8EAZ>].

⁷⁶ See *id.*

⁷⁷ See *id.*

⁷⁸ See DAVID RUNDELL, *VISION OR MIRAGE: SAUDI ARABIA AT THE CROSSROADS* 157 (2020).

⁷⁹ See *id.* at 158–59.

on the international front and to always put Saudi Arabia first.⁸⁰ This can be demonstrated by Ibn Saud's hedging approach in World War II. Ibn Saud helped the Allies and Axis powers during WWII.⁸¹ Ibn Saud wrote to Adolf Hitler and bought arms from the Axis powers throughout WWII, but he also did not act when Hitler enlisted him to help an anti-British military coup in Baghdad even though Hitler promised to make Ibn Saud "'King of all Arabs' if the coup succeeded."⁸² Ibn Saud's decision was not made out of loyalty to Great Britain; Ibn Saud's decision was made for the well-being of the Saudi Arabian people.⁸³ The Saudis needed British food imports during the war.⁸⁴

Eventually, the United States replaced Great Britain as Saudi Arabia's crutch during WWII. America provided Saudi Arabia with what the Saudi Arabian people needed throughout the war, including "sen[ding] an agricultural mission to help the Saudis grow their own vegetables" and "provid[ing] Saudi Arabia with \$100 million in foreign aid[.]"⁸⁵ In return, America received "military access to air routes across the Arabian Peninsula[.]"⁸⁶ The location of Saudi Arabia is likely the reason why both China and the United States fight over it. Saudi Arabia is "[l]ocated at the crossroads between Europe and Asia[;]" it has vast oil reserves; and importing and exporting is relatively easy due to its location between the Red Sea and the Persian Gulf.⁸⁷ The geography of Saudi Arabia is likely a reason why Franklin D. Roosevelt declared in 1943, "'I hereby find that the defense of Saudi Arabia is vital to the defense of the United States.'"⁸⁸

To understand the U.S.-KSA relationship, one cannot look at events like the 1973 Oil Embargo and the 9/11 attacks in isolation, as the U.S.-KSA bond should not be characterized as full of strife and distrust; instead, their relationship is a reflection of Saudi Arabia's economic, social, and security policy: Saudi Arabia first.⁸⁹ As shown throughout its history, Saudi Arabia has and always will do what is strategically best for it at the time. Therefore, as long as the United States remains, as Amit Midha describes, "the number one market

⁸⁰ See *id.* at 169.

⁸¹ *Id.*

⁸² *Id.* 169–70.

⁸³ See *id.* 170.

⁸⁴ See DAVID RUNDELL, VISION OR MIRAGE: SAUDI ARABIA AT THE CROSSROADS 170 (2020).

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.* at 171, 183, 162.

⁸⁸ *Id.* at 170.

⁸⁹ See *id.*

for AI, chips and semiconductor industry[.]”⁹⁰ Saudi Arabia will likely turn down investment opportunities in Chinese AI.

B. PRC-KSA Relationship

The PRC-KSA relationship has grown tremendously throughout the years, ranging from “high-level visits,”⁹¹ to currency swap agreements,⁹² to cooperation on scientific research.”⁹³ Saudi Arabia has invested billions in Chinese electric vehicle companies like Human Horizons and Enovate.⁹⁴ Chinese technology conglomerate Huawei—at the disdain of the United States—has a “‘cloud region’ in Riyadh aimed at supporting government services and AI applications.”⁹⁵ Additionally, many of the faculty at universities researching AI, like KAUST, are Chinese or Chinese-American.⁹⁶ One issue of concern for the United States is the fact that the United States has sold Nvidia chips to Saudi Arabian institutions that research AI, but those same chips are not allowed to be exported to China.⁹⁷ The Chinese and Chinese-American faculty at KAUST now have access to semiconductor chips they would not be allowed to receive in China. While the KSA has not gone as far as the UAE in its military ties to the PRC,⁹⁸ over the past decade, it has developed a bilateral connection with the PRC.⁹⁹

⁹⁰ See Eleanor Olcott, *Saudi fund inv. in China effort to create rival to OpenAI*, FIN. TIMES (May 31, 2024), <https://www.ft.com/content/87a40ffe-c791-4c90-8123-3f75aa0ed26b> [<https://perma.cc/HUZ4-8EAZ>].

⁹¹ See Andrew Leber & Kevin Huggard, *Making sense of a proposed US-Saudi deal*, BROOKINGS INST. (July 10, 2024), <https://www.brookings.edu/articles/making-sense-of-a-proposed-us-saudi-deal/>; Aya Batrawy, *China’s Xi Jinping visits Saudi Arabia to assert power and rival US influence*, NPR (Dec. 8, 2022 11:31 AM ET), <https://www.npr.org/2022/12/08/1141202088/xi-jinping-saudi-arabia-china>.

⁹² See Andrew Leber & Kevin Huggard, *Making sense of a proposed US-Saudi deal*, BROOKINGS INST. (July 10, 2024), <https://www.brookings.edu/articles/making-sense-of-a-proposed-us-saudi-deal/>; Joe Cash, *China, Saudi Arabia sign currency swap agreement*, REUTERS (Nov. 20, 2023 6:14 AM EST) <https://www.reuters.com/markets/currencies/china-saudi-arabia-central-banks-sign-local-currency-swap-agreement-2023-11-20/>.

⁹³ See Andrew Leber & Kevin Huggard, *Making sense of a proposed US-Saudi deal*, BROOKINGS INST. (July 10, 2024), <https://www.brookings.edu/articles/making-sense-of-a-proposed-us-saudi-deal/>; Mohammed Al-Sudairi et al., *How Saudi Arabia Bent China to Its Technoscientific Ambitions*, CARNEGIE ENDOWMENT FOR INT’L PEACE (Aug. 1, 2023), <https://carnegieendowment.org/research/2023/08/how-saudi-arabia-bent-china-to-its-technoscientific-ambitions?lang=en>.

⁹⁴ See *id.*

⁹⁵ See *id.*

⁹⁶ See *id.*

⁹⁷ See Camille Lons, *East Meets Middle: China’s Blossoming Relationship with Saudi Arabia and the UAE*, EUR COUNCIL ON FOREIGN RELS. (May 2024), <https://ecfr.eu/wp-content/uploads/2024/05/East-meets-middle-Chinas-blossoming-relationship-with-Saudi-Arabia-and-the-UAE.pdf>.

⁹⁸ See Vivian Nereim, *An Oil-Rich Ally Tests Its Relationship With The U.S.*, N.Y. TIMES (Aug. 8, 2023), <https://www.nytimes.com/2023/08/08/world/middleeast/uae-russia-china-us.html> (The UAE has trained with PRC air forces, received weapons from the PRC, and has stalled a deal to buy U.S. F-35 fighter jets).

⁹⁹ See *id.*

C. “Saudi First”

Saudi Arabia has always put Saudi Arabia first in terms of security and economy. For example, unlike the standard practice of its regional peers, Saudi Arabia uses its oil profits to invest in the Saudi Arabian people.¹⁰⁰ Ibn Saud understood that what his country needed was to be able to have their own resources—education, sustenance, welfare—before Saudi Arabia could be great, it needed to be self-reliant. Ibn Saud’s sentiment still resonates in Saudi Arabia today, the most pointed case being MBS’ policies since 2016.¹⁰¹ To continue putting Saudi Arabia first, MBS must balance the Country’s economy and security. This will include balancing Saudi Arabia’s desire to be a leader in AI and its need to protect against the threat of Iran. For example, Saudi Arabia cut off ties with Egypt when it signed the Camp David Accords;¹⁰² but in 2024—when Saudi Arabia wanted the security that America could promise them—it considered normalizing relations with Israel.¹⁰³ In 2023, MBS recognized the importance of security from the United States and preventing Iran’s Islamism. MBS has also accepted that technology is vital for the country’s future economic success; hence, Saudi Arabia has made significant technological investments.¹⁰⁴ But it will not continue to invest in Chinese AI if these investments mean it will not receive a civilian nuclear program, for example.¹⁰⁵ As such, Saudi Arabia will have to choose what is best for Saudi Arabia’s economy while not sacrificing its security interests (*e.g.*, Iran), which will lead Saudi Arabia to pick the U.S. as its AI partner.

¹⁰⁰ See, *e.g.*, DAVID RUNDELL, VISION OR MIRAGE: SAUDI ARABIA AT THE CROSSROADS 161 (2020) (“[Ibn Saud] focused [the Country’s profits] almost entirely on building domestic industries [like] . . . like desalinated water.”).

¹⁰¹ See Karen Elliott House, *Saudi First*, BELFER CTR. iii (July 2023), https://www.belfercenter.org/sites/default/files/pantheon_files/files/publication/Paper_SaudiFirst_v7.pdf. See, *e.g.*, DAVID RUNDELL, VISION OR MIRAGE: SAUDI ARABIA AT THE CROSSROADS at 207 (MBS “reshape[d] Wahhabi Islam to liberalize Saudi Arabian society.”).

¹⁰² Thomas W. Lippman, *Post-Camp David Split Sours Egypt’s Ties to Saudi Arabia*, WASHINGTON POST (Dec. 8, 1978 7:00 PM EST) <https://www.washingtonpost.com/archive/politics/1978/12/09/post-camp-david-split-sours-egypts-ties-to-saudi-arabia/cb821195-f536-418b-a5c8-ba29c5c7ed1c/>.

¹⁰³ *Possible U.S.-Saudi Agreements and Normalization with Israel: Considerations for Cong.*, CONG. RSCH. SERV. (Aug. 27, 2024), <https://crsreports.congress.gov/product/pdf/R/R48162>.

¹⁰⁴ See Maureen Farrell & Rob Copeland, *Saudi Arabia Plans \$40 Billion Push Into A.I.*, N.Y. TIMES (Mar. 19, 2024), <https://www.nytimes.com/2024/03/19/business/saudi-arabia-investment-artificial-intelligence.html>.

¹⁰⁵ See Andrew Leber & Kevin Huggard, *Making sense of a proposed US-Saudi deal*, BROOKINGS INST. (July 10, 2024), <https://www.brookings.edu/articles/making-sense-of-a-proposed-us-saudi-deal/>; Matt Spetalnick & Andrea Shalal, *US-Saudi def. deal with civ. nuclear component nears completion, off. says*, REUTERS (May 21, 2024 9:46 PM EDT), <https://www.reuters.com/world/us/us-saudi-defense-deal-with-civil-nuclear-component-nears-completion-official-2024-05-21/>.

CONCLUSION

The U.S.-KSA relationship has been said to be “Thicker than Oil.”¹⁰⁶ As the world advances and moves further away from crude oil and petrochemicals, it seems clear that the U.S.-KSA AI relationship will become the new U.S.-KSA oil relationship.¹⁰⁷ And as long as the U.S. continues to be the global leader in AI, the U.S.-KSA relationship will be thicker than AI.

¹⁰⁶ See RACHEL BRONSON, *THICKER THAN OIL: AMERICA’S UNEASY P’SHP. WITH SAUDI ARABIA*, first ed. OXFORD UNIV. PRESS (Jun. 25, 2008).

¹⁰⁷ See Adam Satariano & Paul Mozur, *‘To the Future’: Saudi Arabia Spends Big to Become an A.I. Superpower*, N.Y. TIMES (Apr. 26, 2024), <https://www.nytimes.com/2024/04/25/technology/saudi-arabia-ai.html>.