

# **DHS PARTICIPATION IN THE COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES (CFIUS)**

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## **I. Purpose**

This Directive establishes the responsibilities, policy and requirements for the Department of Homeland Security's (DHS) participation in the Committee on Foreign Investment in the United States (CFIUS), an interagency committee that reviews mergers, acquisitions, or takeovers which could result in foreign control of a United States business, to determine the effect of such transactions on the national security of the United States.

## **II. Scope**

This Directive applies throughout DHS.

## **III. Authorities**

- A. Title 50, United States Code, Appendix, "Authority to review certain mergers, acquisitions, and takeovers" ["Foreign Investment and National Security Act of 2007"]
- B. Executive Order 13456, "Further Amendment of Executive Order 11858 Concerning Foreign Investment in the United States, January 23, 2008
- C. Title 31, Code of Federal Regulations, Part 800, "Regulations Pertaining to Mergers, Acquisitions, and Takeovers by Foreign Persons"
- D. Delegation 0107, "Delegation Concerning Certification of Foreign Investment Reviews"
- E. Memorandum dated October 24, 2007, from Assistant Secretary of the Treasury (International Affairs), "FINSAs Implementation Procedures"

## IV. Responsibilities

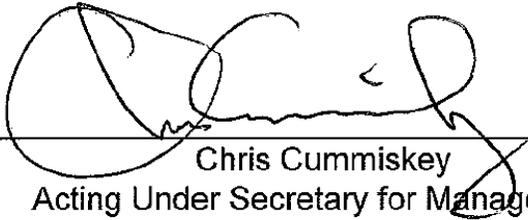
- A. Assistant Secretary for Policy:
  1. Serves as the Department's primary point of contact (with the exception of the Secretary or Deputy Secretary) to CFIUS.
  2. Promulgates the policies, processes, procedures, and other guidance for DHS's participation in CFIUS, and ensures adequate resources are devoted to CFIUS in the Office of Policy and in the Components.
  3. Ensures all Component inputs are fully reviewed and considered, and achieves a unified DHS recommendation on each case.
  4. Advocates for DHS positions in the interagency CFIUS process.
- B. All Component Heads: Designate primary and secondary POCs within the Component to communicate with the Office of Policy on CFIUS matters and internally coordinate CFIUS reviews with relevant subcomponents.
- C. The General Counsel: Provides legal advice on CFIUS matters to the Secretary, Deputy Secretary, Assistant Secretary for Policy, and other DHS entities.
- D. Under Secretary for Intelligence and Analysis (I&A): Leads the production of a DHS CFIUS threat assessment for each transaction under review.

## V. Policy and Requirements

- A. The DHS CFIUS process is to be methodologically defensible, transparent, consistent, timely, and robust.
- B. DHS does not object to foreign acquisitions of U.S. businesses that do not pose an unacceptable level of risk to U.S. national security interests.
- C. The risk to DHS interests in each CFIUS case is based on an evaluation of threats posed by the acquirer and its relationships; vulnerabilities related to the acquiree's products, services, intellectual property, and business model; and consequences likely to stem from the exploitation of noted vulnerabilities.

## VI. Questions

Address any questions or concerns regarding this Directive to the Director of Foreign Investment Risk Management at [IP-CFIUS@hq.dhs.gov](mailto:IP-CFIUS@hq.dhs.gov).



Chris Cumiskey  
Acting Under Secretary for Management

7/2/14  
Date