



## Chinese PE Firm and Magnachip Ask CFIUS for More Time to Save Semiconductor Deal

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In an earlier [client alert](#), we noted that Wise Road Capital's proposed acquisition of Magnachip Semiconductor Corporation was on life support: the Committee on Foreign Investment in the United States (CFIUS) had issued a Due Process letter, and the transaction parties could either abandon the transaction or allow the matter to be referred to the President, who would likely block it. We also noted that the parties could ask CFIUS for more time to negotiate a mitigation agreement. Faced with the alternatives, the transaction parties have asked for more time.

According to [Magnachip's recent SEC filing](#), on September 10, 2021, the transaction parties requested permission from CFIUS to withdraw and refile their transaction. Three days later, on September 13, 2021, CFIUS approved the request. The new review period begins on September 14, 2021, and ends on October 28, 2021, at which time CFIUS could take the transaction to investigation, which could last an additional 45 days.

The transaction parties could have requested to refile their transaction at the start of the investigation period, which would have given CFIUS an additional 45 days. Instead, the parties appear to have asked CFIUS for permission to refile at the beginning of the review period, which gives CFIUS up to an additional 90 days. The parties appear to recognize that if this deal has any chance of getting done (and there is no guarantee that that will happen), it will take at least a few more months to hammer out a mitigation agreement with CFIUS.

## TAKEAWAYS

1. CFIUS is heavily focused on semiconductors.
2. It is incredibly challenging for foreign investors to obtain CFIUS approval to acquire semiconductor companies that have any nexus to the United States.
3. Semiconductor transactions often involve at least one withdraw/refile, which can extend the CFIUS process longer than 90 days.

Tyler McGaughey, a partner in our Washington office, previously served as the Deputy Assistant Secretary for Investment Security at the U.S. Department of the Treasury, where he was responsible for managing the day-to-day

operations of Treasury's CFIUS team. If you would like to learn more about how CFIUS handles semiconductor transactions, please contact Tyler or your relationship attorney.

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