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CFIUS Foreign Investment Reviews

The United States is a very open and secure environment for foreign investment. Historically, the US government has encouraged foreign investors to bring capital to this country, and foreign governments to open their markets to US investment. Nonetheless, foreign investment, acquisition or merger activity with foreign companies, or debt financing from a foreign source can trigger certain US regulatory reviews and restrictions.

In some instances, the US government may limit the amount of foreign investment or financing, or otherwise require certain additional transactional measures to satisfy US legal requirements. Depending on the nature of the transaction, the US industry involved, and the foreign country of the investor, early legal counsel can be instrumental to ensure that the transaction is consummated in a timely fashion and on the commercial terms most favorable to our clients.

CFIUS Review

Steptoe has assisted domestic and foreign clients with the intricacies of the foreign investment review process conducted by the Committee on Foreign Investment in the United States ("CFIUS"). We counsel clients on the scope and application of the Defense Production Act of 1950, the Foreign Investment and National Security Act of 2007 and the CFIUS regulations, which may apply to foreign investment in a US business that affects US national security. We provide legal guidance on the interpretation of key jurisdictional terms, and assist clients in reaching informed judgments on whether to file a voluntary notification with CFIUS.

We are very familiar with the notification requirements, the types of information that will be relevant to CFIUS review, and the appropriate way to provide that information without breaching confidentiality, disrupting the business transaction, or unduly delaying the underlying commercial timetable. We work with all parties to these transactions, including the US business entity, the foreign investor, third-party financiers, and related consultants and advisors.