



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

June 4, 2019

The Honorable Ron Wyden
United States Senate
Washington, DC 20510

Dear Senator Wyden:

I write in response to your May 16, 2019 letter asking the Committee on Foreign Investment in the United States (CFIUS) to review a reported proposed investment in the United States by En+ Group PLC through its subsidiary United Company Rusal PLC.

The Foreign Investment and National Security Act of 2007 (FISIA) codified CFIUS as the interagency committee responsible for reviewing certain foreign investments in the United States for potential national security concerns. CFIUS thoroughly considers the national security effects of the transactions that it reviews to ensure that these transactions proceed only if there are no unresolved national security concerns. In conducting its analysis, CFIUS marshals the expertise of each member agency and other Executive Branch departments and agencies, as appropriate. CFIUS considers the full range of factors relevant to this determination.

More recently, the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA) strengthened and modernized CFIUS to address national security concerns more effectively. FIRRMA expands the jurisdiction of CFIUS to address growing national security concerns over foreign exploitation of certain investment structures that traditionally have fallen outside of CFIUS's jurisdiction, such as investments that do not confer control over a U.S. business but nevertheless afford the investor certain enumerated rights. Treasury is currently working with other CFIUS member agencies to implement FIRRMA fully by February 2020.

CFIUS recognizes the importance of protecting critical American technology and intellectual property from potentially harmful foreign acquirers. To this end, and as your letter notes, CFIUS is currently administering a pilot program that made certain provisions of FIRRMA effective in November 2018. The pilot program expands the scope of transactions subject to review by CFIUS to include certain non-controlling investments made by any foreign person in U.S. businesses involved in critical technologies related to specific industries. Additionally, the pilot program regulations make effective FIRRMA's mandatory declarations provision for transactions that fall within the scope of the pilot program.

You requested that CFIUS undertake a review of the proposed investment described in your letter. We do not comment on whether such a review has occurred or will occur. Confidentiality is critical to the effective functioning of the CFIUS process. It protects the sensitive and classified matters affecting national security with which CFIUS deals. Foreign investors and their U.S. partners are also much more likely to notify CFIUS of a transaction

voluntarily before its completion if they are confident that their sensitive business information will be protected. Accordingly, we consistently decline to comment on transactions that may be reviewed by CFIUS, including on whether or not a particular transaction is undergoing review.

Nonetheless, in recognition of the important oversight role of Congress, we are fully committed to keeping Members of Congress informed about the activities of CFIUS. In furtherance of this commitment, CFIUS provides certifications to Congress from Presidentially-appointed, Senate-confirmed individuals at the conclusion of CFIUS consideration of every transaction that goes forward. Further, consistent with the briefing mechanism laid out in the statute, CFIUS provides Congress classified briefings regarding transactions of interest to Congress for which Executive Branch action has concluded.

If you have further questions, please direct your staff to contact the Office of Legislative Affairs.

Sincerely,



J. Brady Howell
Senior Advisor
Office of Legislative Affairs