

Since the US Government Accountability Office (GAO) issued a report in 2024 recommending updates to the Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA) regulations¹ to provide for greater verification and monitoring of foreign investment in agricultural land and coordination with the Committee on Foreign Investment in the United States (CFIUS), the Trump Administration has steadily increased scrutiny of foreign person investment in covered US agricultural land. Most recently, the US Department of Agriculture (USDA) published an advanced notice of proposed rulemaking (ANPRM) seeking comments on revisions to AFIDA regulations and processes, including means to increase coordination with CFIUS relating to foreign investment in US agriculture lands.²

The USDA has already updated a new digital filing process, and with this ANPRM, USDA is taking additional steps to increase efficiency to “provide timely, accurate, and detailed data for CFIUS agencies’ use”³ to better protect national security interests. Investors, including fund managers, should take stock of their “foreign person” status and take preemptive compliance steps to manage the increased risks of enforcement in this area, ahead of anticipated regulations enhancing monitoring and reporting obligations.

Overview of AFIDA and Proposed Revisions

AFIDA requires “foreign persons” who invest or hold interests in US “agricultural land” to submit a report. For the purposes of this requirement, a “foreign person” and “agricultural land” have the following meanings:

- A “foreign person” includes non-US entities and persons and any investor that is 10% or more, or 50% or more in the aggregate, owned by any such persons.⁴
- “Agricultural land” covers US land used for forestry production or, within last five years, for farming, ranching, or timber production, with certain exceptions for smaller sized properties with minimal sales and production.⁵

In the report to the USDA, AFIDA requires detailed reporting on, among other things, the relevant foreign ownership, legal description and acreage of agricultural land, and subject property interest, to the secretary of agriculture through a newly developed online reporting system.

The ANPRM sought public input on the proposed updates to improve reporting efficiency and information collection activities, and provide timely, accurate and detailed foreign person ownership data for CFIUS agencies’ use, all of which to better address national security interests arising from foreign person ownership or use of agricultural land.

Current Perceived Gaps in AFIDA Reporting Requirements

In the ANPRM, the USDA highlights several gaps in the current AFIDA regulations that it aims to address with US national security and agricultural land interests in mind. These include difficulties in accurately identifying land and property boundaries, the high reporting threshold for foreign persons with a “significant or substantial interest” (e.g., those with directly/indirectly 10% or more interests), the absence of exemptions for countries with long-standing US ties compared to foreign adversaries’ reporting requirements, and limitations on obtaining additional information from indirect interest holders multiple tiers of ownership removed from the direct interest holder.

The GAO, in its 2024 report, concluded that the USDA’s “processes to collect, track, and report key information are flawed,” including its reliance on paper forms.⁶ During the GAO’s review, the USDA had already been “keeping a real-time log of AFIDA filing activity for investors from the People’s Republic of China, Russia, Iran and North Korea,”⁷ consistent with its obligations under the Consolidated Appropriations Act of 2023. But this information was not effectively shared among national security agencies “early in the process except through a manual process of scanning and e-mailing AFIDA forms.”⁸ In the ANPRM, the USDA explained its efforts to streamline its processes, including its electronic submission process for AFIDA submissions, in response to requirements under the Consolidated Appropriations Act, 2023.⁹

1 US Government Accountability Office, GAO-24-106337, Foreign Investments in US Agricultural Land: Enhancing Efforts to Collect, Track, and Share Key Information Could Better Identify National Security Risks (January 2024) (hereinafter “2024 GAO Report”) ([available online here](#)).

2 US Department of Agriculture, Proposed Rule, Agricultural Foreign Investment Disclosure Act: Revisions to Reporting Requirements, 90 Fed. Reg. 60,581 (December 29, 2025) ([available online here](#)).

3 *Id.*

4 See 7 C.F.R. § 781.2 (g).

5 See *Id.* at § 781.2 (b).

6 See 2024 GAO Report, p.2.

7 *Id.* at p.20-21.

8 *Id.*

9 See ANPRM at p.60581 (“2023, Congress passed a Consolidated Appropriations Act that included a requirement for USDA to streamline its process for electronic submission and retention of AFIDA disclosures”); see also Public Law 117–328, 136 STAT. 4509, Sec. 773 (December 29, 2022) ([available online here](#)).

ANPRM Proposals to Expand/Revise Reporting Requirements

In the ANPRM, the USDA outlined the following priorities to consider for updates relating to its AFIDA improvement goals:

- Improving efficiency in identifying “foreign persons” required to file reports under AFIDA regulations and determining if foreign adversaries should meet different (more stringent) reporting standards, by revisiting the sufficiency of the existing foreign ownership thresholds (starting at 10% directly or indirectly).
- Updating the scope of the information the filer is required to provide about agricultural land and reviewing potential changes to exclusions within the definitions of “agricultural land” and “any interest,” such as the exemption for leases under 10 years, to ensure comprehensive reporting and stronger national security oversight.
- Enhancing the disclosures necessary for multitiered interest holders and ensuring indirect foreign person ownership data is complete and verifiable, such as by requiring additional details about foreign interests throughout an ownership chain or in a complex corporate structure with multiple holding companies.
- Clarifying how reporting requirements apply to foreign persons with indirect interests, such as when more than one foreign person has a “significant interest or substantial control” in any given filer. The USDA noted in the ANPRM that such a filing person may then be required, upon request, to submit additional reporting on additional interest holders.
- Considering whether filers should provide precise geospatial property boundaries and maps, noting that current narrative descriptions often have limited utility for officials who are not physically present on the land.

Recent Enhancements to the Monitoring of Foreign Investments

The USDA has already implemented changes to the information collection process to streamline filings and better share information with other agencies, namely CFIUS. Some of the more relevant enhancements to the reporting and monitoring of foreign ownership include the following:

- **Digital filing process** – Historically, filings were made at the Farm Service Agency (FSA) county office local to the agricultural land. On January 22, 2026, the USDA implemented a new electronic filing process, moving away from the legacy “paper-only” system (Form FSA-153) that the USDA argues allowed for “inaccuracies and delays.”¹⁰

- **Online whistleblower reporting process** – The USDA launched “an online portal for farmers, ranchers and the public to report possible false or failed reporting of foreign investments in US agricultural land.”¹¹

- **USDA-CFIUS Memorandum of Understanding** – On July 7, 2025, USDA Secretary Brooke Rollins signed this memorandum of understanding with the Department of the Treasury to formalize the USDA’s role as a member of CFIUS for reviews involving agricultural land, biotechnology and industry, replacing prior informal consultations with a structured process for identifying and addressing national security risks from foreign investment.¹²

Key Comments Received by the USDA

Farmers’ unions, think tanks, state entities and reform coalitions submitted comments to the ANPRM. These commenters were generally aligned on the need to improve filing efficiency, verification and monitoring, but offered different thoughts on the best approach. For example:

- One of the farmers’ unions thought the AFIDA filing improvements should be paired with audits and consistent enforcement.¹³
- A state department of agriculture and some nonprofit organizations argued for stricter reporting requirements or enforcement for applicable investments by foreign adversaries (including lower thresholds for such investments).¹⁴

Some Unanswered Questions

There are some unanswered questions regarding how broadly CFIUS and AFIDA will apply the new regulations and procedures. Among the open questions:

- How and whether the new regulations be applied to investment in, or acquisitions of, country grain elevators that are often built on or adjacent to farmland, and that receive, store and ship grain directly from farmers, or how about other grain transshipment terminals, river terminals and export grain elevators?¹⁵ (Some of which may be currently captured under existing CFIUS real estate authorities but not AFIDA.)
- How and whether the new regulations be applied to agriproduct processing facilities, such as plants that clean, grade and refine commodities like wheat, corn and oilseeds? These facilities are critical for transforming raw crops into flour, feed, ethanol, vegetable oils and starches.¹⁶

10 Press Release, US Department of Agriculture, USDA Launches New Online Portal for Reporting Foreign-Owned Agricultural Land Transactions (January 22, 2026) ([available online here](#)).

11 Press Release, US Department of Agriculture, USDA and DoW Advance Key Parts of the National Farm Security Action Plan (February 11, 2026) ([available online here](#)).

12 Memorandum of Understanding between the Department of Agriculture and the Department of the Treasury (July 7, 2025) ([available online here](#)).

13 See Comment of North Dakota Farmers’ Union on Agricultural Foreign Investment Disclosure Act: Revisions to Reporting Requirements, Comment ID. USDA-2026-0001-0012 (January 28, 2026) ([available online here](#)).

14 See Comment of Nebraska Department of Agriculture on Agricultural Foreign Investment Disclosure Act: Revisions to Reporting Requirements, Comment ID USDA-2026-0001-007 (January 13, 2026) ([available online here](#)), and Comment of The Foundation for Defense of Democracies on Agricultural Foreign Investment Disclosure Act: Revisions to Reporting Requirements, Comment ID USDA-2026-0001-0010 (January 28, 2026) ([available online here](#)).

15 Some of the largest investment in recent years in US grain storage and logistics infrastructure has been by foreign agricultural trading interests, notably from Japan and China.

16 Investors tied to geopolitically adverse countries making investments in real estate (including agricultural land) have faced significant US regulatory and political scrutiny, which is particularly true for Chinese investments, such as the Fufeng Group’s proposed US\$700 million investment in a North Dakota corn mill, which triggered intense scrutiny at the state and national levels (see summary of the CFIUS case involving the Fufeng investment [available online here](#)). The investment was blocked, in large part over national security concerns, particularly regarding proximity to military bases.

- How and whether the new regulations be applied to foreign investment in nontraditional agricultural industries, e.g., animal feed mills (usually to support already existing foreign investment in poultry, pork or beef production operations), aquaculture, alfalfa or other premium forage crops (which have seen very significant investment from Japan, China, Saudi Arabia and the UAE)? Another sector that has seen significant foreign investment is the fruit and nut sector.
- What about foreign fund investors or pension funds that have been investing as passive investors in agricultural lands (notably investors from Canada, the EU and the UK)?

Take Away: New Direction Indicates Increased CFIUS Risks to Investors in US Agriculture Sectors

The agencies that comprise CFIUS, including the Department of Defense, rely on the information provided to the USDA by foreign persons (via the data required from AFIDA filings) as part of their mandate to “identify and review transactions that may pose national security risks.”¹⁷ CFIUS’ review authority extends to certain investments in US real estate that is within defined proximities to sensitive military bases,¹⁸ which often involves agricultural land. One of the goals of reforming the AFIDA process was to facilitate the prompt exchange of information with CFIUS, whether reporting AFIDA filings to CFIUS, or by allowing CFIUS to review and access historical AFIDA filings (note, CFIUS has the authority to review prior covered transactions that were not reviewed and cleared by CFIUS, an effort carried out by CFIUS’ non-notified transaction team.)¹⁹

Foreign investors in US agricultural land should be aware of the current changes and proposed changes to the AFIDA reporting process and take steps to manage their compliance and risks. Although revisions are still underway, investors should expect a more robust and extensive AFIDA submissions process, as well as the potential for harsher penalties for violations.

¹⁷ Agricultural Foreign Investment Disclosure Act: Revisions to Reporting Requirements, 90 Fed. Reg. 60,581 (proposed December 29, 2025) ([available online here](#)).

¹⁸ See [31 C.F.R. pt. 802](#).

¹⁹ Foreign Direct Investment Regimes USA 2026, § 3.8, International Comparative Legal Guides (November 17, 2025) ([available online here](#)).

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