
Summary of H.R. 556, The National Security FIRST Act

H.R. 556, the "National Security Foreign Investment Reform and Strengthening Transparency Act of 2007" strengthens national security and promotes a policy of openness toward legitimate forms of foreign investment by reforming the interagency process by which the Federal government reviews foreign investments in the United States for their national security implications. By reforming the interagency Committee on Foreign Investment in the United States (CFIUS) and providing a statutory basis for CFIUS, H.R. 556 addresses the key failures identified most recently in the aftermath of the Dubai Ports World case, while providing necessary clarity to the CFIUS process so that the United States is able to continue to attract investment from other countries.

Ensures Senior Level Accountability for CFIUS Decisions

- Requires that the Chairman and Vice Chairmen of CFIUS approve all transactions, limiting delegation of approval authority to the Under Secretary level in cases where CFIUS consideration is completed within the 30-day review period.

- Transactions that have been subjected to a 30 day review and a second-stage 45 day investigation must be approved by the President.

Improves CFIUS Accountability to Congress

- Requires an annual report to Congress on all CFIUS transactions and operations.

- Requires that committees with jurisdiction over any aspect of a transaction be notified, and briefed upon request, at the completion of any investigation.

Increases Scrutiny of Foreign Government Transactions

- In cases involving a company that is controlled by a foreign government, requires either:

- that

the Chairman and Vice Chairmen certify that the transaction poses no national security threat, and this certification may not be delegated below the Deputy Secretary level;

- or an automatic second-stage 45 day investigation of the transaction.

Improves Coordination within CFIUS

- Requires that CFIUS designate lead agencies in key CFIUS functions.
- Clarifies that, in performing these functions, agencies are acting on behalf of CFIUS.
- Requires agreement from all CFIUS agencies in order to approve any transaction within the 30-day review period.

Creates a System for Creating, Monitoring, and Enforcing Mitigation Agreements

- Requires that any mitigation agreement entered into by CFIUS be monitored for compliance.
- Establishes violations of mitigation agreements as a basis for CFIUS reconsideration of an approval.

Creates a System for Monitoring Transactions that Have Been Withdrawn from CFIUS

- In cases where a transaction has been withdrawn, requires that CFIUS establish specific timeframes for resubmissions, interim protections to address any concerns that were identified during the initial review, a process for tracking actions taken by the companies with regard to the transaction.

Establishes a Formal Role for Intelligence Assessments for Every Transaction

- Requires that every transaction be subjected to an assessment by the Director of National Intelligence (DNI).
- Ensures that the DNI has adequate time to conduct the required assessment.
- Clarifies that the DNI will have no policymaking role in CFIUS.

Establishes CFIUS in statute

- Creates statutory basis for CFIUS and its membership:
Treasury(chair), Commerce (vice chair), Homeland Security (vice chair),
Defense, State, Energy, Justice, USTR, NEC, National Security Advisor,
CEA, OMB, OSTP.