

## § 800.702

*international/the-committee-on-foreign-investment-in-the-united-states-cfius.*

[73 FR 70716, Nov. 21, 2008, as amended at 83 FR 51321, Oct. 11, 2018]

### § 800.702 Confidentiality.

(a) Except as provided in paragraph (b) of this section, any information or documentary material filed with the Committee pursuant to this part, including information or documentary material filed pursuant to § 800.401(f), shall be exempt from disclosure under 5 U.S.C. 552, and no such information or documentary material may be made public.

(b) Paragraph (a) of this section shall not prohibit disclosure of the following:

(1) Information relevant to any administrative or judicial action or proceeding;

(2) Information to Congress or to any duly authorized committee or subcommittee of Congress;

(3) Information important to the national security analysis or actions of the Committee to any domestic governmental entity, or to any foreign governmental entity of a United States ally or partner, under the exclusive direction and authorization of the Chairperson, only to the extent necessary for national security purposes, and subject to appropriate confidentiality and classification requirements; or

(4) Information that the parties have consented to be disclosed to third parties; and

(c) This section shall continue to apply with respect to information and documentary material filed with the Committee in any case where:

(1) Action has concluded under section 721 concerning a notified transaction;

(2) A request to withdraw notice is granted under § 800.507, or where notice has been rejected under § 800.403;

(3) The Committee determines that a notified transaction is not a covered transaction; or

(4) Such information or documentary material was filed pursuant to § 800.401(f) and the parties do not subsequently file a notice pursuant to § 800.401(a).

(d) Nothing in paragraph (a) of this section shall be interpreted to prohibit

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the public disclosure by a party of documentary material or information that it has filed with the Committee. Any such documentary material or information so disclosed may subsequently be reflected in the public statements of the Chairperson, who is authorized to communicate with the public and the Congress on behalf of the Committee, or of the Chairperson's designee.

(e) The provisions of 50 U.S.C. 4555(d) relating to fines and imprisonment shall apply with respect to the disclosure of information or documentary material filed with the Committee under these regulations.

[73 FR 70716, Nov. 21, 2008, as amended at 83 FR 51321, Oct. 11, 2018]

### Subpart H—Penalties

#### § 800.801 Penalties.

(a) Any person who submits a material misstatement or omission in a notice or makes a false certification under §§ 800.402(l) or 800.701(c) may be liable to the United States for a civil penalty not to exceed \$250,000 per violation. The amount of the penalty assessed for a violation shall be based on the nature of the violation.

(b) Any person who, after the effective date, violates, intentionally or through gross negligence, a material provision of a mitigation agreement entered into before October 11, 2018, with, a material condition imposed before October 11, 2018 by, or an order issued before October 11, 2018 by, the United States under section 721(l) may be liable to the United States for a civil penalty not to exceed \$250,000 per violation or the value of the transaction, whichever is greater. Any person who violates a material provision of a mitigation agreement entered into on or after October 11, 2018, with, a material condition imposed on or after October 11, 2018, by, or an order issued on or after October 11, 2018, by, the United States under section 721(l) may be liable to the United States for a civil penalty not to exceed \$250,000 per violation or the value of the transaction, whichever is greater.

(c) A mitigation agreement entered into or amended under section 721(l) after the effective date may include a provision providing for liquidated or