



Foreign Investment

Startups and venture capital investors continue to navigate enhanced foreign investment scrutiny. In August 2018, President Trump signed the *Foreign Investment Risk Review Modernization Act (FIRRMA)*, which significantly expanded the authority of the Committee on Foreign Investment in the U.S. (CFIUS) to review non-controlling investments into startups for national security considerations. NVCA has led industry efforts to ensure CFIUS can achieve its national security mission while not encumbering high-growth companies that are vital to the American economy.

It is critical that passive foreign investment into U.S. venture funds be protected as the final rules under FIRRMA are developed. In recent years, foreign investors have increasingly invested into venture capital firms to gain exposure to the next wave of scientific and technological advancement. Passive foreign investment is vital to American startups as they grow, innovate, and create jobs, and does not produce national security concerns because the limited partners (LPs) that invest into U.S. venture funds do not gain access to sensitive information about the underlying companies in which the fund is invested.

In addition, it is imperative CFIUS not unnecessarily harm foreign direct investment into U.S. startups—which also serves as an important source of capital for young companies—especially that which comes from U.S. allies that do not pose a security threat. This can be achieved by following congressional intent to establish a fair exemption process for certain foreign entities and by ensuring that the CFIUS process is predictable and operates on timelines that keep with business norms.

NVCA will remain deeply engaged with the Department of Treasury and other federal agencies represented on CFIUS to ensure the final rules under FIRRMA allow our economy to continue to prosper. If this balance is not achieved, policymakers will continue to see capital deployed overseas in inventive and high-impact companies to the detriment of the United States. Innovation is now a global game and the world's top entrepreneurs have a world of choices when deciding where to launch their new enterprise.

At the same time as FIRRMA, President Trump signed the *Export Control Reform Act of 2018*, which requires the Department to establish controls on “emerging and foundational technologies.” These technologies will become subject to export controls—including ‘deemed exports’ that impact the ability of startups to employ foreign nationals—and could greatly expand the amount of transactions that are subject to CFIUS filings. NVCA remains concerned that an overly broad emerging and foundational technologies rulemaking could chill investment into innovative startups. NVCA will remain engaged with the Commerce Department as it identifies emerging and foundational technologies and encourage the Department to narrowly define these technologies to impact only those technologies with a close national security nexus.