

Remarks by Assistant Secretary for Investment Security Paul Rosen at the Third Annual CFIUS Conference



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As Prepared for Delivery

Good afternoon. I'd like to start by thanking our panelists today for sharing their perspectives and engaging in an important and insightful discussion. On the U.S. Government side, each of you is a close partner, and I appreciate the tremendous effort you put into carrying out our national security mission. I also see many members of the CFIUS bar, the business community, as well as compliance professionals. Thank you for your collaboration in the CFIUS process as well – you have an important role to play in supporting our work.

At this conference last year, I spoke about the Committee's compliance and enforcement work as well as our enhancements to transaction reviews and efficiencies; we also discussed mitigation agreement monitoring, third-party processes, non-notified transactions, and planned regulatory updates. Today, I want to highlight the progress made in furtherance of those priorities, and some of the work that lies ahead.

In addition to handling hundreds of cases and ongoing monitoring responsibilities, we have made important regulatory updates, as previewed last year. We have also redoubled our efforts on enforcement, now levying eight civil monetary penalties in the past two years, four times more in that period than in the Committee's history.

In addition, fulfilling our mandate in the Foreign Investment Risk Review Modernization Act of 2018, or FIRRMA, to regularly consult and meet with allies and partners, we have also been active across the globe in sharing best practices regarding robust investment screening, the importance of timely reviews, and how to promote open investment consistent with the protection of national security. We certainly can and must do both.

Our work and the status of the United States as the world's top destination for foreign direct investment highlights that this balance is possible. In the past two years alone, CFIUS has cleared hundreds of transactions with a collective value of nearly \$500 billion.

Our national security work requires depth, breadth, and resources. Over the past year, we have continued to strengthen our analytical and operational capabilities. We have done this by building and implementing sophisticated tools, platforms, and methodologies for assessing and addressing national security risks. We employ cutting-edge information technology platforms to securely manage and facilitate novel aspects of CFIUS's work. We have expanded and deepened our human capital and today have a team with widely diverse backgrounds, from lawyers to science Ph.D.s to intelligence professionals to bankers to compliance professionals and former prosecutors. And across the Committee, we benefit from a much broader team with incredible subject matter expertise.

I want to take a moment to recognize the hard work of the career public servants who carry out the work of CFIUS. In addition to Treasury's role as chair of CFIUS, there are eight other agency political appointees who lead this work across the Committee, but there are hundreds of career staff who do the hard work and in-depth analysis that underpins each transaction we review. Working with this group of dedicated national security professionals has been an honor, and our national security is stronger as a result of their contributions.

The work of our outstanding team, in conjunction with our ongoing technological improvements, have enabled us to be more efficient and effective as we contend with two core challenges. First, transactions are increasingly complex. And second, the global security landscape is constantly changing, and CFIUS is identifying and addressing more national security risks than in years past as a result, including as it relates to sensitive data and technologies.

We have also been paying particular attention to the role of limited partners in investment funds. The reality is that not all LP arrangements are the same and it is often important for the Committee to understand the identity and role of LPs when relevant to understanding a transaction and assessing whether it poses national security risk. We recognize that sometimes a fund sponsor, for example, may have a contractual commitment to keep confidential the identity of an LP, and to that end, I can reassure you that we have processes and procedures in place to ensure that information filed with the Committee is handled appropriately. Indeed, the Committee strictly adheres to its statutory confidentiality obligations. And we've done a lot of thinking around the issue of LP investments, benefitting from, among other things, the work of the Department of Commerce in this area. In the same way that financial institutions are obligated to "know your customer," I often tell businesses seeking funding they should know their investor – because CFIUS certainly will. LP

agreements, side letters, and other informal arrangements can all be potential vectors for national security risk.

On that note, I want to take a moment to recognize our colleagues in the Intelligence Community. The Committee is a voracious consumer of the IC's work, which gives Committee members critical information and analysis to fully understand the potential "threat" for each and every transaction that comes before CFIUS. This is a fundamental input to our work.

I mentioned efficiency as an important part of our work – and we take that seriously. We are working through cases faster than in years before. In 2023, CFIUS cleared 66 percent of distinct transactions without mitigation measures in either the 30-day assessment period for a declaration or the initial 45-day review period for a notice – compared to 58 percent in 2022. In 2024, preliminary data shows this clearance rate continuing to climb ever further.

CFIUS also improved its efficiency by decreasing the frequency of withdrawn and refiled transactions from 23 percent of notices in 2022 to 18 percent of notices in 2023. This is the first such reduction in five years, and a trend we see continuing into 2024. These changes are not incidental; instead, they reflect the focus we've placed on improving efficiency at every step in our process and the dedicated work of Committee staff.

We have also transformed how we approach compliance with mitigation agreements. Today, we are actively monitoring mitigation measures in approximately 240 cases. We have expanded and devoted significant resources to monitoring, nearly doubling the size of Treasury's team over the last several years, including hiring professionals with audit and other relevant compliance experience.

In 2023, Treasury and other agencies went on over forty site visits, both domestically and internationally, to monitored businesses. In addition to the Committee's monitoring role, the use of third parties and internal compliance professionals is a critical piece of ensuring the protection of national security – from third party monitors and auditors to trustees to security officers and security directors, all of whom play an integral role in working with mitigated companies and the Committee to protect national security.

We also remain vigilant in our enforcement of mitigation agreements, and as I mentioned earlier we've made tremendous advancement in this space.

In an effort to increase transparency with regard to enforcement actions, in August, we debuted an updated enforcement website that provides further information regarding how the Committee approaches compliance and enforcement. This includes new information

regarding the penalties CFIUS has levied in the past few years, including the \$60 million penalty imposed for a company's failure to take appropriate measures to prevent unauthorized access to certain sensitive data and failure to promptly report unauthorized access. I can also share that, in the last year, CFIUS has – for the first time – utilized its subpoena authority in support of its national security mission.

As many of you know firsthand, we have continued to improve our ability to identify transactions that may pose a risk to national security and were not notified to the Committee by the parties. The Committee leverages multiple tools and data sources – including public reporting, subscription services, tips from the public, Committee members or Congress, and classified reporting – to identify and analyze such non-notified transactions. Treasury's non-notified team screens thousands of transactions, ultimately putting forward those that may raise national security considerations to the Committee for consideration to request a filing. The President's order in May of this year prohibiting the purchase and requiring the divestment of certain real estate operated as a cryptocurrency mining by facility by MineOne initially came to the Committee's attention through our non-notified process after we received a tip from the public.

The MineOne case also showcases the importance of our jurisdiction over real estate transactions. CFIUS reviewed and investigated this transaction pursuant to authorities provided by Congress in FIRRMA to cover real estate transactions in close proximity to certain sensitive U.S. facilities. We have been focused on updates to our real estate jurisdiction, working closely with the Department of Defense. Last year, we added eight military installations to our real estate regulations and earlier this month, we issued a final rule that expands CFIUS's ability to review certain real estate transactions by foreign persons near more than 60 military bases and installations across 30 states. This is the result of a recent comprehensive assessment conducted by the Department of Defense regarding its military installations.

And just yesterday, we issued a final rule to sharpen our investigation and enforcement tools. Among other things, this rule expands our authority to request and subpoena information for non-notified transactions, increases the maximum monetary penalty available for certain violations, and expands the instances in which CFIUS may use its subpoena authority, including in the non-notified context. After taking into consideration the public comments we received on the proposed rule, the final rule allows the CFIUS Staff Chairperson to impose a deadline with respect to party responses to mitigation agreement drafts not as a default, but

where appropriate. We see this as a necessary tool in certain instances. These enhancements are drawn from lessons learned as we have increased our focus on compliance, monitoring, and enforcement over the last few years.

We also remain engaged with Congress as one of our key stakeholders. In July, I again testified before the Senate Banking Committee regarding the work of the Committee. We regularly engage with congressional staff and members regarding potential legislation, and pursuant to our statute, from time-to-time provide case briefings on covered transactions after concluding action.

Our protection of national security does not stop at the border; indeed, our national security is linked to the security of our allies and partners. Therefore, it is essential to U.S. national security that our allies and partners develop and maintain effective national security-focused investment screening processes. This has been an important part of our work and in 2023 and 2024 alone, alongside the State Department, we have had hundreds of engagements with our foreign allies and partners, including an investment screening Memorandum of Intent that Treasury Secretary Yellen signed last year with her counterpart in Mexico. Over the past few years, the work we have done has contributed to the proposal, creation, or enhancement of investment screening programs in over 30 countries.

I am proud of Treasury and the Committee's efforts in all of these areas, but I also recognize that there is more work to do. While some of us will be departing our roles during this transition period, the incredible career staff will carry on with the same high caliber of professionalism and competence that you all have come to expect. In doing so, I fully anticipate that the Committee will remain focused on promoting and enforcing compliance with our regulations and agreements, improving our efficiency, and honing our authorities to ensure the protection of national security, all the while creating a welcoming environment for foreign investment.

Thank you again for joining us today.

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