

## Effect of US Government Shutdown on CFIUS and DSS

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As of October 1, nonessential federal government activities have been suspended due to the failure of Congress to pass appropriations to fund the federal government for fiscal year 2014, or a continuing resolution to authorize temporary funding of operations. Included in the suspension are activities by the Committee on Foreign Investment in the United States (CFIUS) and the Defense Security Service (DSS).

CFIUS has notified counsel that normal operations of the Department of the Treasury Office of Investment Security, including CFIUS, have been suspended. During the suspension, CFIUS will be unable to respond to inquiries and will not accept any new notice for review. We believe the suspension also will affect pending transactions, and that all transactions currently in the review phase will be automatically rolled into a 45-day investigation at the expiration of the 30-day review period. In addition, we expect that parties to transactions currently in the investigation phase will receive a letter encouraging them to voluntarily withdraw their filings and re-file once the suspension concludes. We do not believe CFIUS will approve any transactions during its suspension.

In addition, DSS has notified counsel that almost all of its employees will be furloughed during the shutdown. DSS employees will be prohibited from performing official functions, and the agency will be unable to conduct normal operations, until the shutdown ends and agency employees return to work. Suspended DSS activities include:

- processing National Industrial Security Program (NISP) facility clearances;
- processing NISP personnel security clearances;
- conducting previously scheduled facility visits and assessments;
- conducting training at the Center for the Development of Security Excellence; and
- operating the DSS Call Center.

Given the great deal of uncertainty surrounding the government shutdown, we will closely monitor the status of CFIUS and DSS operations and update clients as appropriate. As always, clients considering transactions involving foreign investment in a U.S. business, or whose operations require access to classified U.S. government information, are encouraged to stay in close contact with counsel.