

GIBSON DUNN



International Trade Update

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## CFIUS Expanded Real Estate Jurisdiction Effective in December

On December 9, 2024, CFIUS's final rules expanding jurisdiction over real estate went into effect. These regulations substantially expanded the scope of covered real estate transaction subject to national security review.

Effective December 9, 2024, the Committee on Foreign Investment in the United States ("CFIUS") began enforcing its [final rule](#) (published in the [Federal Register](#) on November 7, 2024) which expands its jurisdiction over real estate transactions involving foreign persons. We previously shared [our analysis regarding the rule's impact](#) when the rule was proposed this past summer. Of note the list of expanded locations remained unchanged between the proposed and final rule.

### I. Background: CFIUS's Jurisdiction Over Real Estate Transactions

CFIUS's "[Part 802](#)" real estate rules permit CFIUS to review acquisitions involving a foreign person purchasing, leasing, or gaining certain other land rights in property close to military installations and other sensitive areas. The rules enumerate those sensitive areas subject to review using four categories of locations in an Appendix to the rules ("Appendix A"):

- [Part 1](#) lists locations for which a property may be subject to review based on its "close proximity" to a listed military installation (i.e., within one mile).
- [Part 2](#) lists locations for which a property may be subject to review based on being within the "extended range" of a listed military installation (i.e., up to 99 miles).

- [Part 3](#) lists counties or other geographic areas for which a property, if located within one of these areas, may be subject to CFIUS review.
- [Part 4](#) lists offshore training areas for which a property, if located within one of these areas, may be subject to CFIUS review.

## II. Amendments to the Lists of Sensitive U.S. Military Installations

The Final Rule made the following updates:

- Expanded CFIUS's jurisdiction over real estate transactions to include 40 new military installations (bringing the total to 162) in Part 1;
- Expanded CFIUS's jurisdiction over real estate transactions to include 19 new military installations (bringing the total to 65) in Part 2;
- Moved eight military installations from Part 1 to Part 2;
- Removed one installation from Part 1 and two installations from Part 2 due to their being located within other listed locations;
- Revised the definition of the term "military installation" to bring it in line with existing terms and the locations covered; and
- Updated the names of 14 installations and the location of seven others.

## III. Takeaways for Transaction Parties

Transaction parties should take note of the following:

- Use the updated location list for diligence. Parties must consult the most recent version of the list of sensitive areas which can be found at [31 C.F.R. Part 802, Appendix A](#).
- The list of locations is likely to be expanded on an annual basis. Each year, the U.S. Department of Defense and CFIUS review the list of installations in Appendix Part A and consider updates to Part 802 jurisdiction.
- Be mindful of other applicable laws. Even when real property plays a central role in a transaction, many transactions that involve real estate also implicate CFIUS's "[Part 800](#)" jurisdiction over controlling and non-controlling transactions. Additionally, transactions involving real estate may implicate the growing body of state and local restrictions on foreign investment discussed in our [previous client alert](#), as well as other federal requirements such as the [Agricultural Foreign Investment Disclosure Act \(AFIDA\)](#).

## IV. Upcoming Webinar

For those who would like to better understand the scope and application of CFIUS's expanded jurisdiction over real estate transactions, Gibson Dunn lawyer Michelle Weinbaum will be presenting on Tuesday, January 28th at 1:00pm ET on an upcoming Strafford live webinar, "[Newly Expanded CFIUS Real Estate Jurisdiction](#)" which will discuss the final rule; the practical implications for foreign investors, businesses, and developers; new state and other federal measures regulating foreign ownership of U.S. real estate; and key considerations when

assessing potential CFIUS issues and filings. If this time is not convenient for you, the Gibson Dunn CFIUS team is otherwise available to discuss these regulations.

**The following Gibson Dunn lawyers prepared this update: Roxana Akbari, Mason Gauch, Chris Mullen, Michelle Weinbaum, David Wolber and Stephenie Gosnell Handler.**

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding these issues. For additional information about how we may assist you, please contact the Gibson Dunn lawyer with whom you usually work, the authors, or the following leaders and members of the firm's International Trade practice group:

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