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United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

March 23, 2016

The Honorable Jacob J. Lew
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Lew:

I am writing with regard to the importance of a strong process, and ample resources, for the Committee on Foreign Investment in the United States (CFIUS)¹ to examine foreign direct investment in the United States. CFIUS was designed to review transactions that could result in control of a U.S. business by a foreign person, in order to determine the effect of such transactions on the national security of the United States.

The CFIUS Annual Report to Congress on February 19, 2016, stated that for 2014 it reviewed 147 notices of intent to purchase U.S. businesses by foreign interests, a big increase from 97 such notices in 2013, and the largest number to date. Notices reviewed in 2015 were likely even higher than in 2014.

Deals reviewed involving acquirers from China topped the list in each of the three most recent reported years, a total of 68 proposed transactions. Based on macroeconomic and other factors in China, it is quite likely we will see further increases in attempted Chinese investment in the United States in 2015 and 2016. In just the first few weeks of 2016, reports indicate there have been a record 22 completed merger and acquisition transactions announced in the United States involving Chinese acquirers, worth a total of \$23 billion. That is compared to 88 deals each year worth a total of \$7 billion in 2014 and \$13 billion in 2015.² It is possible that CFIUS could be faced with a steep increase in reviews this year as a result.

Reports have raised possible national security concerns about the announced acquisitions of Ingram Micro Inc. by HNA Group; Syngenta AG by China National Chemical Corp.; General Electric Co.'s appliance unit by Haier; Terex by Zoomlion; the Chicago Stock Exchange by Chongqing Casin Enterprise Group; and most recently an unsolicited offer for Affymetrix by Origin Technologies Corporation, LLC, a newly-formed shell company backed by Chinese entities, to name a few.³ Terex and Affymetrix were in the process of merging with Konecranes and Thermo Fisher, respectively, when they received the Chinese offers. In addition, reports

¹ Section 721 of the Defense Production Act of 1950, as amended by the Foreign Investment and National Security Act of 2007 (P.L. 110-49), and the regulations at 31 CFR part 800.

² <http://ingfx.thomsonreuters.com/gfx/rngs/1/878/1269/USA-CHINA-DEALS.jpg>.

³ <http://www.wsj.com/articles/chinese-deal-making-draws-scrutiny-in-washington-1455841866>.

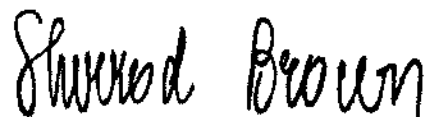
suggest Chinese companies are increasingly willing to pay advisors, investment bankers and lawyers to shepherd deals through the CFIUS process.⁴

With the possibility of a spike in reviews and investigations, concerns about already-announced transactions, combined with determined efforts and sophisticated lobbying, it is vitally important that CFIUS conduct rigorous and full reviews and investigations, in consultation with all relevant agencies, of all proposed transactions that may have national security implications.

In particular, a CFIUS review should look beyond the direct impact of each discrete transaction and consider the trends and patterns of acquisitions. For example, similar or complementary acquisitions in other countries should factor into the CFIUS review. CFIUS should thoroughly vet the acquirer on the issue of beneficial ownership to ensure that state-owned-enterprises are not hiding behind shell companies claiming to be private investors. CFIUS should consider the many different aspects of national security, not just the acquisition of sensitive technology, which may have broader implications and could put our nation at risk. And, CFIUS should evaluate all possible mitigation measures to protect Americans.

Thank you for your attention to this important matter. While the U.S. market is more open than almost any other market, I expect that CFIUS will continue to do its job of thoroughly evaluating all filings for all national security concerns.

Sincerely,

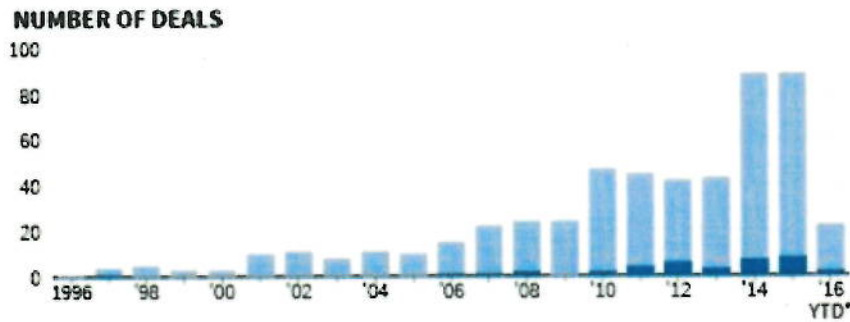
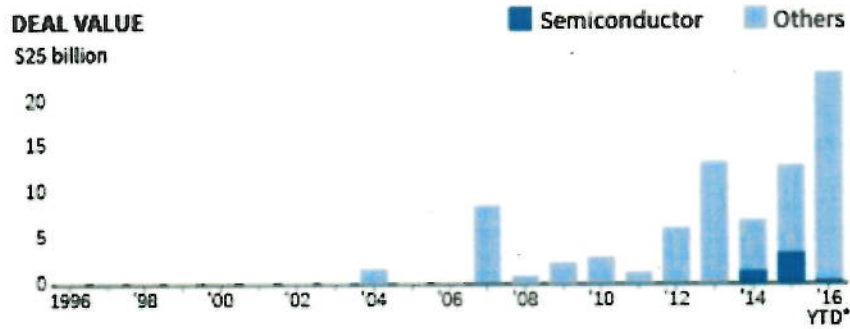
A handwritten signature in black ink that reads "Sherrod Brown". The signature is written in a cursive, slightly slanted style.

Sherrod Brown
Ranking Member

Attachment: Chinese acquisitions of U.S. companies by number and value.

⁴ <http://www.reuters.com/article/us-usa-china-deals-advisors-insight-idUSKCN0VX2PX>

Chinese acquisitions of U.S. companies



* Through Feb. 19
Source: Thomson Reuters

S. Culp, 22/02/2016