

TESTIMONY OF THE DEPARTMENT OF DEFENSE
BEFORE THE HOUSE FINANCIAL SERVICES COMMITTEE
REGARDING DOD CFIUS PROCESS IMPROVEMENTS
ASSISTANT SECRETARY OF DEFENSE (INTERNATIONAL SECURITY POLICY)
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Madam Chairman, Members of the Committee:

Thank you for the opportunity to appear before you today. Assistant Secretary Lowery has laid out the principles that will guide our consideration of CFIUS reform. I will like to briefly discuss the Department of Defense's role as a member of the Committee on Foreign Investment in the United States (CFIUS), as well as some process improvements we have initiated within the Department.

As a statutory member of the CFIUS, the Department of Defense weighs a number of factors when it considers a proposed foreign acquisition of a US company.

First and foremost, our objective in this process is to ensure that the proposed transaction does not pose risks to US national security interests. To do this, the Department of Defense reviews several aspects of the transaction, including:

The importance of the firm to the US defense industrial base (e.g., is it a sole-source supplier, and, if so, what security and financial costs would be incurred in finding and /or qualifying a new supplier, if required?);

Does the firm to be acquired possess state-of-the art or other militarily critical technologies?

Is the company to be acquired part of the critical infrastructure that the Defense Department depends upon to accomplish its mission?

Is the acquiring company involved in the proliferation of sensitive technology or weapons of mass destruction and their delivery systems?

Can any potential national security concerns posed by the transaction be eliminated by the application of risk mitigation measures, either under the Department's own regulations or through negotiation with the parties?

Recently, after reviewing our procedures for handling CFIUS cases, the Department of Defense implemented several improvements to our internal process for reviewing and determining our positions on CFIUS transactions. These improvements have focused on several areas. The Department ensures an enhanced visibility and transparency of the CFIUS process at the senior leadership level as well as within the leading management of each reviewing organization. For example, the Deputy Secretary of Defense receives briefings on pending CFIUS cases and has been actively involved in decisions involving investigations and security agreements. The Department has also added the Assistant Secretary for Homeland Defense and the Chairman of the Joint Chiefs of Staff to our list of CFIUS case reviewers.

As required, the Department brings in additional DoD organizations and experts to augment the standard DoD review organizations. The Defense Technology Security Administration, which coordinates the overall DoD response, works to flag issues for

other DoD review organizations to help focus their analysis. Given the increased awareness throughout the senior leadership in the Department, our reviewing organizations develop clear, well documented positions, including identification of mitigation measures required to offset risks identified during the review.

To continue strengthening the Department's internal CFIUS process, we are clarifying the authorities and detailing the responsibilities of the Department's CFIUS reviewing organizations in a DoD instruction. Given the size of our Department and the number of reviewing organizations, I believe that this effort will be helpful in ensuring we are allocating personnel with the appropriate programmatic, technical, operational, and regional expertise to the review of these transactions.

The Department is also actively working with other CFIUS member agencies to develop and implement several improvements in the interagency review process. An important development is the increased frequency of interactions at all levels among the CFIUS committee members.

The Department of Defense believes that the CFIUS process is working effectively to balance the need for foreign investment in the United States, while protecting our national security. Madame Chair, this concludes my formal statement. I would be happy to answer any further questions you may have.