

Commerce Secretary Raimondo Signals Support for Outbound Investment Screening

March 25, 2022

On March 22, 2022, U.S. Secretary of Commerce Gina Raimondo signaled the Biden Administration's willingness to agree to outbound investment screening legislation incorporated in the America COMPETES Act and also indicated that Executive action regarding such screening may be possible if Congress does not act, according to media reports.

As we previously described, earlier this year the House of Representatives passed the America COMPETES Act as the counterpart to the Senate-passed U.S. Innovation and Competition Act (USICA). The America COMPETES Act includes provisions that would establish a review process for outbound investment and offshoring transactions through a new Committee on National Critical Capabilities (Committee). As opposed to the Committee on Foreign Investment in the United States (CFIUS), which reviews inbound investment, the interagency Committee would review outbound transactions related to the offshoring of certain supply chains and other "national critical capabilities" in an effort to protect domestic manufacturing capacity.

The House and Senate are in the process of reconciling the differences between the America COMPETES Act and USICA. A final bill could pass by Memorial Day, and the provisions that would stand up a review process for outbound investment and offshoring transactions may emerge as part of the consensus bill. Secretary Raimondo's comments indicate that such an investment screening process remains a distinct possibility in the near future and may come as a result of Executive action.

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