

## Committee on Foreign Investment in the United States

### *Program Summary by Budget Activity*

Dollars in Thousands

Budget Activity	FY 2020	FY 2021	FY 2022	FY 2021 to FY 2022	
	Operating Plan	Operating Plan	Request	\$ Change	% Change
Treasury CFIUS Activities	\$15,000	\$15,000	\$15,000	\$0	0.0%
Other Member CFIUS Activities	\$5,000	\$5,000	\$5,000	\$0	0.0%
Treasury Departmental Offices S&E	\$22,341	\$22,661	\$24,556	\$1,895	8.4%
<b>Subtotal, CFIUS</b>	<b>\$42,341</b>	<b>\$42,661</b>	<b>\$44,556</b>	<b>\$1,895</b>	<b>4.4%</b>
Anticipated User Fees - CFIUS Fund	(\$20,000)	(\$20,000)	(\$20,000)	0	0.0%
<b>Total Program Operating Level</b>	<b>\$22,341</b>	<b>\$22,661</b>	<b>\$24,556</b>	<b>\$1,895</b>	<b>8.4%</b>
Direct FTE	56	93	120	27	29.0%
<b>Total Full-time Equivalents (FTE)</b>	<b>56</b>	<b>93</b>	<b>120</b>	<b>27</b>	<b>29.0%</b>

\*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.

### *Summary*

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, 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 of its jurisdiction. Additionally, FIRRMA modernized CFIUS' 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 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 transfer to other CFIUS agencies to facilitate, for example, interagency connectivity with Treasury's information technology (IT) and case management systems, and to address other emerging needs.

## Budget Highlights

Dollars in Thousands

	FTE	Amount
<b>FY 2021 Operating Plan</b>	<b>93</b>	<b>\$22,661</b>
Transfer in from CFIUS Fund		\$15,000
<b>FY 2021 DO SE CFIUS Base</b>	<b>93</b>	<b>\$37,661</b>
<b>Changes to Base:</b>		
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)
<b>FY 2022 Current Services</b>	<b>93</b>	<b>\$35,192</b>
<b>Program Changes:</b>		
Program Increases:	27	\$4,364
Staffing to Support CFIUS Caseload Growth	27	\$4,364
<b>Subtotal Program Changes</b>	<b>27</b>	<b>\$4,364</b>
<b>FY 2022 President's Budget Request</b>	<b>120</b>	<b>\$39,556</b>

Note: CFIUS Fund transfers to non-Treasury agencies of \$5 million are not included in this table.

## Budget Adjustments

### 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**  
Non-Recur to CFIUS Investments **-\$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.

***Legislative Proposals***

CFIUS has no legislative proposals.

***Performance Highlights***

Budget Activity	Performance Measure	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
		Actual	Actual	Actual	Target	Target
Committee on Foreign Investment in the United States (CFIUS)	Timely Review of CFIUS Cases	100	100	100	100	100

***Description of Performance***

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.