

# DOWNLOAD PDF CRITICAL CHALLENGE 6: PROVIDING SECURITY FOR FOREIGN DIRECT INVESTMENT

## Chapter 1 : The impact of the Critical Infrastructure Centre on infrastructure investors - Lexology

*Unconstrained Foreign Direct Investment: An Emerging Challenge to Arctic Security ii Exploitation of these resources carries the risk of oil spills.*

The legislation was intended to reform foreign direct investment review, and was motivated in part by a desire to address particular concerns relating to Chinese inbound investment though not all Chinese investment [1]. Foreign Investment Review as Trade Policy? The Trump Administration then joined the policymaking arena for reforming foreign direct investment review. Ultimately, the White House pulled back from its statements that it would reform foreign investment review and export controls unilaterally, explaining the Administration would instead allow legislative reform to run its course. Although Senate conferees had been instructed by their chamber to stick to the Senate bill, weeks of negotiations produced a compromise conference bill. According to reports, the Administration participated actively in those negotiations, advocating for among other things the removal of a Senate provision re-imposing sanctions that the Administration had lifted on a Chinese telecommunications company. On July 26, shortly after the conference compromise had been reached, the House passed the conference bill. The Senate followed on August 1. Latham will complement this general overview with forthcoming analyses of discrete topics. Notably, this latter imperative pervades FIRRMA, beginning with a number of congressional findings and unambiguous expressions of the sense of Congress highlighting the importance of and quantifying the economic benefits of foreign investment in the US. While CFIUS already interprets by regulation its jurisdiction to include transactions engineered to avoid its review, FIRRMA confirms jurisdiction, by statute, over evasive transactions very broadly defined. Similarly, with respect to critical technology, any investment in a US business that produces, designs, tests, manufactures, fabricates, or develops critical technologies is potentially subject to CFIUS review. An investment in a US company that maintains sensitive personal data, even if that company did not collect such data in the first place, could be subject to Committee review as well. These declarations will be shorter than written notices i. If it is triggered, this new declaration process will provide more, not less, procedure for transactions between private parties involving the potential background influence of a foreign government, given that the Committee will likely respond to some mandatory declarations with a request for a full notice. Parties subject to this mandatory declaration requirement may at their election file a full notice instead. Either way, for such parties, filing with the Committee is no longer voluntary, which marks a significant change over current procedure. Here too, FIRRMA provides an exception for investment-fund investments by parties that may be influenced by foreign governments. These provisions respond to frequent commentary that CFIUS lacks sufficient economic and other resources given its expanded workload in recent years, and will allow for more Committee staff and other resources and, thus, the possibility of more opportunities for mitigation. Timeline for Review FIRRMA also extends slightly the timeline for Committee review of full notices in contrast to the declarations, which must be resolved in 30 days. Thus, the current timeline for Committee reviews once a notice is accepted by the Committee will shift from 75 days to 90 or, in extraordinary circumstances, to days. FIRRMA also requires the Committee to provide comments on a notice it receives, or else to accept the notice to commence the investigation period, within 10 days from the time a notice or draft notice is submitted. Thus, transacting parties will be more likely to receive quick reactions from CFIUS upon submitting a notice, even while the Committee will have a slightly longer period to review accepted notices. This provision, especially taken together with those providing more economic and other resources to the Committee, suggests that CFIUS may become more active in monitoring, and perhaps requesting notices or declarations for, jurisdictional transactions for parties who choose not to file. Instead, FIRRMA provides that such provisions will become effective 30 days after all necessary regulations are in place, with a maximum time for CFIUS to complete those regulations set at 18 months from enactment of the law. These include, for example, the new timeline for Committee reviews i. For example, FIRRMA requires much more extensive

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reporting to Congress by the Committee, concerning the parties to transactions evaluated by the Committee, the nature of their businesses, and the outcomes of Committee reviews and investigations. And indeed, FIRREA itself takes as a central assumption that the forms of foreign investment that most threaten US national security are investments facilitating the movement of sensitive US technologies. That is, whereas in an earlier era CFIUS focused especially on controlling investments in hard physical assets that could jeopardize, for example, US energy supplies, FIRREA contemplates an era of sensitive technologies that are entirely portable. And in contrast to defense articles and other controlled items, emergent technologies might very well consist of a much broader set of technologies indeed, including artificial intelligence, advanced semiconductors, advanced robotics, and so on. In short, the identification of emerging and foundational technologies will be left to the discretion of the interagency group, but that discretion will be limited. The final form of the new law aims to modernize foreign investment review, not to change the fundamental purpose of such review beyond national security. CFIUS review will likely take less time for some parties, who can use an abbreviated declaration process, even while the process will likely become mandatory and potentially more time-consuming for others. Rather, a forthcoming rulemaking by the Committee will determine how the new law will be implemented. June 4, , Chinese version available at [http:](http://)

### Chapter 2 : Latham & Watkins Discusses How New Foreign-Investment Law Changes CFIUS Review | CL

*Foreign Investment and National Security: Economic Considerations Congressional Research Service Summary The United States is the largest foreign direct investor in the world and also the largest recipient.*