INTELLIGENCE COMMUNITY DIRECTIVE

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Intelligence Community Support to the Committee on Foreign Investment in the United States (CFIUS) Threat Analysis Process

A. (U) AUTHORITY: The National Security Act of 1947, as amended; the Defense Production Act of 1950, as amended; Executive Order (EO) 12333, as amended; EO 11858, as amended; and other applicable provisions of law and policy.

B. (U) PURPOSE:

1. (U) This Intelligence Community Directive (ICD) establishes policy and assigns responsibilities for prioritizing and coordinating intelligence activities to ensure the Director of National Intelligence (DNI) effectively provides CFIUS with expeditious and thorough intelligence analysis of national security threats related to covered transactions involving foreign investment in the United States.

2. (U) This ICD supersedes Office of the Director of National Intelligence (ODNI) Chief of Staff Memorandum, *ODNI Responsibilities for CFIUS*, 04 May 2006, and ES 2013-00153, *Intelligence Community Support to the Committee on Foreign Investment in the United States*, DNI Memorandum for Heads of IC Elements, 29 March 2013.

C. (U) APPLICABILITY: This ICD applies to the Intelligence Community (IC), as defined by the National Security Act of 1947, as amended, and to such other elements of any department or agency as may be designated by the President, or designated jointly by the DNI and the head of the department or agency concerned, as an element of the IC.

D. (U) POLICY

1. (U[redacted]) Consistent with applicable legal requirements, IC elements shall participate in and prioritize their support to CFIUS National Security Threat Assessment (NSTA) development in order to strengthen the ability of CFIUS to address current and future national security risks related to covered transactions. [redacted]

2. (U) *Collection and Analysis* — IC collection and analytic priorities for foreign investment security shall be established in accordance with ICD 204, *National Intelligence Priorities Framework* (NIPF). IC elements shall emphasize foreign investment security in the collection and analysis of intelligence in order to augment IC assessment of covered transactions and proactively identify foreign investment posing threats to national security. In particular, IC elements shall focus collection and analysis on foreign investment in critical technologies and critical infrastructure.

a. (U) To the greatest extent possible, IC elements shall incorporate foreign investment security in their IC-coordinated collection requirements and Programs of Analysis (POA) in order to ensure robust collection and analytic production concerning foreign investment threats.

b. (U) The Deputy Director for Mission Integration (DD/MI) shall ensure that collection and analytic priorities for foreign investment security matters are clearly established and defined in relation to priorities conveyed in the NIPF and associated amplifying guidance.

c. (U) The ISG, under the auspices of the EFX, serves as the IC's single interface for developing, coordinating, and providing IC-coordinated threat assessments of covered transactions in support of CFIUS. IC elements shall provide analytic support to these ISG-led IC assessments and related efforts.

d. (U) The EFX serves as the National Intelligence Manager (NIM) for Economic Security and Financial Intelligence (EF), the mission lead for the integrated IC approach to CFIUS support. The EFX shall develop and coordinate a Unifying Intelligence Strategy (UIS) to guide collection and analysis related to foreign investment security, to include plans and campaigns to integrate IC efforts and address intelligence gaps. NIMs shall likewise ensure, when determining the state of collection against their assigned missions, in accordance with ICD 900, *Integrated Mission Management*, that the identification of collection gaps and integrated strategies to address foreign investment security are reflected in related UISs. National Intelligence Collection Officers, National Counterintelligence Officers, and Functional Managers, in accordance with ICD 113, *Functional Managers*, and ICD 900 shall support the NIMs in carrying out this responsibility.

3. (U) *Risks and Vulnerabilities* — The Director of the National Counterintelligence and Security Center (D/NCSC) shall ensure foreign investment security concerns are given due consideration in the development of counterintelligence risk assessments. The D/NCSC shall further, as needed, make the results of any such assessments available to the EFX in support of the development of NSTAs. If the D/NCSC becomes aware of potential covered transactions not voluntarily notified to CFIUS, the D/NCSC shall provide such notification to CFIUS, the EFX, and the FBI. The D/NCSC shall share this information consistent with applicable laws, policies, and regulations.

4. (U) *Post-Review Support to CFIUS* — IC elements shall continue to support CFIUS-related processes following the completion of a review of a covered transaction, to include continued collection against relevant entities in the event of a mitigation agreement and DNI assessments of the operational impact on the IC of a covered transaction.

5. (U) *Non-Notified Transactions* — Consistent with its role as coordinator of counterintelligence activities within the United States, the FBI shall lead IC support to CFIUS efforts to identify potential covered transactions not voluntarily notified to CFIUS with the support of the EFX and relevant IC elements.

6. (U) *Information Sharing and Engagement with Partners*

a. (U/[redacted] IC elements shall do so in accordance with applicable provisions of law and policy, to include ICD 208, *Maximizing the Utility of Analytic Products*; ICD 209, *Tearline Production and Dissemination*; ICD 403, *Foreign Disclosure and Release of Classified National Intelligence*; and ICD 501, *Discovery and Dissemination or Retrieval of Information within the Intelligence Community*. To the maximum extent practical, IC elements shall share with EFX foreign partner responses to risks to their national security from inbound investment.

b. (U) To the maximum extent practical, IC elements shall document, track, and share IC collection and analytic efforts related to CFIUS case transactions through secure databases, to include an ODNI-managed database for CFIUS-related intelligence, including all IC assessments for CFIUS.

7. (U) *Workforce Recruitment, Development, and Retention*

a. (U) The heads of IC elements shall ensure the recruitment, development, and retention of intelligence professionals within the IC elements with the requisite competencies to effectively meet the IC's obligations in supporting CFIUS threat analysis and collection.

b. (U) Consistent with IC element authorities, IC efforts towards achieving this objective may include consideration of a range of available personnel authorities, to include payment of recruitment or retention assignment incentives, when appropriate, and the establishment or funding of training opportunities to develop competencies relevant to the CFIUS mission.

8. (U) *Resource Requirements*

a. (U) In accordance with ICD 116, *Intelligence Planning, Programming, Budgeting, and Evaluation System*, heads of IC elements shall assess mission resource needs related to CFIUS support matters, to include collection and analysis, information sharing, and personnel recruitment, development, and retention, and shall identify any related NIP requirements to the ODNI in order to address intelligence gaps and shortfalls.

b. (U) In accordance with ICD 104, *National Intelligence Program (NIP) Budget Formulation and Justification, Execution, and Performance Evaluation*, the DNI will provide guidance to IC elements on their input to the NIP budget process, and will develop and determine the NIP budget taking into account the views of IC elements.

9. (U) *Standards, Oversight, and Accountability*

a. (U) The DD/MI, as the accountable official, shall issue IC Standards to implement this policy, as necessary.

b. (U) The DD/MI, in coordination with EFX, shall periodically report to the DNI on IC implementation of this Directive and the state of IC support to CFIUS. The DD/MI may include recommendations to strengthen the overall CFIUS support posture within the IC when reporting to the DNI.

c. (U) In accordance with ES 2021-01996, *IC Charters*, and consistent with ICD 900, the DD/MI may establish advisory, information sharing, or governance bodies and task forces in order to further advance the requirements of this Directive. Where appropriate, the DD/MI may delegate the authority to establish information sharing bodies and task forces in order to further advance the requirements of this Directive to the EFX.

d. (U) IC elements shall provide information to DD/MI or to EFX acting on the DD/MI's behalf, as requested, with respect to CFIUS and other economic security matters in order to ensure that IC activities support, inform, and comply with IC standards and other applicable requirements.

E. (U) ROLES AND RESPONSIBILITIES

1. (U) The DD/MI shall:

a. (U) Ensure that the EFX develops, coordinates, and publishes IC-coordinated threat assessments concerning potential covered transactions, consistent with applicable requirements, to include the requirements in ICD 203, *Analytic Standards*;

b. (U) Ensure that the EFX develops and coordinates a UIS to guide collection and analysis related to foreign investment security, to include plans and campaigns to integrate IC efforts and address intelligence gaps;

c. (U) On behalf of the DNI, and in coordination with the Office of Legislative Affairs and Office of General Counsel, prepare reports and submissions required by Section 102A(z) of the National Security Act, as amended;

d. (U) Issue IC Standards;

e. (U) Oversee IC support to CFIUS activities within the IC, in coordination with the Deputy Director for Policy and Capabilities (DD/PC);

f. (U) Ensure the EFX reports to the DNI on the state of the mission pertaining to intelligence support of investment security reviews for CFIUS;

g. (U) Establish chartered advisory, information sharing, or governance bodies and task forces as deemed appropriate by the accountable official, or as delegated by the accountable official to the EFX; and

h. (U) Ensure that training programs are established for financial intelligence analysts with a focus on CFIUS and other economic security matters.

2. (U) The DD/PC, center directors, and NIMs shall coordinate with and ensure support to the DD/MI.

3. (U) The D/NCSC shall ensure foreign investment security concerns are given due consideration in the development of counterintelligence risk assessments and, consistent with applicable laws, policies, and regulations:

a. (U) Make the results of any relevant risk assessments available to the EFX in support of the development of NSTAs; and

b. (U) Provide notification to CFIUS, the EFX, and the FBI of any potential covered transactions not voluntarily notified to CFIUS identified in the course of conducting any risk assessments.

4. (U) Functional Managers, in accordance with ICDs 113 and 900, shall:

a. (U) Identify opportunities to integrate foreign investment security-related collection, analysis, and counterintelligence efforts within their functions;

b. (U) Support the EFX by providing information, expertise, and advice;

c. (U) Respond to NIM-EF requirements; and

d. (U) Integrate and coordinate foreign investment security-related mission activities with heads of IC elements, NIMs, and other functional managers, and keep them informed of activities and decisions related to their respective missions.

5. (U) The EFX, as mission lead for integrated IC support to CFIUS, shall:

a. (U) Report to the DNI on the state of the mission pertaining to intelligence support of investment security reviews for CFIUS;

b. (U) Oversee the ISG;

c. (U) Develop and coordinate a UIS to guide collection and analysis related to foreign investment security, to include plans and campaigns to integrate IC efforts and address intelligence gaps; and

d. (U) When delegated to by the DD/MI, have the authority to establish information sharing bodies and task forces.

6. (U) Heads of IC elements shall:

a. (U) Prioritize strategic and tactical-level collection, analysis, and related resourcing support to NSTAs and other related production by the EFX, on behalf of the DNI, for CFIUS review;

b. (U) Designate collection and analysis officers with responsibility for CFIUS matters within their element and provide notification of such designations to the ISG;

c. (U) Ensure recruitment, development, and retention of intelligence professionals within their IC element with the requisite competencies to effectively support CFIUS threat analysis and collection;

d. (U//[redacted] Expand and strengthen sharing of foreign investment security information within the IC, with CFIUS members, and all other partners, [redacted]

e. (U) Ensure that their POAs are aligned to UIS requirements pertaining to foreign investment security matters, and are implemented consistent with the requirements of this Directive; and

f. (U) Assess mission needs related to CFIUS support matters and identify any related NIP resourcing requirements to ODNI in accordance with Section D.8.

F. (U) EFFECTIVE DATE: This ICD becomes effective on the date of signature.

Director of National Intelligence

September 4, 2022
Date