U.S. POLICY ON INVESTMENT SECURITY

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY, ILLICIT FINANCE,
AND INTERNATIONAL FINANCIAL INSTITUTIONS

OF THE

COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES

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Wednesday, July 16, 2025

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U.S. POLICY ON INVESTMENT SECURITY

Wednesday, July 16, 2025

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL SECURITY,
ILLICIT FINANCE, AND INTERNATIONAL
FINANCIAL INSTITUTIONS,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:04 a.m., in room 2128, Rayburn House Office Building, Hon. Warren Davidson [chairman of the subcommittee] presiding.

Present: Representatives Davidson, Lucas, Barr, Williams of Texas, Kim, Beatty, Foster, and Liccardo.

Chairman DAVIDSON. The Subcommittee on National Security, Illicit Finance, and International Institutions will come to order.

Without objection, the chairman is authorized to declare a recess of the committee at any time.

This hearing is titled, "U.S. Policy on Investment Security."

Without objection, all members will have 5 legislative days within which to submit extraneous materials to the chairman for inclusion in the record.

I now recognize myself for an opening statement.

OPENING STATEMENT OF HON. WARREN DAVIDSON, CHAIRMAN OF THE SUBCOMMITTEE ON NATIONAL SECURITY, ILLICIT FINANCE AND INTERNATIONAL FINANCIAL INSTITUTIONS, A U.S. REPRESENTATIVE FROM OHIO

I welcome our distinguished witnesses to today's hearing on U.S. policy on investment security where we examine the Committee on Foreign Investment in the United States (CFIUS)and its critical role in safeguarding our national security. Today's testimony will provide a comprehensive overview of CFIUS' authorities and operations to protect American interests from foreign investment risks. Established in 1975 under the Department of Treasury, CFIUS evaluates foreign investments posing a national security threat. The 2018 Foreign Investment Risk Review Modernization Act, otherwise known as FIRRMA, expanded its jurisdiction to include noncontrolling investments in critical technologies, infrastructure, and sensitive personal data. CFIUS must rigorously scrutinize foreign investments from any source that could undermine our technology, agriculture, energy sectors, and more, while enabling beneficial investment inflows that actually strengthen our economy.

I commend President Trump's February National Security Presidential Memorandum—NSPM—directing CFIUS to intensify over-

sight of adversarial investments while streamlining reviews for trusted allies. CFIUS must operate efficiently to neutralize threats without burdening American business. However, reviewing inbound investments alone cannot fully protect our national security. Congress needs to enact a robust outbound investment bill with severe sanctions to prevent U.S. capital from supporting industries and adversarial nations that threaten our sovereignty. This legislation needs to provide a clear, streamlined framework ensuring American companies can comply without overly burdensome bureaucratic obstacles. Such a bill will safeguard our innovation, farmland, infrastructure, and critical technologies while fostering domestic investments.

This hearing will hopefully help illuminate how CFIUS and an outbound investment regime could secure our Nation's vital national interests. I urge my colleagues to support an outbound investment bill and provide their input so that we can have stringent sanctions and transparent framework to protect our economic insecurity interests from all foreign threats. I yield back, and I now recognize the ranking member for her remarks.

OPENING STATEMENT OF HON. JOYCE BEATTY, RANKING MEMBER OF THE SUBCOMMITTEE ON NATIONAL SECURITY, ILLICIT FINANCE AND INTERNATIONAL FINANCIAL INSTITUTIONS, A U.S. REPRESENTATIVE FROM OHIO

Mrs. BEATTY. Good morning, and thank you, Mr. Chairman, for holding this hearing, and thank you to our witnesses for appearing here today to discuss investment security.

The Committee on Foreign Investment in the United States, or CFIUS, plays a critical role in our national security framework, conducting reviews of direct investment transaction by foreign investors originating from both adversary and allied nations to identify potential national security risks. Although it is incredibly rare for CFIUS to recommend that the President block a transaction, only occurring 10 times to date, the committee's thorough vetting process is essential to ensure that foreign investment of all kinds in the United States do not endanger national security.

Another critical area of focus is outbound investment, which I am sure we will talk about, flowing from the United States to foreign countries and companies of concern. The Biden Administration took a significant first step 2 years ago by establishing the Outbound Investment Security Program at Treasury, which screened certain U.S. investments in China involving sensitive technologies and products that pose an acute national security risk. While we are waiting to see what changes the current administration plans to make to the program, several actions taken by President Trump has raised serious concern.

A recent high-profile case including TikTok and U.S. Steel have demonstrated that the President is willing to disregard CFIUS recommendations and, instead, leverage foreign investment transactions in unrelated trade negotiations, creating uncertainty for the private sector and a dangerous potential for abuse. Further, President Trump seems to be engaging in his own corrupt business deals with foreign investors. For example, Trump's stablecoin is being used by an Abu Dhabi investment firm to invest $2 billion

into Binance, a crypto exchange that has pleaded guilty to money laundering and sanctions violations. Look, this type of transaction is exactly why CFIUS exists, and it is why we cannot afford to gut the very laws and resources that allows it to do its job. If my colleagues across the aisle are truly concerned about national security risk, they should be similarly outraged by the President's activities. Instead, they are trying to eliminate critical national security tools like the bipartisan—let me say that again—the bipartisan Corporate Transparency Act, which President Trump signed into law during his first term.

Gutting the Corporate Transparency Act (CTA) will hinder CFIUS' ability to identify foreign threats by making it harder for the committee, the Outbound Security Program, financial institutions, and national security agencies to properly assess who truly owns or controls a corporate entity. We simply cannot play politics with our national security, and I think we will all agree on that. Democrats are committed to resisting efforts that would either undercut CFIUS or distort its purpose. I look forward to learning more about how our investment security framework is operating and exploring ways that we can strengthen and not weaken it, and thank you again to our witnesses. I look forward to our dialog and our questions with you, and, Mr. Chairman, I yield back.

Chairman DAVIDSON. Thank you. Today we welcome the testimony of Mr. Jonathan Samford, President and CEO of Global Business Alliance; Mr. Brian Reissaus, Senior Advisor for National Security at Freshfields; Mr. Benjamin Joseloff, Partner at Cravath, Swaine, & Moore; and Dr. Sarah Bauerle Danzman, Associate Professor of International Studies at Indiana University. We thank each of you for taking your time to be here. Each of you will be recognized for 5 minutes to give an oral presentation of your testimony. Without objection, your written statements will be made part of the record.

I also ask unanimous consent to enter the ICI statement into the record.

Without objection.

[The information referred to can be found in the appendix.]

Chairman DAVIDSON. Mr. Samford, you are now recognized for 5 minutes for your oral statement.

STATEMENT OF JONATHAN SAMFORD, PRESIDENT AND CHIEF EXECUTIVE OFFICER, GLOBAL BUSINESS ALLIANCE

Mr. SAMFORD. Chairman Davidson, Ranking Member Beatty, members of the committee, thank you very much for the opportunity to be here with you today. I am Jonathan Samford, President and CEO of the Global Business Alliance (GBA). GBA is the premier advocacy voice of international companies in America. Our members represent about 200 of the most well-known international brands in the world that are globally headquartered overseas but are major U.S. employers in their own right. On average, these companies employ about 12,000 U.S. workers, and, importantly, all of them are headquartered in countries that are longtime friends and allies of the United States.

Across America, more than 8 million workers earn a paycheck from a company that made a deliberate decision to invest and cre-

ate jobs in the United States. Global investment is a key pillar of America's economic strength. International companies have invested over $5 trillion into the U.S. economy. They pay workers 7 percent more than the private sector average, drive 12 percent of all private sector R&D, and produce nearly a quarter of all U.S. exports. Manufacturing is the largest sector for investment, growing 29 percent over the past 5 years. In Ohio alone, given the representation of the Buckeye State, more than 320,000 Ohioans are employed by a global company, and half of that is in the manufacturing sector.

This is not just about economics, though. It is also a strategic advantage. Seventy-five percent of all investment in the United States flows from just eight nations. These investments build local supply chains, fuel innovation, develop stronger workforces, and tie our allies' interests to our own. Meanwhile, Chinese direct investment in the United States is less than 1 percent in total and has declined since Congress, on a bipartisan basis, passed FIRRMA by about 15 percent. Global investment has long been a bipartisan priority. Every President in the past 50 years has reaffirmed America's commitment to open investment. Congress did the same through FIRRMA in 2018, ensuring that CFIUS robustly protects national security while keeping the U.S. open to trusted capital. Just last month, the House passed the Global Investment and American Jobs Act by unanimous support.

The inbound business community strongly supports a vigilant national security-focused CFIUS process. CFIUS must stay squarely focused on genuine national security threats and not drift into broader industrial trade policy. When reviews become unpredictable, it deters precisely the kinds of investments that grow American jobs and American manufacturing. Updated public guidance, improved interagency coordination, and a fast-track pathway, such as the known investor portal for trusted investors with proven compliance records, would streamline the low-risk reviews, reduce administrative burdens, and allow CFIUS to prioritize high-risk reviews, enhancing both efficiency and investor confidence. CFIUS protects both our national security and our economic competitiveness. These are complementary results that have been forged through decades of thoughtful bipartisan leadership.

In that vein, I want to thank Chairman Hill, Representatives Barr, Auchincloss, and Strickland for leading the Global Investment and American Jobs Caucus here in the House, and for this committee for advancing policies that strengthen America's workers and communities. Thank you for this opportunity. I look forward to your questions.

[The prepared statement of Mr. Samford follows:]

House Financial Services Committee Hearing
Subcommittee on National Security, Illicit Finance, and International Financial Institutions
Hearing Title: "U.S. Policy on Investment Security"

Statement of Jonathan Samford
President and CEO
Global Business Alliance

July 16, 2025

Chairman Davidson, Ranking Member Beatty, and Members of the Committee:

Thank you for the opportunity to testify today. My name is Jonathan Samford and I serve as President and CEO of the Global Business Alliance (GBA).

GBA is comprised of more than 200 of some of the most well-known companies in the world. While each is globally headquartered outside of the United States, they are major U.S. employers, each employing an average of 12,000 U.S. workers. It is also worth noting, like the vast majority of international companies in America, all GBA's members are globally headquartered in countries that are longtime friends and allies of the United States.

Global Investment Benefits Millions of American Workers
As you may know, international companies like these have invested over $5 trillion into the U.S. economy, directly employ 8.4 million U.S. workers and offer compensation that is seven percent higher than the U.S. private-sector average. The average compensation at an international company in America is $89,300. In addition, nearly 1-in-4 of America's manufacturing workers earn their paycheck from an international company – that is a company that made a deliberate decision to invest and create jobs in the United States.

Not only do international companies bring the capital necessary to create these opportunities, but they also import world-class know-how, which helps drive American innovation and a more competitive U.S. workforce. International companies spend more than $80 billion on U.S. R&D activities, or 12 percent of all R&D performed by U.S. companies. U.S. workers of international companies produce 22 percent of U.S. exports, shipping $469 billion in goods to customers around the world.

Manufacturing investment, the largest industry sector for international investment in the United States, rose 29 percent over the last five years. International companies have added half a trillion dollars to their U.S. operations over that period.
Importantly, the benefits of foreign direct investment are felt at the state and local level. For example, international companies employ more than 320,000 Ohioans, over half of whom are in the manufacturing sector.

Attracting Global Investment Is a National Priority

Global investment directly contributes to America's economic prosperity, innovation advantage, and national security. That is why every president over the past five decades has reaffirmed America's open investment policy. President Biden set the record by issuing his open investment policy statement just over four months into his term. President Trump issued his just a month after being sworn into his second term. The President's "America First Investment Policy" emphasizes the importance of welcoming foreign investment as essential to economic leadership, stating:

> "Welcoming foreign investment and strengthening the United States' world-leading capital markets will be a key part of America's Golden Age .... My Administration will make the United States the world's greatest destination for investment dollars."

It is a core belief that Congress has also reaffirmed for decades.

When Congress passed the bipartisan Foreign Investment Risk Review Modernization Act (FIRRMA) in 2018, it provided the most significant reforms to the Committee of Foreign Investment in the United States (CFIUS) in 30 years. That bipartisan measure, which my organization staunchly supported, reaffirmed that "it should continue to be the policy of the United States to enthusiastically welcome and support foreign investment, consistent with the protection of national security."

Just last month, the House unanimously passed the Global Investment in American Jobs Act of 2025 (H.R. 1679), which states: "[t]he ability of the United States to attract foreign direct investment from responsible private-sector entities based in trusted countries is directly linked to the long-term economic prosperity, global competitiveness, and security of the United States."

Congress went on to highlight the heart of why America's balanced approach to investment screening has made it the best in the world:

> "It is a top national priority to enhance the global competitiveness, economic prosperity, and security of the United States by ... removing unnecessary barriers to foreign direct investment from responsible private-sector entities based in trusted countries and the jobs that such investment creates throughout the United States; [and] promoting policies to ensure the United States remains the premier global destination to invest, hire, innovate, provide services, and manufacture products"

Global Investment Overwhelmingly Flows from America's Friends and Allies

As I mentioned, international companies grow America's economy and make it more resilient through activities such as supporting local supply chains and small businesses, fueling American innovation, developing workforce training programs, and exporting American-made goods. These investments also mean the international company's home country has a stake in America's success, which supports our economy and furthers U.S. foreign policy interests.

Given the large trading relationship between China and the United States, many assume China has a large direct investment position, too. That is not the case. Most are surprised to learn that less than one percent of all foreign direct investment into the United States originates from China. Further, Chinese direct investment has dropped by 15 percent since FIRRMA was signed into law by President Trump.

Today, 75 percent of all FDI in the U.S. comes from just eight allied countries: Japan, Canada, Germany, the United Kingdom, France, Ireland, Switzerland, and the Netherlands. More than 100 other countries, including China, comprise that last quarter of investment. Japan is not only the largest investing country into the United States, but also the third fastest growing over the past five years. Of the top 20 countries by cumulative direct investment in the United States, two Scandinavian countries, Denmark and Sweden, both more than doubled their investment totals within the last five years.

It is also worth noting, however, that the United States faces stiff global competition for investment dollars. Our share of cross-border investment has remained stagnant over the past two decades: in 2003, America's share was 27 percent. In 2023, the latest available data, it was 26 percent.

CFIUS Is a 'Vital Tool'

Not all foreign investment is the same, and GBA supports a strong national security review framework that identifies and mitigates genuine risks.

The Committee on Foreign Investment in the United States (CFIUS) is a vital tool that robustly protects national security and supports America's commitment to economic openness and process integrity. GBA strongly supported the framework established under FIRRMA. That bipartisan law aligned CFIUS reviews with transactions that could lead to the potential transfer of critical technology. Importantly, FIRRMA did not radically change America's investment screening process to make it a tool for escalating trade disputes, coercing market reciprocity or imposing industrial policy. It kept CFIUS squarely focused on protecting U.S. national security from the deceitful efforts of our nation's adversaries.

As FIRRMA stated, "CFIUS should continue to review transactions for the purpose of protecting national security and should not consider issues of national interest absent a national security nexus."

Another key feature of FIRRMA was its emphasis on working with our friends and allies to adopt similar investment screening regimes in their jurisdictions and to share its national security analyses with allied governments to the extent necessary.

CFIUS Must Remain Specific, Efficient and Non-Politicized

When operating as intended, CFIUS provides a non-politicized and efficient review of specific transactions and their impact on national security. When deals are politicized, or review timelines slip, it makes the U.S. less competitive.

GBA members, many of whom are frequent CFIUS filers, value a transparent, predictable, and efficient process. National security threats are specific, so should be the remedies. Recent trends of expansive information requests, unclear standards, prolonged mitigation negotiations, and extended review timelines create uncertainty for investors from allied and partner countries.

To address this, GBA recommends updated public guidance, improved interagency coordination, and timely, risk-based decisions. Additionally, GBA supports a fast-track pathway, such as the Known Investor Portal, for trusted investors with proven compliance records. Clear eligibility criteria and accelerated implementation would streamline low-risk reviews, reduce administrative burdens, and allow CFIUS to prioritize high-risk transactions, enhancing both efficiency and investor confidence.

GBA urges Congress and the administration to ensure CFIUS remains focused solely on specific security threats, aligning with FIRRMA's bipartisan intent. GBA is gravely concerned with any influence from political or commercial interests intended to erode trust and undermine the rule-based framework that makes the U.S. the world's top destination for global investment.

Using CFIUS to achieve commercial victories that could not be accomplished in the marketplace, or to pursue an expansive set of policy goals, diminishes its credibility and effectiveness. It also discourages companies from making significant investments in the United States that would otherwise strengthen the U.S. economy and create new jobs.

America's global economic leadership is grounded in its openness, reliability, and adherence to the rule of law. A security-focused CFIUS process that welcomes trusted capital fuels innovation, manufacturing, and job growth, aligning national security with economic competitiveness. GBA believes these goals are complementary, not contradictory.

I would also like to take this opportunity to thank the co-chairs of the Global Investment in American Jobs Caucus, French Hill (R-AR), the Chairman of the Financial Services Committee and Rep. Andy Barr (R-KY), as well as Rep. Jake Auchincloss (D-MA) and Rep. Marilyn Strickland (D-WA). Several members of the committee are part of this bipartisan caucus. Their collective work in advancing opportunities for American workers is making a difference.

Thank you for the opportunity to share these views. I look forward to your questions.

Chairman DAVIDSON. Thank you, Mr. Samford. Mr. Reissaus, you are now recognized for 5 minutes for your oral statement.

STATEMENT OF BRIAN REISSAUS, SENIOR ADVISOR FOR NATIONAL SECURITY, FRESHFIELDS US LLP

Mr. REISSAUS. Mr. Chairman, Ranking Member Beatty, members of the subcommittee, thank you for offering me the opportunity to appear before you today. My name is Brian Reissaus. I am a Senior Advisor at the law firm, Freshfields, in Washington, DC. My government experience, spanning roughly 15 years in three administrations, includes leading the executive branch's provision of technical assistance to Congress for the Foreign Investment Risk Review Modernization Act of 2018, serving as the senior career official for CFIUS from 2018 through 2023, and contributing to the development of the executive order that is the basis for the Outbound Investment Security Program.

Before getting into the substance of my remarks, I want to say that the views I express here today are my own and not those of my employer or any clients of my employer, and I am not here representing the interests of any other party.

I would like to offer some observations on U.S. investment security policy. It is important to note that foreign investment overwhelmingly benefits the United States through creating jobs, funding innovation, and fostering economic growth. It also bolsters our national security. I witnessed this firsthand throughout my government service. At the Department of Defense, I oversaw foreign-owned defense contractors that supply cutting-edge technologies to our war fighters, and at CFIUS, I reviewed transactions involving friendly foreign investors that provided capital that was essential to funding U.S. innovation and emerging technologies. This has all been possible because of the longstanding bipartisan U.S. open investment policy. However, Congress recognized that some foreign investment can pose national security risks to the United States. CFIUS serves as a critical safeguard against these risks. CFIUS does this through its singular focus on reviewing transactions for cognizable national security risks that could reasonably result from the transaction, which, under the law, requires CFIUS to identify credible evidence of a threat of vulnerability and the consequence. Certain principles of the CFIUS process are essential to maintaining an open investment environment while allowing CFIUS to fully resolve national security risks. These include statutory timelines that provide predictability to transaction parties, evidence-based decisions that require credible evidence that a transaction poses a national security risk.

The tool of last resort, CFIUS only acts when there are no other adequate or appropriate authorities that can address the national security risk: proportionality, CFIUS' actions are tailored to the national security risk arising from the transaction, not issues unrelated to the proposed acquisition; confidentiality that encourages transparency from transaction parties and ensures CFIUS can conduct an apolitical national security analysis; and accountability, congressional oversight that ensures CFIUS operates consistent with its statute. This framework has allowed CFIUS to adapt to emerging national security risks while providing transaction par-

ties confidence that their filings would be handled fairly and efficiently.

The foreign investment landscape has shifted considerably since Congress passed FIRRMA in 2018. At the time, Chinese investment was at its peak, and CFIUS was grappling with an increasing number of transactions that raised national security risks, yet were outside of its jurisdiction. This is not the case today. According to the American Enterprise Institute, the People's Republic of China (PRC) spending here has been negligible since 2018. Chinese investment around the world was stable at a historically low level in 2024 and barely visible in the United States. Despite the drop in Chinese investment, the number of CFIUS filings withdrawn and refiled increased to historic heights from 2021 to 2023, exceeding the previous highs when Chinese investment was at its apex from 2016 to 2018. One can infer from this data that our U.S. partners and allies have been increasingly impacted by delays in mitigation.

As Congress did when it passed FIRRMA, changes to the U.S. investment security policy should go through a similarly rigorous process that is, one, based on evidence of a defined national security risk; two, assesses the impact that such changes will have on the investment that does not pose a risk to U.S. national security. The Outbound Investment Security Program could benefit from such a process. As currently structured, the regulations pose ambiguities that complicate compliance. Better alignment between the national security risks it is intended to solve and the definitions for covered transactions would provide much-needed clarity to the private sector. Given the negligible volume of Chinese investment into the United States today, any expansion of CFIUS' jurisdiction is more likely to disproportionately impact benign foreign investment. It could blunt CFIUS' effectiveness as a national security tool by reducing its ability to thoroughly review each transaction.

Thank you for your interest in these issues, and I look forward to your questions.

[The prepared statement of Mr. Reissaus follows:]

Opening Remarks of

Brian N. Reissaus

Former Acting Assistant Secretary for Investment Security and Deputy Assistant Secretary for Investment Security Operations, U.S. Department of the Treasury

Before the Subcommittee on National Security, Illicit Finance, & International Financial Institutions of the Committee on Financial Services United States House of Representatives

U.S. Policy on Investment Security

July 16, 2025

Mr. Chairman, Ranking Member Beatty, members of the Subcommittee.

Thank you for offering me the opportunity to appear before you today. My name is Brian Reissaus. I am a senior advisor in the antitrust, competition, and trade practice at the law firm Freshfields in Washington, DC.

I previously had the privilege of serving fifteen years in the government, including five with the Department of Defense and ten with the Department of the Treasury, spanning three administrations. My government experience with the Committee on Foreign Investment in the United States (CFIUS) and U.S. investment security policy includes leading the Executive Branch's provision of technical assistance to Congress for the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), serving as the senior career official for CFIUS and Treasury's Office of Investment Security from 2018 through 2023, and contributing to the development of Executive Order 14105, "Addressing United States Investments in Certain National Security Technologies and Products in Countries of Concern," which is the basis for the Outbound Investment Security Program.

Before getting into the substance of my remarks, and to avoid any doubt, I want to say that the views I express here today are my own and not those of my employer or any clients of my employer, and I am not here representing the interests of any other party. I will not speak about any specific case that was or is before CFIUS.

I would like to offer some observations on U.S. investment security policy, including CFIUS and the Outbound Investment Security Program.

The United States Overwhelmingly Benefits from Foreign Investment

It is important to note that foreign investment overwhelmingly benefits the United States through creating jobs, funding innovation, and fostering economic growth.

But as importantly as the economic benefit that comes with foreign investment, which Jonathan Samford will be discussing further, foreign investment also bolsters our national security. I witnessed this benefit firsthand throughout my government service. At the Department of Defense, I oversaw foreign-owned, cleared defense contractors that supply cutting-edge technologies to our warfighters, providing them with a decisive edge on the battlefield. During my tenure with CFIUS, I routinely reviewed transactions that involved friendly foreign investors providing capital that was essential to funding U.S. innovation in emerging technologies.

This has all been possible because of the longstanding U.S. open investment policy—a policy that has been held through both Democratic and Republican administrations. This policy has been reaffirmed by Congress under both Democratic and Republican majorities.

However, Congress recognized that some foreign investment can pose national security risks to the United States and, therefore, gave the President the authority to prohibit transactions on national security grounds in 1988. Congress then codified CFIUS's processes and gave it mitigation authority in 2008.

The Role of CFIUS

CFIUS serves as a critical safeguard against foreign investment that poses a genuine threat to our national security. CFIUS does this through its singular focus on reviewing transactions for cognizable national security risks that could reasonably result from the transaction under review. A transaction will pose an actionable national security risk under the law if CFIUS identifies credible evidence of:

- A **threat**: a foreign person that has both the capability and intent to impair U.S. national security;
- A **vulnerability**: an aspect of a U.S. business or real estate that presents susceptibility to impairment of national security; and
- A **consequence**: a definable harm to U.S. national security that could reasonably result from the exploitation of the vulnerabilities by the threat actor.

Certain core principles of the CFIUS process are essential to maintaining an open investment environment in the United States while still allowing CFIUS to fully resolve national security risks.

- **Timelines**: Congress established statutory timelines to ensure that CFIUS completes its national security reviews and investigations within a reasonable amount of time. The vast majority of foreign investment does not pose any national security risk, and predictable, limited timelines are essential to encouraging voluntary filings and maintaining a welcoming environment.
- **Evidence-Based**: By law the actions of the President and CFIUS must be based on credible evidence that a transaction poses a national security risk. The evidence may be classified or unclassified, and it may be specific to the investor or tied to the government of the investor's country, but the determination must be evidence-based.
- **Tool of Last Resort**: CFIUS only takes action to address a national security risk when there are no other adequate or appropriate authorities that can address the risk.
- **Proportionality**: CFIUS's actions are tailored to the identified national security risk arising from the transaction. CFIUS's duty is to ensure that any such risk is fully resolved. CFIUS is neither a tool to regulate business to address issues unrelated to the proposed acquisition, nor a tool to extract economic concessions from the investor.
- **Confidentiality**: Congress importantly shielded information filed by transaction parties from public disclosure. This not only provides U.S. businesses and foreign investors confidence that sensitive information about them will be protected, encouraging voluntary filings and full transparency, but also ensures that CFIUS can conduct an apolitical national security analysis.
- **Accountability**: Congress plays an important oversight role in ensuring that the CFIUS process remains efficient, that CFIUS's decisions are grounded in fact, and that CFIUS identifies and addresses national security risks posed by the transactions it clears in a manner that is consistent with its statutory framework.

Throughout CFIUS's history, its risk framework and core principles have allowed CFIUS to quickly adapt to new and emerging national security risks—often well before any other part of the U.S. government—while providing transaction parties confidence that their filings would be handled fairly and efficiently.

Evolving Foreign Investment Landscape

The foreign investment landscape has shifted considerably since Congress passed FIRRMA in 2018. At that time, Chinese investment was at its peak, and CFIUS was grappling with an increasing number of transactions that raised national security risks, yet were outside of CFIUS's jurisdiction. This led Congress to pass FIRRMA, which surgically expanded CFIUS's jurisdiction to capture those transactions most likely to pose national security risks, without unduly restricting, burdening, or overwhelming CFIUS with the obligation to review, the vast majority of transactions that pose no national security risks.

Today the reality of the investment landscape is very different. Chinese investment has been on the decline since 2018. According to the American Enterprise Institute, "the PRC's spending here has been negligible since 2018. China's investment around the world was stable at a historically low level in 2024 and barely visible in the US[.]"[1]

According to the 2023 CFIUS Annual Report, when adjusting for refiled transactions, China was not in the top three for the countries of origin for investors.[2]

Despite the precipitous drop in Chinese investment, data from CFIUS's annual reports indicate that the number of transactions withdrawn and refiled still increased to historic highs from 2021 to 2023.[3] These numbers are concerning because they exceed the number of transactions withdrawn and refiled when Chinese investment was at its peak from 2016 to 2018.[4]

One can infer from this data that from 2021 to 2023, investors from countries that are partners and allies with the United States were increasingly impacted by delays—given that China represented a decreasing portion of transactions during this period. A similar trend is present in the number of mitigation agreements required by CFIUS, despite a decrease in overall transactions filed with CFIUS.[5]

While it is almost certain that some of these transactions posed genuine national security concerns, there is little evidence to support that there was a substantive shift in national security risks posed by foreign investment that drove these changes. In fact, investment trends would suggest that both the number of refiled and mitigated transactions should have decreased.

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[1] American Enterprise Institute, "China Tracker Home," *AEI.org*, Accessed July 11, 2025, https://www.aei.org/china-tracker-home/.
[2] U.S. Department of the Treasury, "2023 CFIUS Annual Report," July 2024, https://home.treasury.gov/system/files/206/2023CFIUSAnnualReport.pdf, p. 25.
[3] U.S. Department of the Treasury, "CFIUS," *Covered Transactions Withdraws Presidential Decisions 2008-2023,* Accessed July 11, 2025, https://home.treasury.gov/system/files/206/Covered-Transactions-Withdrawals-Presidential-Decisions-2008-2023.pdf.
[4] Ibid.
[5] Ibid.

U.S. Investment Security Policy

As Congress did when it crafted and passed FIRRMA, any changes to U.S. investment security policy should go through a similarly rigorous process that: (1) is based on facts and on evidence of a defined national security risk; and (2) assesses the impact such changes will have on investment that does not pose a risk to U.S. national security. That process for FIRRMA involved hundreds of meetings with affected stakeholders to carefully draft each provision.

In particular, the Outbound Investment Security Program could benefit from such a process. As currently structured, the regulations pose ambiguities that complicate compliance. Better alignment between the national security risks that the Outbound Investment Security Program is intended to solve and the definitions defining the scope of "covered transactions" would provide much needed clarity to the private sector.

To the extent there are transactions that pose concerns beyond CFIUS's jurisdiction, it will be important to first consider whether they are isolated or systemic and then assess whether an authority other than CFIUS would be more effective and efficient in addressing the risk. Continuing to expand CFIUS's authority will blunt its effectiveness as a national security tool, including by reducing CFIUS's ability to thoroughly review each transaction. Additionally, given the negligible volume of Chinese investment into the United States today, any expansion of CFIUS's jurisdiction is far more likely to disproportionately impact benign foreign investment.

Thank you for your interest in these issues. I look forward to your questions.

Chairman DAVIDSON. Thank you, Mr. Reissaus. Mr. Joseloff, you are now recognized for 5 minutes for your oral statement.

STATEMENT OF BENJAMIN JOSELOFF, PARTNER, CRAVATH, SWAINE & MOORE LLP

Mr. JOSELOFF. Thank you. Chairman Davidson, Ranking Member Beatty, and distinguished members of the subcommittee, thank you for inviting me to testify today. It is an honor to join my fellow panel members in contributing to your work on U.S. investment security policy. My name is Ben Joseloff. I am a Partner at the law firm of Cravath, Swain & Moore. Today I am presenting my own views and not those of my firm or of any client of my firm. The perspectives I will offer today are informed by over 10 years of experience in both the public and private sectors working on matters relating to the Committee on Foreign investment in the United States, or CFIUS.

The United States of America has long been known as one of the most welcoming economies for foreign direct investment. This is in large part because the U.S. Government, through administrations of both parties, has recognized the benefits that come with foreign capital, but not all foreign investment is benign. Malign actors can and do try to take advantage of our general openness by using foreign investment to harm U.S. national and economic security. Thus, the United States has had for 50 years a mechanism to address harmful foreign direct investment. That mechanism is CFIUS.

CFIUS operates within and is a part of the U.S. open investment framework. This means that CFIUS should not be seen as an exception to U.S. open investment policy. Rather, in my view, CFIUS is best understood as a mechanism that enables and perpetuates our commitment to an open investment environment. I believe that support for a robust, well-resourced, and efficiently run CFIUS not only helps preserve U.S. national and economic security, but also enables the continuation of our Nation's longstanding bipartisan open investment policy.

This is the theoretical underpinning of CFIUS, but how does CFIUS operate in practice? In my written testimony, I provide details regarding how the CFIUS process affects U.S. businesses and their foreign investors. The key takeaway is that the CFIUS process can result in noteworthy timing and economic friction in cross-border transactions, and this friction has real costs and consequences. Of course this is not necessarily inappropriate. As I noted earlier, CFIUS plays a critical role within the broader U.S. open investment framework, and some transaction costs are unavoidable in a system that relies on thorough, case-by-case assessments carried out by subject matter experts across the U.S. Government.

To me, the real question then is the following: can we be confident that we have reduced the transaction costs imposed by the CFIUS process to those that are necessary and appropriate to protect U.S. national security? In my view, the short answer is not yet, but CFIUS is trying, and they are making good progress. The longer answer is that in my 10 years of CFIUS-related experience, both in government and in private practice, my observation is that

the individuals who administer the process are doing their best to accomplish their critical national security mission as efficiently as possible. This is true both for the dedicated career civil servants who undertake the day-to-day work of CFIUS as well as the political appointees who ultimately make the difficult decisions.

To conclude, I know there are various legislative proposals relating to CFIUS the members of the subcommittee may be asked to consider. Rather than opining on any specific legislation, I would encourage members to ask two questions with respect to any CFIUS-related bill that crosses your desk. First, will the legislation help the individuals who administer the CFIUS process increase efficiency without harming U.S. national security? Second, if the legislation will create new economic friction, is that friction truly necessary in order for CFIUS to achieve its mission? With these questions as a guide, I believe that the members of the subcommittee will be to be well placed to ensure that we continue to have an inbound investment security regime that supports both American security and American prosperity, and that CFIUS will continue to be regarded as the global gold standard for the national security regulation of foreign direct investment.

Thank you again for the opportunity to participate today. I look forward to your questions.

[The prepared statement of Mr. Joseloff follows:]

Written Statement of Benjamin G. Joseloff

before the Subcommittee on National Security, Illicit Finance, and International Financial Institutions

of the House Committee on Financial Services

at a hearing entitled

"U.S. Policy on Investment Security"

July 16, 2025

Submitted on July 14, 2025

Chairman Davidson, Ranking Member Beatty, and distinguished Members of the Subcommittee, thank you for inviting me to testify today. It is an honor to join my fellow panel members in contributing to your work on U.S. investment security policy.

My name is Ben Joseloff. I am a partner at the law firm of Cravath, Swaine & Moore LLP ("Cravath"). Today, I am presenting my own views and not those of my firm or of any client of my firm.

Background and Perspective

The perspectives I will offer today are informed by over 10 years of experience in both the public and private sectors working on matters relating to the Committee on Foreign Investment in the United States ("CFIUS").

At Cravath, where I lead the CFIUS practice, I advise U.S. and international clients on the regulatory aspects of cross-border mergers, acquisitions, dispositions, investments, and other business transactions. Prior to re-joining Cravath, I had the privilege of serving as Senior Counsel and CFIUS Lead Counsel at the U.S. Department of the Treasury, which chairs the CFIUS process. Earlier, from 2017 to 2018, I was detailed from the U.S. Department of the Treasury to the staff of the National Security Council and the National Economic Council at the White House, where I served as Director for International Trade and Investment. In this role, I coordinated White House efforts relating to the Foreign Investment Risk Review Modernization Act of 2018 ("FIRRMA"), the bipartisan legislation that marked the most substantial update and expansion of CFIUS in 30 years.

Prior to my service at the U.S. Department of the Treasury, I worked as a corporate lawyer in private practice in New York, served as a law clerk to Judge Janet Hall of the United States District Court for the District of Connecticut, and was a fellow at the American University of Afghanistan in Kabul, Afghanistan. I began my career as a Staff Assistant and Constituent Services Representative for U.S. Congressman Christopher Shays when he represented Connecticut's fourth congressional district.

My testimony is divided into three parts. First, drawing on my government service, I will briefly discuss the importance of the longstanding open investment policy of the United States of America and the critical role CFIUS plays within our nation's open investment framework. Second, drawing on my experience in private practice, I will describe how the CFIUS process operates from the viewpoint of an advisor to U.S. and international businesses. Third, I will offer some recommendations for consideration by Congress.

The U.S. Open Investment Policy and the Critical Role of CFIUS

The United States of America has long been known as one of the most welcoming economies for foreign direct investment.[1] This is in large part because the U.S. Government, through

[1] *See* James Jackson, *Foreign Direct Investment: Current Issues*, Congressional Research Service (February 11, 2010), at 3, *available at*

administrations of both parties, has recognized the benefits that come with foreign capital. To cite just a few statistics, in 2022, foreign investment supported over 8.3 million U.S. jobs, and contributed over $80 billion towards innovative research and development in the United States.[2]

For this reason, it has been a bipartisan tradition of each U.S. president since Jimmy Carter to reaffirm the United States' commitment to an open investment environment.[3] President Trump most recently did so in February 2025, when he issued an investment policy memorandum that stated "[o]ur Nation is committed to maintaining the strong, open investment environment that benefits our economy and our people…."[4]

But not all foreign investment is benign. Malign actors can—and do—try to take advantage of our general openness by using foreign investment to harm U.S. national and economic security. Thus, the United States has had, for fifty years, a mechanism to address harmful foreign direct investment—the Committee on Foreign Investment in the United States, or CFIUS.

CFIUS operates within, and as a part of, the U.S. open investment framework. This means that CFIUS should not be seen as an exception to the U.S. open investment policy. Rather, in my view, CFIUS is best understood as a mechanism that *enables* and *perpetuates* our commitment to an open investment environment. Without CFIUS, the United States would not have a general policy instrument to distinguish an inbound foreign investment that *would* impair national security from an investment that *would not*, and it therefore would be irresponsible of the U.S. Government to welcome foreign capital.

I believe, and hope that Subcommittee members will keep in mind, that support for a robust, well-resourced, and efficiently run CFIUS not only helps preserve U.S. national and economic security, but also enables the continuation of our nation's longstanding, bipartisan open investment policy.

CFIUS in Practice

I have described how CFIUS fits within the U.S. open investment policy from a theoretical perspective. Now, I would like to describe how CFIUS operates in practice, from the viewpoint

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https://www.everycrsreport.com/files/20100211_RL33984_6a5aec94636ce510e367c20468976225a849e252.pdf ("CRS Report").

[2] *See* Select USA Foreign Direct Investment Fact Sheet, U.S. Department of Commerce, https://trade.gov/sites/default/files/2025-01/SUSA%20-%20United%20States%20Fact%20Sheet_2024_2.pdf.

[3] *See* CRS Report. *See, also, Statement by the President on United States Commitment to Open Investment Policy*, The White House (June 20, 2011), https://obamawhitehouse.archives.gov/the-press-office/2011/06/20/statement-president-united-states-commitment-open-investment-policy; *Statement from the President Regarding Investment Restrictions*, The White House (June 27, 2018), https://trumpwhitehouse.archives.gov/briefings-statements/statement-president-regarding-investment-restrictions/; *Statement by President Joe Biden on the United States' Commitment to Open Investment*, The White House (June 8, 2021), https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2021/06/08/statement-by-president-joe-biden-on-the-united-states-commitment-to-open-investment/.

[4] Policy Memorandum, *America First Investment Policy*, The White House (February 21, 2025), https://www.whitehouse.gov/presidential-actions/2025/02/america-first-investment-policy/.

of my current role as an advisor to participants in cross-border transactions. I will provide details regarding the time and resources that transaction parties devote to navigating the CFIUS process, not to suggest that I believe we ask too much of transaction parties (I do not), but rather because I believe it is useful for policymakers to understand how policy choices affect American businesses and the foreign investors who invest in those businesses.

In my experience, transaction parties and their advisors often begin thinking about CFIUS considerations long before it is clear that a potential transaction will come to fruition.

At the earliest stages, this may include undertaking detailed legal and factual analyses of whether CFIUS would have jurisdiction over a contemplated transaction—a question that can be quite complex, particularly in transactions involving minority investments, joint ventures, or transactions that would not clearly result in a foreign person controlling a U.S. business.

Once it is established that CFIUS has, or may have, jurisdiction over a transaction, and discussions between the parties have reached the point at which they begin exchanging due diligence information, each side typically has CFIUS-related questions for the other. These questions, often memorialized in lengthy questionnaires or requests for information ("RFIs"), are primarily designed to help the parties assess three questions:

1. Does CFIUS have jurisdiction over the transaction?

2. If so, does the transaction trigger a mandatory CFIUS filing?

3. If CFIUS has jurisdiction over the transaction but the transaction does not trigger a mandatory CFIUS filing, does the transaction warrant a voluntary CFIUS filing?

Compiling responses to the CFIUS-related questionnaires and RFIs can be a difficult and time-consuming process, particularly in the context of non-public discussions between parties, where both sides typically have incentives to limit the number of individuals who are aware of the potential deal.

Once the information has been collected and exchanged, the parties and their respective advisors assess the results. Sometimes the outcome is evident, such as when a transaction clearly triggers a mandatory filing.

More often, however, the facts do not plainly indicate a particular course of action. In this scenario, assuming the transaction is within CFIUS's jurisdiction, the transaction parties need to decide whether they will file with CFIUS voluntarily. This often involves lengthy discussions, both internally (among the management team, the board, and outside advisors) and with the counterparty. Various factors are often considered, including the overall transaction timeline, the context of the deal (for example, is it a bilateral negotiation or a multi-party competitive auction scenario?), and, of course, the identities of the parties and the potential national security sensitivities.

Once the parties have agreed on a course of action, attention typically turns to negotiating CFIUS-related contract provisions. These provisions can range from fairly simple representations and warranties, to complex covenants detailing specific actions the parties will and will not be obligated take in order to obtain CFIUS approval. This is an important consideration because the use of CFIUS mitigation agreements[5] has increased over the years.

After the transaction documents are signed, if the parties have agreed to file with CFIUS, they will begin preparing their joint submission. This typically involves a new round of collecting information that, depending on the size of the businesses involved and other factors, can take anywhere from a few weeks to over one month.[6]

Parties almost always submit a draft of their filing to CFIUS for feedback prior to submitting the formal version. This is not required, but is strongly encouraged by CFIUS and benefits both the Government and the parties by affording CFIUS an opportunity to provide comments on the draft and ask preliminary clarifying questions.

The parties typically receive comments from CFIUS within one or two weeks of submitting a draft filing, and it can take the parties anywhere from a few days to a few weeks to address CFIUS's questions and to prepare and submit a formal filing. CFIUS will review that formal filing and, in general, will officially accept the formal filing—thereby starting CFIUS's substantive national security review—within about a week of submission.

Thus, a general rule of thumb is that, for long-form filings, it can be around eight weeks from the time the transaction is signed until a filer is "on the clock" with CFIUS, meaning when CFIUS begins its formal review: about four weeks to prepare the draft filing, about two weeks to receive CFIUS's comments on the draft, about one week to address the comments and submit the formal filing, and about one week for CFIUS to officially accept the filing.

Of course, this timeline may be shorter or longer in any given transaction, but the key takeaway is that the work prior to commencement of the substantive CFIUS review process can take several months and a significant amount of effort on the part of the transaction parties (not including the work that occurs prior to signing the deal).

Once CFIUS has accepted a formal filing, by statute CFIUS has 45 calendar days in which to undertake its initial review. If CFIUS needs additional time to complete its work, it can invoke an

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[5] Mitigation agreements are contracts between the transaction parties and the U.S. Government in which the transaction parties agree to certain conditions in order to resolve a national security concern identified by CFIUS.

[6] For purposes of this testimony, I will focus on the long-form filing process, which continues to account for over two-thirds of the submissions to CFIUS. Following the passage and implementation of FIRRMA, CFIUS also has a short-form filing process. The short-form filing process has proven useful in decreasing transaction costs and timing in certain circumstances, particularly where the foreign investor is known to CFIUS and the transaction is unlikely to raise national security concerns. In other circumstances, however, the short-form filing process can simply add to the overall burden to the parties, as CFIUS may conclude the short-form filing process's 30-day assessment period by requesting that the parties submit a long-form filing (in which case the parties would have been better off submitting a long-form filing at the outset).

additional 45-day investigation period, for a total of 90 calendar days. (In extraordinary circumstances, the investigation can be extended by 15 additional days, but CFIUS rarely invokes this authority.)

When added to the approximately two months it usually takes to get "on the clock" with CFIUS, it can take approximately four to six months from a deal signing to CFIUS approval. There are, however, circumstances in which the process can take materially longer. In 2023, for example, approximately 18 percent of the long-form filings submitted to CFIUS underwent what is known in CFIUS parlance as a "withdraw and refile," which is an administrative maneuver parties can request if additional time is needed to work through issues that arose during the initial 90-day period.[7] Following a withdraw and refile, CFIUS resets the clock on its statutory timeline, meaning it has up to 90 additional days in which to complete its work. On occasion, certain transactions have required multiple withdraw and refiles, with each subsequent withdraw and refile extending the process by up to 90 additional days.

Withdraw and refiles most often occur in circumstances in which CFIUS has identified a national security concern, and CFIUS and the parties are working to determine whether—and, if so, how—the identified concern can be resolved through a mitigation agreement. If the concern can be adequately addressed through mitigation, the parties typically devote significant time and resources to negotiating the mitigation agreement.[8]

It is important to note that, throughout the time CFIUS is conducting its analysis of a transaction, it typically requests additional information from the parties. After such a request, parties generally are required to respond within three business days, although it is possible to request an extension, and reasonable requests for extension are routinely granted. Depending on the parties and the transaction, CFIUS may pose dozens of questions, often requiring businesses to gather detailed information from individuals and teams around the globe who are supporting the CFIUS process in addition to dealing with their regular job responsibilities.

In summary, the CFIUS process can result in noteworthy timing and economic friction in cross-border transactions, and this friction has real costs and consequences for the parties involved in such transactions (including the U.S. businesses).

Of course, this is not necessarily inappropriate. As I noted earlier, CFIUS plays a critical role within the broader U.S. open investment framework, and some transaction costs are unavoidable in a system that relies on a thorough, methodological, case-by-case assessment process carried out by subject matter experts across the U.S. Government.

To me, the real question, then, is the following: Can we be confident that we have reduced the transaction costs imposed by the CFIUS process to those that are necessary and appropriate to protect U.S. national security?

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[7] *See* Annual Report to Congress, CY 2023, U.S. Department of the Treasury, at viii, https://home.treasury.gov/system/files/206/2023CFIUSAnnualReport.pdf.

[8] In addition, after CFIUS approval has been received and the transaction has closed, the parties often spend significant time and resources on implementing and complying with the mitigation agreement.

In my view, the short answer is: Not yet, but CFIUS is trying and they are making good progress.

The longer answer is that, in my 10 years of CFIUS-related experience—both in the government and in private practice—my observation is that the individuals who administer the CFIUS process are, almost without exception, doing their best to accomplish their critical national security mission as efficiently as possible. This is true both for the dedicated career civil servants who undertake the day-to-day work of CFIUS, as well as the political appointees who ultimately make the difficult decisions. These professionals are tasked with a remarkably difficult assignment, and they consistently rise to the challenge.

Recommendations for Consideration by Congress

Is our inbound investment security regime perfect? No. There is always room for improvement. To that end, I describe below some potential improvements to the CFIUS approval process before concluding with some recommendations for consideration by Congress.

As mentioned earlier, there are several specific parts of the CFIUS process that tend to place the greatest burden on transaction parties.

First, in assessing whether a transaction within CFIUS's jurisdiction triggers a mandatory filing, the target U.S. business frequently must consider whether it produces, designs, tests, manufactures, fabricates, or develops one or more "critical technologies." "Critical technologies" are defined in the CFIUS statute and regulations by cross-referencing various U.S. export control regimes, some of which have broad application. This can create difficulties for U.S. businesses that do not export the items they produce, design, test, manufacture, fabricate, or develop and therefore have not had a business reason to undertake an export control analysis of such items. Given this scenario, CFIUS may find that it could increase transaction efficiency—while still receiving the mandatory filings it desires—by narrowing the scope of "critical technologies" that trigger mandatory filings. Doing so could improve the current framework, which too often requires U.S. businesses across a broad range of industries and sectors to undertake time-consuming and expensive export control analyses that are not required in the course of their day-to-day business operations.

Second, for transactions within CFIUS's jurisdiction that *do not* trigger a mandatory filing, transaction parties may spend substantial time and energy in determining whether a given transaction warrants a voluntary filing, and how they may be able to design the transaction to proactively address potential national security concerns. CFIUS could assist transaction parties in streamlining this decision-making process by updating its formal guidance on the types of transactions likely to raise national security concerns. To be clear, CFIUS regularly communicates with the private sector on such matters through conferences, speeches, annual reports, press releases, and other media, and this communication is greatly appreciated and quite helpful. Nevertheless, CFIUS has not published formal guidance regarding the types of transactions that it has reviewed and that have presented national security considerations since 2008. Therefore, I was heartened to hear Deputy Secretary of the Treasury Michael Faulkender

acknowledge in April that "there is more that the Committee can do to provide general information about how national security risks can arise and be addressed preemptively."[9] I hope CFIUS provides such guidance in the near future.

Third, when transaction parties are "on the clock" with CFIUS, it can be disruptive to U.S. businesses and their foreign investors to have to respond—on very short timelines—to dozens of questions from CFIUS. Of course, it is imperative that CFIUS receive all the information it needs to complete its work, but there may be ways to increase the efficiency of the process. For example, CFIUS may find it appropriate to modify the required contents of filings so that CFIUS receives key information from all parties at the initial stages of the review, rather than having to request such information from parties at later stages of the process. CFIUS may also consider other procedural mechanisms to ensure the question-and-answer process is as efficient as possible, such as tracking the number of questions or question sets in each transaction and publishing the data in CFIUS's annual reports (similarly to how CFIUS tracks and publicly reports turnaround times for commenting on and accepting filings).

To conclude, I know there are various legislative proposals relating to CFIUS that Members of the Subcommittee may be asked to consider. Rather than opining on any specific legislation, I would encourage Members to ask two questions with respect to any CFIUS-related legislation that crosses your desks:

First, will the legislation help the individuals who administer the CFIUS process increase efficiency without harming U.S. national security?

Second, if the legislation will create new economic friction, is that friction truly necessary in order for CFIUS to achieve its mission?

With these questions as a guide, I believe that the Members of this Subcommittee will be well placed to ensure that we continue to have an inbound investment security regime that supports both American security **and** American prosperity, and that CFIUS will continue to be regarded as the global "gold standard" for the national security regulation of foreign investment.

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Thank you again for the opportunity to participate today. I look forward to answering your questions.

[9] Statements & Remarks, *Deputy Secretary Michael Faulkender's Remarks at ACI CFIUS Conference*, U.S. Department of the Treasury (April 24, 2025), https://home.treasury.gov/news/press-releases/sb0101.

Chairman DAVIDSON. Thank you, Mr. Joseloff. Dr. Bauerle Danzman, you are now recognized for 5 minutes for your oral statement.

STATEMENT OF DR. SARAH BAUERLE DANZMAN, ASSOCIATE PROFESSOR OF INTERNATIONAL STUDIES, INDIANA UNIVERSITY BLOOMINGTON

Dr. BAUERLE DANZMAN. Thank you, Chairman Davidson and Ranking Member Beatty, for inviting me to testify on evolving investment security issues of concern to the American people. It is an honor to speak with the subcommittee today. The views I express in my testimony are my own and do not necessarily reflect the views of Indiana University or of the Atlantic Council where I am a fellow.

As Congress evaluates current national security regulation for inward and outbound investment, I encourage representatives to ensure that any additional congressional action aligns with the following five principles. First, investment security policy should be clear to U.S. companies and foreign investors. The compliance burden of investment regulation has increased tremendously in recent years. Investors need to understand what their obligations are and believe these restrictions serve a legitimate public good. Frequent updates to investment rules make the policy environment unstable and expectations for the future regulatory landscape uncertain. Retroactive application of law generates concern over future respect for property rights and should be avoided.

Second, investment security should be consistently applied. Investors and companies should not be differentially treated based on personal relationships with or connections to administration officials. For CFIUS, this means parties before the committee should not receive favorable treatment if they are well connected to the administration or to a Member of Congress. For the Outbound Investment Security Program, this means that the process for receiving an exception to prohibition should be clearly publicized, subject to a rigorous regularized review process, and the outcome of such determination should be quickly notified to the public. In the absence of oversight, CFIUS and the Outbound Program could become the site of special dealing that is inconsistent with the rule of law or the foundations of a dynamic market-based economy.

Third, investment security tools should be contained to a narrow set of clear national security concerns. Overregulation would reduce investment in the United States, negatively affecting jobs and innovation capacity. Congress should resist the urge to further expand CFIUS' authorities to address broad national interest concerns. It should also reaffirm that mitigation agreements should be proportional to identified risks and should only be used to address national security concerns rather than expansive economic competitiveness issues. Any outbound legislation should focus on national security risks associated with a narrow set of technologies for which the U.S. holds an innovation lead. The likely innovation costs of restricting outbound investment in other technologies is too high to entertain.

Fourth, investment security policies should be collaborative. U.S. power benefits from centrality in global innovation, finance, trade,

and diplomatic networks, and our strategies should function to further embed us in those networks rather than insulate us from them. Building multilateral support and coordination is necessary for effectively countering PRC efforts to gain access to Western-developed dual-use technologies to modernize their military capabilities. Technology investment and know-how are very hard to control unilaterally. Acting multilaterally also reduces the cost of monitoring and enforcement, which saves U.S. taxpayer money and frees additional resources for investments in American families, workers, and communities.

Finally, investment security policies should be curious. Many of the investment security policies that the United States has implemented in recent years are addressing problems for which there remains a great deal of uncertainty about the size of the concern and the cost of potential solutions. Consequently, policies in this area are risky. We have less certainty over their effect and their unintended consequences. Therefore, ongoing assessment of policy effectiveness is vital. Investment security policies should be subjected to cost-benefit analysis at regular intervals to better understand the tradeoffs to economic dynamism and technological innovation that investment restrictions induce. If measures of innovation drop, Congress should be prepared to work with industry to better understand why and should be willing to reverse course if it becomes clear that a policy has failed or has unacceptable unintended consequences.

Thank you, Mr. Chairman. I look forward to answering your questions.

[The prepared statement of Dr. Bauerle Danzman follows:]

Testimony before the House Committee on Financial Services Subcommittee on National Security, Illicit Finance, and International Financial Services

Hearing on "U.S Policy on Investment Security"

Ensuring Investment Security is Narrow, Rigorous, and Fair

July 16, 2025

Dr. Sarah Bauerle Danzman
Associate Professor of International Studies, Hamilton Lugar School of Global and International Studies, Indiana University Bloomington
Director, Randall L. and Deborah F. Tobias Center for Innovation in International Development
Non-resident Senior Fellow, GeoEconomics Center, Atlantic Council

Thank you, Chairman Davidson and Ranking Member Beatty as well as your hard-working staff for inviting me to testify on evolving investment security issues of concern to this subcommittee, to Congress, and to the American people. It is an honor to speak with the committee today.

I must start by clarifying that the views expressed in my testimony today are my own, and do not necessarily reflect the view of my employer, Indiana University, or of the Atlantic Council, where I am a non-resident fellow.

I speak today as someone with both an academic and a government background. I am an associate professor of international studies at the Hamilton Lugar School at Indiana University. My research expertise includes the politics of investment liberalization, investment attraction, and the intersection of national security and investment policy, most notably inbound investment screening.

As a Council on Foreign Relations International Affairs Fellow, I worked as a policy advisor and CFIUS staffer in the Office of Investment Affairs at the Department of State from August 2019 to August 2020. Since that time, I have continually engaged in policy analysis and thought leadership on issues of investment security and American innovation in my capacity as a fellow at the Atlantic Council and as a term member at the Council on Foreign Relations where I am currently serving as a member of a taskforce on economic security.

In any policy process, or critical assessment of a regulation's effectiveness, we must start by defining the problem we wish to solve, the goals that guide our strategy, and the outcomes that would signify success. I define the issue space before the committee on these terms:

1. A largely open, market-drive economy is a key source of American innovation, economic prosperity, and military strength. Therefore, maintaining a market-driven, economically open principles should be a core national security priority.
2. We also face substantial near-term challenges generating critical market failures that require policy responses. These challenges include rapid technological advances in computing, energy, and weaponry. In addition, China's size, material resources, and desire to directly challenge U.S. interests makes its overcapacity, market distortions, and market capture in

several critical supply chains both a national security and an economic competitiveness challenge.

3. Our goal with investment security strategy should be to maintain as much openness to inward and outward investment as possible – which helps markets allocate capital efficiently, keeping us on the technological frontier and creating high-quality, future-oriented jobs – while erecting guardrails necessary to prevent our openness from being exploited by strategic competitors or malicious actors or from inadvertently generating negative security externalities that make the United States vulnerable to critical supply chain disruptions or fundamental diminishment of our productive capacity.
4. We will know that our policies are working if:
    a. Transactions that would be concerning to the United States from a national security perspective are consistently considered under the jurisdiction of relevant authorities. That is, our policies are scoped to capture the activities that generate national security risks.
    b. The relevant agencies consistently and efficiently process CFIUS reviews and monitor outbound investments such that the USG is using its authorities as intended by Congress.
    c. U.S. firms understand their regulatory obligations and can comply with such regulations without undue burden to their ability to continue to operate, grow, and innovate.
    d. Partners and allies actively collaborate with the United States, particularly with respect to outbound investment and dual-use technology considerations, to ensure that our actions collectively create binding constraints on the aspirations of countries of concern to leapfrog the United States and our military allies in the military technology domain.
    e. The United States continues to be a top destination of FDI, particularly in advanced manufacturing, pharmaceuticals, biotechnology, artificial intelligence and quantum computing, and other industries at the intersection of technological advancement and high-quality employment.
    f. The United States and companies within its innovation ecosystem continues to operate at the frontier of technological innovation and set the standards for these technologies of the future.

As Congress evaluates current national security regulation for inward investment – CFIUS – and outbound investment – the Outbound Investment Security Program – I encourage representatives to ensure that any additional congressional action aligns with the following five principles:

Clear

Investment security policy should be clear to U.S. companies and foreign investors. The compliance burden of inbound and outbound investment regulation, particularly for private equity and venture investors has increased tremendously in recent years. These compliance costs are compounded by complicated and escalating export controls. Investors need to understand what their obligations are. To ensure buy-in and robust compliance, the business community needs to believe these restrictions on their activities serve a legitimate public good. Frequent updates to investment rules make the policy environment unstable and expectations for the future regulatory landscape uncertain. **Retroactive application of law also generates concern over future respect for property rights and should be avoided.**

Consistent
Investment security should be consistently applied. Investors and companies should not be differentially treated based on personal relationships with or connections to administration officials. For CFIUS, this means that review should remain fact-based and at the working level as much as possible. **Parties before the committee should not receive favorable treatment if they are well-connected to the administration or to a member of Congress**. Similarly, parties before CFIUS should not be discriminated against if they are perceived to be insufficiently deferential to the administration. For the Outbound Investment Security Program, this means that the **process for receiving an exception to prohibition should be clearly publicized, subject to a rigorous, regularized review process, and the outcome of such determinations should be quickly notified to Congress and the public**. In the absence of oversight, CFIUS and the outbound program could become the site of special dealing that is inconsistent with the rule of law or the foundations of a dynamic market-based economy.

Contained:
Investment security should be contained to a narrow set of clear national security concerns. Congress should **resist temptations to use investment security tools for purposes other than national security.** The United States has national and economic security interests that intersect, and sometimes conflict, with the investment activities of U.S. multinationals and investors. Overregulation will reduce investment in the U.S., which will negatively affect jobs and innovation capacity. The authority to intervene in an inbound or outbound transaction must be limited to a fact-based national security risk assessment. **Congress should resist the urge to further expand CFIUS authorities to address broad national interest concerns. It should also remind CFIUS officials that mitigation agreements should be proportional to identified risks and should only be used to address national security concerns rather than expansive economic competitiveness issues. Any outbound legislation should focus on national security risks associated with a very narrow set of indigenous technological development in countries of concern. Outbound should only place limits on investments in technologies for which the U.S. holds a lead over countries of concern. The likely innovation costs of restricting outbound investment in other technologies are too high to entertain.**

Collaborative
Investment security policy should be collaborative. U.S. power benefits from centrality in global innovation, finance, trade, and diplomatic networks and our strategies should function to further embed us in such networks rather than insulate us from them. Building multilateral support and coordination is especially necessary for effectively countering Chinese efforts to gain access to Western-developed dual-use technologies to modernize their military capabilities. Technology, investment, and knowhow are very hard to control unilaterally. Acting multilaterally also reduces the costs of monitoring and enforcement, which saves U.S. taxpayer money and frees additional resources for investments in American families, workers, and communities. **Strategies that emphasize the use of unilateral financial sanctions to address outbound investment concerns are extraterritorial in nature, unnecessarily divisive to an international investment security coalition, and are likely to backfire.**

Curious
Investment security policy should be curious. Many of the investment security policies that the United States has implemented in recent years are novel, addressing problems for which there remains a great deal of **uncertainty** about the **size** of the concern and the **cost** of potential

solutions. These uncertainties mean policies in this area are risky – we have less certainty over their effect and their unintended consequences. Therefore, ongoing assessment of policy effectiveness is vital. **Investment security policies should be subjected to cost-benefit analysis at regular intervals to better understand the trade-offs to economic dynamism and technology innovation that investment restrictions induce.** If measures of innovation drop, Congress should be prepared to work with industry to better understand why and should be willing to reverse course if it becomes clear that a policy has failed or has unacceptable unintended consequences.

In sum, members of Congress should ensure that investment security policy is clear, consistent, contained, collaborative, and curious. In doing so, Congress will construct policy that can effectively balance the real, near-term national security concerns of certain kinds of inward and outward investments with the reality that the United States' commitment to an open, market-based economy has been the foundation of American prosperity, power, and security since its founding and will continue to be a guiding principle of this great nation for our future generations.

Chairman DAVIDSON. Thank you very much. We will now turn to member questions. I now recognize myself for 5 minutes of questions.

I support President Trump's February National Security Presidential Memorandum, which encourages foreign investment while protecting national security. Specifically, it states that "CFIUS will be used to restrict Chinese investments in strategic U.S. sectors, like technology, critical infrastructure, healthcare, agriculture, energy and raw materials," and that "The United States will protect our farmland and real estate near sensitive facilities, strengthen CFIUS' authority over greenfield investments, and restrict foreign adversary access to U.S. talent and operations in sensitive technologies." Mr. Reissaus, in your testimony, your opening statement, you said CFIUS only acts when other tools are not available. Would you concede that tariffs can be used for national security interests?

Mr. REISSAUS. Thank you, Mr. Chairman, for the question. When CFIUS looks at a transaction and identifies a risk, its first step is, ultimately, to look at those other authorities that are available and then determine whether they can actually address that concern. That could be something as simple as looking at export controls to determine whether that is sufficient to address the transfer of a particular piece of technology, but it could also be to look at other economic tools that may relate to the national security risk.

Chairman DAVIDSON. One of those tools would be tariffs, right?

Mr. REISSAUS. During my time, I had not seen tariffs used as a potential consideration. However, I think tools that address broader strategic issues can be an effective measure to avoid transactions that do present concerns.

Chairman DAVIDSON. Clearly, President Trump views it as a national security thing, and when we design the tariffs, you have 232 and 302 and other provisions in tariffs because sometimes it is a very efficient tool. People could debate whether it should be used the way that it is being used, but clearly, it is a tool that is available, and I just think as we are looking at CFIUS reviews, it is worth considering. It may be a fast thing to do is get into a negotiation, use tariffs to get the attention, and get the underlying issue addressed. As we are looking at CFIUS, Mr. Samford, when your organization emphasizes the importance of foreign investments into our economy how have CFIUS' expanded reviews under FIRRMA impacted multinational companies' investment decisions in the United States?

Mr. SAMFORD. Thank you for the question, Mr. Chairman. As you are well aware, since 2018, international investment has actually increased precipitously from friends and allies in the United States. As I mentioned in my opening, eight countries constitute 75 percent of all investment in the United States; that is Japan, Canada, and European countries, all of them longtime friends and allies of the United States. The top investors in Ohio, for instance, reside from those countries as well. What we have seen through FIRRMA is that Chinese investment in the United States has dropped about 15 percent since then. The reviews are less through the CFIUS process around Chinese investment, as was mentioned earlier, but I think that companies continue to value the United States econ-

omy, America's workforce, and the opportunities to build and create things here in the United States.

Chairman DAVIDSON. Yes. We have certainly seen a brisk pace this year. Hopefully, we keep building on it and we do it efficiently so that we can get it done, and I think the tailoring that you have all referenced has got the attention, I think, in a bipartisan way. Mr. Reissaus, on the Outbound Investment Security Program, I strongly agree with you on how important clear definitions of covered transactions are in order to implement the program. Could you elaborate on how specific or narrow these definitions need to be for proper enforcement? For instance, what if a large corporation has some business that falls undercover transaction and some that does not? I mean, you can think about Amazon in the United States as Amazon Web Services (AWS). That might be considered sensitive if it was a Chinese investment, but you might do their air cargo business, and you are doing business with Amazon either way, so how do you parse that?

Mr. REISSAUS. Mr. Chairman, that is an excellent question, and I think that is the exact challenge that many private sector parties are dealing with right now under the Outbound Investment Security Program, which is trying to understand what activities may be captured, which ones are clearly the ones that the government is concerned about and needs to be addressed. I think the key thing that does need to happen with the Outbound Investment Security Program is for it to go through a process that Congress put FIRRMA through, and the key elements of that which allow FIRRMA to be successful in targeting the core national security issues is, first, defining what that is that needs to be solved. I think there is a lack of clarity in the private sector and amongst many to understand what exactly the problem is that is trying to be solved.

Chairman DAVIDSON. Yes, thank you, and I would submit that the Office of Foreign Assets Control (OFAC) does get pretty precise, so we will look at how we can do that. My time has expired, and I now recognize the ranking member for her questions.

Mrs. BEATTY. Thank you, Mr. Chairman. Thank you to the witnesses, and thank you, Mr. Samford, for acknowledging Ohio and the 300,000-some employees. I hope I get to talk to every one of them. We like numbers like that and people being employed.

Let me go to my first question for you, Dr. Bauerle Danzman, and I am probably going to, if I have time, ask everybody else if they have an opinion on this. In your testimony, you address the need for consistency in the CFIUS review process. Can you address some of the concerns associated with President Trump's response to certain high-profile CFIUS cases, and what are the broader national security risk, which I will ask everybody else, of this kind of approach to investment security?

Dr. BAUERLE DANZMAN. Thank you, Ranking Member Beatty, for your question. I would start by saying that national security is not a bargaining chip in any trade negotiation. If there is a national security problem, you need to address the national security problem, and it should not be traded away for other unrelated issues. The second thing I will say without getting into specifics of any deal is that, in general, and I did work on the committee in 2019

and 2020, that in CFIUS world, any day in which a CFIUS transaction is in the news is a bad day for CFIUS. We want the committee to be able to employ a rigorous, fact-based assessment of every single transaction, and the point of the CFIUS process is to do that rather than employ a politicized review of the transaction. We should try as much as possible to keep the committee's work at the working level until it rises up to a Presidential decision, and we should refrain from situations in which elected officials are opining on deals before the committee before they are determined.

Mrs. BEATTY. Thank you. Anybody else have a comment that they want to add on the broader national security risk of this kind of approach to investment security?

[No response.]

Mrs. BEATTY. Interesting. Experts in it, you have no comment either way?

[No response.]

Mrs. BEATTY. Let me go to my next question. I will come back to you, Dr. Bauerle Danzman. As you know, the Outbound Investment Security Program, which has been active for 6 months, we do not have any reporting from Treasury on that process yet. What factors or data would you expect to see demonstrate that the program has been successful, or what questions should this committee ask of Treasury regarding the activities?

Dr. BAUERLE DANZMAN. Of course, we are in very early days of the Outbound Program. I think when you think about the sorts of information that you would like to have Treasury provide, that would be information on what types of transactions are going before the committee. Actually—excuse me—for Outbound, that is a notification and a prohibition, so understanding how many transactions are being notified, what is the process of looking for non-notified transactions that should have been prohibitive, have any been found. As the program matures, understanding how this is affecting things like innovation capacity is really important, so doing reviews over time about what is happening to the innovation ecosystem around these technologies that are scoped into review is an important thing that the committee should be assessing.

Mrs. BEATTY. Thank you. Let us try this again with the other members. Is there anything that this committee should be asking of Treasury regarding activities?

Mr. REISSAUS. One recommendation I would have is trying to understand the number of transactions that Treasury is looking into from an enforcement matter, and the percentage of those that end up being either failure to notifies or were violations of the prohibition. I think that would provide a clear indication of what is actually occurring, or is this creating a significant burden on parties on the enforcement side, despite the lack of evidence of noncompliance.

Mrs. BEATTY. Thank you. I yield back, Mr. Chairman.

Chairman DAVIDSON. Thank you Mrs. Beatty. I now recognize the gentleman from Oklahoma, Mr. Lucas, who is also the Chairman of the Monetary Policy Task Force.

Mr. LUCAS. Thank you, Mr. Chairman, and I would like to start with Mr. Joseloff and Mr. Reissaus. In your experience, would it be helpful to finally place the Secretary of Agriculture as a permanent

member on CFIUS for ag-related transactions, like my bill, the Agricultural Risk Review Act would? How does having subject matter expertise in specific industries help inform the CFIUS review process?

Mr. JOSELOFF. I am happy to start. Thank you for the question. I think it is absolutely critical that the Department of Agriculture be involved in CFIUS reviews of transactions that involve agriculture or food security issues. In my experience, when I was serving in government, the Department of Agriculture was involved in transactions that raised those issues. I think the committee does a good job of recognizing the different subject matter expertise around the U.S. Government and calling in that expertise, as appropriate, in reviewing transactions.

Mr. REISSAUS. I would agree with Mr. Joseloff. In my experience, the Department of Agriculture not only was consulted on those transactions, but often served as a co-lead, so certified to Congress at conclusion of those deals. So, it is very important that the United States Department of Agriculture (USDA) is included in those matters, and I think I understand there was a memorandum of understanding (MOU) signed between the Department of Treasury and the Department of Agriculture that memorializes the process to ensure that continues.

Mr. LUCAS. Absolutely, and I thank you both for those comments, and my bill passed the House this month, and based on your testimony, our friends of U.S. Senate will actually take it up. Mr. Reissaus, Mr. Samford has recommended a fast-track pathway for trusted investors to go through the CFIUS review process. What guardrails would be appropriate for a program like that so that we are re-incentivizing the right type of investment?

Mr. REISSAUS. Thank you, sir, for your question. I think the first one is the committee needs the ability to still assess both the threat, so receiving the intelligence community's assessment of the particular investor, and they still need to be able to look at the context of the deal itself. What is the U.S. business, and what does it do that is important for national security so that it can act if it needs to? I think what needs to be focused on, though, is how do you streamline the process so that the committee is focused on those narrow issues and is not looking into unrelated matters; so, how can it be more targeted in the questions that it poses to parties? How can it streamline the submissions of information so that can happen more quickly, and how can it improve its decision making so that those timelines are much shorter to then facilitate that benign investment?

Mr. LUCAS. Absolutely. Mr. Samford, in your view, are national security and an open investment climate inherently at odds, or can we encourage foreign direct investment without compromising our security interest and why is it important that we have policies that support both of those values?

Mr. SAMFORD. Absolutely, Congressman. Thank you for your leadership in this space. I think they are complementary objectives, and I think CFIUS is a good example. Over its transformation since its inception in the 1970s to today, Congress has met the challenge through the framework of CFIUS as threats have emerged and changed, and I think your leadership in this space is

reflective of that with your legislation. I think that it is important to remember that the vast majority of investment into the United States comes from longtime friends and allies, and it is into sectors and businesses that are wholly unrelated to national security. These are great-paying jobs, many of them in the manufacturing sector. About 40 percent of all foreign direct investment (FDI) jobs are in U.S. manufacturing, and so having the ability to provide good-quality jobs, high-paying jobs that do not require mountain of debt and college debt is a benefit. One of the things that international companies bring to the U.S. is not just the capital they need to operate here, but they also bring world-class know-how; importing that best practice is not only beneficial to the companies, but also the communities where they operate.

Mr. LUCAS. Thank you, and thank you to the panel, and I yield back, Mr. Chairman.

Chairman DAVIDSON. Thank you, Mr. Lucas. The gentleman from California, Mr. Liccardo, is now recognized for 5 minutes.

Mr. LICCARDO. Thank you, Mr. Chair. I represent a significant portion of Silicon Valley, and we have gotten an awful lot of folks who are very frustrated the CFIUS process and would like to see many reforms aligned with what has been discussed here, so I appreciate the testimony of everyone here. Particularly, as we think about consistency and some of the challenges Mr. Joseloff referred to with regard to defining jurisdiction, I understand it is something that consumes an awful lot of time and legal analysis, and that creates a lot of sand in gears. I guess the question I have is, really, are there specific proposals out there, either that have already been introduced or language that you see organizations working on, like the Land Council or others, that could help us better define jurisdiction so at least parties can get to the question more quickly of whether this is governed by CFIUS or not?

Mr. JOSELOFF. Thank you very much for the question. As I said in the written testimony that I submitted, I think one of the key improvements that could be made to the kind of jurisdictional process would be a review of the definition of "critical technology," specifically as it applies in kind of mandatory filings, to see if there is a way to reduce the burden on companies of having to perform export control analysis, which can be timely and costly on things that they do not actually export. So, that is one concrete idea.

Mr. LICCARDO. Thank you, and do any of the other witnesses have any specific suggestions?

Mr. REISSAUS. Not necessarily from a legislative standpoint, but I think, from my experience, especially in the government, I did recognize that there were challenges in the venture capital (VC) space because of the need for companies to receive capital quickly. I think focusing on, whether it is even from congressional oversight, to ensure that the committee is processing transactions quickly so that, essentially, benign capital through VC investment can occur within the timelines that are often very short for those types of transactions, is a way to kind of help ensure that the committee is not unnecessarily impeding. I think that important investment.

Mr. LICCARDO. Thank you. I am sorry. Doctor?

Dr. BAUERLE DANZMAN. I will just add as well——

Mr. LICCARDO. Yes.

Dr. BAUERLE DANZMAN [continuing]. that outreach is very important here. Treasury already does outreach to the venture community, but I think continued outreach and really emphasizing educating venture on their obligations is an important part of the puzzle here.

Mr. LICCARDO. Thank you. Dr. Bauerle Danzman, since you just spoke, I am curious to follow up on the concerns about consistency. Are there specific examples under this administration where you are seeing considerations outside of national security playing into a negotiation?

Dr. BAUERLE DANZMAN. I am not privy to the inside negotiations on CFIUS, and I hesitate to opine too directly on specific transactions, but I do think that there is a sense that, in some transactions, there has been a desire to also put in place obligations that have more to do with economic competitiveness as opposed to national security specifically, and the use of mitigation agreements that have a lot of various components to it that seem quite far away from national security, especially if a transaction is not related to an entity that is directly integrated into the defense industrial supply chain. I would be worried and cautious about those kinds of mitigation terms.

Mr. LICCARDO. Doctor, I know a colleague of yours at the Atlantic Council wrote a piece back in February specifically expressing concern about limitations in cross-border investments imposed by the NSPM in this administration. Are there other elements that you would point to, other concerns in addition to the ones you just raised?

Dr. BAUERLE DANZMAN. With respect to inbound or outbound? I am sorry.

Mr. LICCARDO. In this case, well, I guess it was cross-border, so that would be either.

Dr. BAUERLE DANZMAN. Yes. I think that there are two things. First is that we should be really cautious about putting too many restrictions on outbound investment in technologies for which the U.S. is not at the cutting edge because by investing abroad, that is a way for us to bring back technology to the United States that is important and that we could use.

Mr. LICCARDO. Thank you, Doctor.

Chairman DAVIDSON. Thank you, Mr. Liccardo. The gentleman from Kentucky, the Chairman of the Subcommittee on Financial Institutions, Mr. Barr, is now recognized for 5 minutes.

Mr. BARR. I want to start by picking up right where Mr. Liccardo left off and where Ranking Member Beatty, where she was in her line of questioning about the importance of keeping the CFIUS process and a prospective outbound regime depoliticized, and that is precisely why I was so concerned about the prior administration's politicization of the Nippon Steel deal. I am respectful of the fact that the ranking member represents Ohio where Cleveland-Cliffs is, but this was a deal that was highly politicized right before a national election where the United Steelworkers came into the Oval Office and helped the prior President kill a very beneficial investment that advanced American national security.

Remember, Nippon Steel is a very technologically advanced steel company domiciled in an ally nation: Japan. This was an investment that was providing competition and preventing a monopoly in the United States on steelmaking. It strengthened U.S. Steel and enhanced U.S. national security. The fact that CFIUS did a rigorous re-review away from politics, made the correct recommendation, and then the President followed the career advice of CFIUS was a rectification of a politicization in the previous administration. I think the points made by my friends on the other side of the aisle of keeping politics out is very, very important, and I think we should take a lesson from the politicization of CFIUS from the prior administration here. I appreciate the current administration fixing that.

Let me ask a question about outbound because we should learn from the virtues of CFIUS and also maybe some of the shortcomings of CFIUS as we work on an outbound regime. Mr. Reissaus, let me ask you, last year, the Select Committee on the Strategic Competition with China found that five venture capital firms funneled more than $1.9 billion to AI companies supporting China's human rights abuses and military modernization. At least $1.2 billion went into the PRC semiconductor industry. Clear controls are needed in respect to outbound investments into Chinese entities, and that is why I appreciate President Trump's National Security Memorandum, America First Investment Policy, and it is why I introduced the Fight China Act, which takes both an entity- and sensitive-technologies-based approach. Do you agree that using all of the tools in the toolbox—time-tested sanctions and forward-looking prohibitions on sensitive technologies—is the best way to ensure we are spreading the net wide enough to prohibit investments that progress Chinese military and surveillance ambitions, but not too much to impede benign and beneficial outbound investment?

Mr. REISSAUS. Thank you, Congressman, and appreciate the question. It is an important one, and I think the answer to understand whether or not you are using all of the tools necessary is first understanding what is the problem that needs to be solved. Is it the fact of an investment, or is it, I think, what President Biden's order was attempting to address, which was smart money? I think once we can understand what that is, the appropriate tool or tools will then I think flow from that, which is, is it a sanctions-based approach, an entities-based approach, or is it a transactional approach as was taken by the Biden Administration.

Mr. BARR. Mr. Samford, as a fellow Kentuckian, it is no surprise that a Centre College graduate has risen to such influence as you, so congratulations on your new position. You are going to do a great job there advocating for beneficial foreign investment in the United States that makes the United States competitive. As we think about the outbound investment regime, how can we make it easier for U.S. investors in terms of making these decisions through a red light/green light system easier than maybe even CFIUS is for companies to navigate the CFIs process? How important is it to have a red light/green light clarity as opposed to uncertainty that sometimes comes with CFIUS?

Mr. SAMFORD. Thank you for that question. To be succinct, I think CFIUS provides a nice framework. CFIUS is designed to look at specific threats and specific circumstances. I think those same principles could be applied to the outbound. Obviously, the Global Business Alliance, we represent U.S. subsidiaries. Most of our focus is on the inbound business, the insourcing of jobs to the United States. Very few of our companies outsource or are investing abroad from the subsidiary here in the United States, but I think for those that are U.S. companies investing abroad, CFIUS provides a framework in that it looks at deals on a case-by-case basis, looking for specific threats and working to mitigate those specific concerns.

Mr. BARR. Thank you. I yield.

Chairman DAVIDSON. Thank you, Mr. Barr. The gentleman from Illinois, who is the Ranking Member of the Financial Institutions Subcommittee, Mr. Foster is now recognized for 5 minutes.

Mr. FOSTER. Thank you, Mr. Chair, and I appreciate the bipartisan concern over trying to depoliticize the things that ought to be purely national security concerns. I think it is a very useful principle, and I look forward to my colleagues' public comments on, say, the tariff thing of Canadian steel and aluminum, which was done on allegedly national security grounds. It is something that we will have to continue talking about, and I think, in the end, Congress is going to have to be more explicit, given the behavior of the current administration.

Let us see. One specific thing that came up, are China's capabilities in, say, integrated circuit manufacture, limited in any way by the amount of capital, or is it simply technology that limits them right now, because my feeling, it is just technology. They are putting in so much capital that they do not know how to spend it sensibly. Does anyone agree or disagree with that?

Ms. BAUERLE DANZMAN. I would say that China is very good at the extensive margin and less good at the intensive margin, and so, yes, they can throw a lot of capital at a problem. One of the points of the Outbound Program was that, along with capital, at least outbound foreign direct investment and venture capital comes with know-how and technology alongside that capital. That is really what China wants from U.S. capital markets and U.S. companies, and that is the reason why outbound was focused——

Mr. FOSTER. Sure.

Dr. BAUERLE DANZMAN [continuing]. not on portfolio flows.

Mr. FOSTER. Yes. No, I understand. We should keep our eyes on the technology. It is not money that limits Chinese progress in many things. Let us see. Several members have emphasized the need for technical expertise both inside CFIUS and in the agencies it partners with. Now, do you believe that the recent attacks on civil servants, generally, and the steep budget cuts and staff of CFIUS member agencies are going to support the efforts of this, or is it going to be a negative in recruiting people going forward? Comments from anyone? Dr. Bauerle Danzman, I guess.

Dr. BAUERLE DANZMAN. I will start by saying that it is always hard to attract subject matter experts in emerging technologies to work in the U.S. Government, and during my time on the committee, that was a concern that came up often. We need to do more

to attract those subject matter experts to be willing to bring their gifts, bring their talents and their expertise to the U.S. Government.

Mr. FOSTER. Any other comments?

Mr. REISSAUS. I would like to point back to FIRRMA, and I think Congress did two really important things in 2018 that greatly expanded the committee's ability to address this issue. One is it provided direct hire authority so the committee and members could directly recruit these types of people, and two, it provided significant resources to do that. Over the years, what I saw was, one, the committee could leverage expertise from individuals within the Department of Defense that are very familiar with sensitive technologies, experts and Ph.D.s at National Labs but what you were seeing and I think you continue to see is, there are more technical experts, Ph.D.s that work in, for example, the department of Treasury because of these resources that Congress provided.

Mr. FOSTER. Yes. I am very familiar with National Labs, having worked there for 25 years, and I can tell you they are hemorrhaging talent because of the actions of this administration. It is really bad, and when you reach out to partner organizations, you will find in many instances that the experts you used to deal with there have quit in disgust. It is really bad out there, and at least, for sure, in the Department of Energy that I am very familiar with.

Now, Dr. Bauerle Danzman, the U.S. has long been an attractive location for foreign investment. I believe this is, in large part, due to our stable economy and financial markets, talented workforce, and commitment to promoting fair and orderly business dealing. The U.S. has been also historically a leader in anticorruption efforts. The Corporate Transparency Act and the Foreign Corrupt Practices Act are two pieces of legislation that really aim to crack down on corruption and illicit finance but since taking office, President Trump has demonstrated his willingness to backtrack on anticorruption efforts and rolling back on enforcement of both the CTA and the Foreign Corrupt Practices Act (FCPA). Is this going to cause long-term problems for the enthusiasm for just investment in the United States?

Dr. BAUERLE DANZMAN. If we are talking specifically about the CTA, I think that the CTA would provide really important information to investment screening professionals so that we could actually move forward with review, including by increasing the pace of an ultimate beneficial owner (UBO) discovery and so forth.

Chairman DAVIDSON. The gentleman's time has expired. I would ask for further comments to be submitted for the record.

Chairman DAVIDSON. The gentlewoman from California, Mrs. Kim, is now recognized for 5 minutes.

Mrs. KIM. Thank you, Chairman Davidson and Ranking Member Beatty, for holding today's hearing. Thank you, witnesses, for joining us.

Foreign direct investment has been a key part of making America one of the greatest countries in the world, and it has ensured the Americans remain employed, and FDI-related employments in the United States is really highest in the State of California with 15 percent related to that. I just appreciate the FDIs coming into our country, but we also want to also ensure that our American di-

rect investments going abroad is also protected. None of that could occur without the balanced role that the Committee on Foreign Investment in the United States plays in shielding national security while still facilitating our foreign investment.

First question to you, Mr. Joseloff. For those who have not gone through that CFIUS process, could you detail how that process works and what kind of information companies are expected to provide?

Mr. JOSELOFF. Thank you, yes. The process usually starts at the very earliest stages of a cross-border transaction with the parties thinking about whether their transaction would be within the jurisdiction of CFIUS. If so, whether it would trigger a mandatory filing requirement, or if the parties are at liberty to choose whether to file voluntarily, and then, ultimately, they have to think about will their transaction likely raise national security concerns. If they do file with CFIUS, either because they have to or because they have chosen to do so voluntarily, the committee requires a wide range of information from both the foreign investor and the U.S. business. That information on the foreign investor side touches on who are the ultimate owners of the company, what is their business, where are they located, what connections do they have to other countries. On the U.S. business side, it looks at what type of technology do they have—do they have government contracts, where are their facilities located—a whole range of information on both sides trying to get at this question of does a national security concern arise from the transaction.

Mrs. KIM. Thank you. I want to do a follow up question to you, Mr. Samford, and ask, what do you see the Known Investor Pilot Program fitting into the CFIUS mandate of balancing national security while securing the greater investments from our allies and partners?

Mr. SAMFORD. Thank you for that question, Congresswoman. I think that this has tremendous potential. That was one of the facets of FIRRMA, when it was passed in 2018, was to create a mechanism for those that are frequent filers of CFIUS to be able to expedite the process. There have been a couple of iterations on that. This proposal, I think, is still being worked through in terms of what it will look like, but I think anything we can do to ensure that resources are used efficiently, that is to say that CFIUS is focused on the highest-risk transactions, and where you have well-established, well-known investors, frequent investors, that those can be handled efficiently.

Mrs. KIM. Improvements like that Known Investment Program are what we need to continue to see CFIUS to ensure there is strong foreign investments in national security. I fear that under the previous administration, we saw the mission of CFIUS thrown to the side, and, instead, the committee was close to becoming a political tool. How does U.S. become less competitive for foreign investments since CFIUS become a political tool?

Mr. SAMFORD. There is no doubt that the world watches what happens with CFIUS reviews, and I think you are referencing the Nippon Steel-U.S. Steel acquisition. That was a situation where you had a well-known investor company that is operating in the United States, from our largest country, investing in Japan, a

country with whom we have a mutual defense treaty. I think that deal was largely handled outside of the CFIUS process where you had the previous administration weighing in prior to a formal review taking place.

Mrs. KIM. Thank you. I do want to make a last comment and highlight the Outbound Investment Security Program. When President Xi Jinping first rose to power in China, he stated that the Chinese Communist Party's (CCP's) foundation within the private sector was weak, and he outlined an economic philosophy where private sector existed to carry out the party's work and enhance the party's philosophy. I just wanted to point that out because in 2017, nearly three-quarters of private enterprises had an established CCP cell, and by 2021, the CCP took complete coverage of all 500 of the Nation's largest firms. As we consider investment security, it is important that we not just look at the investment dollars that are coming into America, but also the dollars going out to China, so——

Chairman DAVIDSON. The gentlelady's time has expired.

Mrs. KIM [continuing]. I just wanted to make that point, and thank you so much for allowing me to go over time, and I yield back.

Chairman DAVIDSON. The gentleman from Texas and also the Chairman of the Small Business Committee, Mr. Williams is now recognized for 5 minutes.

Mr. WILLIAMS of Texas. Thank you, Mr. Chairman, and thank all of you for being here today. As the global economy becomes more competitive, especially in advanced technologies like AI and semiconductors, American investors are trying to position the capital where it matters most. Under the Biden Administration's Outbound Investment Rule, U.S. firms are now required to self-determine if a transaction might raise national security concerns without a clear guidance or a published list of restricted entities. This creates legal uncertainty, compliance risk, and could drive up the cost of doing business abroad. Meanwhile, state-backed competitors from China and the Middle East faced none of those constraints and are aggressively expanding. Mr. Reissaus, if a Texas-based investor wants to put capital into a tech firm overseas to stay globally competitive, how do these new outbound rules impact that decision, and are we at risk of forcing American investors to sit on the sidelines where others move in?

Mr. REISSAUS. Congressman, thank you for your question, and I think the challenge with the Outbound Investment Security Program, as it has currently been constructed, is it did not fully account for those types of cost considerations when the rules went into place. So, I think it is really important that a policy process, and one that Congress could lead, could consider these types of issues to ensure that the cost of implementing this type of regime does not make our businesses or U.S. investors less competitive in the long run.

Mr. WILLIAMS of Texas. Thank you. When U.S. investors participate in overseas ventures, such as emerging technologies, they often bring more than capital. They bring standards, accountability, and transparency to markets that would otherwise fall under the influence of authoritarian regimes. Again, we see that

under the Biden Administration's outbound investment framework, we may unintentionally undermine this leverage. We have already seen U.S. firms spin off or walk away from foreign investments that once helped shape tech ecosystems, and in that vacuum, others, like Saudi Arabia and China, are stepping in and aligning themselves in markets with their own values and strategic objectives. Again, Mr. Reissaus, with the outbound rules tightening, are we giving up our ability to influence the standards, culture, and direction of foreign tech firms, and letting regimes like China and Saudi Arabia take that seat at the table?

Mr. REISSAUS. I think that is another key cost, which is the ability for the U.S. to project its values into businesses when that is restricted. I think another piece of that is also our ability to learn things from those investments. I think a lot of investors are able to bring expertise back or get access to technology, and that is equally potentially lost depending on how proud the regime is.

Mr. WILLIAMS of Texas. One more question. Texas plays a massive role in U.S. energy security, as we know, from refining capacity and export terminals to pipeline systems and electric grid infrastructure. Those sites are critical not just for the State, but for the entire country's energy independence. With foreign-backed firms seeking to acquire assets or real estate near these facilities, the threat is real. I have it in my district. I see it. As our adversaries become more sophisticated in exploiting economic access points, we need to ensure our investment screening tools are capable of identifying and acting on those risks early, largely when the infrastructure in question supports the national defense and economic resilience. Mr. Reissaus again, how has CFIUS adapted to the growing risk of foreign actors seeking strategic footholds in our energy sector?

Mr. REISSAUS. Thank you, Congressman, for your question. I think, first, in my experience, energy security has been a critical area of concern that the committee has focused on, and, in fact, the Department of Energy wields a significant number of transactions to look at that specific issue. So, trying to assess whether in any particular deal the transaction may pose a risk, whether to energy production, resource extraction, or even present vulnerabilities to critical energy infrastructure, whether it is supply of power or distribution of power. So, the Department of Energy (DOE), when it looks at this, it is obviously looking for problematic investors, but are trying to assess whether the transaction could result in vulnerabilities being inserted into those types of assets and protecting against that. The Department of Defense also will look at those deals closely to assess whether or not proximity to defense facilities or test ranges is also factored in when a foreign investor acquires, say, an oil field and is looking to do resource extraction.

Mr. WILLIAMS of Texas. Thank you for that, and with that, I yield my remaining time back.

Chairman DAVIDSON. Thank you, Mr. Williams. I would like to thank all our witnesses for your testimony today.

Without objection, all members will have 5 legislative days to submit additional written questions to the chairman for the record. The questions will be forwarded to the witnesses for response. The witnesses, if you get them, please respond no later than August 21.

[The information referred to can be found in the appendix.]
Chairman DAVIDSON. This hearing stands adjourned.
[Whereupon, at 1:07 p.m., the subcommittee was adjourned.]

APPENDIX

MATERIALS SUBMITTED FOR THE RECORD

1401 H Street, NW, Washington, DC, 20005-2148, USA
202-326-5800 www.ici.org

STATEMENT

OF

TOM QUAADMAN
CHIEF GOVERNMENT AFFAIRS AND PUBLIC POLICY OFFICER
INVESTMENT COMPANY INSTITUTE

BEFORE THE

HOUSE FINANCIAL SERVICES COMMITTEE, SUBCOMMITTEE ON NATIONAL SECURITY, ILLICIT FINANCE, AND INTERNATIONAL FINANCIAL INSTITUTIONS

ON

U.S. POLICY ON INVESTMENT SECURITY

JULY 16, 2025

Chairman Davidson, Ranking Member Beatty, and members of the House Financial Services Committee, Subcommittee on National Security, Illicit Finance, and International Financial Institutions. The Investment Company Institute (ICI) appreciates the opportunity to submit this statement to the subcommittee today on behalf of ICI's members. ICI is the leading association representing the asset management industry in service of individual investors. ICI's members include mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States and UCITS and similar funds offered to investors in other jurisdictions. Its members manage $39.2 trillion invested in funds registered under the US Investment Company Act of 1940, serving more than 120 million investors. Members manage an additional $9.6 trillion in regulated fund assets outside the United States. ICI also represents its members in their capacity as investment advisers to collective investment trusts (CITs) and retail separately managed accounts (SMAs). ICI has offices in Washington DC, Brussels, and London.

In light of the subcommittee's hearing entitled U.S. Policy on Investment Security and the Trump Administration's Ongoing Review of Outbound Investments Pursuant to the America First Investment Policy,[1] ICI would like to take this opportunity to provide feedback on the recently implemented Outbound Investment Security Program (Outbound Program), drawing on lessons and experiences from the first six months of implementation.

We fully support the objective of protecting the national security of the United States. We also welcome the commitment in the America First Investment Policy to maintaining strong, broadly diversified markets that benefit the U.S. economy and people. Access to a myriad of diversified global assets has served Americans well for decades as they save for retirement, education, and other important life goals.

These two objectives are compatible, and we stand ready to work with the government to develop programs that are effective and feasible for investors to implement, protecting national security while maintaining appropriate choice and opportunity for American investors.

As it relates to the Outbound Program, ICI continues to believe that clear communication is essential to achieve the goals of the Program while also mitigating unintended consequences. This outcome can best be achieved through clear, predictable, and operationally feasible rules for American investors and the fund managers that serve them.

With these objectives in mind, it is imperative to maintain the exceptions under the existing Outbound Program for publicly traded securities as well as for investments in registered investment companies—such as mutual funds, ETFs, business development companies (BDCs), and similar instruments.

[1] https://www.whitehouse.gov/presidential-actions/2025/02/america-first-investment-policy/.

Finally, to facilitate the objectives of allowing Americans to continue benefiting from investment opportunities while still protecting national security, we suggest that a public-private working group be created to facilitate information-sharing and discussion of operational implementation issues on an ongoing basis. ICI would be pleased to contribute to such a working group.

I. Exception for Publicly Traded Securities

A key element to creating a workable and rational framework under the Outbound Program has been the exception for publicly traded securities.

Including publicly traded securities within the scope of the Outbound Program is unnecessary because there already are a robust set of tools through the Office of Foreign Assets Control (OFAC) to address potential national security risks related to publicly traded securities. For example, the Chinese Military Companies Sanctions (CMIC) program is specifically designed for this purpose and already provides a mechanism for designating the publicly traded securities of Chinese issuers that raise national security concerns.

Alignment of the definition of publicly traded securities between the Outbound Program and the CMIC program ensures that there is full coverage of such securities without creating redundancies. This alignment also has been helpful for asset managers in appropriately designing and delineating compliance efforts.

Given that there are already other tools to address publicly traded securities, the additional compliance burden would be disproportionate to any potential benefit of including such publicly traded securities under the Outbound Program.

II. Exception for Investments into Registered Investment Companies or Business Development Companies

The exception for investments into registered investment companies—such as mutual funds, ETFs, BDCs, and similar instruments—remains appropriate and is key to avoiding unduly burdening everyday Americans with direct compliance requirements under the Outbound Program. Such compliance can be more effectively performed by the fund manager, as is currently the case.

As U.S. persons, these U.S. registered investment companies, BDCs, and similar instruments are themselves subject to the restrictions and compliance requirements under the Outbound Program. As a result, there is no reduction in the scope or effectiveness of the Outbound Program created by this exception. Without this exception, however, the Outbound Program would place unrealistic due diligence requirements directly upon the tens of millions of U.S. households that

invest in funds offered to retail investors. Such investors would need to personally verify that a retail fund in which they intend to invest does not itself hold a notifiable or prohibited interest in a Covered Foreign Person.

Including these investments within the scope of Covered Transactions both is unnecessary for program compliance and would have negative unintended consequences for everyday Americans investing through regulated funds to achieve their financial goals.

III. Further Recommendations to Strengthen the Functioning of the Outbound Program

Drawing on our analysis of the current Outbound Program and experiences from the first six months of implementation, we offer the following feedback and recommendations.

Standard Minority Shareholder Rights – Nominating Directors

Under the Outbound Program, certain transactions that otherwise qualify as excepted transactions do not qualify if a U.S. person obtains certain rights beyond standard minority shareholder protections. In the adopting release for the Outbound Program, Treasury declined to recognize the right to nominate directors for a shareholder vote as a standard minority protection.[2] We do not believe that having such a right necessarily results in a U.S. person being afforded a right beyond standard minority shareholder protections.

The rules and regulations for listed companies in China and some other jurisdictions give shareholders that own a low set percentage of voting shares the right to put forward proposals to nominate directors at a shareholder meeting. In fact, investors in China holding only one percent of the shareholding typically have such rights, effectively creating a very low ceiling for qualification for the publicly traded securities exception. Particularly in the case of issuer companies with smaller capitalizations, such rights are relatively easy to attain for minority shareholders, and the very low effective ceiling for the publicly traded securities exception unnecessarily hampers the activity of U.S. investors even when engaging in routine portfolio investments with no intention to seek influence or control. For these reasons, we recommend that the ability simply to propose nominations for directors in such cases be treated as a standard minority shareholder right.

If, however, you believe that the right to nominate a director is beyond standard minority shareholder rights, we alternatively recommend that the existence of this right does not affect the excepted status of an investment unless, and until such time as, a U.S. person exercises the right.

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[2] *See* Provisions Pertaining to U.S. Investments in Certain National Security Technologies and Products in Countries of Concern, 89. Fed. Reg. 90398 (November 15, 2024) at 90443 available at https://www.govinfo.gov/content/pkg/FR-2024-11-15/pdf/2024-25422.pdf.

Publication of a List of Covered Foreign Persons and Periodic Reports to Aid Compliance

While we understand that Treasury to date has not been inclined to adopt a government-issued, list-based approach for identifying Covered Foreign Persons under this program, we continue to urge consideration of such an approach to achieve the Administration's goals in a manner that establishes clearer rules for U.S. investors.

In the absence of a comprehensive list identifying all Covered Foreign Persons, we would request that Treasury publish a periodic non-exhaustive report of those persons that have been determined to be Covered Foreign Persons under the Outbound Program (specifying whether notifiable or prohibited). For example, as companies submit notifications to Treasury, Treasury could make public such notifications on an anonymized basis. Of further value would be an indication of whether Treasury agrees with such determination as of that date.

This alternative non-exhaustive list would improve consistency of application and reduce the overall operational compliance burden by providing information regarding those entities already subject to relevant due diligence and serving as a useful guide regarding the types of entities that are in scope.

We also recommend that anonymized information regarding covered transactions be published in an annual report, similar to the annual reports issued by the Committee on Foreign Investment in the United States, in a manner that would provide useful guidance to the investing community.

IV. A Public-Private Working Group Would Benefit Program Design and Implementation

A public-private working group should be created to facilitate information sharing and discussion of operational issues of the Outbound Program on an ongoing basis. Regular feedback on key trends and potential concerns that the U.S. government observes related to investment flows would greatly enhance the ability of U.S. persons to implement the Outbound Program and avoid potential pitfalls. This working group could include Treasury as well as other U.S. government agencies involved in the U.S.-China relationship. Similarly, the industry is well positioned to provide ongoing insights into the implementation of the Outbound Program and any challenges or confusion facing American investors during this process. Such a public-private working group can ensure that the private sector and government are fully informed of developments that can impact investment flows and take appropriate action as needed.

Taken together, such an ongoing dialogue would facilitate the goals of protecting national security while allowing Americans to continue benefiting from investment opportunities. ICI would be pleased to explore this suggestion further and to contribute to such a working group.

V. Conclusion

ICI supports the objectives of protecting the national security of the United States while also maintaining strong, broadly diversified markets that benefit the U.S. economy and people. An appropriately tailored Outbound Program in tandem with a public-private working group can achieve both of these objectives.

SIDLEY

GLOBAL ARBITRATION, TRADE AND ADVOCACY UPDATE

U.S. Outbound Investment Regulations: Lessons and Takeaways Six Months In

July 14, 2025

The U.S. Outbound Investment Regulations (OIR) entered into force on January 2. Slightly over six months in, now is an opportune time to take stock of how the market is implementing the OIR. As discussed in this Sidley Update, despite sometimes spotty awareness or implementation among investors, the OIR appears to be having its intended effect of reducing U.S. investment in sensitive Chinese technology sectors. Ambiguities in the regulations have broadened their impact, and more changes seem to be coming.

The OIR Has Blunted Interest Even in Notifiable Transactions

As discussed in our earlier Sidley Update **here**, the OIR prohibits or requires notification of certain investments by U.S. persons or their "controlled foreign persons" (i.e., subsidiaries) in certain Chinese-affiliated companies in the semiconductor and microelectronics, artificial intelligence (AI), and quantum information technology sectors. It also prohibits U.S. persons from knowingly directing investments by non-U.S. investors if such investments would be prohibited if undertaken by a U.S. person.

Notifiable transactions are permissible, and there is no formal approval process required for a notified transaction. A notification is ostensibly only an obligation to share certain information with the U.S. Department of the Treasury (Treasury). We have found that many investors are nevertheless reluctant to undertake notifiable transactions. The reasons vary. Investors might not want to undertake the administrative burden of notifying Treasury; they might not want to attract the attention of the U.S. government as an investor in Chinese technology due to real or imagined fear of political, reputational, or regulatory consequences; they might not want to face questions from Treasury on their investments or ultimate investors; or they might feel that they are putting themselves at risk if Treasury ultimately decides that the investment was actually in the prohibited category, which might result in an enforcement action. Perhaps investors will feel more comfortable with notifiable transactions as time goes on, but, for now, it appears that many investors are holding back from making notifiable transactions.

Ambiguities in the OIR Have a Chilling Effect

The OIR is a first-of-its-kind regulation, but it is not yet a finished product. The January 2 regulations are only version 1.0 — well drafted and much better than a beta test but still glitchy, largely due to ambiguities in the definitions of key terms used in the OIR. Questions remain about whether the glitchiness is a bug or a feature in the system.

One prime example of this uncertainty arises in connection with the definition of "covered activities." This term refers to certain activities (development, production, etc.) that a Chinese-affiliated entity (or "person of a country of concern") might take with respect to one of the designated technology sectors. Depending on the type of activity, an investment into the covered foreign person may be notifiable or prohibited. However, the distinction between covered activities that fall in the notifiable or prohibited categories is not always clear.

The scope of covered activities specifically related to AI systems is a good example of one of the ambiguities in these definitions. In the prohibited category, the regulations include the "[d]evelopment of any AI system designed to be exclusively used for, or which the relevant 'covered foreign person' intends to be used for, any [of a variety of ends uses, including, for example] ... mass surveillance." The notifiable category covers "[d]evelopment of any AI system that is not described in the prohibited category of AI systems and that is: ... designed to be used for ... mass-surveillance." Treasury has tried to explain the distinction, but it nonetheless remains difficult to understand and apply in practice.

Treasury has said in an FAQ that "mass-surveillance could be on behalf of a government or not." Treasury therefore intends to cover investments into companies that design AI systems for nongovernment mass surveillance. It is not clear what nongovernment mass surveillance might capture. For example, are e-commerce or social media companies that create personal profiles of users to feed into their algorithms engaged in private surveillance? In 2024, the Federal Trade Commission issued a report accusing various U.S. and Chinese social media companies of engaging in "vast surveillance." That report was obviously prepared for a different purpose, but if Treasury were to take a similar approach, the scope of AI systems that would be captured under the OIR would be enormous. We know that the U.S. government has expressed concern that certain Chinese social media companies have been used or could be used for surveillance. At the same time, Treasury has explained that the policy behind the OIR is not supposed to "broadly captur[e] investments into entities that develop AI systems intended only for consumer applications or other civilian end uses with no potential national security consequences." Where the line should be drawn is not clear.

There are other examples that would illustrate the same point. Despite the attempt to give "covered activities" the appearance of precision, in reality the distinctions that the regulations draw are difficult to apply. Whether by design or not, the consequence has been that many investors are reluctant to take the risk of getting it wrong, and the chilling effect on investment can be quite broad.

Administrability Can Be Challenging

The OIR does not impose strict liability for violations of the regulation. Instead, liability is premised on whether the U.S. person "knew" or had reason to know, after a "reasonable and diligent inquiry," whether relevant facts and circumstances exist or are substantially certain to occur or are highly probable to exist or

occur. As a result, the U.S. person must undertake due diligence when making an investment and must do so for every investment that they undertake. In some cases, whether an investment is within the scope of the OIR may be obvious, and in other cases less obvious. But how much diligence is enough?

Unlike, for example, U.S. sanctions programs, there is no list of covered foreign persons. As a result, investors cannot "code" their systems to block investments in covered foreign persons. Any attempt to do so would likely be overly broad (e.g., the system could flag any investments in Chinese AI companies, even if the companies' AI systems do not appear to fall within scope of the OIR). A case-by-case analysis is, therefore, required, which could significantly slow down investment activity and, given the realities of today's trading environment, may prompt some to simply ignore the problem.

Even assessing whether an investment falls within the scope of an exception can be difficult. For example, the OIR exempts from coverage the acquisition of publicly traded securities as long as the U.S. person does not obtain rights "beyond standard minority shareholder protections." In the preamble to the regulations, Treasury recognized that in certain jurisdictions, including China, shareholders that acquire certain shares above a designated level (say 1%) acquire certain rights, including "the right to put forward for a shareholder vote a proposal to nominate directors." This right is not negotiated but is conferred by default under the applicable law. Treasury has said that this right is not a standard minority shareholder protection, and so the acquisition of publicly traded securities in excess of the designated thresholds is not within the scope of the exception. As a result, Treasury seems to expect that before investing in publicly traded securities, investors must understand what rights they might get by default in the listing jurisdiction, the jurisdiction of incorporation, the target company's bylaws or articles of incorporation, and so on. The feasibility of doing that in every case, particularly in a fast-moving trading environment, can be challenging.

At a minimum, investors that might be covered by the OIR should put in place written compliance programs and training to ensure that those making the investments decisions are aware of the relevant obligations. The policies, training modules, and diligence exercises can be standardized to a degree. Doing so could be a mitigating factor in any enforcement action, although it is not a replacement for closer examination of certain investments on an ongoing basis.

The Burden Sits With the U.S. Investor

For jurisdictional and due process purposes, the OIR imposes obligations on U.S. persons, not the Chinese-affiliated target entities in which, for example, the U.S. person or its controlled foreign entity is investing. This means that the target entities may have little incentive to be fully forthcoming during the diligence process. As a result, the relevant U.S. persons must take particular care to collect whatever information they can from public or other sources to confirm the information that target entity might provide about its operations. The market is moving toward standard diligence questionnaires that ask targets to indicate whether they engage in covered activities, but in practice those questionnaires should be viewed as the starting point, not the ending point.

Tug of War Among Market Players

A U.S. person's investment as a limited partner in non-U.S. funds is covered by the OIR if the U.S. limited partner "knows at the time of the acquisition [that the non-U.S. fund] likely will invest in a person of a country of concern that is in the semiconductors and microelectronics, quantum information technologies, or artificial intelligence sectors, and such fund undertakes a transaction that would be a covered transaction if undertaken by a U.S. person." However, certain exceptions apply, including in situations where the limited partner "has secured a binding contractual assurance that its capital in the fund will not be used to engage in a transaction that would be a prohibited transaction or notifiable transaction, as applicable, if engaged in by a U.S. person."

While this "segregation of capital" rule seems clear enough on its face, there is an ongoing tug of war over how such segregation should be accomplished, the extent to which a fund is willing to take on the obligation of conducting the necessary diligence and ensuring that the segregation is done properly, and whether the segregation must be made definitively at the outset with no ability to opt in to an investment in the future.

A similar tug of war exists with respect to lending transactions. For example, foreclosure on a loan may be a covered transaction, so lenders often require representations of whether the borrower is or may become, or may invest in, a covered foreign person or even whether the borrower engages in covered activities. Borrowers often push back on these demands as being overly broad.

The key takeaway on this point is that the market has not yet settled on a standard approach to contractual representations. No doubt this will be sorted out over time.

Enforcement

Treasury issued enforcement guidelines in January and has already begun to reach out to certain investors and seek details of particular transactions. Some of these investigations are public, although the outcomes have not yet been disclosed. In some cases, there are clear, public disagreements about whether the OIR is applicable to a particular investment, with investors protesting that "X number of law firms have looked at this and told us the investment was not within scope." Whatever the law firms may conclude, the ultimate decision will rest with Treasury. Perhaps through this process, Treasury will clarify aspects of the OIR that remain difficult to understand and implement.

Conclusion

We expect that the OIR will continue to evolve through practice and further elaboration and clarification from Treasury. In January, Treasury issued a set of helpful FAQs, but since that time, it has issued only one set of three additional FAQs on important but narrow issues (investments in American Depositary Receipts and bank transfers in support of a covered transaction undertaken by a third party). We expect that Treasury will issue additional FAQs, but it would be helpful if the FAQs were issued more frequently.

Also, as Sidley explained in an earlier **Update**, on February 21 President Donald Trump issued his America First Investment Policy Memorandum. This memorandum indicated that more changes with respect to the

regulation of outbound investment are coming (more sectors, fewer exceptions) even before the market has fully adjusted to the January OIR. We expect that this will continue to be an active area, and investment funds and other investors should be vigilant to ensure compliance.

Sidley attorneys are closely monitoring changes in U.S. investment policy and are available to answer your questions.

Contacts

If you have any questions regarding this Sidley Update, please contact the Sidley lawyer with whom you usually work, or

[redacted]
Partner
[redacted]
Washington, D.C.

[redacted]
Washington, D.C.

Sarah Bauerle Danzman's Answers to Questions for the Record from Representative Beatty:

Dr. Bauerle Danzman, the Outbound Investment Security Program expects US persons to conduct a "reasonable and diligent inquiry" for transactions, but it does not offer clear guidelines for doing so.

How might these ambiguities impact the program's effectiveness?

The Outbound Investment Security Program follows a "risk-based" approach to regulation. This entails placing much of the risk burden on assessing regulatory compliance onto firms. This approach means that diligent investors will likely expend a great deal of time and resources ensuring compliance while less conscientious investors will not. A potential consequence of such an approach is that diligent investors will over-comply by simply ceasing to do business in a broad range of activities that are conceptually similar to prohibited behavior. Diligent investors would do this because the high compliance costs of ensuring that activities that may be close to the line of prohibition are, in fact, legal. In the outbound investment program, for instance, this may manifest in U.S. investors simply avoiding the Chinese AI industry all together because of concerns that they may not be able to clearly and efficiently distinguish between allowed and prohibited activities.

Whether one interprets such overcompliance as a negative or positive consequence of a risk-based approach to compliance depends on their perspective. The Chinese AI sector is very large both in terms of market and talent and avoiding it entirely may reduce American technology companies' understanding of Chinese breakthroughs in the industry as well as their ability to command some amount of market share.

In addition to concerns regarding overcompliance by diligent investors, ambiguities in how to undertake due diligence may lead to lax compliance by less conscientious investors. This may be malicious or naïve. Regardless of the intent, lax compliance would make the program less effective at preventing U.S. covered investment from participating in covered activity. Treasury and the IC must have resources to invest in monitoring of non-notified transactions to increase costs of lax behaviors toward compliance.

Do you think there may benefits of Congress authorizing Treasury to conduct a consultation period, with the public and relevant parties, to develop more specific due diligence guidelines?

I would be hesitant to develop more specific due diligence guidelines. If Treasury developed such guidelines, but the guidelines were not exhaustive or updated on a regular and frequent basis, parties could exploit weaknesses in the guidelines to find regulatory loopholes. Instead, I would focus activities on outreach to the private sector to educate them on their regulatory obligations and to learn from investors what drives overcompliance. This mutual exchange would allow Treasury modify regulatory guidance to reduce overcompliance if Congress and the Administration viewed such de-risking strategies as undesirable. Treasury may also consider providing "comfort letters" to parties who want to ensure that their planned investment is not prohibited, similar to what is sometimes provided in the context of export control compliance.

August 13, 2025

Response from Jonathan Samford to Questions for the Record by Ranking Member Waters
Subcommittee on National Security, Illicit Finance, and International Financial Institutions
Hearing: "US Policy on Investment Security" held July 16, 2025

Question #1: Which of the following options best describes your self-identified race?
Answer: Caucasian

Question #2: Which of the following options best describes your gender identity?
Answer: Male

Question #3: In FIRRMA, Congress gave CFIUS additional authorities to review transactions in critical technologies. What should be the Committee's balanced approach to protecting U.S. critical technologies in ways that promote U.S. competitiveness and a market-driven economy while addressing national security concerns, particularly about China-led investment in the United States and the use of that nation's industrial policies and related tactics to acquire sensitive U.S. capabilities?

Answer: The Committee on Foreign Investment in the United States (CFIUS) is a vital tool for protecting U.S. national security while preserving the country's longstanding commitment to economic openness. The bipartisan reforms enacted through the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA) were thoughtfully designed to give CFIUS tools to address genuine security risks, particularly with respect to critical technologies, without undermining our nation's competitive, open economy.

Congress was clear that CFIUS should remain focused on specific national security risks and not be used as a tool to achieve broader economic or geopolitical objectives. Maintaining that focus is essential to preserving the credibility and effectiveness of the review process.

If CFIUS were to become a vehicle for pursuing industrial policy or retaliating against foreign economic practices unrelated to security, it would introduce harmful uncertainty for responsible investors and weaken the United States' position as the world's top destination for global investment.

It is appropriate for CFIUS to apply heightened scrutiny to transactions that could result in the transfer of sensitive U.S. capabilities to strategic competitors. At the same time, the Committee should work to ensure that reviews of low-risk transactions involving well-known companies from trusted countries are conducted efficiently and predictably. Tools such as the Known Investor Portal could help streamline the process for investors with a strong record of approvals and compliance, allowing the Committee to concentrate its resources where the risk is greatest. A balanced, security-focused approach will allow the United States to continue leading the world in innovation, manufacturing, and technological development, while protecting its most sensitive national security interests.

Responses to Questions for the Record from Ranking Member Waters
Subcommittee on National Security, Illicit Finance, and International Financial Institutions
Hearing, titled: U.S. Policy on Investment Security
July 16, 2025

From ranking Member Waters:

1. Which of the following options best describes your self-identified race? (you may choose more than one)
    a. White or Caucasian
    b. Black or African American
    c. Hispanic/Latinx
    d. Asian
    e. Middle Eastern/North African
    f. Choose not to answer
    g. Prefer to self-describe (please specify)

    Response: (a) White or Caucasian

2. Which of the following options best describes your gender identity?
    a. Woman
    b. Man
    c. Non-binary
    d. Transgender Man
    e. Transgender Woman
    f. Choose not to answer
    g. Prefer to self-describe (please specify)

    Response: (b) Man

3. In FIRRMA, Congress gave CFIUS additional authorities to review transactions in critical technologies. What should be the Committee's balanced approach to protecting U.S. critical technologies in ways that promote U.S. competitiveness and a market-driven economy while addressing national security concerns, particularly about China-led investment in the United States and the use of that nation's industrial policies and related tactics to acquire sensitive U.S. capabilities?

    Response: The United States is the premier destination for investment and continues to lead the world in innovation. The reason for this is our commitment to the rule of law, due process, and free and open markets. As I raised in my written statement, Chinese investment into the United States has been declining since its peak nearly a decade ago. As such, I would advise caution in further expanding the authority of national security tools such as CFIUS as such expansions would more likely hinder benign foreign

investment critical to financing innovation in the United States than restricting adversarial investment from China. This Committee has an important role to play in providing oversight of CFIUS to ensure that it continues to operate within its statutory framework and remains solely focused on addressing genuine national security risks arising from foreign investment.

4. At an HFSC hearing in 2023, then-Assistant Secretary of the Treasury, Paul Rosen, testified that, "the issue of ultimate beneficial ownership is critical to CFIUS's work…We need to assess who the ultimate owner is of the foreign acquirer so that we can fully and adequately address any potential risk." Yes or no, do you agree that it is important to know the true owners behind the parties to the transactions reviewed by our investment security programs?

   Response: Yes. CFIUS receives this information in every transaction that it reviews. 31 C.F.R. §§ 800.404(c)(17) and 800.502(c)(1)(v), require that parties filing a declaration or notice with CFIUS include the name, address, and nationality (for individuals) or place of incorporation or other legal organization (for entities) of the ultimate owners of the foreign acquirer. This information is further supplemented by the classified national security threat assessment that the Office of the Director of National Intelligence provides to CFIUS for every transaction.

CRAVATH

Benjamin G. Joseloff
bjoseloff@cravath.com
T+1-212-474-1810
New York, NY

August 18, 2025

Responses to Questions for the Record after July 16, 2025, Hearing Titled,
"*U.S. Policy on Investment Security*"

Dear Ranking Member Waters:

Enclosed are my responses to the written questions you submitted following the July 16, 2025, hearing before the Subcommittee on National Security, Illicit Finance, and International Financial Institutions of the United States House of Representatives Committee on Financial Services titled, "*U.S. Policy on Investment Security*." A copy of my responses has also been forwarded to the Committee for inclusion in the hearing record.

Please let me know if I can be of further assistance.

Very truly yours,

Benjamin G. Joseloff

The Honorable Maxine Waters
United States House of Representatives
2221 Rayburn House Office Building
Washington, D.C. 20515

Enclosure

Written Responses to Questions for the Record
from Benjamin G. Joseloff, Cravath, Swaine & Moore LLP
for Subcommittee on National Security, Illicit Finance, and International Financial Institutions
of the United States House of Representatives Committee on Financial Services
Hearing Titled, "*U.S. Policy on Investment Security*"

August 18, 2025

Questions from Ranking Member Maxine Waters:

1. **Which of the following options best describes your self-identified race? (You may choose more than one.)**
   a. **White or Caucasian**
   b. **Black or African American**
   c. **Hispanic/Latinx**
   d. **Asian**
   e. **Middle Eastern/North African**
   f. **Choose not to answer**
   g. **Prefer to self-describe (please specify)**

RESPONSE: a. White or Caucasian

2. **Which of the following options best describes your gender identity?**
   a. **Woman**
   b. **Man**
   c. **Non-binary**
   d. **Transgender Man**
   e. **Transgender Woman**
   f. **Choose not to answer**
   g. **Prefer to self-describe (please specify)**

RESPONSE: b. Man

3. **In FIRRMA, Congress gave CFIUS additional authorities to review transactions in critical technologies. What should be the Committee's balanced approach to protecting U.S. critical technologies in ways that promote U.S. competitiveness and a market-driven economy while addressing national security concerns, particularly about China-led investment in the United States and the use of that nation's industrial policies and related tactics to acquire sensitive U.S. capabilities?**

RESPONSE: For many decades, CFIUS has operated within, and as a part of, the U.S. open investment framework. Thus, CFIUS has a long history of using the resources available to it—not least the professional judgment of the individuals who staff the CFIUS member agencies—to assess which transactions within its jurisdiction raise national security considerations and which do not. CFIUS should (and, in my experience, does) bring these resources and this experience to bear when considering transactions over which FIRRMA granted it additional authority (e.g., "covered investments," as defined in 31 C.F.R. § 800.211, involving critical technologies).

In other words, although FIRRMA may have granted CFIUS additional authority to review certain transactions involving critical technologies, FIRRMA did not fundamentally alter

CFIUS's core mission. CFIUS must continue to assess and address national security considerations arising from the transactions within its jurisdiction, while simultaneously recognizing that an efficient and predictable CFIUS process is key to maintaining the longstanding reputation of the United States as one of the most welcoming economies for foreign direct investment.

4. **At an HFSC hearing in 2023, then-Assistant Secretary of the Treasury, Paul Rosen, testified that, "the issue of ultimate beneficial ownership is critical to CFIUS's work…We need to assess who the ultimate owner is of the foreign acquirer so that we can fully and adequately address any potential risk." Yes or no, do you agree that it is important to know the true owners behind the parties to the transactions reviewed by our investment security programs?**

RESPONSE: I agree with then-Assistant Secretary Rosen that the issue of ultimate beneficial ownership is critical to CFIUS's work. It is important for CFIUS to know the true owner(s) of the foreign investor in a transaction under CFIUS review in order to determine the effects of the transaction on the national security of the United States.

Sarah Bauerle Danzman's Answers to Questions for the Record from Representative Waters:

1. Which of the following options best describes your self-identified race? (you may choose more than one)
a. White or Caucasian

2. Which of the following options best describes your gender identity?
a. Woman

3. In FIRRMA, Congress gave CFIUS additional authorities to review transactions in critical technologies. What should be the Committee's balanced approach to protecting U.S. critical technologies in ways that promote U.S. competitiveness and a market-driven economy while addressing national security concerns, particularly about China-led investment in the United States and the use of that nation's industrial policies and related tactics to acquire sensitive U.S. capabilities?

Congress should continue to prioritize review of critical technology businesses that develop or seek to develop capabilities in areas for which the U.S. has a substantial lead over China and other actors. For instance, CFIUS should be especially wary of Chinese investments in advanced semiconductor technology because the United States has a technological advantage to China. However, in areas where China is ahead of the United States – for instance, in battery storage technologies, CFIUS should exert less control. Indeed, in some areas it may be useful for the United States to benefit from transfer of technology from Chinese companies to U.S. partners and workers.

4. In what ways could CFIUS improve coordination with allies and partners in information sharing and in investment screening efforts, as mandated by FIRRMA? Also, how should Treasury assess a country's "excepted foreign state" status, perhaps to award status to additional states?

Allies and partners routinely face challenges in correctly determining the ultimate beneficial ownership and/or ultimate effective control of investors who seek permission to invest in their economies. CFIUS could improve coordination and build capacity across allies and partners by investing more resources in training and best practices around such analysis. While there are limitations on the extent to which CFIUS can share transaction- and actor-specific information on ownership and control, Congress should continue to study ways to make it easier for CFIUS to share such information as needed by allies and partners while also preserving statutorily required business information privacy protections.

Awarding excepted foreign state status to a broader array of countries may be challenging. The reason why the current excepted foreign states are Australia, Canada, New Zealand, and the UK is because the special information and intelligence sharing relationship among the United States and these four other countries makes it easier to share sensitive information about the ultimate owners and controllers of relevant entities. Any expansion of this list will likely require attending

to concerns over how to share sensitive information about potential threat actors across relevant partner countries

Furthermore, feedback from industry indicates that very few investors qualify as excepted investors. Many investment consortiums have diverse sets of limited partners and low thresholds mean that very few consortiums can demonstrate that they are eligible for exception. If Congress is concerned about potential chilling effects on foreign investment, particularly in critical technologies for which review thresholds are lower, I recommend that it focus its attention on finding additional ways to pre-certify trusted investors at the level of the investing persons rather than at the level of their place of domicile.

5. At an HFSC hearing in 2023, then-Assistant Secretary of the Treasury, Paul Rosen, testified that, "the issue of ultimate beneficial ownership is critical to CFIUS's work…We need to assess who the ultimate owner is of the foreign acquirer so that we can fully and adequately address any potential risk." Yes or no, do you agree that it is important to know the true owners behind the parties to the transactions reviewed by our investment security programs? Can you explain why it would be important, even imperative, to know the true owners behind the parties to the transactions reviewed by our investment security programs?

Yes, I fully agree with Mr. Rosen's testimony. Malicious actors and strategic competitors often use shell companies to obfuscate their ownership, investment, and involvement in companies and the transactions behind them. Beneficial ownership information is crucial for identifying the true owner(s) and investors behind companies that are trying to invest in the United States, in addition to preventing money laundering and tax evasion.

For example, A Shanghai-based international drug trafficking criminal group used a Massachusetts shell company to establish a U.S. base for its fentanyl operations, leading to overdose deaths of Americans before the DOJ shut it down in 2018. In 2024, DOJ discovered a Chinese national used a US front company to launder Iranian oil into China. The proceeds from this transaction funded the Islamic Revolutionary Guard Corp. A functioning Corporate Transparency Act would allow US law enforcement to find these schemes fast, before criminals have the opportunity to inflict damage and pain on U.S. citizens and U.S. interests.

Investment screening requires a substantial amount of information and analysis to effectively determine if an investment presents a national security risk. Financial information, including beneficial ownership and ultimate effective control information, is critical for rigorous review of proposed transactions for potential national security concerns. If the USG does not collect beneficial ownership information on foreign and domestic companies, it risks not having the information that could help identify if malicious actors or strategic competitors are behind potential investments in and outside the United States. Weakening corporate ownership disclosure requirements – even for firms that have few employees – would render both inbound investment and outbound investment regulations far less effective because malicious actors would be better able to obfuscate their ownership and control positions through shell companies.

Collecting beneficial ownership information and ensuring it is appropriately shared within the USG for investment screening purposes will enhance the USG's ability to conduct investment screenings efficiently and effectively. Effective investment screening enables the USG to prevent strategic competitors and malicious actors from investing in our country or the supply chains we depend on.

The compliance burden of BO disclosure should be minimal for U.S. businesses as they should already know who owns them. This is especially true of small banks, who still have to comply with KYC rules despite being small. The IRS could allow small businesses to opt in to submitting their beneficial ownership statements alongside their tax filings.

6. What are your thoughts about the recent outcomes of investment-security-related transactions (such as the irregular U.S. Steel "golden share") and the wider implications of such actions for American businesses and U.S. national security? What are appropriate criteria and boundaries for mitigation agreements, in general, for what is asked of the parties to the transactions, but also for the role of the U.S. government in those agreements?

As I have written elsewhere, overuse of CFIUS mitigation agreements – especially in the form of providing the USG with special governance rights – could lead to further politicization and inappropriate intrusion into the decision-making calculus of private market entities.

In the past CFIUS has, with little fanfare, issued mitigation agreements in which the USG has obtained some governance rights over U.S. businesses tied more closely to the defense industrial base or critical infrastructure. These mitigation agreements have been structured to ensure that a foreign buyer would not suddenly stop supplying the USG with inputs critical to defense and national security or offshore critical production or R&D activity. However, such letters of agreement have been developed in cases where the U.S. business has a more direct connection to the defense industrial base or critical infrastructure. U.S. Steel stands as an outlier because the national security implications of foreign ownership are much more attenuated than they would be if U.S. Steel was a major supplier to the defense industrial base.

I worry that the concept of something like a symbolic golden share could be electorally powerful and therefore presidential administrations may be tempted to use such arrangements to score political points with various constituencies. There has always been strong bipartisan support for CFIUS, and the strength and effectiveness of the committee as a tool of national security depends on its continued commitment to rigorous, fact-based, and non-partisan review of transactions before it. Additionally, if the USG requires that foreign companies provide such golden share arrangements as a condition of entry, even in industries and business activities that have only vague or highly attenuated connections to national security, investors will become less interested in putting their capital to work in the United States. With less investment, the United States economy would grow more slowly and support fewer good jobs

For these reasons, Congress should ensure that CFIUS returns to its commitment of using mitigation only as a last resort and only in proportion to the national security risk that must be mitigated to justify approving the transaction. CFIUS should also refrain from calling

governance arrangements that provide the USG with some veto power over board seats as "golden shares," and should ensure that any arrangement that entails special governance rights for the USG are memorialized as being exercised through the CFIUS monitoring agencies rather than through the president himself.

7. Can you please comment on the benefits or disadvantages among the sector-based, sanctions-first, and sanctions-only approaches to a U.S. outbound investment security program?

I am a strong advocate for a narrow sector-based approach to outbound investment security rather than a sanctions-first or sanctions-only approach.

Full blocking financial sanctions may be appropriate for particularly egregious entities, as we already do through the specially designated nationals (SDN) list. Programs like the Non-State Chinese Military Industrial Complex (NS-CMIC) list can augment a sectoral-based approach by limiting venture capital exits from listed entities. If the USG makes clear that companies in countries of concern that develop particular technologies for particular uses will be placed on the NS-CMIC, this would reduce the incentives for venture firms to invest in start-ups that would likely face such sanctions as their technology and business matured.

However, a sanctions-first or sanctions-only approach is not helpful for preventing supply chain offshoring or deterring venture in new, emerging technology companies. That is because the USG needs to have detailed information about a company and its capabilities before the entity could be listed under a sanctions program. Additionally, we know that sanctioned entities work to evade USG regulations by erecting shell companies.

Beyond concerns over the administrability of a sanctions-focused approach to outbound investment security, I also have concerns about unintended consequences for dollar centrality. We are already pushing the boundaries of sanctions overuse. The dollar's share of global reserves is in the midst of a long-term decline from approximately 70% of global reserves in 2000 to 57% today. Over the past few months, there are indications in bond markets that foreign demand for US Treasuries is softening. Foreign central bank holdings of US Treasuries are down almost $50 billon from March.

We don't want to get too concerned over short-term changes that may be more noise than signal, but it is unusual for demand for dollars to decline simultaneous to a weakening dollar. Continuing to weaponize the dollar will just add to the growing international dissatisfaction with the dollar system and encourage other actors to develop alternatives and work arounds to holding, transacting, and invoicing in the U.S. dollar.

Responses to Questions for the Record from Chairman Hill
Subcommittee on National Security, Illicit Finance, and International Financial Institutions
Hearing, titled: U.S. Policy on Investment Security
July 16, 2025

Questions from Chairman Hill:

1. Mr. Reissaus and Mr. Joseloff, when Congress enacted FIRRMA, it expanded CFIUS's time for reviews, accelerated the hiring process, and set up a filing fee system to bolster resources. Do you believe these reforms have solved the workload problems that CFIUS was facing – if not, where do the major stress points still lie?

   Response: Congress through FIRRMA provided essential resources to CFIUS and enabled CFIUS member agencies to directly hire qualified personnel addressing critical staffing needs. These resources addressed the workload problems that were negatively affecting case processing times from 2016 through 2018.

   In my experience, the stress points today are less a result of staffing and resource constraints. Other factors such as vacancies in key CFIUS political roles caused by presidential transitions and insufficient accountability for adhering to internal and statutory deadlines have had a greater impact on delays and increasing the number of CFIUS filings requiring a refiling than resource constraints.

2. Mr. Reissaus, the Financial Services Committee has heard from numerous stakeholders that the outbound investment program has created significant compliance issues. Even firms that should be subject to an exemption find themselves unsure whether to proceed with a transaction. Meanwhile, China keeps making technological advancements where zero U.S. investment is involved: DeepSeek is a recent example; Huawei's new AI chips are another. You testified that we must seriously consider costs when designing an outbound program. If the current costs remain excessive, how should Congress revise the outbound program?

   Response: The current framework for the Outbound Investment Security Program uses an overly broad and ambiguous definition of covered transactions that in turn relies on similarly ambiguous exemptions to carve-out transactions that it was not intended to cover. This creates uncertainty and hinders the ability of the private sector to efficiently evaluate whether a transaction would be covered or if an exemption would apply. These issues are exacerbated by the fact that failure to comply could result in criminal penalties.

   A framework that places the burden on private parties to independently assess whether their transactions are covered under the rule or else face significant penalties must use well-established regulatory definitions that precisely define what is permissible and what is not or offer an efficient means for parties to obtain clarifications or advisory opinions from the regulator.

Congress dealt with this issue when drafting the definition of covered investment in FIRRMA. Early drafts of FIRRMA contemplated defining covered investment as any investment that was not passive, which would have created similar ambiguities as those in the Outbound Investment Security Program. Congress solved this problem through identifying the specific rights (i.e., a board or observer seat, involvement in substantive decisionmaking, and access to material non-public technical information) that would trigger CFIUS jurisdiction. A similar approach for the Outbound Investment Security Program that defines covered transactions based upon the specific rights the U.S. person would acquire in a covered foreign person that pose a national security concern would provide greater clarity for the private sector by establishing bright lines and a now more familiar framework for assessing what investments would be permissible, notifiable, or prohibited.

3. Mr. Reissaus and Mr. Joseloff, Congress has encouraged CFIUS to work with our allies to set up complementary investment screening regimes. At the same time, we have cautioned that those regimes must be focused on national security – not be used as an excuse for protectionism and industrial policy. How would you evaluate the development of investment screening in Europe and Asia – are our allies getting it right?

   Response: There has been significant progress on establishing and implementing investment screening regimes around the world. The work done by the Treasury Department during both the first Trump Administration and then the Biden Administration has led to deep partnerships around the world to protect against those investments that pose genuine national security risks. In many of these countries, they have only had their investment screening regimes in place for a few years, and it will be important for the Treasury Department to continue to work with them as they consider updates and revisions.

   Introduction of an investment screening mechanism presents risk that the mechanism can be used to advance protectionism or as a tool to meet broader industrial policy objectives. To help mitigate the risk that these investment screening regimes are used for such purposes, CFIUS will need to both lead by example and continue to emphasize in its engagements with other countries that these regimes need to be narrowly focused on national security.

CRAVATH

Benjamin G. Joseloff
bjoseloff@cravath.com
T+1-212-474-1810
New York, NY

August 18, 2025

Responses to Questions for the Record after July 16, 2025, Hearing Titled,
"*U.S. Policy on Investment Security*"

Dear Chairman Hill:

Please find enclosed copies of my responses to the written questions submitted by yourself and by Ranking Member Maxine Waters following the July 16, 2025, hearing before the Subcommittee on National Security, Illicit Finance, and International Financial Institutions of the United States House of Representatives Committee on Financial Services titled, "*U.S. Policy on Investment Security*."

Please let me know if I can be of further assistance.

Very truly yours,

Benjamin G. Joseloff

The Honorable French Hill
United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

Enclosures

Written Responses to Questions for the Record
from Benjamin G. Joseloff, Cravath, Swaine & Moore LLP
for Subcommittee on National Security, Illicit Finance, and International Financial Institutions
of the United States House of Representatives Committee on Financial Services
Hearing Titled, "*U.S. Policy on Investment Security*"

August 18, 2025

Questions from Chairman Hill:

1. **Mr. Joseloff, your testimony suggests that simplifying CFIUS's treatment of critical technologies may be advisable to reduce unnecessary friction. Could you elaborate on specific proposals you would recommend to "narrow the scope" of critical technologies, as you write in your opening statement?**

RESPONSE: Following the enactment and implementation of the Foreign Investment Risk Review Modernization Act of 2018 ("FIRRMA"), CFIUS jurisdiction depends, in part, on the concept of "critical technologies," which is defined in FIRRMA by cross-referencing various U.S. export control regimes, some of which have broad application.

For example, "critical technologies" includes items on the Commerce Control List (the "CCL") set forth in Supplement No. 1 to part 774 of the Export Administration Regulations (15 C.F.R. parts 730-774) and controlled for certain enumerated reasons. Category 5, Part 2 of the CCL, which addresses information security, can apply to software products that incorporate industry-standard, commonplace encryption technology. Thus, following the implementation of FIRRMA, CFIUS has jurisdiction over certain investments in U.S. businesses that develop software with standard encryption technology, even if the software in question is of no interest from a national security perspective. What is more, because CFIUS's regulations require that certain transactions involving critical technologies be filed with CFIUS at least 30 days prior to the completion date of the transaction, such software—or its underlying source code or technology—can trigger a mandatory CFIUS filing.

Thus, one specific action to reduce unnecessary friction would be to narrow the scope of CCL Category 5, Part 2 items that constitute "critical technologies." In my opinion, it should be possible to achieve a scope that excludes software products with commonplace encryption technology while maintaining jurisdiction over encryption items more likely to raise national security concerns.

2. **Mr. Joseloff, you suggest that formal guidance from CFIUS may help shorten the pre-filing process. What elements should that formal guidance contain in order to simplify the preparation that parties typically undertake?**

RESPONSE: Formal guidance should endeavor to include specific, concrete examples of measures transaction parties can take to identify and address potential national security concerns arising from their transactions prior to filing with CFIUS.

For example, the guidance might describe several fact patterns that often raise national security concerns (e.g., the acquisition of a U.S. business that is developing a sensitive technology) and explain the specific concern that arises in each fact pattern (e.g., the transfer of the sensitive technology to an adversary nation). The guidance could then provide, for each fact pattern, non-exclusive examples of how transaction parties might proactively address the potential concern

identified (e.g., adopting both corporate policies and technical controls that limit access to the technology in question, and demonstrating the acquirer's commitment to retaining such policies and controls post-closing). The guidance might also describe the types of mitigation measures CFIUS most often uses to resolve concerns of the type identified in each fact pattern.

Finally, if CFIUS finds that the efficiency of its reviews is enhanced when transaction parties voluntarily provide in their filings additional information that may be relevant to CFIUS's work but is not required by CFIUS's current regulations, CFIUS should provide a list of such information (e.g., the top customers of the U.S. business in each of the past three fiscal years).

3. Mr. Joseloff, how would you evaluate the scoping of CFIUS's mitigation agreements? Are you confident that they are restricted to national security considerations? Do the agreements themselves offer reliable guidance to the CFIUS Bar on factors to consider when advising on subsequent deals?

RESPONSE: In my experience, CFIUS mitigation agreements are, by and large, restricted to national security considerations; CFIUS does not typically aim to achieve other, broader national interests through mitigation agreements. That said, due to the manner and circumstances in which they are often negotiated (i.e., with the U.S. Government wielding significant leverage and under substantial time pressure), CFIUS mitigation agreements are not always as tailored as they could be.

Stated differently, although CFIUS generally does a good job of ensuring that mitigation agreements are focused on national security alone, there is room for improvement in ensuring that mitigation agreements address national security concerns in the most efficient manner. In this connection, I was heartened to hear Deputy Secretary of the Treasury Michael Faulkender state in April that "[a]nother line of effort aimed at reducing unnecessary regulatory burdens is to appropriately streamline CFIUS mitigation to make sure that [CFIUS is] not using mitigation measures that are overly bureaucratic, complex, and open-ended."[1]

In my opinion, CFIUS mitigation agreements themselves offer reliable guidance to the CFIUS bar on factors to consider when advising on subsequent deals, particularly when assessed in conjunction with information regarding mitigation measures included in CFIUS's annual reports.

[1] Statements & Remarks, Deputy Secretary Michael Faulkender's Remarks at ACI CFIUS Conference, U.S. Department of the Treasury (April 24, 2025), https://home.treasury.gov/news/press-releases/sb0101.

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