

## CEP Magazine – January 2019 CFIUS and FIRRMA: Protecting technology and intellectual property

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by Michael Rose and Steve Siemborski

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*This is the first article in a three-part series on foreign investment regulations.*

Heightened US sensitivity to the potential national security ramifications of sales, mergers, or other transactions with foreign parties is a significant potential complication for cross-border deals. Both US companies and foreign entities that are contemplating a transaction must follow a rigorous process to counter any potential threats.

The Committee on Foreign Investment in the US (CFIUS) was formed to evaluate transactions where the acquiring entity is foreign. CFIUS was formed in 1975 to address a fear that technology or funds from an acquired US business might be transferred to a sanctioned country as a result of being acquired by a foreign entity.

CFIUS is focused on deals with US companies that:

- **Produce, design, test, manufacture, fabricate, or develop critical technologies.** Critical technologies are those subject to new export control provisions designed to protect emerging and foundational technologies.
- **Own, operate, manufacture, supply, or service critical infrastructure.** Critical infrastructure companies own, operate, manufacture, supply, or provide services in industries like telecommunications, utilities, transportation, financial services, healthcare, and government services, among others.
- **Sensitive data companies.** These companies maintain or collect sensitive data on US citizens that may be exploited in a manner that could threaten national security.

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