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Public Comments Closing Soon on Known Investor Program and Proposal to Streamline the CFIUS Process

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On February 6, 2026, the US Department of the Treasury (Treasury) published a Request for Information[1] (RFI) seeking public input on the development of a Known Investor Program (KIP) for filings administered by the Committee on Foreign Investment in the US (CFIUS), and how to streamline CFIUS' foreign investment review process.

The RFI stems from the Trump administration's "America First Investment Policy" in February 2025, directing Treasury to create an expedited CFIUS review process for allies and partners[2] who can demonstrate "verifiable distance and independence" from foreign adversaries without compromising national security. Since then, CFIUS announced the creation of pilot program in May 2025 in furtherance of this policy goal[3], and this RFI is the next step towards the implementation of a formalized KIP.

The RFI presents an opportunity for certain foreign investors that stand to be impacted by the changes; namely those that regularly file with CFIUS (≥1 filing/year), or that may regularly file in the future, to assist with shaping the new program through their insights into possible transparency measures, interests and concerns.

Known Investor Program: Purpose and Scope

Under the RFI, the proposed KIP would require foreign investors that meet specified eligibility criteria to provide CFIUS with extensive information regarding the ownership, governance, operations and compliance framework of their business in advance of any filing for an individual transaction. The program's intent is to improve efficiency, enabling CFIUS to conduct a more streamlined review of filings by having a collection of potentially relevant information already collected about the known investor, in theory to facilitate a more efficient review by CFIUS. At the same time, the CFIUS process is inherently case specific and Treasury emphasized in the RFI that participation in the KIP alone would not guarantee clearance or a particular outcome for any given filing.

Treasury has already launched a confidential pilot program for completion by a select group of frequent filers from multiple jurisdictions, and sought feedback from these participants within the scope of the pilot program. With this RFI, Treasury seeks broader stakeholder input on KIP design, including the KIP's proposed eligibility standards, as well as the volume and scope of information required by participating investors. Treasury is expected to take the public comments into consideration and issue a final notice later this year on the details of the KIP.

Proposed Eligibility Criteria and Information Requirements

The proposed KIP envisions the following eligibility thresholds for foreign investors seeking to participate in the program, in addition to meeting the definition of a "foreign person," Treasury set out the following requirements in the RFI:

- The foreign investor must have submitted at least three distinct covered transactions or real estate filings to CFIUS within the last three years
- The foreign investor must "expect" to submit at least one of such transactions to CFIUS within the next 12 months
- The foreign investor must have a positive history of CFIUS compliance within the past five years (i.e., it must not have received written notice from CFIUS of material misstatement or omissions, violations of mitigation agreements or conditions or false certifications)
- The foreign investor must not be included on US sanctions or export-control restricted lists (e.g., the Bureau of Industry and Security's Entity List or the Office of Foreign Asset Controls' Specially Designated Nationals List), or fall within certain degrees of affiliation with Adversary Countries[4]

The proposed KIP questionnaire requires extensive details on the legal and organizational structure of the participating entities. The known investor entities must also submit information regarding:

- Details on the company's personnel and process for governing and operating their business. This includes details regarding the company's limited partners, frequent co-investment partners, governance structure and documentation, as well as biographical and personal information for directors and officers.
- Nature and characteristics of the company's business, including the overall investment strategy and how the US investment would fit into the business. This includes details regarding the company's financial performance, investment strategy, portfolio companies and risk management practices.

1 "Request for Information Pertaining to the CFIUS Known Investor Program and Streamlining the Foreign Investment Review Process," Federal Register, Office of Investment Security, Department of the Treasury (Feb. 9, 2026).

2 "See America First Investment Policy," Presidential Actions, The White House (Feb. 21, 2025), (Sec. 2).

3 For our coverage of this announcement, please see our client alert from May 2025: "Committee on Foreign Investment in the US (CFIUS) 'Fast-Track' Pilot Program Being Developed," Squire Patton Boggs (US) LLP.

4 Adversary Countries" include "the PRC, including the Hong Kong Special Administrative Region and the Macau Special Administrative Region; the Republic of Cuba; the Islamic Republic of Iran; the Democratic People's Republic of Korea; the Russian Federation; and the regime of Venezuelan politician Nicolás Maduro."

- Details regarding the company's engagement with the US government and its compliance posture and history. This includes details regarding the company's previous CIFUS filings and mitigation agreement and conditions, products or services supplied to the US government, as well as compliance history within and outside of the US.
- Detailed information regarding the company's connections to adversary countries, in order to demonstrate the company's "verifiable distance" rom such countries. This includes details regarding co-investment partners, government relations and operational connections with Adversary Countries.

For each of the above-listed sections, the RFI seeks input regarding how Treasury can clarify or adjust the information requested, additional factors Treasury should consider and challenges that are anticipated to arise in the process of collecting and providing the requested information. Additionally, Treasury seeks input regarding the efficiencies the program can confer on known investors. The information collected regarding connections to adversary countries is expected to be a key consideration in the KIP, as the "America First Investment Policy" stresses that "foreign investors' access to US assets will ease in proportion to their verifiable distance and independence from [adversary countries]."[5]

Broader Streamlining of the CFIUS Process

The RFI intends to facilitate "more secure and beneficial foreign investment into the US"[6], seeking feedback on broader procedural enhancements to increase efficiency across CFIUS' mandate. Specifically, the Treasury is requesting input on ways to simplify the review process for both repeat and first-time filers, and the aspects considered as part of this streamlining include the following:

- Calibrating the regulatory impact of current CFIUS processes by industry sector, type of investment, investor or other characteristics of a transaction
- Implementing minor or technical changes to CFIUS authorities (statute, executive orders or regulations) that would support the goals of a more efficient regulatory system
- Publicizing more information and guidance about the types of risks that can arise in certain transactions, as well as best practices parties can use to limit these risks prior to CFIUS review
- Improving the process and substance of CFIUS' negotiation and implementation of mitigation agreements, as well as addressing the financial and operational impacts of mitigation

Comment Period and Next Steps

The public comment period is currently open and will close on March 18, 2026. Treasury is taking the input from these comments, and is considering a wide array of reforms to address their goals, including guidance and regulatory changes, but also those which "may require [] legislative enactments."[7]

Addressing CFIUS in cross-border transactions is no longer limited to niche industries. It is now an integral part of the M&A process.[8] Therefore, investors in US businesses with transactions that are likely to trigger CFIUS review are encouraged to consider how these changes could impact their business and whether the submission of comments to the RFI may be beneficial to their interests. If you are interested in providing comments, and for more information regarding these developments, please contact Peter Alfano or your regular contacts in our firm's International Trade and Foreign Investment Practice.

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5 *America First Investment Policy, supra* note 3

6 *Request for Information, supra* note 1

7 *Id.*

8 *See* "The Committee on Foreign Investment in the US (CFIUS), CRS In Focus," Congressional Research Service (Feb. 12, 2026).

The opinions expressed in this update are those of the author(s) and do not necessarily reflect the views of the firm, its clients, or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

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