



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

TO: Will Bestani, Office of Information and Regulatory Affairs

FROM: Ryan Law, Deputy Assistant Secretary
for Privacy, Transparency, and Records

SUBJECT: Justification for Emergency Processing: Provisions Pertaining to Certain
Investments in the United States by Foreign Persons, OMB Control No. 1505-
0121

The Department of Treasury (Treasury) is requesting emergency processing of a revision to OMB Control No. 1505-0121 in order to launch the new CFIUS Case Management System, featuring an online Public Portal for external parties to submit CFIUS Declarations and Notices.

Section 721 of the Defense Production Act of 1950, as amended (section 721), provides the President, acting through the Committee on Foreign Investment in the United States (CFIUS or the Committee), authority to review certain foreign investments in the United States in order to determine the effects of those transactions on the national security of the United States. In August 2018, section 721 was amended through the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), Subtitle A of Title XVII, Public Law 115-232, 132 Stat. 2173 (Aug. 13, 2018). FIRRMA modifies and broadens the authorities of the President and CFIUS under section 721 in several ways including, without limitation, by expanding the scope of foreign investments in the United States that are subject to national security review pursuant to section 721.

On January 17, 2020, Treasury issued final regulations (85 FR 3112 and 85 FR 3158) implementing FIRRMA to include information collections related to notices and declarations filed with or submitted to the Committee regarding covered control transactions, covered investments, and covered real estate transactions.

The increased number of CFIUS declarations and notices expected due to FIRRMA has created the need for Treasury to build a case management system that standardizes submission formats, enables faster processing and handles submissions – which may include sensitive information – more securely. Currently, declarations (which do not typically exceed five pages) are submitted to CFIUS via email using fillable PDF forms available on Treasury.gov. Notices (which may exceed 100 pages) are currently submitted via email as Microsoft Word or Adobe PDF files and follow no standardized format.

The submission of CFIUS declarations and notices is essential to the mission of the Treasury Department in strengthening national security. The ability to collect and process notices and declarations through the Case Management System will enhance CFIUS's ability to efficiently

evaluate transactions and manage cases given the Committee's expanded scope of review under FIRREA. It was not possible to have the system launched at the same time that the final regulations were issued or include it in the accompanying revision to OMB Control No. 1505-0121. However, with completion of system development and launch planned for May 20, 2020, it is not possible to follow normal clearance procedures under the Paperwork Reduction Act either.

The information required by CFIUS under the current regulations is not changing; however the new Public Portal will enable respondents to file their notices and declarations in a more straightforward and structured manner using an interactive Web form. The system will also provide greater clarity to respondents regarding responsive information and minimize the amount of follow-up that Treasury must conduct to ensure that respondents have provided all the information required by the CFIUS regulations. Additionally, the Case Management System will provide a standardized and secure method for parties to submit sensitive information.

Treasury requests that OMB approve the revision to 1505-0121 by May 15, 2020 in order to assure that the Case Management System can be launched on schedule. While public comments cannot be sought during the period of OMB review, Treasury will issue a notice in the *Federal Register* soliciting public comment for 60 days shortly after launching the system. Notwithstanding the inability to collect advanced public comment on the new Case Management system, Treasury received public comments on the information requirements to be reported through the system during the recent rulemaking process. In designing and testing the system, the Department also consulted with certain law firms that process a high number of notices and declarations and incorporated their feedback. Given this stakeholder consultation and CFIUS' prior experience with processing notices and declarations, Treasury believes that the new Case Management System minimizes burden on the public to the greatest extent practicable.