

Since 1975, the Committee on Foreign Investment in the United States (CFIUS) has reviewed foreign investments that, in the judgement of the Committee, might have implications for the U.S. national interest.

More recently, Section 5021 (Exon-Florio Amendment) of the Omnibus Trade and Competitiveness Act of 1988 empowered the President to suspend or prohibit any acquisition merger or takeover by a foreign person on national security grounds. As a result of a 1992 amendment to the Exon-Florio provisions, the President is now required in the context of his review to take into account the potential effects of a transaction on U.S. technological leadership in critical defence areas. "Defence critical technology" has not been defined. Also, CFIUS investigations are now required in all transactions involving entities controlled by or acting on behalf of a foreign government. Furthermore, the President must submit written reports to Congress on each case referred to him by CFIUS.

The United States maintains, at both federal and state levels, a number of reporting requirements for corporate activities that apply only to foreign-owned businesses. These apply not only to subsidiaries of foreign companies but also, in the case of banks, to branches.

In January 1993, the Commerce Department issued guidelines for the support of exports by U.S. companies in third country markets. The guidelines enable U.S. Embassies to discriminate against exports by Canadian-controlled firms in the United States on the basis of descriptions of the Canadian market for such products in the annual National Trade Estimates report. These descriptions can be inaccurate. The guidelines deny Canadian investors national treatment in export opportunities vis-a-vis their U.S.-controlled competitors.

## **IX. FINANCIAL SERVICES**

Canadian financial sector reform has significantly outpaced that of the United States. Accordingly, many aspects of laws and regulations governing U.S. financial services, while not in all cases discriminating against foreign financial institutions, result in significantly less access to the U.S. market than that enjoyed by U.S. financial institutions in Canada.

For example, compared to Canada, the United States has a variety of geographic restrictions on banking within and across state boundaries.