

## China

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Miller Canfield's China practice includes a team of dedicated multilingual attorneys, a global business manager, and other professionals from across the spectrum of legal specialties within the firm. Our specialties include foreign direct investment, mergers and acquisitions, corporate and securities, finance, national security, export controls, international traffic in arms regulations (ITAR), export administration (EAR), anticorruption, anti-money laundering (AML), corporate transparency (CTA), corporate compliance, tax, employment, immigration, litigation and alternative dispute resolution.

From our offices in the United States, we represent U.S. and multinational businesses and publicly and privately held companies of all types and sizes operating and investing in China, as well as Chinese companies and their subsidiaries and joint ventures operating and investing in the United States, Canada, Mexico and Europe.

Clients choose Miller Canfield's China team based on the sophistication, capabilities, experience and breadth of practice of our team, our knowledge of the cutting-edge issues facing our clients, and our pragmatic, cost-effective, value-added and problem-solving approach to their businesses. **Chambers USA** recognizes Miller Canfield as "particularly adept at advising on inbound and outbound investments between the USA and China."

Our presence differentiates us from many of our competitors and significantly contributes to the success of our China team. Please also visit our **Chinese language website** for additional information.

### **Assisting Companies Operating, Expanding and Investing in China**

Our China team advises, counsels and assists clients in the automotive, manufacturing, pharmaceutical, medical devices, environmental, construction, high-tech, and financial services sectors from the United States, Canada, Mexico, Europe, Australia and New Zealand with their business and legal needs in China including:

- Establishing, capitalizing, financing, registering and restructuring their foreign direct investments and operations (including wholly foreign owned enterprises/WFOEs), joint ventures and representative offices
- Applying for governmental incentives and advantages offered by industrial parks, free trade zones and bonded logistics parks
- Advising on employment and labor matters including employment contracts, secondment arrangements, company policies, employee handbooks, retrenchments, severance agreements, pension and social insurance requirements, work visas and residential permits
- Acquiring land use rights and developing, constructing, leasing and registering manufacturing and office facilities, environmental impacts, advising on environmental compliance and permitting, and addressing environmental concerns
- Negotiating, establishing and registering joint ventures, strategic alliances, mergers, acquisitions, leveraged buyouts, split-offs, spin-offs and other recapitalization transactions, and divestments
- Navigating data privacy, cybersecurity, anticorruption, AML and other regulatory compliance requirements
- Advising on banking and foreign exchange control regulations and issues
- Managing and conducting comprehensive legal due diligence reviews

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- Counselling on U.S.-China trade policies and agreements, customs, duties and tariffs, export control, ITAR, AML regulations, and assisting in the development, implementation and monitoring of export compliance programs, and drafting ITAR and EAR export license applications
- Advising on franchising regulatory and operational issues and franchising agreements
- Interpreting, drafting and negotiating commercial arrangements and transactions
- Registering, licensing, transferring and enforcing intellectual property rights, diligence reviews of IP assets and rights, developing IP strategies and managing IP portfolios
- Assisting with dispute resolution proceedings in Chinese courts and domestic and international arbitration tribunals
- Advising on creditors rights, restructurings, bankruptcy, workouts, dissolution and other exit strategies

## **Assisting Chinese Companies Operating and Investing in the U.S., Canada, Mexico and Europe**

Our China team is uniquely positioned to provide legal and business services to Chinese companies in most every industry looking to expand, invest and establish operations in the United States, Canada, Mexico and Europe.

Our clients include Chinese public and privately held companies, state owned enterprises (SOEs), and their subsidiaries, joint ventures and affiliates investing and operating in North America and Europe. We represent a majority of the Chinese companies making significant foreign direct investments in the State of Michigan, as well as those with multistate facilities. Many of our Chinese clients are in the automotive, manufacturing, technology, environmental products, renewable energy, life sciences, medical equipment and devices, and educational service industry sectors.

Our China team advises and assists these clients with all aspects of their business and legal needs in the United States, Canada, Mexico and Europe including:

- Establishing, structuring, expanding, capitalizing and financing their operations
- Federal, state and local tax planning
- Site selection and applying for governmental incentives
- Acquiring, developing and leasing manufacturing plants, research & development centers, and office facilities
- Performing comprehensive legal due diligence reviews, including data privacy and cybersecurity, environmental, regulatory compliance, tax, employment and immigration due diligence
- Mergers, acquisitions, joint ventures and strategic alliances and private equity and venture capital investments and transactions
- Rapidly developing U.S. CFIUS and other national security policies and regulations
- U.S.-China trade policies and agreements, the United States-Mexico-Canada Agreement (USMCA), customs, duties and tariffs, export control, ITAR, AML and CTA regulations, export compliance programs and ITAR and EAR export license applications
- Competition and antitrust law requirements including premerger notifications and filings under the U.S Hart Scott Rodino Act of 1976, and competition law filings under the competition laws of Canada and Mexico

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- Anticorruption laws and regulations, the U.S. Foreign Corrupt Practices Act, compliance programs, internal and governmental audits and investigations
- Capital and debt financing
- Employment and labor laws and regulations including policies, executive compensation and the U.S. EB-5 immigrant investor program
- U.S. immigration policies, immigrant and nonimmigrant visas, and immigration audits
- Interpreting, drafting and negotiating commercial agreements and transactions including manufacturing, distribution, supply, sales, licensing and technology transfer agreements
- Registering, licensing and enforcing intellectual property rights
- Renewable fuel, green energy and technology projects
- Automotive OEMs entry into the U.S. market including FMVSS, NHTSA, EPA, product liability, homologation, certification, and importation and distribution of finished vehicles, franchise laws and insurance matters
- Autonomous driving and connected activities policies and regulations
- Resolving disputes in U.S. courts and domestic and international mediations and arbitrations
- Creditors rights, restructurings, bankruptcy, workouts, dissolution and other exit strategies

## Representative Matters

### Experience Representing Companies Operating, Expanding and Investing in China

#### Establishing Automotive Manufacturing Facilities

Represented multiple U.S. 1<sup>st</sup> and 2<sup>nd</sup> tier automotive suppliers in connection with their land use right purchase, manufacturing facility construction, and incentive application package in Beijing, Dongguan, Guangzhou, Liuzhou, Ningbo, Qingdao, Shanghai, Shenzhen and Tianjin.

#### Joint Venture Projects

Represented a rubber compound manufacturing company in connection with its joint venture project in Foshan. The project involves the land use right purchase from the local government, construction of a manufacturing facility, equipment importing, and selling its business to another foreign company.

Represented a large state-owned company in connection with its joint venture project with a giant worldwide oil company. The project to establish synthetic rubber manufacturing facility in North China involves JV contract negotiation, supply contract negotiation with a critical raw material supplier in North China, manufacturing facility construction, and technology import matters.

Represented an automotive inner material manufacturer in connection with its joint venture project in Ningbo, China.

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Represented the first U.S. vertical recyclers of hazardous secondary material from paint-system waste material, in connection with its JV project with a private Chinese company in Chongqing, China.

Represented a private Chinese friction manufacture company in connection with its joint venture project with a German automotive parts supplier to set up a joint venture manufacturing facility in Dongying, China.

Represented a German company in connection with its joint venture project to engage in water pump manufacturing business in Xi'an, China.

### **Mergers and Acquisitions**

Represented a U.S. motor fabric manufacturer in its acquisition of a Shanghai-based supplier with a manufacturing facility in the Shandong province.

Represented a U.S. company selling its rubber compound manufacturing facility and sales offices to a Switzerland-based buyer.

Assisted U.S. shareholders in selling their medical device manufacturing and distribution business, with significant operation assets in China, to a strategic buyer in the U.S.

### **Divestment and Exit from China**

Represented multiple U.S. and European companies in connection with their divestment and exit from China, dissolving the companies, handling custom duty assessment, VAT refund, employment layoff, and tax deregistration matters.

### **Cybersecurity, Data Privacy and Data Cross-Border Transfer**

Advise numerous clients on applying proper mechanisms to comply with cybersecurity, data privacy, and data cross-border transfer laws and regulations of the PRC.

### **Dispute Resolution**

Represented multiple companies in front of CIETAC Beijing and CIETAC Shenzhen in connection with their joint venture disputes and disputes arising from stock purchase transactions.

Represented a U.S. automotive supplier in connection with its dispute with an expatriate in front of CIETAC Shenzhen.

Worked with local counsel to represent a U.S. automation company in connection with its judicial dissolution in Northern China.

### **Foreign Sovereign Immunities Act**

Lead counsel representing Aviation Industry Corporation of China, the largest state-owned enterprise in China, in a lawsuit brought by a company alleging potentially tens of millions of dollars in fees and commissions relating to the sale by General Motors of Nexteer Automotive. The case raised important issues regarding the application of the Foreign Sovereign Immunities Act and involved litigation and argument over four years in federal trial and appellate courts.

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### **Labor Arbitrations**

Represented numerous clients in resolving their disputes with employees regarding severance, breach of NDA and breach of non-competition agreements.

### **Financial Services**

Successfully represented a Japanese company applying for a financial service broker license in China.

### **Higher Education**

Represented state and private universities, in connection with their establishments in China, to pursue joint degree programs in China, recruit Chinese students, and provide networking platforms for their alumni.

Advised U.S. universities with respect to tax issues arising from offering online courses in China, or having their Chinese students attend Chinese universities to receive credit from U.S. universities during the COVID-19 pandemic.

## **Experience Representing Chinese Clients in Matters Outside of China**

### **U.S. Subsidiaries, Offices, Joint Ventures and Alliances**

Assisted hundreds of Chinese companies to establish U.S. subsidiaries, offices, joint ventures, and alliances.

### **U.S. Automotive Market Entry**

Advised top Chinese automotive OEMs on FMVSS, vehicle certificate, EPCA, CAFE, NHTSA, product recall, product liability litigation, franchise laws, automotive dealer nets, and vehicle financing and insurance.

### **Research and Development Centers**

Assisted six top Chinese automotive OEMs to set up their research and development centers in the States of Michigan and California.

Assisted several Chinese automotive suppliers to set up engineering centers in the State of Michigan.

### **Chinese Company Litigation and Arbitrations**

Represented Chinese automotive OEMs and suppliers to successfully defend commercial contract disputes filed in the state courts and federal courts in the U.S.

Represented Chinese public and private enterprises in arbitrations conducted in California, Michigan, New York, Hong Kong and Singapore.

Defended a Chinese buyer in an \$80 million post-M&A dispute with a Mexican company. The matter was seated in the U.S. and administered by the ICC International Court of Arbitration.

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Defended a Chinese buyer in a post-M&A dispute with a Dutch seller over business interests in Europe and North America. The matter was seated in Hong Kong and administered by the Hong Kong International Arbitration Centre.

Defended Chinese investors in a dispute with a U.S. company over a construction project in Los Angeles. The matter was seated in Los Angeles and administered by the International Centre for Dispute Resolution.

Defended a Chinese corporation in a \$20 million international automotive supply chain dispute. The arbitration was seated in Singapore and administered by the Singapore International Arbitration Centre.

### **Establishing Manufacturing Facilities by Chinese Companies**

Provided transaction support to a Chinese-based client in the multi-million-dollar purchase of a large float glass manufacturing facility in Ohio. The company has invested over \$1.2 billion in the facility and created more than 3,000 jobs.

Represented a Chinese automotive interior manufacturer in establishing its manufacturing facilities in Detroit, Mich., and Kansas City, Mo., which have created over 1,200 jobs.

Represented a Chinese automotive parts manufacturer to set up its manufacturing facility in Michigan which could hire up to 450 employees.

Represented a Chinese automotive component manufacturer in building a manufacturing facility in South Carolina which could create up to 300 jobs.

Represented Chinese automotive electricity companies, ball bearing manufacturer and injection moulding company in establishing manufacturing plants in Michigan which could create over 500 jobs.

Assisted four Chinese companies in establishing their manufacturing facilities in Mexico.

### **Chinese Company Automotive Acquisitions**

Represented Beijing-based automotive company in its acquisition of a U.S. automotive parts supplier (with annual revenue of approximately \$4.0 billion and business operations in 14 countries) from a U.S. OEM.

Represented a Zhongshan-based EV powertrain manufacturer in the acquisition of a Michigan-based electric company.

Represented a Yangzhou-based fuel tank manufacturer in the acquisition of a U.S.-based Tier 1 automotive supplier.

Represented a Chinese glass manufacturer in the acquisition of an Illinois manufacturing operation from an American company.

Represented a Chinese auto parts manufacturer in its acquisition of an automotive sealing manufacturer with business operations in eight countries.

Represented a Shanghai-based automotive interior manufacturer in its acquisition of shares of a Michigan-based automotive interior manufacturer.

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Represented a Shengzhou-based industrial automation equipment manufacturer in its acquisition of a Michigan-based automation supplier.

Represented a Chinese gage manufacturer in its acquisition of a Michigan-based gage manufacturer.

Represented a Chinese battery company in its acquisition of a California EV battery engineering firm.

Represented a Chinese investment group in its acquisition of a Michigan automated equipment manufacturer.

Represented a Chinese vehicle lighting manufacturer in its acquisition of the automotive lighting business from an American manufacturer.

Represented a Shanghai-based automotive interior manufacturer in its acquisition of a global sun visor manufacturer.

Represented a Chinese OEM's subsidiary in its acquisition of a global headliner manufacturer.

### **Financing**

Represented multiple Chinese companies in negotiating loans with U.S. banks and financial institutions.

Advised Chinese companies on U.S. Payment Protection Program loans.

### **Creditors Rights, Restructurings, Bankruptcy and Workouts**

Assisted a distressed supplier in negotiation with a major automotive OEM for financial support.

Represented numerous Chinese companies in bankruptcy proceedings.

Represented Chinese companies in Section 363 sales under the U.S. Bankruptcy Code.

### **HSR, CFIUS, Export Control, Sanctions and ITAR**

Represented Chinese investors in HSR and CFIUS filings in conjunction with mergers and acquisitions in the U.S.

Assisted in competition and investment filings in EU, South America, Asia and other jurisdictions.

Advised multiple Chinese companies on U.S. export control rules, sanctions and ITAR. Performed re-classification analysis and filed for BIS determination.

### **Data Protection, Privacy and Cybersecurity**

Advised Chinese companies on U.S. data protection and privacy matters.

Assisted Chinese companies in responding to cyberattacks.

### **Employment, Labor Union, Workplace Safety and COVID-19 Matters**

Advised multiple Chinese companies on employment and labor laws and regulations, including policies, executive compensation and the U.S. EB-5 immigrant investor program.

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Advised Chinese OEM in negotiations with a labor union.

Represented Chinese companies responding to MIOSHA actions.

**Product Liability and Recalls**

Helped Chinese clients in matters related to NHTSA investigations, recalls, and product liability lawsuits in U.S. courts.