

# Expansion of Restrictions on Foreign Investment in U.S. Real Estate

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## ***Committee on Foreign Investment in the US (CFIUS) Update***

On July 8, 2024, the Office of Investment Security (Department of the Treasury) [published](#) a proposed [rule](#) to expand CFIUS's current restrictions on foreign investment in U.S. real estate to cover many additional government installations, and to increase the radius of jurisdiction for eight sites already covered. Altogether, the additions could increase CFIUS jurisdiction by more than 600,000 square miles.

## **Expansion of Protected U.S. Real Estate**

The Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA) established CFIUS jurisdiction over foreign investment in U.S. real estate in proximity to specific airports, maritime ports, or military installations. The military installations are listed by name and location in Appendix A to the CFIUS Part 802 regulations. For those sites listed on Part 1 of Appendix A, CFIUS has jurisdiction over real-estate transactions within 1 mile—*i.e.*, in “close proximity”—of the site. But for those listed on Part 2, it has jurisdiction within 100 miles of the site—an area of more than 31,000 sq. mi., the so-called “extended range.” Below we list the proposed additions to Parts 1 and 2 of Appendix A.

## **Importance of CFIUS**

Historically, transactions involving foreign control or influence over businesses involved in the U.S. defense industrial base have been subject to review by the Committee on Foreign Investment in the United States (“CFIUS”). FIRRMA expanded the historic CFIUS protections to include certain Critical Technologies, Infrastructure, and Sensitive Data – collectively referred to as covered “TID.”

FIRRMA also specifically expanded CFIUS to address national security concerns arising from foreign direct investment impacting critical infrastructure and sensitive government installations. Part 802 of FIRRMA established CFIUS jurisdiction and review for certain covered real estate, specially including

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real estate in proximity to specified airports, maritime ports, military installations, and other critical infrastructure.

## **Latest Proposed Expansion of CFIUS / FIRMMA**

The July 8th proposal would add the following 40 installations to Part 1 of the FIRMMA 802 list (a 30% increase!):

- Anniston Army Depot (Anniston, AL)
- Barter Island Regional Radar Site (Barter Island, AK)
- Blue Grass Army Depot (Richmond, KY)
- Camp Blaz (Dededo, Guam)
- Camp Navajo (Bellemont, AZ)
- Camp Roberts (San Miguel, CA)
- Cold Bay Regional Radar Site (Cold Bay, AK)
- Detroit Arsenal (Warren, MI)
- Hawthorne Army Depot (Hawthorne, NV)
- Indian Mountain Regional Radar Site (Indian Mountain, AK)
- Iowa Army Ammunition Plant (Middletown, IA)
- Joint Base Myer-Henderson Hall (Arlington, VA)
- Joint Systems Manufacturing Center – Lima (Lima, OH)
- Kenai Regional Radar Site (Kenai, AK)
- Kotzebue Regional Radar Site (Kotzebue, AK)
- Lake City Army Ammunition Plant (Independence, MO)
- Letterkenny Army Depot (Chambersburg, PA)
- Lisburne Regional Radar Site (Cape Lisburne, AK)
- Marine Corps Logistics Base Albany (Albany, GA)
- Marine Corps Logistics Base Barstow (Barstow, CA)
- Marine Corps Support Facility Blount Island (Jacksonville, FL)
- McAlester Army Ammunition Plant (McAlester, OK)
- Military Ocean Terminal Concord (Concord, CA)
- Military Ocean Terminal Sunny Point (Brunswick County, NC)
- Naval Air Station Corpus Christi (Corpus Christi, TX)
- Naval Logistics Support Activity Ketchikan (Ketchikan, AK)
- Naval Logistics Support Activity LaMoure (LaMoure, ND)
- Naval Logistics Support Annex Orlando (Okahumpka, FL)
- Naval Logistics Support Facility Aguada (Aguada, PR)
- Naval Logistics Support Facility Cutler (Cutler, ME)
- Naval Suffolk Facility (Suffolk, VA)
- Pine Bluff Arsenal (White Hall, AK)
- Pueblo Chemical Depot (Pueblo, CO)
- Red River Army Depot (Texarkana, TX)
- Romanzof Regional Radar Site (Cape Romanzof, AK)
- Scott Air Force Base (St. Clair County, IL)
- Scranton Army Ammunition Plant (Scranton, PA)
- Sparrevohn Regional Radar Site (Sparrevohn, AK)
- Tatalina Regional Radar Site (Tatalina, AK)
- Tooele Army Depot (Tooele, UT)

Also, the proposal would add (or, from Part 1, move to) the following 19 installations to Part 2 of the

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FIRMMA 802 list (a nearly 50% increase!):

- Altus Air Force Base (Altus, OK)
- Arnold Air Force Base (Coffee County and Franklin County, TN)
- Barksdale Air Force Base (Bossier City, LA)
- Camp Dodge (Johnston, IA)
- Camp Grayling (Grayling, MI)
- Camp Williams (Bluffdale, UT)
- Cannon Air Force Base (Clovis, NM)
- Chocolate Mountain Aerial Gunnery Range (Niland, CA)
- Columbus Air Force Base (Columbus, MO)
- Dover Air Force Base (Delmarva, DE)
- Fort Novosel (Dale County, AL)
- Goodfellow Air Force Base (San Angelo, TX)
- Joint Base Cape Cod (Sandwich, MA)
- Joint Base Charleston (North Charleston, SC)
- Joint Base San Antonio (San Antonio, TX)
- Little Rock Air Force Base (Little Rock, AK)
- Malmstrom Air Force Base (Great Falls, MT)
- Maxwell-Gunter Air Force Base (Montgomery, AL)
- Moody Air Force Base (Valdosta, GA)
- Muscatatuck Urban Training Center (Butlerville, IN)
- Redstone Arsenal (Huntsville, AL)
- Schriever Air Force Base (Colorado Springs, CO)
- Tinker Air Force Base (Midwest City, OK)
- Townsend Bombing Range (McIntosh County, GA)
- Vance Air Force Base (Enid, OK)
- Whiteman Air Force Base (Knob Noster, MO)
- Wright-Patterson Air Force Base (Dayton, OH)

## Recommendations

Unlike other areas that compel a mandatory CFIUS filing, CFIUS jurisdiction for covered real estate currently remains a voluntary filing. Regardless, the foregoing Part 1 and Part 2 expansions of coverage under Part 802 will result in substantially more covered real estate. As a result, early diligence remains critical to any transaction in the United States that may result in foreign ownership or control of real estate.

Whether a buyer or a seller, all real estate transactions should include an analysis of the citizenship of the interested parties, the nature of the land, and the applicability of CFIUS regulations or State laws that can impact the parties, timing, or transaction. Additional general information on U.S. CFIUS / FIRRMA is available on the [Treasury's website](#).

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