



## Agency Priority Goal Action Plan

# Implementation of the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA)

### Goal Leader(s):

Thomas Feddo, Assistant Secretary for Investment Security, Department of the Treasury

David Eisner, Assistant Secretary for Management, Department of the Treasury

# Overview

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## Goal Statement

- Successful implementation of the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA) will ensure that identified national security risks arising from certain foreign investments—including from some types of investments and transactions that previously fell outside of Committee on Foreign Investment in the United States' (CFIUS) jurisdiction—are addressed in an effective manner.
- By September 30, 2021, the Department of the Treasury, as Chair of CFIUS, will implement key elements of FIRMMA, including:
  - Publishing final FIRRMA regulations by February 2020; establish filing fees.
  - Completing Phase 1 of work space construction to enhance operational security by June 2020.
  - Implementing a new information technology infrastructure and electronic case management system by September 2020.
  - Implementing and managing processes to handle a significantly increased caseload.

## Challenge

- Effective implementation of FIRRMA depends on the onboarding of necessary staffing, development of additional technological capabilities, and renovation of secure work spaces.
  - FIRRMA regulations became effective on February 13, 2020, providing a limited window to prepare for an expanded workload.
  - Among other things, FIRRMA expands the jurisdiction CFIUS, which is expected to result in a fourfold increase in the number of covered transactions that CFIUS must review per year.
  - As chair of CFIUS, Treasury will add staff and related administrative capacity to process this increased caseload and perform an expanded set of responsibilities.

# Leadership & Implementation Team

**Investment Security**

**Senior Lead:**

- Tom Feddo (Assistant Secretary for Investment Security, International Affairs (IA))
- Tyler McGaughey (Deputy Assistant Secretary for Investment Security, IA)

**Team Leads:**

- Brian Reissaus (Director, Investment Security Office, IA)
- Laura Black (Director, Policy and International Relations, IA)
- Phil Ludvigson (Director, Monitoring and Enforcement, IA)

**Agency partners:**

- CFIUS member agencies

**Security & HR**

**Senior Lead:**

- Tom Wolverton (Deputy Assistant Secretary for Security and Counterintelligence, Office of Security Programs (OSP)/Office of Intelligence Analysis (OIA)/Terrorism and Financial Intelligence (TFI))
- Trevor Norris (Deputy Assistant Security for Human Resources and Chief Human Capital Officer)

**Team Leads:**

- Kirsten Ruhland (Acting Director, OSP)
- Jesse Dominguez (OSP)
- Colleen Heller-Stein (Director, Departmental Offices HR and Deputy CHCO)

**OCIO**

**Senior Lead:**

- Eric Olson (Deputy Assistant Security, Information Systems and Chief Information Officer CIO)

**Team Leads:**

- Nick Totten (Associate Chief Information Officer for Enterprise Application Services, CIO)
- Tony Arcadi (Associate Chief Information Officer for Enterprise Infrastructure Operations Services, CIO)

**Agency partners:**

- Army – Department of Defense, DOD

**Treasury Operations**

**Senior Lead:**

- Mike Thomas (Deputy Assistant Secretary for Treasury Operations)

**Team Leads:**

- Craig Gardner (Business Director of Facilities Services, Treasury Operations)
- Rob Coffman (Acting Director for Business Services Office, Treasury Operations)

# Goal Structure & Strategies

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Successfully meeting the goal requires timely execution of four lines of effort across the Department:

- **Policy Development:** Publishing final FIRRMA regulations by the statutory deadline; establishing filing fees; and evaluating implementation and providing as necessary additional information to assist the public.
- **Staffing:** Using statutory direct hire authority to rapidly hire qualified staff, paying particular attention to potential on-boarding delays associated with bottlenecks in security background investigations and clearance adjudications. Ensure that Treasury has necessary expertise available through training and retention initiatives.
- **Physical Space:** Renovating space within Main Treasury to consolidate all Investment Security staff in one location and provide secure work spaces for efficiently processing classified information.
- **Information Technology (IT):** Finalizing detailed business requirements and specifications, developing and implementing a new electronic case management system, and supporting IT infrastructure to enable more efficient and effective review and management of covered transactions. Ensure that staff are trained in proper use and full functionality of the case management system.

# Summary of Progress – FY 20 Q2

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- Throughout FY 20 Q2, Treasury made demonstrable progress on the administrative aspects of FIRRMA implementation, including for staffing, IT systems and infrastructure, and facility build-out.
  - During Q2, the Office of Investment Security on-boarded 6 new FTE. The Office is now staffed to 43 FTE and 11 contractors. There are also 16 candidates currently in the hiring pipeline.
  - Configuration of an online application portal and case management system continued through Q2 with an initial launch planned for the nonclassified solution in late May. Requirements elicitation and validation for the classified solution also progressed through Q2.
  - Phase 1 of the facility renovation project has commenced. On site construction was suspended in March due to the COVID-19 pandemic and will restart in mid-May.
- Throughout FY 20 Q2, Treasury continued to develop and execute policy to support FIRRMA implementation.
  - In January 2020, Treasury issued two final regulations to fully implement FIRRMA, which went into effect in February.
  - In January 2020, CFIUS identified three excepted foreign states and excepted real estate foreign states under FIRRMA and published a list of factors that CFIUS will generally consider when making determinations as to whether such states will remain “excepted” after February 12, 2022.
  - In March 2020, Treasury issued proposed regulations to establish a fee for parties filing a voluntary notice of certain transactions for review by CFIUS.
  - In Q2, Treasury developed a draft of proposed regulations revising the scope of mandatory declarations for critical technology transactions.

# Key Milestones

Milestone Summary			
Key Milestone	Milestone Due Date	Milestone Status	Comments
<b>Policy Development and Execution</b>			
Publish final FIRRMA regulations	FY20 Q2	Completed	N/A
Monitor FIRRMA implementation and provide additional information to assist the public, as necessary	Ongoing	On-Track	N/A
Establish governance process and associated procedures for use of the CFIUS Fund	FY21 Q1	On-Track	N/A
Develop a set of statements, values, and/or principles to promote strategic clarity and shared vision for a growing workforce	FY21 Q1	On-Track	N/A
Issue public enforcement guidelines	FY21 Q2	On-Track	N/A
Comprehensively assess FIRRMA implementation to identify the need for potential regulatory refinements	FY21 Q2	On-Track	N/A
Establish methodology to assess effectiveness and robustness of investment security mechanisms utilized by foreign states	FY21 Q4	On-Track	N/A
<b>Physical Space</b>			
Complete Phase 1 of workspace construction	FY20 Q3	Behind	Work paused in March and April due to COVID-19 pandemic. New delivery FY20 Q4.
Complete Phases 2 and 4A of workspace construction	FY21 Q1	Behind	Delayed start due to COVID-19 pandemic. New delivery FY21 Q1.
Complete Phases 3 and 4B of workspace construction	FY21 Q4	On-Track	N/A

*Note: Additional milestones may be added based on next steps identified after completion of the FY 2020 milestones.*

# Key Milestones

## Milestone Summary

Key Milestone	Milestone Due Date	Milestone Status	Comments
<b>Information Technology</b>			
Implement unclassified public intake module of new electronic CMS	FY20 Q3	On-Track	N/A
Fully implement new electronic CMS	FY20 Q4	On-Track	N/A
Work with member agencies to establish connections to the CMS	FY21 Q4	On-Track	N/A
Implement effective training for staff on CMS functions, use, capabilities	FY21 Q1	On-Track	N/A
<b>Staffing</b>			
Achieve enacted full-time equivalent staffing levels	FY20 Q4	On-Track	N/A
Establish an effective onboarding program for newly hired staff	FY 21 Q2	On-Track	N/A

*Note: Additional milestones may be added based on next steps identified after completion of the FY 2020 milestones.*

# Key Indicators

In recent years, CFIUS's caseload has increased in volume and complexity. CFIUS reviewed 65 cases in calendar year (CY) 2009 compared to 229 in CY 2018. In general, transactions have also grown more complex, which contributed to an increasing investigation rate. CFIUS generally investigates cases that require more resource-intensive analysis and/or corrective action. In CY 2009, CFIUS investigated approximately 38 percent of cases compared to 69 percent in CY 2018.

Year	Number of Notices	Number of Investigations	Timely Review of CFIUS Cases (%)
2009	65	25	N/A
2010	93	35	N/A
2011	111	40	N/A
2012	114	45	N/A
2013	97	48	100
2014	147	51	100
2015	143	66	100
2016	172	79	100
2017	237	172	100
2018	229	159	100

# Data Accuracy and Reliability

Measure: NUMBER OF NOTICES								
Definition	This measure tracks the number of notices that are reviewed by the Committee on Foreign Investment in the United States per calendar year.							
Type / Category	Performance Indicator (No Target) – Input							
Targets (n/a in Qs 1-3 if annual)	FY 2020 Q1	FY 2020 Q2	FY 2020 Q3	FY 2020 Q4	FY 2021 Q1	FY 2021 Q2	FY 2021 Q3	FY 2021 Q4
	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Desired Direction	N/A							
Unit of Measure	Individual case							
Calculation Methodology	Sum (Calendar Year)							
Data Source	Manual							
Quality	Reasonable for intended use							
Frequency	Annual. Compilation and presentation of data in the Annual Report to Congress often lags to ensure accuracy and reliability. All previous annual reports can be found here: <a href="https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius/cfius-reports-and-tables">https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius/cfius-reports-and-tables</a>							

# Data Accuracy and Reliability

Measure: NUMBER OF INVESTIGATIONS								
Definition	This measure tracks the number of notices that proceed beyond the initial review to a subsequent investigation. CFIUS generally investigates cases that require more resource-intensive analysis and/or corrective action.							
Type / Category	Performance Indicator (No Target) – Input							
Targets (n/a in Qs 1-3 if annual)	FY 2020 Q1	FY 2020 Q2	FY 2020 Q3	FY 2020 Q4	FY 2021 Q1	FY 2021 Q2	FY 2021 Q3	FY 2021 Q4
	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Desired Direction	N/A							
Unit of Measure	Individual Case							
Calculation Methodology	Sum (Calendar Year)							
Data Source	Manual							
Quality	Reasonable for intended use							
Frequency	Annual. Compilation and presentation of data in the Annual Report to Congress often lags to ensure accuracy and reliability. All previous annual reports can be found here: <a href="https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius/cfius-reports-and-tables">https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius/cfius-reports-and-tables</a>							

# Data Accuracy and Reliability

Measure: TIMELY REVIEW OF CFIUS CASES								
Definition	This measure tracks compliance with statutory deadlines for completing national security reviews of transactions notified to the CFIUS to ensure that the CFIUS process is timely and efficient.							
Type / Category	Performance Measure (With target) – Efficiency							
Targets (n/a in Qs 1-3 if annual)	FY 2020 Q1	FY 2020 Q2	FY 2020 Q3	FY 2020 Q4	FY 2021 Q1	FY 2021 Q2	FY 2021 Q3	FY 2021 Q4
	100	100	100	100	100	100	100	100
Desired Direction	Steady							
Unit of Measure	Percentage							
Calculation Methodology	Manual calculation of the number of days between the first day of a case review and the last day of the review or investigation, as appropriate.							
Data Source	Manual							
Quality	Reasonable for intended use							
Frequency	Annual							

# Data Accuracy and Reliability

Measure: STAFFING – NUMBER OF POSITIONS FILLED								
Definition	This measure tracks the number of positions filled as a percentage of full staffing levels in order to ensure the highest quality implementation of FIRRMA regulations.							
Type / Category	Performance Measure- with targets							
Targets (n/a in Qs 1-3 if annual)	FY 2020 Q1	FY 2020 Q2	FY 2020 Q3	FY 2020 Q4	FY 2021 Q1	FY 2021 Q2	FY 2021 Q3	FY 2021 Q4
	51%	56%	62%	75%	80%	85%	95%	100%
Desired Direction	Increase towards 100%							
Unit of Measure	Percentage							
Calculation Methodology	Number of employees on board vs. number of targeted hires to calculate the percentage.							
Data Source	Workforce Analytics and ARC staffing data.							
Quality	Reasonable for intended use							
Frequency	Quarterly							

# Data Accuracy and Reliability

## Measure: STAFFING – NUMBER OF NEW HIRES RETAINED

Definition	This measure tracks the efficacy of initiatives to retain staff to ensure that knowledge and skills required for FIRRMA are readily available.							
Type / Category	Performance Measure							
Targets (n/a in Qs 1-3 if annual)	FY 2020 Q1	FY 2020 Q2	FY 2020 Q3	FY 2020 Q4	FY 2021 Q1	FY 2021 Q2	FY 2021 Q3	FY 2021 Q4
	N/A	N/A	N/A	93%	N/A	N/A	N/A	93%
Desired Direction	Increase							
Unit of Measure	Percentage							
Calculation Methodology	Total new hires on board after 365 days/total new hires for the FY.							
Data Source	Workforce Analytics and ARC staffing data.							
Quality	Reasonable for intended use							
Frequency	Annual							

# Data Accuracy and Reliability

## Measure: PHYSICAL SPACE CONSTRUCTION –SCHEDULE/COST VARIANCE

Definition	This measure tracks the difference between estimated cost and completion of the construction of physical space against original estimates in order to ensure requisite operational capacity and security in a timely and cost effective manner.							
Type / Category	Performance Indicator (With target) – Efficiency							
Targets (n/a in Qs 1-3 if annual)	FY 2020 Q1	FY 2020 Q2	FY 2020 Q3	FY 2020 Q4	FY 2021 Q1	FY 2021 Q2	FY 2021 Q3	FY 2021 Q4
	N/A	N/A	N/A	\$12.8M	N/A	N/A	N/A	\$12.8M
Desired Direction	Toward Zero							
Unit of Measure	Dollars							
Calculation Methodology	Budget Cost of Work Performed minus Actual Cost of Work Performed							
Data Source	Manual							
Quality	Reasonable for intended use							
Frequency	Annual							

# Data Accuracy and Reliability

Measure: CASE MANAGEMENT SYSTEM—EFFECTIVE TRAINING FOR THE CASE MANAGEMENT SYSTEM								
Definition	This measure tracks the percent of staff trained to use the case management system.							
Type / Category	Performance measure- with targets							
Targets (n/a in Qs 1-3 if annual)	FY 2020 Q1	FY 2020 Q2	FY 2020 Q3	FY 2020 Q4	FY 2021 Q1	FY 2021 Q2	FY 2021 Q3	FY 2021 Q4
	N/A	N/A	100	100	100	100	100	100
Desired Direction	Towards 100%							
Unit of Measure	Percentage							
Calculation Methodology	(Total trained/all trainable staff) x 100 to get percentage							
Data Source	Manual							
Quality	Reasonable for intended use							
Frequency	Quarterly							

# Additional Information

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## Contributing Programs

### Regulations:

- Provisions Pertaining to Certain Investments in the United States by Foreign Persons (31 C.F.R. part 800)
- Determination and Temporary Provisions Pertaining to a Pilot Program To Review Certain Transactions Involving Foreign Persons and Critical Technologies (31 C.F.R. part 801)
- Provisions Pertaining to Certain Transactions by Foreign Persons Involving Real Estate in the United States (31 C.F.R. part 802)

### Other Federal Activities:

- The Departments of Commerce, Defense, Energy, Homeland Security, Justice, and State, as well as the White House Office of Science Technology and Policy and the Office of the U.S. Trade Representative are also voting CFIUS members.

## Stakeholder / Congressional Consultations

FIRRMA was the product of the Trump Administration and Congress working together in a bipartisan manner, recognizing that in recent years both the national security landscape and the nature of the investments that pose the greatest national security risks have changed. Treasury received over 500 unique public comments on the proposed FIRRMA regulations it issued in September 2019.