

CFIUS and Foreign Investment Reviews

Skadden is one of the few large law firms with integrated CFIUS and corporate practices. We counsel clients — companies, private equity funds, venture capital firms, and sovereign wealth and other government-related funds — on structuring and negotiating transactions to anticipate and address regulatory concerns in the earliest stages of transaction planning. The group is recognized by *Chambers USA 2020* for its “work with a diverse collection of U.S. and international companies, aided by its phenomenal strength in M&A.” Ours is also the only practice ranked in the top tier by *Chambers Global 2020* for both International Trade: CFIUS Experts and Corporate M&A.

Our attorneys have successfully represented clients in some of the largest and most complex transactions reviewed before the Committee on Foreign Investment in the United States (CFIUS), the Defense Security and Counterintelligence Agency (DCSA, formerly the Defense Security Service) and Team Telecom — an executive branch group comprising the U.S. Departments of Justice, Defense and Homeland Security — as well as investment reviews governed by the Investment Canada Act (ICA) and foreign investment control (FIC) regimes in Asian and European jurisdictions. The group has deep experience in numerous industry sectors, including technology, energy, real estate, financial services, health care and pharma, manufacturing, natural resources, transportation, critical infrastructure, consumer goods, robotics and autonomous systems, vehicle manufacturing, travel and leisure, chemicals, aerospace and defense, and government services.

Proactively Addressing CFIUS Issues

Based on our broad and inveterate experience, the firm is able to help clients understand CFIUS issues at the earliest stages of a transaction or even during strategic corporate development planning. Our experience across business sectors helps clients address potential national security concerns well before any engagement with CFIUS occurs.

Ongoing Compliance

The firm represents clients in the negotiation of and ongoing compliance with U.S. government agencies and foreign governments, including in regards to CFIUS matters; national and network security agreements; agreements to mitigate foreign ownership, control or influence; letters of assurance; cooperative research and development agreements; and other private agreements. We also assist clients in navigating relevant U.S. export control reviews of technology exports.

U.S. Government Experience

Attorneys in our practice have formerly held senior national security positions within the federal government, within the CFIUS process and as members of the U.S. intelligence community. This deep experience provides unparalleled appreciation for the U.S. government’s national security concerns and how parties might address them in the CFIUS process. We have long-standing relationships with representatives from across all constituent CFIUS departments and agencies, as well as other relevant elements of the executive and legislative branches.

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Defense Department Mitigation of Foreign Ownership, Control and Influence (FOCI)

Skadden regularly represents foreign clients who are considering working with the U.S. government. We collaborate with the firm's corporate attorneys to establish U.S. entities and also address — where necessary — FOCI issues with the Defense Security and Counterintelligence Agency (DCSA). We counsel clients on the various forms of FOCI mitigation that best fit their business and regulatory needs, and engage across the U.S. government to enable these efforts and maintain ongoing compliance. Our attorneys have served on FOCI boards, overseen mitigation agreements, and worked throughout the defense, intelligence and law enforcement communities.

Non-U.S. Foreign Investment Review Regimes

Skadden has extensive experience with non-U.S. national security review processes, including in Canada, the European Union, the U.K., Russia and Asian jurisdictions. We have counseled entities based in the U.S. as well as overseas — including purchasers, sellers, minority investors, financial institutions, private equity consortia and other institutional investors — in some of the largest and most complex international transactions.

We offer a holistic perspective on foreign investment control regimes and how they vary across the globe (e.g., some countries impose mandatory foreign investment notification requirements, while others allow for voluntary notification or a combination of both). We also provide guidance as to the focus of foreign investment controls around the world, including regimes that focus on potential effects of foreign investment on national security and critical infrastructure, as well as countries that focus only on economic impacts and industry-specific issues. We are well-versed in the notification process, as well as the timeline associated with reviews around the world, and we stay abreast of developments, trends and reform efforts impacting foreign investment controls in North American, European and Asian jurisdictions. As part of our global platform, our team includes attorneys in our offices worldwide advising on foreign direct investment issues in various jurisdictions, including Germany, France, the U.K., Russia and the European Commission.