

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

Congressional Budget
Justification and Annual
Performance Report and Plan

FY 2022

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Section I – Budget Request

A – Mission Statement

Review certain transactions involving foreign investment in the United States and certain real estate transactions by foreign persons 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. The Committee’s 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, 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 or declarations. 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) strengthened CFIUS to better address national security concerns arising from some types of investments and transactions that were previously outside its jurisdiction. Additionally, FIRRMA modernized Committee processes to better enable timely and effective reviews of covered transactions. FIRRMA also established 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.

The Treasury Department issued a final rule—effective August 27, 2020—establishing fees for any formal written notice of a “covered transaction” or “covered real estate transaction” filed with CFIUS. The fee applies to transactions filed as voluntary notices and not to transactions submitted as declarations (an abbreviated notification form). The revenue generated from the filing fees will offset some of the expenses associated with CFIUS’s activities to protect U.S.

national security. The fee amount is based on the value of the transaction, according to tiers set forth in the rule, and range from \$750 to \$300,000.

Pursuant to the final rule establishing filing fees, CFIUS collected over \$3 million in filing fees in FY 2020, all of which were deposited into the General Fund of the Treasury. For FY 2021, over \$11 million has been collected through May 21, 2021. While informed by historical transaction data, it is inherently difficult to estimate expected filing fee collections, given the number of external factors that influence the volume and nature of CFIUS filings in any given year—especially in the first year of a new regulatory regime. FY 2020 collections differ from the estimate assumed in the FY 2020 budget request for several reasons: that estimate was prepared before the final FIRRMA regulations and fee scale were developed and finalized; Treasury’s fee rule became effective later than assumed in the FY 2020 budget request; and, the COVID-19 pandemic affected global mergers and acquisition activity, which tends to broadly correlate with CFIUS filings.

Case volume has increased significantly in recent years, from 172 notices formally reviewed in calendar year (CY) 2016 to 325 cases (comprised of 231 notices and 94 declarations reviewed under the critical technology pilot program) formally reviewed in CY 2019. The expanded jurisdiction authorized by FIRRMA took effect February 13, 2020. In FY 2021, a planned final rule took effect, which modified the mandatory declaration requirement for certain transactions involving U.S. businesses that produce, design, test, manufacture, fabricate, or develop one or more critical technologies. As 2020 data is not yet publicly available, the case volume reported here does not reflect the full impact of that legislation. The FY 2022 budget requests resources necessary to handle an anticipated workload of 1,000 cases per year (including significantly expanded activity with respect to non-notified transactions), mitigation monitoring, and international engagement.

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

1.1 – Appropriations Detail Table

Dollars in Thousands

Appropriated Resources	FY 2020		FY 2021		FY 2022		FY 2021 to FY 2022	
	Operating Plan		Operating Plan		Request		% Change	
	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
New Appropriated Resources								
Treasury CFIUS Activities	0	\$15,000	0	\$15,000	0	\$15,000	NA	0.0%
Other Member CFIUS Activities	0	\$5,000	0	\$5,000	0	\$5,000	NA	0.0%
New Appropriated Resources - Member Agencies								
Treasury Departmental Offices S&E	56	\$22,341	93	\$22,661	120	\$24,556	29.0%	8.4%
Subtotal New Appropriated Resources	56	\$42,341	93	\$42,661	120	\$44,556	29.0%	4.4%
Other Resources								
Anticipated User Fees - CFIUS Fund	0	(\$20,000)	0	(\$20,000)	0	(\$20,000)	NA	0.0%
Subtotal Other Resources	0	(\$20,000)	0	(\$20,000)	0	(\$20,000)	NA	0.0%
Total Budgetary Resources	56	22,341	93	\$22,661	120	\$24,556	29.0%	8.4%

*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.

**Treasury FY 2022 CFIUS Activities total \$39.6 million - \$15 million transferred from the CFIUS Fund and \$24.6 million requested for the Departmental Offices S&E Account.

***The FY 2020 actuals for user fees collected was \$3.1 million. FY 2020 collections were impacted by the timing of the final rule issuance and decreases to global merger and acquisition activity as a result of the COVID-19 pandemic.

1.2.1 – CFIUS Fund Budget Adjustments Table

The FY 2022 total request for Treasury is \$39.6 million, with requested funding increases shown in the two Budget Adjustment tables below:

Dollars in Thousands

Dollars in Thousands	FTE	Amount
FY 2021 Operating Plan	0	\$20,000
Changes to Base:		
Maintaining Current Levels (MCLs):	0	\$0
Non-Recurring Costs	0	\$0
Subtotal Changes to Base	0	\$0
FY 2022 Current Services	0	\$20,000
Program Changes:		
Anticipated User Fees - CFIUS Fund	0	(\$20,000)
FY 2022 President's Budget Request	0	\$0

1.2.2 – Departmental Offices Budget Adjustments Table

Dollars in Thousands

	FTE	Amount
FY 2021 Operating Plan	93	\$22,661
Transfer in from CFIUS Fund		\$15,000
FY 2021 DO SE CFIUS Base	93	\$37,661
Changes to Base:		
Maintaining Current Levels (MCLs):	0	\$544
Pay Annualization (1.0% average pay raise)	0	\$40
Pay Raise (2.7% average pay raise)	0	\$326
FERS Contribution Increase	0	\$150
Non-Pay	0	\$28
Non-Recurring Costs	0	(\$3,013)
Non-Recur to CFIUS Investments	0	(\$3,013)
Subtotal Changes to Base	0	(\$2,469)
FY 2022 Current Services	93	\$35,192
Program Changes:		
Program Increases:	27	\$4,364
Staffing to Support CFIUS Caseload Growth	27	\$4,364
Subtotal Program Changes	27	\$4,364
FY 2022 President's Budget Request	120	\$39,556

Note: CFIUS Fund transfers to non-Treasury agencies of \$5 million are not included in this 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 transferring \$15.0 million dollars to the DO Salaries and Expenses account to provide for Treasury DO CFIUS activities.

Maintaining Current Levels (MCLs) +\$544,000 / +0 FTE

Pay Annualization (1.0%) +\$40,000 / +0 FTE

Funds are requested for annualization of the January 2021 1.0% average pay raise.

Pay Raise (2.7% in 2022) +\$326,000 / +0 FTE

Funds are requested for a 2.7% average pay raise in January 2022.

FERS Contribution Increase +\$150,000 / +0 FTE

Funds are requested for the Federal Employee Retirement System (FERS) contribution rates effective FY 2022.

Non-Pay +\$28,000 / +0 FTE

Funds are requested for non-labor expenses such as travel, contracts, rent, supplies, and equipment.

Non-Recurring Costs **-\$3,013,000 / -0 FTE**
 CFIUS will non-recur costs associated with configuring secure spaces for new CFIUS staff. This money is anticipated to be reinvested as staff on-board.

Program Increases **+\$4,364,000 / +27 FTE**
Staffing to Support Caseload Growth **+\$4,364,000 / +27 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 2020 Actual Obligations	FY 2021 Estimated Obligations	FY 2022 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	15,000	20,000	20,000
Total Non-Personnel	\$15,000	\$20,000	\$20,000
Total Obligations	\$15,000	\$20,000	\$20,000
Full-time Equivalents (FTE)	0	0	0

Amounts reflect obligations of annually appropriated resources, carryover balances, reimbursables, and transfers.

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 (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: <i>Provided</i>, 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: <i>Provided further</i>, 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: <i>Provided further</i>, That fees authorized by section 721(p) of such Act shall be credited to this appropriation as offsetting collections: <i>Provided further</i>, That the total amount appropriated under this heading from the general fund shall be reduced as such offsetting collections are received during fiscal year [2021] 2022, so as to result in a total appropriation from the general fund estimated at not more than [\$15,000,000]\$0. (<i>Department of the Treasury Appropriations Act, 2021.</i>)</p>	

E – Legislative Proposals

CFIUS has no legislative proposals.

Section II – Annual Performance Plan and Report

A – Strategic Alignment

In accordance with the Government Performance and Results Act Modernization Act (GPRAMA) of 2010, the Department of the Treasury is currently developing the FY 2022 – 2026 Departmental Strategic Plan. The Strategic Plan is scheduled for publication in 2022. The Annual Performance Plan will be updated in the FY 2023 President’s Budget to reflect new departmental strategic goals and objectives.

B – Budget and Performance by Budget Activity

2.1.1 – Treasury CFIUS Activities Resources and Measures

Resource Level	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Operating Plan	FY 2022 Request
Treasury CFIUS Activities	0	0	0	0	\$15,000	\$15,000	\$15,000
Budget Activity Total	0	0	0	0	\$15,000	\$15,000	\$15,000
Full-time Equivalents (FTE)	0	0	0	0	0	0	0

Performance Measure	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2020 Target	FY 2021 Target	FY 2022 Target
Timely Review of CFIUS cases	100	100	100	100	100	100	100	100

Key: DISC - Discontinued; B - Baseline

2.1.2 – Other Member CFIUS Activities Resources and Measures

Resource Level	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Operating Plan	FY 2022 Request
Other CFIUS Activities	0	0	0	0	\$5,000	\$5,000	\$5,000
Budget Activity Total	0	0	0	0	\$5,000	\$5,000	\$5,000
Full-time Equivalents (FTE)	0	0	0	0	0	0	0

CFIUS Budget and Performance

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

In February 2020, Treasury published final regulations implementing FIRRMA. These regulations effectuated FIRRMA's expansion of the jurisdiction of CFIUS to review certain non-controlling, non-passive investments by foreign persons into certain types of U.S. businesses, as well as certain transactions by foreign persons involving real estate in the United States. The regulations also implemented mandatory declarations for two types of transactions—where a foreign government is acquiring a “substantial interest” in certain U.S. businesses, and transactions involving certain U.S. businesses that produce, design, test, manufacture, fabricate, or develop one or more critical technologies. Additionally, the regulations created an exception to the mandatory declaration provision for investments by certain foreign persons defined as “excepted investors” based on their ties to certain countries identified as “excepted foreign states,” and their compliance with certain laws, orders, and regulations. In May 2020, Treasury initiated the collection of filing fees for notices filed with CFIUS and launched a secure web-based portal for parties to submit notices and declarations.

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 2020. IA's target for this measure in CY 2021 and CY 2022 is 100 percent.

C – Changes in Performance Measures

CFIUS has no changes to the performance measures.

D– Evidence-Building Activity

In May 2020, CFIUS began using a new case management system and requiring use of a public portal to enable a more secure and structured intake of filings. The case management system has already improved administrative efficiency, and it will remain in development through 2021. In addition to adding capabilities to enhance collaboration and record retrieval, the Office of Investment Security (OIS) is also integrating machine-learning capabilities to better analyze CFIUS data, automate production of metrics and displays of data, and create template wizards to standardize documents. Complementary to this effort, OIS is building, improving, and expanding databases of case information to facilitate future analytic efforts. Such analyses will provide greater insight into Committee decisions and performance over time, as well as perspectives on broader market activities and trends. CFIUS evidence-building activities are reflected in Section II D of the Departmental Offices Salaries & Expenses Congressional Justification. Additionally, refer to the Executive Summary for a discussion of Treasury-wide evidence-building functions.

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://www.treasury.gov/about/budget-performance/Pages/summary-of-capital-investments.aspx>