

U.S. - China Export Restrictions

Navigating Technology Decoupling in 2026

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A close-up photograph of Yoda's face, looking slightly to the right. He is wearing his characteristic brown robe. The background is a dark, neutral color. Overlaid on the image is white text in a serif font. The word 'BEGUN' is in the top left, '2018' is in the center over his eyes, and 'THE TRADE WAR HAS' is at the bottom.

BEGUN

2018

THE TRADE WAR HAS



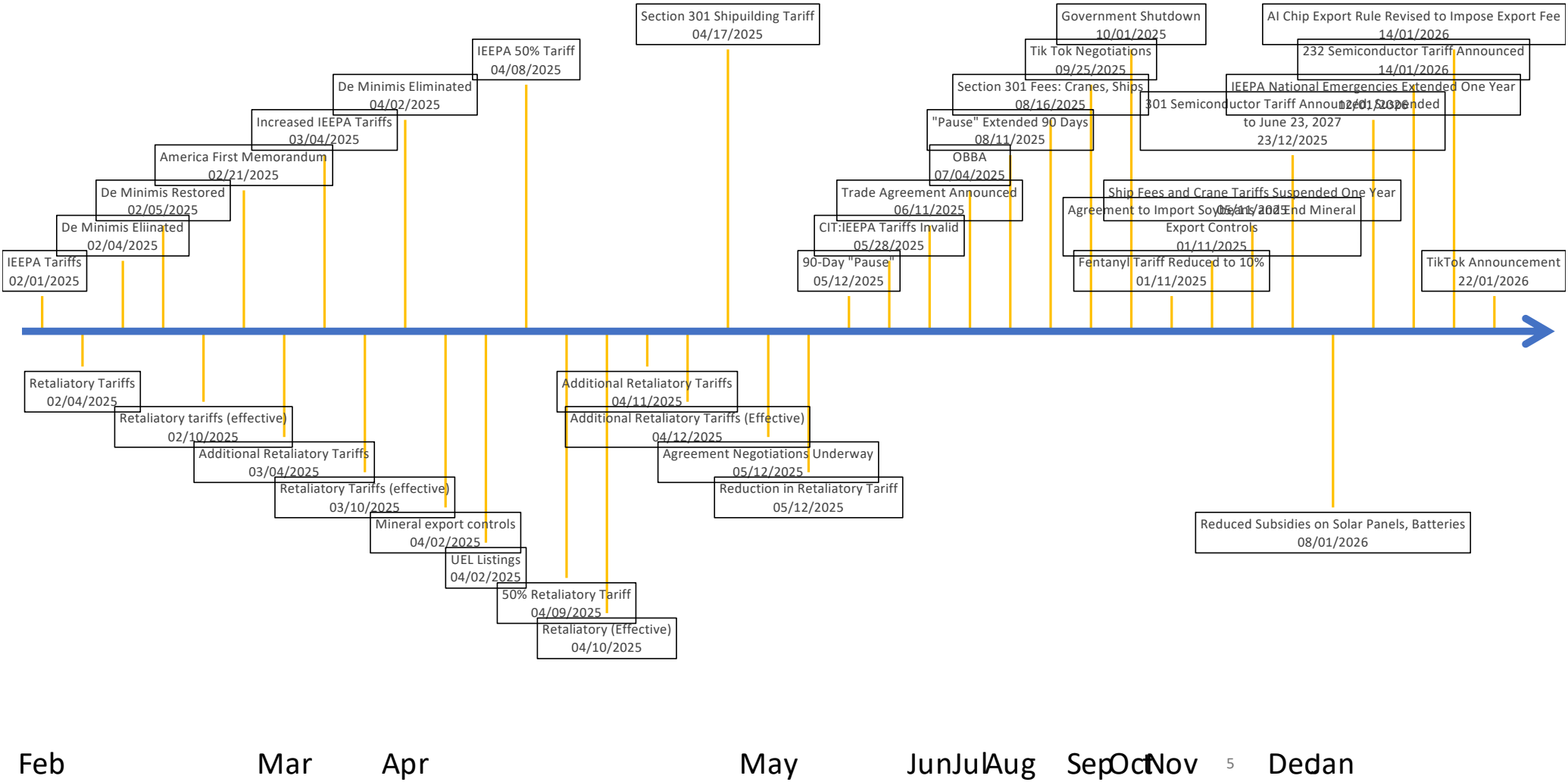
Agenda

- What is new in 2026
- Context
- Trump Administration controls
- Future considerations
- How to prepare



Timeline of U.S. - China Trade War in Trump 2.0

U.S. - China Technology Trade War 2025-26





Agenda

- Context
- Trump Administration controls as of February 2025
- Trump Administration future considerations
- How to prepare



Context: U.S.-China competition

- Pre-2017
- 2017 U.S. National Security Strategy
- “A whole-of-society threat”
- Bipartisan anti-China policy consensus
- N.B. China is not the whole story
 - Rogue states
 - Russia
 - Others
- N.B. U.S.-China trade is not the whole story
 - Bigger picture: globalization vs. fragmentation
 - Other trading partners of China: Russia, Europe, Africa, Asia, Americas



Context: U.S. “whole-of-society” response

- Export control revisions
- Entity list listings
- Hong Kong determination
- CFIUS changes
- U.S. industrial policy
- U.S. procurement policy (e.g., Sec. 889)
- Import controls
 - Tariffs
 - Section 301
 - AD/CVD
 - UFLPA
- Immigration controls
- Telecom licensing controls
- Currency manipulation controls
- Counterespionage (e.g., U.S. campuses)
- Cyberwarfare
- Outbound investment controls
- U.S. diplomatic efforts (e.g., Netherlands and Japan)



Context: Chinese response 2018-2026

- Export control law
- Unreliable Entities Listings
- Foreign direct investment reviews



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Export controls

- 1989 arms embargo
- 2019 Huawei Entity List designation and rules
- 2020 Chinese Military End-User restrictions
- 2022 ECAD and transistor rules
- October 2023 semiconductor rules

Semiconductor controls: October 2023 rule

- New ECCNs for semiconductors and related technology
- New foreign direct product rules
- New sanctions-like prohibition on U.S. Person “facilitation”
- Certification provision
- Temporary General License (expired 4/7/23)

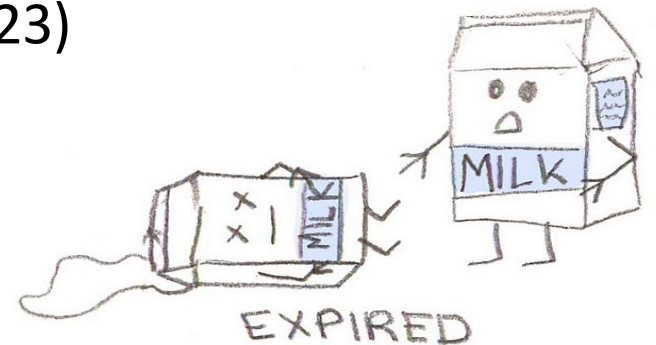


Image ©
televisionbox 2023



Foreign direct product (FDP) rules added in 2024

Three New FDP Rules:

1. **Advanced Computing FDP Rule**
2. “Supercomputer” FDP Rule
3. The Expanded Entity List FDP Rule (FN4)



Advanced Computing FDP Rule

(i) Product Scope:

- (1) The foreign-made item is the **direct product of software or technology subject to the EAR and specified in ECCNs 3D001...**, and
- (2) The foreign-made item meets these standard: ECCNs 3A090, 3E001 ...,

3A090 - high performance ICs

a. Integrated circuits that have or are programmable to have an aggregate bidirectional transfer rate over all inputs and outputs of 600 Gbyte/s or more to or from integrated circuits other than volatile memories, and any of the following:

Advanced Computing FDP Rule

(ii) Destination or end-use scope: there is knowledge that foreign-made item is:

- (1) destined to China; or
- (2) technology developed by a China-headquartered entity for the production of a mask or an IC wafer or die.





Foreign Direct Product (FDP) Rules

Three New FDP Rules:

1. Advanced Computing FDP Rule
2. “Supercomputer” FDP Rule
3. The Expanded Entity List FDP Rule (FN4)



Supercomputer FDP Rule

- (i) Product Scope: any foreign-made item that is the **direct product of software or technology** subject to the EAR and specified in ECCNs 3D001, ...

- (ii) Country and end-use scope: there is “knowledge” that the foreign-made items will be used in the design, development, production, operation, installation, maintenance, ...of a “supercomputer” located in or destined to China.



A What?!





Supercomputers

- collective maximum theoretical compute capacity of 100 or more double-precision (64-bit) petaflops or 200 or more single-precision (32-bit) petaflops within a 41,600 ft³ or smaller envelope.
- Total <300 worldwide
- Most are in United States and China



Foreign Direct Product (FDP) Rules

Three New FDP Rules:

1. Advanced Computing FDP Rule
2. “Supercomputer” FDP Rule
3. The Expanded Entity List FDP Rule (FN4)



Footnote 4 FDP Rule

- Entity List: severe export control requirements: no or limited access to U.S. exports
- In October 2024, BIS added 28 Chinese companies to the Entity List, including Dahua Technology, Hikvision, Iflyteck, Megvii Technology...



FN1 v FN4 FDPR

- Similar to the FN1 FDPR (Huawei)
- Product Scope is broader!
 - 5D002
 - 5E002



January 16, 2025 controls

- New rules on foundries and packaging companies
- License required to all countries for 3A090.a
- Advance computing FDPR expanded to all destinations
- New controls on AI model weights (new 4E091) to all destinations



What is an AI model weight, you ask?

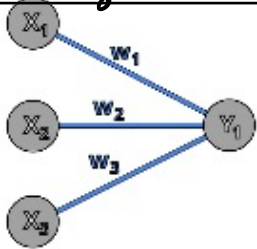


Model Weight Calculation Formula



Model Weight Calculation Formula

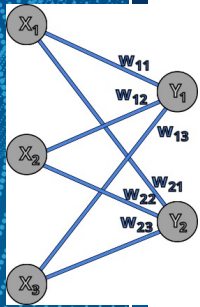
Model Weight Calculation Formula



$$\begin{bmatrix} w_{11} & w_{12} & w_{13} \\ w_{21} & w_{22} & w_{23} \end{bmatrix} \times \begin{bmatrix} x_1 \\ x_2 \\ x_3 \end{bmatrix} = \begin{bmatrix} x_1 \cdot w_{11} + x_2 \cdot w_{12} + x_3 \cdot w_{13} \\ x_1 \cdot w_{21} + x_2 \cdot w_{22} + x_3 \cdot w_{23} \end{bmatrix}$$

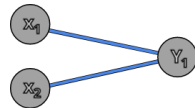
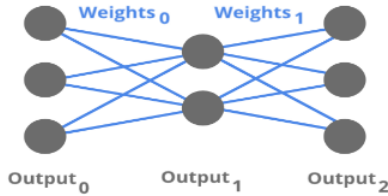
$$\begin{bmatrix} w_{11} & w_{12} & w_{13} \\ w_{21} & w_{22} & w_{23} \end{bmatrix} \times \begin{bmatrix} x_1 \\ x_2 \\ x_3 \end{bmatrix} = \begin{bmatrix} y_1 \\ y_2 \end{bmatrix}$$

$$Y_1 = \text{Activation}(W_1 \times X_1 + W_2 \times X_2 + W_3 \times X_3)$$



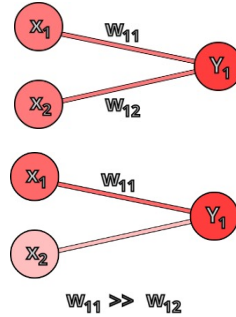
$$Y_1 = w_{11} \times X_1 + w_{12} \times X_2 + w_{13} \times X_3$$

$$Y_2 = w_{21} \times X_1 + w_{22} \times X_2 + w_{23} \times X_3$$



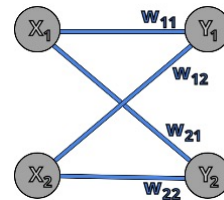
$$\text{Output}_n = \text{Weights}_{n-1} \times \text{Input}$$

$$\text{Output}_n = \text{Activation}(\text{Weights}_{n-1}, \text{Output}_{n-1})$$



$$EX_1 = \frac{W_{11}}{W_{11} + W_{12}} \times EY_1$$

$$EX_2 = \frac{W_{12}}{W_{11} + W_{12}} \times EY_1$$



$$EX_1 = \frac{W_{11}}{W_{11} + W_{12}} \times EY_1 + \frac{W_{21}}{W_{21} + W_{22}} \times EY_2$$

$$EX_2 = \frac{W_{12}}{W_{11} + W_{12}} \times EY_1 + \frac{W_{22}}{W_{21} + W_{22}} \times EY_2$$

$$EX = \begin{bmatrix} \frac{W_{11}}{W_{11} + W_{12}} & \frac{W_{21}}{W_{21} + W_{22}} \\ \frac{W_{12}}{W_{11} + W_{12}} & \frac{W_{22}}{W_{21} + W_{22}} \end{bmatrix} \times \begin{bmatrix} EY_1 \\ EY_2 \end{bmatrix}$$

$$EX = \begin{bmatrix} W_{11} & W_{21} \\ W_{12} & W_{22} \end{bmatrix} \times \begin{bmatrix} EY_1 \\ EY_2 \end{bmatrix}$$

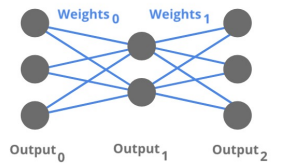
$$E_{n-1} = W_n^T \times E_n$$

$$\begin{bmatrix} W_{11} & W_{21} \\ W_{12} & W_{22} \end{bmatrix} = \begin{bmatrix} W_{11} & W_{12} \\ W_{21} & W_{22} \end{bmatrix}^T$$

$$\frac{\delta E_{n+1}}{\delta W_n}$$

$$W_n = W_n - \frac{\delta E_{n+1}}{\delta W_n}$$

$$W_n = W_n - Lr \times \frac{\delta E_{n+1}}{\delta W_n}$$



$$\text{Output}_n = \text{Activation}(\text{Weights}_{n-1} \times \text{Output}_{n-1}) \quad E_{n-1} = W_n^T \times E_n$$

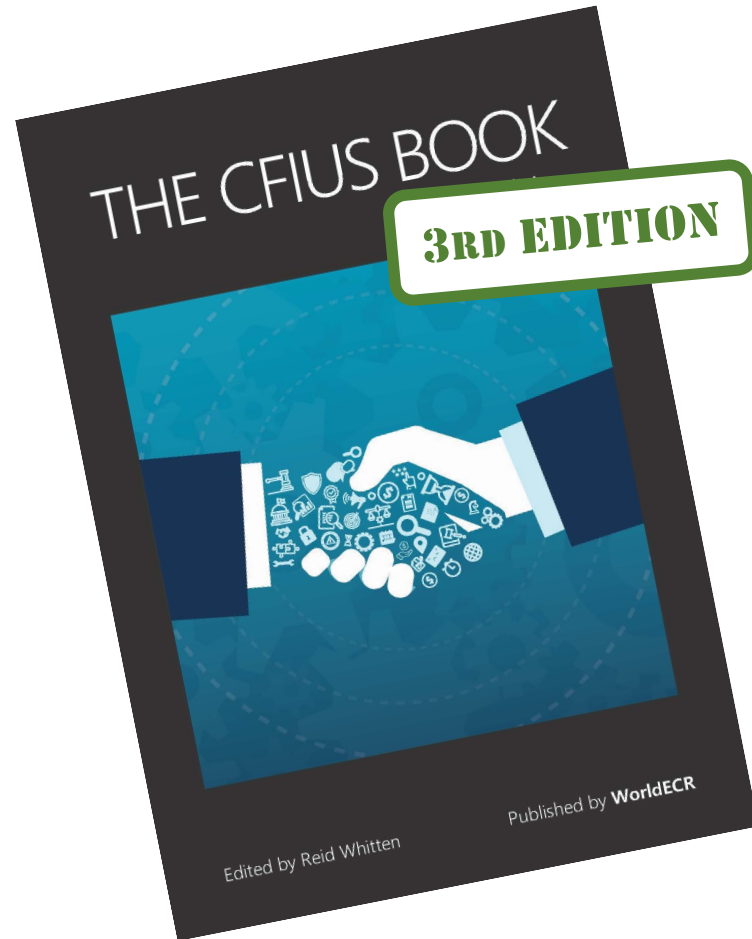
$$W_n = W_n - Lr \times \delta E_{n+1} / \delta W_n$$

$$W_n = W_n - Lr \times \frac{\delta E_{n+1}}{\delta W_n}$$

China: U.S. entity listings by administration

	Trump I	Biden	Trump II
SDN List Additions	216 Chinese individuals / entities	432 Chinese individuals / entities	TBD
Entity List	259 Chinese individuals / entities	600 Chinese individuals / entities	TBD
Justification	Reinforce sanctions against Iran and North Korea	Aimed at China's connection to Russia	TBD
Focus	Missiles, nuclear weapons, unmanned aerial vehicles, and related semiconductors.	Dual-use technologies, biotechnology, quantum computing, semiconductors.	TBD

Foreign direct investment controls





Foreign direct investment controls, cont'd

- “America First” agenda may disfavor foreign investment
- CFIUS may block transactions
- New outbound investment review

Foreign direct investment controls, cont'd





Tariffs

- 10% tariffs on all goods of China
- Goods of Hong Kong included via 2020 FR notice
- De minimis exemption not available
- Drawback not available
- Authority: IEEPA



China retaliation (cont'd)

- 15% tariff: coal, LNG
- 10% tariff: crude oil, farm machinery, large cars
- Export controls: additional critical minerals
- Antitrust investigation
- Unreliable Entity List additions



Agenda

- Context
- Trump Administration controls as of February 2025
- **Trump Administration's future options**
- How to prepare





PRESIDENTIAL ACTIONS

AMERICA FIRST TRADE POLICY

January 20, 2025



Policy directive: review export control system

- Maintain technological edge
- Eliminate loopholes
- Revise enforcement policies



Future Trump Administration options

- Increase Entity List use on China's semiconductor and tech sectors
- Target legacy chip manufacturing
- Further restrict advanced chip manufacturing
- Apply FDPR to chipmaking equipment exports from U.S. allies to China



Future Trump Administration options, cont'd

- Increase enforcement actions against Chinese companies engaged in illicit transshipment of goods to Russia
- Impose sanctions on Huawei, SMIC, Hikvision, and other Chinese tech firms
- Increase the use of the NS-CMIC List, restricting U.S. persons from trading in securities of listed entities

Foreign direct investment controls, cont'd





Agenda

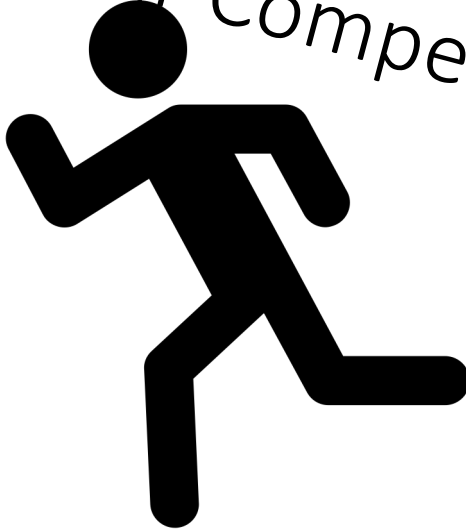
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Trade Compliance as Business Strategy

You



Your Competition



REGULATORS



Compliance as Business Strategy, cont'd

- Eliminate cognitive bias in planning
- Scenarios, options, tabletop exercises
- Modular solutions

Links and resources

Export Administration Regulations: <https://www.bis.gov/regulations>

International Traffic in Arms Regulations: Bartlett's Annotated ITAR (BITAR): <https://bartlettpublications.com/>

U.S. sanctions and embargoes: <https://ofac.treasury.gov/>

2017 National Security Strategy: <https://trumpwhitehouse.archives.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>

Wray: Whole-of-Society: <https://www.fbi.gov/news/stories/wray-addresses-china-threat-at-doi-conference-020620#:~:text=FBI%20Director%20Christopher%20Wray,-Just%20last%20month&text=Wray%20also%20called%20for%20a,do%20business%20with%20Chinese%20companies>.

Global Order vs. Fragmentation: <https://www.globaltradelawblog.com/2024/04/04/the-end-of-the-world-order-and-the-rise-of-trade-regulation/>

Bureau of Industry and Security recent actions: https://www.bis.gov/news-updates/search?content_type=All&created=All&field_countries=All&field_learn_support_topics=All&field_news_updates_topic=All&news_search_query=&sort_by=created&sort_order=DESC

BIS Foreign Direct Product Rule actions: https://www.bis.gov/search?search_api_fulltext_op=and&search_query=%22foreign+direct+product+rule%22&search_type_filter=All

January 2025 rules: <https://www.federalregister.gov/documents/2025/01/16/2025-00723/controls-on-certain-laboratory-equipment-and-related-technology-to-address-dual-use-concerns-about>; <https://www.federalregister.gov/documents/2025/01/16/2025-00711/implementation-of-additional-due-diligence-measures-for-advanced-computing-integrated-circuits>

CFIUS Book 3rd ed. Email rwhitten@sheppardmullin.com

China tariff order: <https://www.whitehouse.gov/presidential-actions/2025/02/imposing-duties-to-address-the-synthetic-opioid-supply-chain-in-the-peoples-republic-of-china/>

China tariff FR notice: <https://www.federalregister.gov/documents/2025/02/05/2025-02293/implementation-of-additional-duties-on-products-of-the-peoples-republic-of-china-pursuant-to-the>

America First Trade Policy: <https://www.whitehouse.gov/presidential-actions/2025/01/america-first-trade-policy/>

Cognitive bias in decision making: http://www.sheppardmullin.com/assets/htmldocuments/OIG%20Principle%20Papers_Cognitive%20Illusions%201019.pdf

Organizational Integrity Group (critical thinking for compliance, risk, and investigations): <https://www.sheppardmullin.com/organizational-integrity-group>

Questions you have?

ATCC Houston

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Thank you!

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