

U.S. DEPARTMENT OF THE TREASURY

Treasury Takes Action Related to Excepted Foreign State and Excepted Real Estate Foreign States

February 10, 2023

WASHINGTON – Today, the Department of the Treasury announces actions taken by the Committee on Foreign Investment in the United States (CFIUS) related to excepted foreign states (EFS). Specifically, based on their establishment and use of their own robust foreign investment screening programs, CFIUS has determined that New Zealand and the United Kingdom have met the EFS determination requirements under CFIUS regulations. This ensures those countries' continued status as excepted foreign states pursuant to CFIUS regulations and the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), absent further action from CFIUS. With this action qualifying investors from all Five Eyes countries will now continue to benefit from exception from CFIUS jurisdiction over certain noncontrolling transactions, real estate transactions, and mandatory filing requirements as established under law.

“The United States thoroughly reviews foreign investment for national security risks, and it is critical that our allies also identify and address risks from malign foreign investment. Today's actions reflect that our Five Eye allies have all stood up and implemented their own robust foreign investment screening programs. We look forward to continuing to coordinate with all of them on matters relating to investment security,” noted Assistant Secretary for Investment Security Paul Rosen.

FIRRMA required that CFIUS limit the application of its expanded jurisdiction over certain nonpassive minority investments and real estate transactions to certain categories of foreign persons. Qualifying investors from excepted foreign states are currently excepted under CFIUS's regulations from only FIRRMA's expanded CFIUS jurisdiction over certain nonpassive minority investments and real estate transactions, as well as mandatory filing requirements. They will continue to be subject to CFIUS jurisdiction for investments that result in foreign control of a U.S. business.

These actions reflect continued effort by partners across the Five Eyes Alliance to establish, implement, resource, and operate effective and robust investment screening authorities to

address national security risk that can arise from foreign investment while maintaining open investment.

CFIUS EFS AND EREFS DETERMINATIONS

The Department of the Treasury issued notices in the Federal Register announcing that CFIUS had determined that each of New Zealand and the United Kingdom had satisfied the criteria set forth in 31 C.F.R. § 800.1001(a), with respect to excepted foreign states, and 31 C.F.R. § 802.1001(a), with respect to excepted real estate foreign states. Therefore, New Zealand and the United Kingdom are and will remain excepted foreign states and excepted real estate foreign states absent further Committee action and notice in the Federal Register.

The notices can be found on the section of the Department of the Treasury's website that displays the list of excepted foreign states and excepted real estate foreign states:

<https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius/cfius-excepted-foreign-states>.

####