

Department of the Treasury
Committee on Foreign
Investment in the United States
Activities

Congressional Budget
Justification and Annual
Performance Report and Plan

FY 2021

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Section I – Budget Request

A – Mission Statement

Review certain transactions involving foreign investment in the United States to determine the effect of such transactions on the national security of the United States and to address any identified national security risks.

B – Summary of the Request

The Committee on Foreign Investment in the United States (CFIUS) was established in 1975 under Executive Order 11858 to monitor the impact of foreign investment in the United States, and to coordinate and implement federal policy on such investment. CFIUS is composed of nine voting member agencies, some of which have multiple subcomponents. CFIUS' unique design leverages the skills, subject matter expertise, and integrated analysis of Committee members and other relevant agencies. CFIUS voting members include:

- Department of the Treasury
- Department of Commerce
- Department of Defense
- Department of Energy
- Department of Homeland Security
- Department of Justice
- Department of State
- Office of Science Technology and Policy
- Office of the United States Trade Representative

As both Chair and member of CFIUS, Treasury is responsible for leading CFIUS in establishing policies, issuing regulations, implementing processes and functions, and managing its daily operations. Treasury participates in every aspect of CFIUS, including reviews and investigations, policy and international relations, mitigation monitoring and enforcement, non-notified transaction analysis, legal support, and national security threat assessments. The Office of International Affairs (IA) is responsible for case management and coordination and representing the Committee to parties that file notices. The Office of General Counsel (OGC) provides legal support to IA and is responsible for certain analyses conducted on each notice filed with CFIUS.

The Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA) strengthens CFIUS to better address national security concerns arising from some types of investments and transactions that were previously outside of its jurisdiction. Additionally, FIRRMA modernizes CFIUS' processes to better enable timely and effective reviews of covered transactions. FIRRMA also establishes the CFIUS Fund (the Fund), to be administered by the chairperson (the Secretary of the Treasury), to accept appropriated funds for these expanded responsibilities and functions, and to collect filing fees.

In recent years, CFIUS' caseload has increased in volume and complexity. CFIUS reviewed 229 cases in calendar year (CY) 2018 compared to 93 in CY 2010. Transactions generally have also become more complex, which had contributed to an increasing rate of investigations. CFIUS

generally investigates cases that require more resource-intensive analysis and/or corrective action. In CY 2018, CFIUS investigated approximately 69 percent of cases compared to 38 percent in CY 2010. The FY 2021 budget requests resources necessary to implement FIRRMA and handle an anticipated workload of 1,000 cases per year.

The Administration requests \$20 million for the Fund in upfront appropriations that will be offset by up to \$20 million in offsetting collections from filing fees, which will be established in forthcoming regulations. To fund capital investments and staff to support Committee activities, \$15 million is proposed for transfer to Treasury. The remaining \$5 million will be available for transfer to other CFIUS agencies to facilitate, for example, interagency connectivity with Treasury's information technology (IT) and case management systems, as well as address emerging needs.

1.1 – Appropriations Detail

Dollars in Thousands

Appropriated Resources	FY 2019		FY 2020		FY 2021		FY 2020 to FY 2021	
	Operating Plan		Enacted		Request		% Change	
	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
New Appropriated Resources								
Treasury CFIUS Activities	0	\$0	0	\$15,000	0	\$15,000	NA	0.0%
Other Member CFIUS Activities	0	\$0	0	\$5,000	0	\$5,000	NA	0.0%
New Appropriated Resources - Member Agencies								
Treasury Departmental Offices S&E	32	\$15,000	81	\$22,341	120	\$24,146	48.1%	8.1%
Subtotal New Appropriated Resources	32	\$15,000	81	\$42,341	120	\$44,146	48.1%	4.3%
Other Resources								
Anticipated User Fees - CFIUS Fund				(\$10,000)		(\$20,000)	NA	100.0%
Subtotal Other Resources	0	\$0	0	(\$10,000)	0	(\$20,000)	NA	100.0%
Total Budgetary Resources	32	\$15,000	81	\$32,341	120	\$24,146	48.1%	-25.3%

Note: Treasury Departmental Offices S&E values and requests are reflected here for illustrative purposes. Those resources are being requested for the Departmental Offices S&E Account.

Note: Treasury CFIUS Activities total \$39 million - \$15 million transferred from the CFIUS Fund and \$20 million requested for the Departmental Offices S&E Account.

1.2.1 – CFIUS Fund Budget Adjustments

The total request for Treasury is \$39 million, with requested funding increases shown in the two Budget Adjustment tables below. The first table shows the CFIUS Fund only. The second table includes both the CFIUS Fund and Treasury CFIUS resources provided in the Departmental Offices Salary and Expenses account.

Dollars in Thousands

	FTE	Amount
FY 2020 Enacted	0	\$20,000
Changes to Base:		
Maintaining Current Levels (MCLs):	0	\$0
Non-Recurring Costs	0	\$0
Subtotal Changes to Base	0	\$0
FY 2021 Current Services	0	\$20,000
Program Changes:		
Anticipated User Fees - CFIUS Fund	0	(\$20,000)
FY 2021 President's Budget Request	0	\$0

1.2.2 – Departmental Offices Budget Adjustments

Dollars in Thousands

	FTE	Amount
FY 2020 Enacted	81	\$22,341
Transfer in from CFIUS Fund		\$15,000
Subtotal, FY 2020 CFIUS funding	81	\$37,341
Changes to Base:		
Maintaining Current Levels (MCLs):	0	\$263
Pay Annualization (2020 3.1% average pay raise)	0	\$73
Pay Raise (1.0% average pay raise)	0	\$70
FERS Contribution Increase	0	\$120
Non-Recurring Costs	0	(\$4,867)
Subtotal Changes to Base	0	(\$4,604)
FY 2021 Current Services	81	\$32,737
Program Changes:		
Program Increases:	39	\$6,409
Staffing to Support CFIUS Caseload Growth	39	\$6,409
FY 2021 President's Budget Request	120	\$39,146

Note: Table reflects Departmental Offices anticipated CFIUS funding. Does not reflect additional \$5 million in funding for other agencies for a total of \$44.146 million indicated previously in 1.1 table.

C – Budget Increases and Decreases Description

Offsetting User Fees -\$20,000,000 / -0 FTE

Treasury and IA anticipate collection of filing fees that will be credited to the Fund as offsetting collections.

Transfer in from CFIUS Fund +\$15,000,000 / +0 FTE

The CFIUS Fund anticipates to transfer \$15.0 million dollars to the DO Salaries and Expenses account to provide for Treasury DO CFIUS activities.

Maintaining Current Levels (MCLs)+\$263,000 / +0 FTE

Pay Annualization (3.1%) +\$73,000 / +0 FTE

Funds are requested for annualization of the January 2020 3.1% average pay raise.

Pay Raise (1.0% in 2021) +\$70,000 / +0 FTE

Funds are requested for a 1.0% average pay raise in January 2021.

FERS Contribution Increase +\$120,000 / +0 FTE

Funds are requested for the Federal Employee Retirement System (FERS) contribution rates effective FY 2021.

Non-Recurring Costs-\$4,867,000 / -0 FTE

Case Management System -\$3,189,000 / -0 FTE

IA expects to complete the final phase of development for the CFIUS Case Management System in FY 2021. This non-recur encompasses a portion of this funding.

Secure Spaces -\$1,678,000 / -0 FTE

CFIUS anticipates having completed the majority of anticipated facility buildout by FY 2021.

Program Increases+\$6,409,000 / +39 FTE

Staffing to Support Caseload Growth +\$6,409,000 / +39 FTE

Increase in CFIUS staffing to continue in light of anticipated program growth.

1.3 – Object Classification (Schedule O) Obligations

Dollars in Thousands

Object Classification	FY 2019 Actual Obligations	FY 2020 Estimated Obligations	FY 2021 Estimated Obligations
11.1 - Full-time permanent	0	0	0
11.9 - Personnel Compensation (Total)	0	0	0
12.0 - Personnel benefits	0	0	0
Total Personnel and Compensation Benefits	\$0	\$0	\$0
94.0 - Financial Transfers	0	20,000	20,000
Total Non-Personnel	\$0	\$20,000	\$20,000
Total Obligations	\$0	\$20,000	\$20,000
Full-time Equivalent (FTE)	0	0	0

D – Appropriations Language and Explanation of Changes

Appropriations Language	Explanation of Changes
<p style="text-align: center;">DEPARTMENT OF THE TREASURY DEPARTMENTAL OFFICES <i>Federal Funds</i></p> <p style="text-align: center;">COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES FUND</p> <p style="text-align: center;">(Including transfer of funds)</p> <p>For necessary expenses of the Committee on Foreign Investment in the United States, \$20,000,000, to remain available until expended: Provided, That the chairperson of the Committee may transfer such amounts to any department or agency represented on the Committee (including the Department of the Treasury) subject to advance notification to the Committees on Appropriations of the House of Representatives and the Senate: Provided further, That amounts so transferred shall remain available until expended for expenses of implementing section 721 of the Defense Production Act of 1950, as amended (50 U.S.C. 4565), and shall be available in addition to any other funds available to any department or agency: Provided further, That fees authorized by section 721(p) of such Act shall be credited to this appropriation as offsetting collections: Provided further, That the total amount appropriated under this heading from the general fund shall be reduced as such offsetting collections are received during fiscal year [2020] 2021, so as to result in a total appropriation from the general fund estimated at not more than [\$10,000,000] \$0. (<i>Department of the Treasury Appropriations Act, 2020.</i>)</p>	<p>This account was created by the Foreign Investment Risk Review Modernization Act of 2018.</p>

E – Legislative Proposals

CFIUS has no legislative proposals.

Section II – Annual Performance Plan and Report

A – Strategic Alignment

Treasury’s CFIUS activities support the following strategic objective for Strategic Goal 3, to enhance national security:

- Objective 3.3 – Economic Strength and National Security: Advance American prosperity and security through growth, investment, trade, and expanding the American industrial base while protecting national security.

In recognition of the strategic importance of FIRRMA implementation to national security Treasury is including this as an Agency Priority Goal. Successful implementation of 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 CFIUS’ jurisdiction—are addressed in an effective manner.

B – Budget and Performance by Budget Activity

2.1.1 – Treasury CFIUS Activities Resources and Measures

Dollars in Thousands

Resource Level	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Enacted	FY 2021 Request
Treasury CFIUS Activities	0	0	0	0	0	\$15,000	\$15,000
Budget Activity Total	0	0	0	0	0	\$15,000	\$15,000
Full-time Equivalents (FTE)	0	0	0	0	0	0	0

2.1.2 – Other Member CFIUS Activities Resources and Measures

Dollars in Thousands

Resource Level	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Enacted	FY 2021 Request
Other Member CFIUS Activities	0	0	0	0	0	\$5,000	\$5,000
Budget Activity Total	0	0	0	0	0	\$5,000	\$5,000
Full-time Equivalents (FTE)	0	0	0	0	0	0	0

Performance Measure	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2019 Target	FY 2020 Target	FY 2021 Target
Timely Review of CFIUS Cases	100	100	100	100	100	100	100	100
Number of notices reviewed by CFIUS	NA	NA	NA	NA	NA	NA	I	I
Number of notices that proceed to investigation by CFIUS	NA	NA	NA	NA	NA	NA	I	I

Key: DISC - Discontinued; B - Baseline; I - Indicator; NA - Not Applicable

Note: Prior to FY 2018, CFIUS was reflected in the International Affairs Program Resources section of the Departmental Offices Salaries and Expenses Account.

Committee on Foreign Investment in the United States Budget and Performance

(\$20,000,000 from direct appropriations):

In FY 2019 CFIUS took significant steps toward full implementation of the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA). At the beginning of FY 2019, the Committee established a pilot program to cover certain investments in critical technologies related to specific industries. At the end of FY 2019, Treasury published proposed FIRRMA regulations to implement the remainder of the statute, for public notice and comment. In January 2020, Treasury issued final regulations to implement FIRRMA, which become effective on February 13, 2020. Treasury has also made substantial progress on various administrative aspects of implementation, including with regard to staffing, information technology systems and infrastructure, and facility build-out.

Timely Review of CFIUS Cases: 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. The target (100 percent) was met in CY 2019. IA’s target for this measure in CY 2020 and CY 2021 is 100 percent.

C – Changes in Performance Measures

Performance Measure or Indicator	Proposed Change and Justification
1. Number of notices that are reviewed by the Committee on Foreign Investment in the United States per calendar year (indicator).	This indicator measures the number of notices reviewed by CFIUS as a result of updated regulations under FIRRMA.
2. 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 (indicator).	This indicator measures the number of investigations conducted by CFIUS as a result of updated regulations under FIRRMA.

D – Evidence-Building Activity

Throughout FY 2019, Treasury’s Office of Investment Security drafted regulations to implement the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA). The Office relied on evidence from a range of sources to shape and effectively scope the final regulations, which were published in January 2020. This includes aggregated data on transactions covered under a “pilot program” that expanded the scope of transactions subject to review by CFIUS to certain non-controlling investments involving foreign persons and certain critical technologies. Treasury also benefited from hundreds of individual comments it received on proposed versions of the regulations that it published in September 2019. The final regulations update multiple provisions in response to a considered analysis of pilot program data and the public comments.

Once the final FIRRMA regulations become effective on February 13, 2020, Treasury will collect and regularly analyze data on covered transactions that are reviewed by CFIUS and monitor the broader national security and investment landscapes to ensure that the final regulations are effectively addressing national security concerns. As a result of these activities, Treasury may, if necessary, periodically amend the regulations or provide additional information to assist the public with compliance.

In FY 2020, Treasury will begin use of a new, electronic case management system that will support this effort and better enable future evidence-building and program evaluation-related activities.

Section III – Additional Information

A – Summary of Capital Investments

A summary of capital investment resources, including major information technology and non-technology investments related to CFIUS can be found with other DO IT investments at: <https://home.treasury.gov/about/budget-financial-reporting-planning-and-performance/budget-request-annual-performance-plan-and-reports/summary-of-capital-investments>. This website also contains a digital copy of this document.