



# Treasury issues interim regulations for CFIUS pilot program to implement two sections of FIRRMA

## Government Affairs Alert

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On October 10, 2018, the US Department of the Treasury issued interim regulations for the Committee on Foreign Investment in the United States (CFIUS) to conduct a pilot program, as authorized by the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA).

The purpose of the pilot program is to assess and address ongoing risks to US national security resulting from two urgent and compelling circumstances: (1) the ability and willingness of some foreign parties to obtain equity interests in US businesses in order to affect certain decisions regarding, or to obtain certain information relating to, critical technologies; and (2) the rapid pace of technological change in certain U.S. industries. The pilot program also will inform the Committee's work in drafting the final regulations that will fully implement FIRRMA.

The pilot program specifically implements two important sections of FIRRMA:

- Expands the scope of transactions subject to review by CFIUS to include **certain non-controlling investments** (referred to in FIRRMA as "other investments") made by foreign persons in US businesses involved in **critical technologies** related to specific industries and

- Makes effective FIRRMA's **mandatory declarations** provision for transactions involving investments by foreign persons (from any country) in certain US businesses that produce, design, test, manufacture, fabricate, or develop one or more **critical technologies**.

The pilot program will become effective on November 10, 2018 – 30 days following publication of the regulations in the Federal Register. The pilot program does not apply to transactions for which the completion date is prior to the pilot program effective date, or transactions for which the parties have executed a binding written agreement or other document establishing the material terms of the transaction prior to October 11, 2018.

In addition to the pilot program, Treasury issued temporary regulations that make limited updates to CFIUS's existing regulations, primarily to implement provisions of FIRRMA that became immediately effective upon its enactment. These regulations are effective October 11, 2018.

A summary Fact Sheet is available [here](#).

The Pilot Program interim regulations are available [here](#). The list of pilot program industries is available in Annex A.

The updates to existing regulations are available [here](#).

A complete overview and analysis of the pilot program and updated regulations will be provided in a follow-on alert.

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