

## **Summary of the Foreign Investment Risk Review Modernization Act of 2018**

The Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA) expands the jurisdiction of the Committee on Foreign Investment in the United States (CFIUS) to address growing national security concerns over foreign exploitation of certain investment structures which traditionally have fallen outside of CFIUS jurisdiction. Additionally, FIRRMA modernizes CFIUS's processes to better enable timely and effective reviews of covered transactions.

### **Key Provisions of FIRRMA:**

- **Expands the scope of covered transactions**—FIRRMA broadens the purview of CFIUS by explicitly adding four new types of covered transactions: (1) a purchase, lease, or concession by or to a foreign person of real estate located in proximity to sensitive government facilities; (2) “other investments” in certain U.S. businesses that afford a foreign person access to material nonpublic technical information in the possession of the U.S. business, membership on the board of directors, or other decision-making rights, other than through voting of shares; (3) any change in a foreign investor's rights resulting in foreign control of a U.S. business or an “other investment” in certain U.S. businesses; and (4) any other transaction, transfer, agreement, or arrangement designed to circumvent CFIUS jurisdiction.
- **Declarations**—Provides for an abbreviated filing or “light filing” process through a new “declarations” procedure that could result in shorter review timelines. It also allows CFIUS some discretion to require parties to file with CFIUS before closing a transaction.
- **Expands CFIUS's timelines**—Expands CFIUS's review period from 30 to 45 days and allows an investigation to be extended for an additional 15-day period under extraordinary circumstances.
- **Mitigation**—Strengthens requirements on the use of mitigation agreements, including the addition of compliance plans to inform the use of such agreements.
- **Special hiring authority and funding**—Grants special hiring authority for CFIUS and establishes a fund for collection of new CFIUS filing fees.
- **Delayed effective date and pilot programs**—Delays the applicability of some of the bill's most significant provisions until 18 months following enactment of FIRRMA or 30 days after the Secretary of the Treasury publishes in the Federal Register a determination that the necessary regulations, organizational structure, personnel, and other resources are in place to administer those provisions, whichever is sooner. This section also authorizes CFIUS to conduct pilot programs to implement any authority provided under this bill.