

Ranking Member Pat Toomey (R-Pa.)
Opening Statement
Full Committee Nomination Hearing
April 6, 2022 at 10:00 AM

Mr. Chairman, thank you.

Mr. Rosen and Ms. Gibson, welcome. I commend you both for your longstanding commitment to public service.

Mr. Rosen, you've been nominated for an important role at Treasury leading the Committee on Foreign Investment in the United States, known as CFIUS. CFIUS is an interagency body with the power to review, and, in some cases, advise the president to block, foreign direct investment into the United States, known as inbound FDI, on the grounds that certain investments may erode America's technological advantages that underpin our national security.

Maintaining our defense while upholding our economic prosperity is a sensitive and challenging task. The broad, free flow of capital is a fundamental part of our remarkably successful free market system.

In particular, inbound FDI is a source of much needed investment in American businesses. From 2016 through 2020, between \$150 billion and \$500 billion in FDI has flowed into the U.S. each year.

This inbound FDI can lower prices and increase the choices available to American consumers, strengthen the American workforce, increasing employment and wages, and fund research and development that contributes to technological innovation and economic growth.

However, foreign governments and their agents know that investing in an innovative American firm can potentially give them access to its technology. Such investments, coupled with the tech transfers that may follow, have the potential to allow adversaries to make a technological jump that can be used against our national security—all without having to spend time and resources innovating themselves.

There's no more problematic, and systemic, threat in this regard than China. As the U.S. intelligence community's latest annual threat assessment says, "China will remain the top threat to U.S. technological

competitiveness as Beijing targets key sectors and proprietary commercial and military technology from U.S. and allied companies and institutions. Beijing uses a variety of tools, from public investment to espionage, to advance its technological capabilities.”

Protecting against the threat of adversaries using FDI to harm our national security is why we have CFIUS. But given the importance of inbound FDI to our economy, it’s vital that CFIUS remains laser focused on screening for genuine national security threats while, at the same time, not undermining the attractiveness of the United States as a place to invest and innovate.

A slow CFIUS review process can disrupt individual deals. And a pattern of disruption will discourage valuable FDI. Most importantly, we must guard against CFIUS becoming a tool of economic protectionism.

Mr. Rosen, if confirmed, you’d be only our second Treasury Assistant Secretary of Investment Security. This position was formally created in 2018 by the Foreign Investment Risk Review Modernization Act, or FIRRMA.

FIRRMA made several notable changes to CFIUS. Before FIRRMA, CFIUS only reviewed transactions when a foreign person gained control or majority ownership of a U.S. company.

FIRRMA expanded the scope of transactions that CFIUS can review to include non-controlling investments in certain U.S. businesses involved in critical technology, critical infrastructure, the collection of sensitive data on U.S. citizens, and certain real estate transactions near military bases and sensitive infrastructure sites.

FIRRMA also created a fast-track process that allows companies to potentially shorten the CFIUS review process through a mechanism called a declaration, as opposed to filing a traditional notification.

In the four years since FIRRMA was enacted, CFIUS has been processing an increasing number of transactions annually and appears to be doing so in a manner consistent with FIRRMA’s intent.

In 2019, around 94 companies sought CFIUS’s approval for their investments via the shorter declaration route. In 2020, that number

increased by around 25%. And it is my understanding we should expect at least a similar increase in companies filing declarations in 2021 from 2020.

This trend suggests that the private sector is viewing the CFIUS declaration option as a viable means of subjecting transactions to government review.

CFIUS is also increasingly approving a high percentage of declarations. CFIUS approved 36% of declarations in 2019 and 65% in 2020. It is my understanding that CFIUS approved at least 65% of declarations in 2021 as well.

These data points suggest that the declaration process is useful for CFIUS as well by allowing it to focus its attention on the transactions that merit the most scrutiny.

Given that CFIUS has its hands full doing this work, Congress and the administration must be very cautious about taking any actions that would unduly burden, distract, or meddle with CFIUS' core mission. The negative effects could be immense, both in terms of harm to our economy and also harm to efficient and effective screenings by CFIUS.

Now turning to the U.S. Mint. Ms. Gibson has been nominated to serve as the Director of the Mint, which was established in 1792 in the great Commonwealth of Pennsylvania in Philadelphia.

The Founding Fathers understood that in order for the United States to prosper it needed its own monetary system. The Mint continues to play a vital role by manufacturing coins that Americans use every day. It also produces precious metal and collectible coins. For the Mint to thrive, it must continue to innovate and release new products that resonate with the public.

I look forward to hearing from today's nominees.