

INSIGHTS

Big Changes on the Horizon for the Committee on Foreign Investment in the United States (CFIUS)

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Last week, the Senate followed the House of Representatives in passing the John McCain National Defense Authorization Act for Fiscal Year 2019 (the “NDAA”), which President Trump is expected to sign into law very soon. The NDAA was amended late in the process to include a revised version of the Foreign Investment Risk Review Modernization Act (“FIRRMA”), which makes major changes to the Committee on Foreign Investment in the United States (“CFIUS”), the interagency committee with the power to limit or prevent foreign persons and companies from making investments in the U.S.

Any companies with foreign ownership or management, or that may be involved in transactions with such companies, need to be aware of the changes coming as a result of FIRRMA. Some of key aspects of FIRRMA include:

- CFIUS jurisdiction has expanded to new areas, including acquisition of certain real estate and other investment in critical infrastructure and technologies.
- The creation of a new “declaration” process, that could either make the CFIUS process more efficient, or simply add a new layer of delay.
- Changes to the time allowed for CFIUS review of draft notices and reviews of formal notices.
- The creation of a new filing fee—which could be up to \$300,000 for formal notices.

Several critical details will be established through the rulemaking process implementing many important aspects of FIRRMA that will require administrative clarification. Bracewell’s professionals will continue to monitor FIRRMA implementation, and changes to the CFIUS process. If you have any questions, please contact Joshua Zive at (202) 828-5838 or joshua.zive@bracewell.com, or Bob Wagman at (202) 828-5872 or robert.wagman@bracewell.com.