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GLOBAL RESTRICTIONS

FOR INSTITUTIONAL INVESTORS

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- Section 01

FOCUS ON NATIONAL SECURITY REVIEWS IN THE UNITED STATES

Agenda

1. Introduction
2. US and Global Focus
3. Impact of Covid-19 National Emergency on CFIUS Reviews
4. Roundtable Discussion of Answers to Key Questions

Introduction

- The US has a long history of reviewing cross-border investment (FDI) to assess the national security implications of these types of transactions. With over 20,000 to 40,000 cross-border investments a year, most transactions, however, occur outside the purview of US government review.
- The US maintains a robust and consistent process, managed by the Committee on Foreign Investment in the United States (CFIUS), to examine the implications of these types of investments. CFIUS began as an ad hoc Executive branch committee and has become an established, statutorily mandated review body.
- Congress amended the CFIUS process in 1988, 1993, 2007 and 2018. In each iteration, Congress further consolidated the Committee's authorities, expanded its jurisdiction and identified the factors that matter to the US Government member agencies of CFIUS from a national security perspective.
- In August 2018, Congress passed and the President signed, the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA) as part of the National Defense Authorization Act - the first comprehensive reform of the US FDI process since the 2007 Foreign Investment and National Security Act of 2007 (FINSA) amendments. FIRRMA confirmed CFIUS' authorities, continued to expand some of its jurisdiction and left the regulatory implementation to the Department of Treasury, in coordination with the Department of Commerce.
- Treasury issued regulations in October of 2018 (effective November 2018) and subsequently in February 2020. FIRRMA and the regulations established the first mandatory filing requirement for FDI and outlined additional requirements for mandatory filings, real estate transactions, non-controlling investments and critical infrastructure deals.

Introduction

- FIRRMA also directed the President to engage in multilateral discussions to encourage other countries to establish or enhance national security reviews of cross-border investments.
- FIRRMA and the regulations created a cascading effect – as CFIUS issued its regulations, developed its policies and interpretations, restructured its offices and increased its resources, other countries changed their FDI review processes as well.
- This cascading effect has resulted in new or enhanced national security review regimes in Japan, Australia, the United Kingdom, the European Union, Germany, France, Italy, China and Russia.
- In concert with CFIUS, these regimes help protect national security interests of the US and its allies and partners.

Reviews under the Defense Production Act of 1950, as amended

- FIRRMA is embedded in the Defense Production Act (DPA), a statute that includes a range of broad national security authorities. CFIUS has the discretion to review transactions but the statutory and regulatory focus revolved around ownership and control.
- FIRRMA expanded that focus to address ownership, control, bankruptcies, and other investments that are not considered controlling. Prior to FIRRMA, these reviews were based on voluntary submissions – the parties to a transaction could decide whether to voluntarily file a joint notice, although CFIUS has had the right to require review of other transactions.
- According to public sources, the authority to review non-notified transactions appeared to be used sparingly but, in recent years, CFIUS has moved more assertively to request filings, engage with parties while a transaction is under consideration and actively intervene.
- For the first time ever publicly announced, CFIUS intervened before closing to block an attempted Broadcom hostile takeover of Qualcomm through the use of its interim authorities.
- Before 2016, CFIUS had publicly blocked or required the divestiture of only a small number of foreign investments, principally involving Chinese State-Owned-Enterprises (SOEs) generally with military connections. The number of blocked or withdrawn transactions involving Chinese investors increased in the Obama Administration and has continued in the Trump Administration – centered in part on the changing geopolitical framework, publicly articulated Chinese technology development policy, and the Section 301 Investigation by the USTR.

Reviews under the Defense Production Act of 1950, as amended

- The increased activity by CFIUS has also been reflected by other governments that have intervened or rejected cross-border investments based on national security considerations.
- Australia and Canada represent some of the more recent governments that have taken steps to block transactions.
- In addition to rejection of pending transactions, the US, the UK and Australia have each begun to examine closed transactions to determine whether concerns exist today – and at the time the deals were cleared by the respective governments.
- This injects some uncertainty into the deal making process, calling into question the potential that completed deals may, nonetheless be subject to review. This uncertainty exists not only in the United States but in other jurisdictions where similar national security review processes exist.
- CFIUS examines each investment on a case-by-case basis, using a risk based evaluation process focused on threats plus vulnerabilities equal consequences.
- Deciding whether to file a notice to the CFIUS now requires consideration of the risks associated with not filing a voluntary submission but also the impact of failing to file a mandatory declaration. There are no penalties for failing to file a voluntary notice, but parties may be fined up to the value of the transaction (as well as face forced divestiture) for a failure to file a mandatory declaration.

Impact of the COVID-19 National Emergency on CFIUS Reviews

- What is the effect of the COVID-19 crisis on the CFIUS process?
- CFIUS is still working, albeit remotely, and cases are still being cleared. This is not a government shutdown.
- Certain cases may take longer to clear because the remote working environment may slow down the internal review and approval process.
- Parties should expect greater scrutiny of transactions that involve a US business participating in the response to the COVID-19 crisis, whether related to a manufacturer of ventilators or Personal Protection Equipment subject to export restrictions or a business engaged in drug research and development for vaccines or therapeutic treatments.
- Given the circumstances, it is important to determine the role a US business may play in the COVID-19 emergency, the level of US government interest in, or supply chain concerns about, the US business and any rated orders issued or other action taken under the DPA.

Impact of the COVID-19 National Emergency on CFIUS Reviews

- The COVID-19 crisis has also raised the specter of a potential increase in bankruptcies or other business disruptions.
- Bankruptcies, in particular, provide opportunistic investors the ability to access potentially key assets and US business that are currently in distress and require investment infusions.
- FIRRMA expressly confirmed that CFIUS has the authority to review FDI from a bankruptcy perspective and the bankruptcy courts are working with the Committee and other stakeholders to ensure that national security considerations are addressed in addition to creditors' equities.
- COVID-19 will likely increase bankruptcy filings that could affect the CFIUS review process.

Roundtable Discussion of Answers to Key Questions

- What are some of the impactful changes to the regulations on Technology, Infrastructure and Data (“TID”) businesses?
  - Increasing focus on social media acquisitions involving sensitive personal data, including reviewing previously closed transactions not filed for review:
    - Beijing Kunlun / Grindr (sensitive personal data)
    - iCarbonX / PatientsLikeMe (personal healthcare information)
    - ByteDance / Musical.ly (TikTok) (personal information)
- Following COVID-19, increased focus on life sciences/healthcare investments and on food supply/agriculture investments.

Roundtable Discussion of Answers to Key Questions

- Sensitive Personal Data used in defining a "TID business" -- a new focus of CFIUS review.
- "identifiable data" refers to data that can be used to distinguish or trace an individual's identity
  - Aggregated or anonymized data will be treated as identifiable data if any party to the transaction will have the ability to disaggregate or deanonymize the data.
  - It does not include encrypted data, unless the U.S. business has the means to de-encrypt the data.
- Broad definition of sensitive personal data, focused on personal, financial, and healthcare information of U.S. citizens, including identifiable data that is:
  - In applications for insurance;
  - Non-public email or messaging among users of a U.S. business's products or services;
  - Biometric data;
  - Geolocation data; or
  - Personnel security clearance data.
- "identifiable data" will be treated as "sensitive personal data" if it is maintained or collected by a U.S. business that:
  - Targets or tailors products or services to U.S. security personnel including contractors; or
  - Has maintained or collected such data, or has a demonstrated business objective to do so, on more than one million individuals at any point in the preceding 12 months.

Roundtable Discussion of Answers to Key Questions

- Sensitive personal data also includes genetic data.
  - Genetic data is not subject to the above two limitations on security personnel or minimum size of data population.
  - In an attempt to narrow the scope of genetic data covered, following concerns expressed regarding the proposed rules, CFIUS limited the definition in the final rules to "the results of an individual's genetic test, including any related genetic sequencing data."
    - Genetic tests are defined by reference to the Genetic Information Non-Discrimination Act of 2008.
    - Genetic tests covered are limited to identifiable genetic tests.
    - Excludes any data derived from U.S. Government databases and given to third-parties for research purposes.

Roundtable Discussion of Answers to Key Questions

- Foreign investment in life sciences and medtech products and services entities has been significantly affected by the new focus on and definition of sensitive personal data, as well as by the focus on these entities as essential under COVID-19.
  - Many life sciences and medtech product developers and manufacturers will have or intend to have access to data of one million or more individuals.
  - Certain life sciences companies, particularly those developing or manufacturing biotechnology-derived products or services, will have access to genetic test data.
- Foreign investment in healthcare service providers, including hospitals and healthcare insurers also may be significantly affected by this new focus, in view of the likelihood of collection and retention of data on more than one million individuals as well as of genetic test data.
- Foreign investment in the U.S. food supply chain also likely will be affected by focus on these entities as essential under COVID-19.

Roundtable Discussion of Answers to Key Questions

- New, detailed definitions of critical infrastructure for determinations of covered control transactions and covered investments involving TID businesses.
- Two-step test: U.S. business
  - Must relate to certain types of infrastructure.
  - Must perform certain specified functions for that infrastructure.
- A list of types of infrastructure and functions relating to them is set out in detail in Appendices to the final rules
  - Critical infrastructure includes electric energy systems, financial systems, rail networks, public water systems, petroleum and natural gas facilities, telecom and information networks, securities and exchanges and financial networks, air and maritime ports.
  - Must consider both tests in making determinations (e.g., U.S. interstate natural gas pipeline owner/operator is critical infrastructure; U.S. business manufacturing or servicing the pipeline is not).

Roundtable Discussion of Answers to Key Questions

- Most telecommunications network and service providers are now considered part critical infrastructure.
  - Telecom transactions may be reviewed additionally by the Committee for the Assessment of Foreign Participation in the United States Telecommunications Sector, created by Executive Order on April 4, 2020 (superseding the informal Team Telecom process).
  - The CFIUS process does not substitute for the Telecom Committee's review, but a CFIUS filing (even if voluntary) may be helpful to expedite approval by Team Telecom.
  - The Executive Order is not expected to change the substance of prior Team Telecom reviews, but established new deadlines for the Telecom Committee's review (90 days after submission of responses to questions and a possible additional 90 days), which will have to be taken into account by filing parties in conjunction with CFIUS review timelines.
- The detailed list in the separate CFIUS regulations on real estate should also be consulted to determine if any of the facilities in the target U.S. business are in geographic proximity to military installations and other U.S. Government sites of security concern and not covered by any available exceptions.

Roundtable Discussion of Answers to Key Questions

- What are the general strategies that buyers/investors and sellers/investees should consider with respect to CFIUS?

For buyers/investors:

- Is the buyer/investor a foreign person for CFIUS purposes? Is it possible to structure the investment so as not to involve foreign persons (e.g. use of private fund exemption) that do not constitute evasion? Does the buyer/investor have a positive/negative track record with CFIUS?
- Is it possible to structure the transactions so it is not subject to the mandatory filing requirements or a covered transaction? Examples include a license/collaboration agreement with no equity investment or a passive investment with no board/observer rights or access to “critical technology.”
- If a mandatory filing is not required should closing be conditioned on CFIUS clearance because of national security risk profile (e.g., TID business, supply chain concerns, foreign government as an investor, U.S. government nexus through contracts/funding)?

Roundtable Discussion of Answers to Key Questions

For buyers/investors (cont.):

- Consider potential mitigation strategies to address any national security concerns. These could include adopting special security agreements, proxy control or a voting trust structure, or spinning off certain assets/contracts/product lines that present national security issues.
- Consider appropriate contractual provisions to allocate risk and cost of CFIUS filings and affect on timeline. Avoid agreeing in advance to any mitigation that CFIUS might require or paying break-up fees if CFIUS rejects transaction.
- Consider appropriate (proactive or reactive) PR/lobbying strategies to counter any opposition from interest groups or competitors. Strictly comply with FARA and LDA requirements.

Roundtable Discussion of Answers to Key Questions

- What if my transaction includes both real estate and a US business? Must I analyze the transaction under both sets of rules? Do I need to make two separate filings with CFIUS if covered by both?
  - You need to analyze your transaction under both sets of regulations but only one filing is potentially required if covered under both.
  - The CFIUS real estate rules do not have a mandatory filing requirement, but it is important to determine if your real estate transaction is a covered real estate investment and, if so, assess the risks of not filing with CFIUS.

Roundtable Discussion of Answers to Key Questions

- What are the mandatory filing requirements under the regulations?
  - Mandatory filing of a Declaration under the former interim pilot program incorporated in the new rules.
  - Retains list of 27 industry categories (by NAICS Codes) from the interim rules.
  - Retains definitions of critical technology, with a new exception for certain encryption technology eligible for License Exception ENC of the Export Administration Regulations (EAR).
  - Required for a covered investment where investor obtains a board/observer seat, or access to material non-public technical information, or substantive-decision making rights regarding critical technology of the U.S. business.
  - CFIUS stated it anticipates issuing a separate notice that would replace the reference to NAICS Codes with a mandatory declaration requirement based on export control licensing requirements.

Roundtable Discussion of Answers to Key Questions

- New mandatory filing requirement for foreign government-controlled transactions, where a “substantial interest” is acquired in a U.S. business
  - If a foreign government-affiliated investor (from a single foreign state) would hold a 49% or more voting interest (direct or indirect) in the acquirer/investor.
  - And, the investment involves a 25% or more acquisition of a voting interest (direct or indirect) in a TID U.S. business.
  - In the case of an investment fund, only acquisition of interest in the general partner is considered (provided any limited partner interests do not confer control by the foreign investor).

Roundtable Discussion of Answers to Key Questions

- What are the exceptions to the mandatory filing requirements under the new regulations?
  - Transactions by funds controlled by U.S. nationals discussed more below.
  - Investments made by "Excepted Foreign Investors" (*i.e.*, individuals, governments and private entities from Australia, Canada and U.K.).
  - An entity is exempted if:
    - It is organized under the laws of an excepted foreign state or in the US;
    - Such entity has its principal place of business in an excepted foreign state or in the U.S.; and
    - 75% or more of the members and observers in the board of directors or equivalent governing body of such entity are: (i) U.S. nationals; or (ii) Nationals of one or more excepted foreign states who are not dual nationals of any foreign state that is not an excepted foreign state ("Dual Nationals").

Roundtable Discussion of Answers to Key Questions

  - Any foreign person that individually, and each foreign person that as part of a group, holds 10% or more of the outstanding voting or equity interests of such entity is (A) a national of one or more excepted foreign states and not a Dual National; (B) a foreign government of an excepted foreign state; or (C) a foreign entity organized under the laws of an excepted foreign state and that has its principal place of business in an excepted foreign state or in the U.S.; and (D) the equity of such person is held by investors from that foreign state and who are not Dual Nationals.
  - Investors from excepted foreign states may be disqualified for previous violations of export control or sanction laws or for having committed federal crimes.
- Investments by foreign entities operating under facilities security clearance and subject to a mitigation agreement to address FOCI executed with the DCSA.
- Investments in TID Businesses that produce, design, manufacture, test, fabricate or develop one or more critical technologies that may be exported under license exemption "ENC" under the EAR (*i.e.*, most commercial encryption items).

Roundtable Discussion of Answers to Key Questions

- How can I tell if my fund qualifies for the investment fund exemption?
  - Investment fund managers should determine if their existing funds qualify for the private equity exemption and design future funds, where possible, to qualify.
  - In order to qualify the general partner must not be a foreign person.
  - Neither the advisory board/committee of limited partners nor any foreign person may have the ability to approve, disapprove or otherwise control investment decisions or decisions made by the general partner related to the entities in which the fund is invested.
  - The foreign limited partners may not have control over the selection, dismissal or compensation of the general partner.
  - No foreign limited partner may have access to material non public technical information through membership on the advisory board/committee.
  - No foreign limited partner may be afforded access to any material non-public technical information in any the possession of any TID US business in which the fund invests, or membership or observer rights on the board of any such TID US business or any involvement, other than through voting of shares, in substantive decisionmaking making of the TID US business.

Roundtable Discussion of Answers to Key Questions

- The final regulations introduced the concept of a principal place of business test that allows a fund to establish that its principal place of business is in the US, even if organized outside of the United States, if the general partner is based in the US and directs, controls and coordinates the fund's activities from there.
- The final regulations clarify, as noted above, that the substantial interest triggering event in the case of the fund will only be examined with respect to the general partner and not with respect to any limited partners.
- There is still a lack of clarity concerning the effect of minority foreign general partners.

Roundtable Discussion of Answers to Key Questions

- What is happening to the potential expansion of critical technology to include emerging and foundational technology?
  - It is currently unclear when and if the Department of Commerce will fill the currently empty buckets for “emerging and foundational technologies” included in the definition of “critical technology.”
  - While the Department of Commerce announced in November 2018 an ANPRM for “emerging technologies,” no proposed regulations have been issued yet.
  - While the Department of Commerce may publish soon an ANPRM for “foundational technologies,” that may not result in proposed regulations.
  - There has been heavy lobbying by various industries because of the concern of overregulation that will affect collaboration by introducing additional export control requirements.
  - Current interagency conflicts may further delay the proposed regulations and the Department of Commerce may choose to increase export controls without making it clear what the effects are on the CFIUS process as they did recently in the case of geospatial imagery software.

Roundtable Discussion of Answers to Key Questions

- Is it ok to structure the transaction to “avoid” being caught by the mandatory declaration process?
  - Care needs to be taken that any structuring of a transaction is bona fide and not done for the purpose of evasion.
  - That said, bona fide changes in a transaction, such as eliminating an equity investment, board or observer rights or access to material non-public technical information relating to “critical technologies” may be done so that the transaction is no longer subject to the mandatory requirements or a covered transaction for CFIUS purposes.
  - Care should be taken with multi-step transactions that the combination of steps does not render the entire transaction a covered transaction.

Roundtable Discussion of Answers to Key Questions

- If my transaction is not covered by the mandatory filing requirement, do I still need to consider conducting a CFIUS analysis?
  - Yes. Even though not subject to the mandatory filing requirements, it is important to determine if the transaction is a covered transaction for CFIUS purposes and then to assess the pros and cons of conditioning the transaction upon clearance with CFIUS discussed in more detail below.

Roundtable Discussion of Answers to Key Questions

- Assuming my transaction is not covered by the mandatory filing requirements and it is a covered transaction, how does one assess the pros and cons for filing a voluntary notice? What are the factors that should be considered when deciding whether to file a short form or full joint notice?
  - A voluntary filing (Joint Voluntary Notice or Voluntary Declaration) is a risk assessment decision.

  Pro factors include:
  - Whether filing party's nation is of potential concern;
  - Technology involved;
  - If acquirer/investor is a government-controlled or fiduciary entity (e.g., public employees' retirement fund); and
  - If target is geographically approximate to installations of security concern.

  Con factors include:
  - Time and expense of filing;
  - Potential closing delay;
  - Investment uncertainty; and
  - Potential for mitigation restrictions.

Roundtable Discussion of Answers to Key Questions

- JVN or Voluntary Declaration assessment:
  - Declaration much shorter / less data needed / response in 30 days.
  - One CFIUS response to Declaration, however, may be to consider or request filing the more detailed JVN, thus losing time regarding closing.
  - No closing allowed during Declaration review; closing can be done before or during a JVN filing and review.
- The parties should consider and negotiate potential risk-shifting mechanisms in the purchase/investment agreement, such as CFIUS representations as to foreign-government control or technology classifications, and limits on potential mitigation demands that might be acceptable.

Roundtable Discussion of Answers to Key Questions

- What is the likelihood that CFIUS will review a non-notified covered transaction? Does the potential vary depending upon whether the non-notified covered transaction is a controlling versus a non-controlling deal?
  - CFIUS has increased its resources to monitor so-called non-notified covered transactions and since 2016 the number of reviews of non-notified covered transactions has increased, particularly involving sensitive personal data as noted above.
  - It is expected that CFIUS will further increase its review of non-notified covered transaction, but only time will tell as to the pattern and practice.
  - While CFIUS has not to date reviewed a non-controlling covered transaction, that may change in the future.
  - Just because CFIUS reviews a non-notified covered transaction does not mean that it will require mitigation of national security issues or divestiture. Those remedies will likely remain only in a small percentage of cases.

Roundtable Discussion of Answers to Key Questions

- What is the timeline for CFIUS reviews? How can it be managed to avoid delays?
  - Declarations: 30 days from “Day One” but may CFIUS may require a full submission.
  - Notices:
    - Pre-filing of complete notice (about 10-15 days for comments).
    - After Formal Filing: 45 days from “Day One Letter” (generally 10-15 days to get to “Day One”).
    - May be extended by “investigation phase” for up to 45 additional days. Theoretical extension for 15 more days in extraordinary circumstances.
  - At the end of process CFIUS would either:
    - Clear the transaction with no mitigation.
    - Condition approval on mitigation measures.
    - Refer the transaction to the President to take action under Section 721 or, in rare complicated cases, request a withdrawal and refiling to restart the clock.

  Be careful with drop dead/long stop dates that are too short given the unpredictability of CFIUS reviews.

Roundtable Discussion of Answers to Key Questions

- Effective May 1, 2020, CFIUS introduced a sliding scale of required filing fees, depending on the size of the transaction.
- The fees range from no fee for transactions less than U.S. $500,000 to a $300,000 fee for transactions of U.S. $750,000,000 or more.
- Filing fees would apply only to Joint Voluntary Notices, not mandatory or voluntary Declarations.
- Who pays is a matter of parties' negotiation, but generally can be expected to be the buyer/investor, as with antitrust HSR pre-notification fees.

Roundtable Discussion of Answers to Key Questions

- What are the penalties/remedies for a failure to comply with CFIUS requirements – whether filings, mitigation agreements, or interim orders regarding signed, but not closed transactions?
  - Several civil penalties provisions are incorporated in the new rules.
  - $250,000 per violation for submitting false information in a filing to CFIUS.
  - $250,000 or the value of the transaction, whichever is greater, for failure to make a mandatory filing.
  - $250,000 or the value of the transaction, whichever is greater, for intentional or grossly negligent violation of a material provision of a mitigation agreement, per violation.
  - A mitigation agreement also may include a provision for liquidated or actual damages for breaches of the agreement.
  - In April 2019, CFIUS revealed that in 2018, it imposed a $1 million civil penalty on an unnamed entity “for repeated breaches” of a 2016 mitigation agreement.

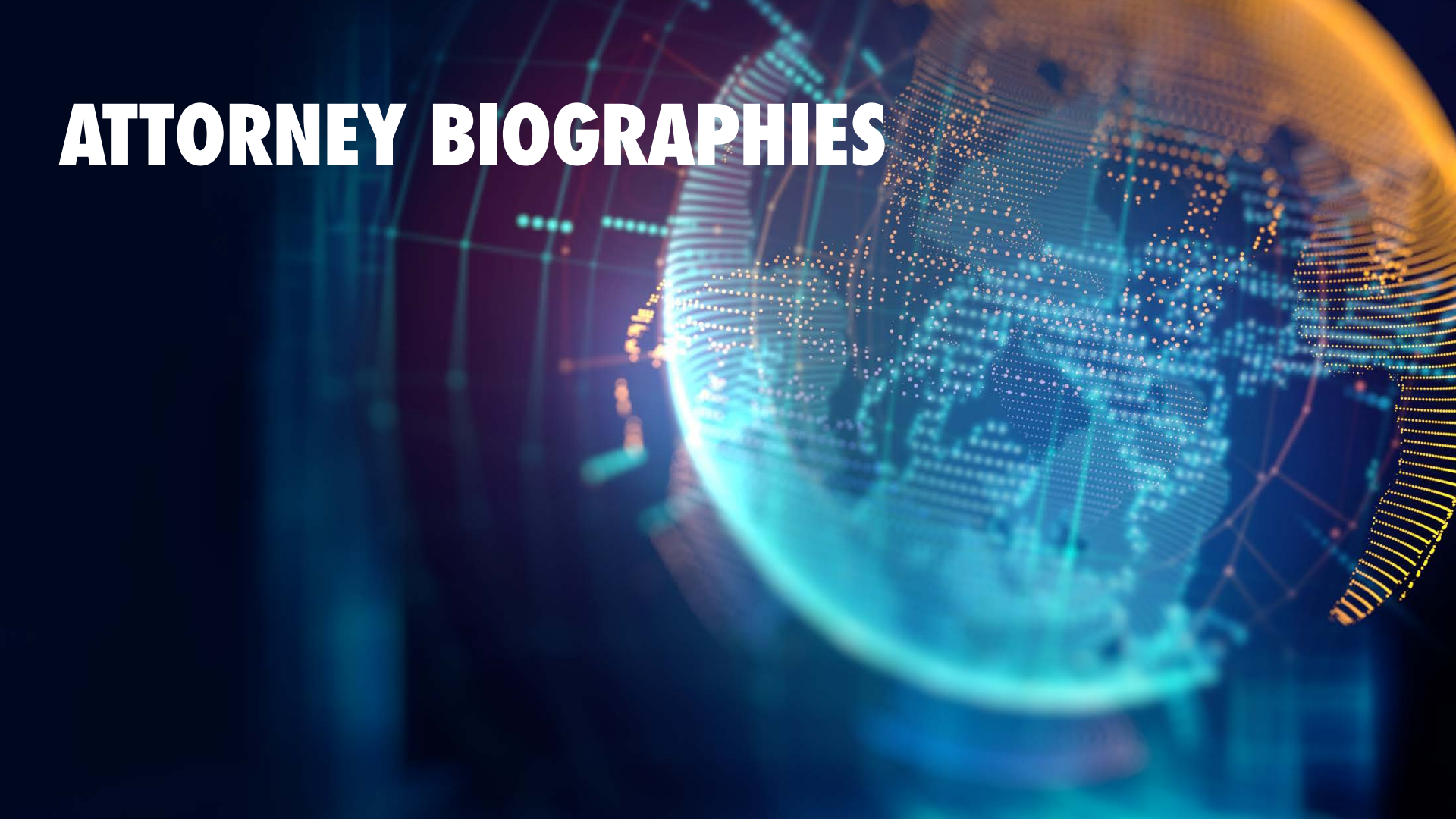
Roundtable Discussion of Answers to Key Questions

- How can I spot a CFIUS issue? Is there a standard due diligence ‘checklist’ to which I can refer?
  - In any transaction involving a foreign person and a US business, particularly a TID US business, there is a potential CFIUS issue that should be analyzed early on given the complexity of the rules.
  - Due diligence checklists have been developed for determining mandatory filing requirements as well as areas of CFIUS concern based on the required contents of a declaration or joint filing, but these need to be customized for the particular transaction in question to avoid missing issues. For example, the acquisition of a TID US business including real estate would need to include due diligence items under both sets of regulations.

Roundtable Discussion of Answers to Key Questions

- Is there standard contract or agreement language to address CFIUS issues?
  - Pre FIRRMA, standard CFIUS language was developed in change of control transactions based on HSR pre-merger notification provisions. Variations depended upon commercial leverage and often revolved around who bore the consequences of non-clearance by CFIUS in terms of breakup fees and the level of required cooperation/mitigation by the foreign person to obtain CFIUS clearance.
  - Post FIRRMA, representations and warranties were developed under the pilot program to address triggering events for mandatory filings.
  - The NVCA developed general partner friendly CFIUS language to insert in limited partnership agreements, which has not always been accepted by influential limited partners.
  - We expect to see this language evolve and, over time, become more standardized under the final regulations.
  - Parties will need to address the introduction of filing fees and the risk of CFIUS review of non-notified covered transactions if the transaction is not conditioned upon CFIUS clearance.

ATTORNEY BIOGRAPHIES



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Stephen Paul Mahinka is a partner in the Washington, D.C. office and a member of the firm's CFIUS Working Group. He is a former leader of the Antitrust Practice, founder of the FDA Practice Group, and co-founder and former chair of its Life Sciences Practice group. He is responsible for many of the firm's filings before CFIUS, and has represented both buyers and sellers of U.S. businesses, obtaining over 50 clearances in recent years. These clearances include transactions in the life sciences, energy, technology, and transportation industries. He is experienced in negotiating of Foreign Ownership, Control, and Influence (FOCI) and other mitigation agreements.

Mr. Mahinka has published over 100 articles on CFIUS, FDA, and antitrust issues, and is a co-author of several books, including the ABA Antitrust Section's *Pharmaceutical Industry Antitrust Handbook* (2nd ed. 2018) and *Food and Drug Law and Regulation* (3rd ed. 2015). He is a graduate of Johns Hopkins University, *Phi Beta Kappa*, and of the Harvard Law School, where he was Executive Editor of the *Harvard International Law Journal.*

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THANK YOU