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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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August 14, 2019

VIA ELECTRONIC TRANSMISSION

The Honorable Steven Mnuchin
Secretary
Department of Treasury

Dear Secretary Mnuchin:

In the past, I have raised concerns regarding the Committee on Foreign Investment in the United States' (CFIUS) decision-making process, most notably with respect to its approval of the Uranium One transaction where the Obama administration ceded some U.S. uranium production capacity to the Russian government.¹ Today, I write to express concern about another Obama-era CFIUS-approved transaction which gave control over Henniges, an American maker of anti-vibration technologies with military applications, to a Chinese government-owned aviation company and China-based investment firm with established ties to the Chinese government. As with the Uranium One transaction, there is cause for concern that potential conflicts of interest could have influenced CFIUS approval of the Henniges transaction.² Accordingly, Congress and the public must fully understand the decision-making process that led to the Henniges approval and the extent to which CFIUS fully considered the transaction's national security risks.

¹ Letter from Senator Charles Grassley, Chairman, Senate Comm. on the Judiciary, to the Dep't of Justice, State, and Treasury (June 30, 2015), *available at*

https://www.grassley.senate.gov/sites/default/files/news/upload/CEG%20to%20DOJ%20%28CFIUS%20%2B%20Uranium%29%2C%206-30-15_0.pdf. Letter from Senator Charles Grassley, Chairman, Senate Comm. on the Judiciary, to the Dep't of Justice, State, Treasury, Commerce, Defense, Energy, Homeland Security, Director of National Intelligence, United States Trade Representative, Office of Science and Technology Policy (October 12, 2017), *available at*

<https://www.grassley.senate.gov/sites/default/files/constituents/2017-10-12%20CEG%20to%20DOJ%20%28Uranium%20One%20Follow%20up%29.pdf>.

Additionally, according to publicly available information, from June 2015 to December 2016, the Obama administration cleared 43 of 46 CFIUS transactions involving Chinese acquisitions of electronic and pharmaceutical companies, a 93.4 percent approval rate. In contrast, from November 2017 to May 2018, the Trump administration cleared 9 out of 18 CFIUS transactions involving Chinese acquisitions of electronic and pharmaceutical companies, a 50 percent approval rate. *See also Pillsbury Winthrop Shaw Pittman LLP., CFIUS Scorecard: U.S.-China Transactions Jan 2014-September 2018* (2018), *available at* <https://www.pillsburylaw.com/images/content/1/1/119897.pdf>.

² My longstanding concerns about the Uranium One transaction relate, in part, to potential conflicts of interest that may have influenced the CFIUS approval process. During critical stages of the acquisition approval for that transaction, interested parties made large donations—some in the millions of dollars—to the Clinton Foundation while Hillary Clinton was Secretary of State.

For example, one of the companies involved in the Henniges transaction was a billion dollar private investment fund called Bohai Harvest RST (BHR). BHR was formed in November of 2013 by a merger between the Chinese-government linked firm, Bohai Capital, and a company named Rosemont Seneca Partners. Rosemont Seneca was reportedly formed in 2009 by Hunter Biden, the son of then-Vice President Joe Biden, Chris Heinz, the stepson of former Secretary of State John Kerry, and others.³

The direct involvement of Mr. Hunter Biden and Mr. Heinz in the acquisition of Henniges by the Chinese government creates a potential conflict of interest. Both are directly related to high-ranking Obama administration officials. The Department of State, then under Mr. Kerry's leadership, is also a CFIUS member and played a direct role in the decision to approve the Henniges transaction. The appearance of potential conflicts in this case is particularly troubling given Mr. Biden's and Mr. Heinz's history of investing in and collaborating with Chinese companies, including at least one posing significant national security concerns. This history with China pre and post-dates the 2015 Henniges transaction.

For example, in December of 2013, one month after Rosemont Seneca's merger with Bohai Capital to form BHR, Hunter Biden reportedly flew aboard Air Force Two with his father, then-Vice President Biden to China.⁴ While in China, he helped arrange for Jonathan Li, CEO of Bohai Capital, to "shake hands" with Vice-President Biden.⁵ Afterward, Hunter Biden met with Li for reportedly a "social meeting."⁶ After the China trip, BHR's business license was approved.⁷ In December of 2014, BHR also reportedly became an investor in China General Nuclear Power Corp (CGN), a state-owned energy company involved in building nuclear reactors.⁸ In April of 2016, the U.S. Department of Justice (DOJ) charged CGN with conspiracy to unlawfully engage and participate in the production and development of special nuclear material outside the United States which could cause "significant damage to our national security."⁹ Then, in August of 2015, Gemini Investments Limited, another Chinese-government linked entity, purchased 75 percent of Rosemont Reality, a sister company of Rosemont

³ Peter Schweizer, *Inside the Shady Private Equity Firm Run by Kerry and Biden's Kids*, N.Y. POST (March 15, 2018), available at <https://nypost.com/2018/03/15/inside-the-shady-private-equity-firm-run-by-kerry-and-bidens-kids/>; Peter Schweizer, *The Troubling Reason Why Biden is so Soft on China*, N.Y. POST (May 11, 2019), available at <https://nypost.com/2019/05/11/the-troubling-reason-why-biden-is-so-soft-on-china/>; Tom Llamas et al., *Biden Sidesteps Questions About His Son's Foreign Business Dealings but Promises Ethics Pledge*, ABC NEWS (June 20, 2019), available at <https://abcnews.go.com/Politics/biden-sidesteps-questions-sons-foreign-business-dealings-promises/story?id=63820806> (stating that Hunter Biden was a managing partner at Rosemont Seneca Partners).

⁴ Adam Entous, *Will Hunter Biden Jeopardize his Father's Campaign?*, THE NEW YORKER (July 1, 2019), available at <https://www.newyorker.com/magazine/2019/07/08/will-hunter-biden-jeopardize-his-fathers-campaign>.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Peter Schweizer, *The Troubling Reason Why Biden is so Soft on China*, N.Y. POST (May 11, 2019), available at <https://nypost.com/2019/05/11/the-troubling-reason-why-biden-is-so-soft-on-china/>.

⁹ Press Release, U.S. Dep't. of Justice, U.S. Nuclear Engineer, China General Nuclear Power Company and Energy Technology International Indicted in Nuclear Power Conspiracy against the United States (Thursday, April 14, 2016), available at <https://www.justice.gov/opa/pr/us-nuclear-engineer-china-general-nuclear-power-company-and-energy-technology-international>.

Seneca.¹⁰ Rosemont Realty became Gemini Rosemont and it reportedly focused on purchasing American real estate.¹¹

In September 2015, BHR joined with a subsidiary of the Aviation Industry Corporation of China (AVIC) to acquire Henniges for \$600 million. AVIC acquired 51 percent of the company, and BHR acquired 49 percent.¹² According to reports, the acquisition of Henniges by BHR and AVIC was the “biggest Chinese investment into US automotive manufacturing assets to date.”¹³ Because the acquisition gave Chinese companies direct control of Henniges’ anti-vibration technologies, the transaction was reviewed by CFIUS. CFIUS approved the transaction despite reports that in 2007, years before BHR teamed up with AVIC’s subsidiary, AVIC was reportedly involved in stealing sensitive data regarding the Joint Strike Fighter program. AVIC later reportedly incorporated the stolen data into China’s J-20 and J-31 aircraft.¹⁴

As I stated when I began my oversight of the Uranium One transaction, public confidence in the integrity of the CFIUS approval process requires a commitment to transparency and responsiveness to Congressional oversight inquiries. Recent reporting shows an overwhelming risk of conflicts and national security concerns in the Henniges acquisition that require additional Congressional scrutiny to ensure that the CFIUS process worked as designed, free of any political pressure and influence.

Accordingly, please provide the following no later than August 29, 2019:

1. A copy of the National Security Threat Assessment for the Henniges transaction.
2. Did the Henniges review follow the 45 day review, 45 day investigation, and 15 day Presidential determination timeline? Please describe, in detail, each stage of the CFIUS review process for the Henniges acquisition. If it did not follow that timeline, please explain what timeline CFIUS followed and if any agencies made objections, national security-related or otherwise, during the review.

¹⁰ Peter Schweizer, *The Troubling Reason Why Biden is so Soft on China*, N.Y. POST (May 11, 2019), available at <https://nypost.com/2019/05/11/the-troubling-reason-why-biden-is-so-soft-on-china/>.

¹¹ *See id.*

¹² Chris Sweeney, *Equity Firm Sells Henniges*, RUBBER & PLASTICS NEWS (September 17, 2015), available at <https://www.rubbernews.com/article/20150917/NEWS/150919961/equity-firm-sells-henniges>.

¹³ *Chinese FDI in the United States: 3Q 2015 Update*, RHODIUM GROUP (November 12, 2015), available at <https://rhg.com/research/chinese-fdi-in-the-united-states-3q-2015-update/>.

¹⁴ Bill Gertz, *Stolen F-35 Secrets Now Showing Up in China’s Stealth Fighter*, THE WASHINGTON FREE BEACON (March 13, 2014), available at <https://freebeacon.com/national-security/stolen-f-35-secrets-now-showing-up-in-chinas-stealth-fighter/>; David Z. Morris, *Hackers Stole Restricted F-35 Data from an Australian Contractor*, FORTUNE (October 14, 2017), available at <https://fortune.com/2017/10/14/hacked-f-35-data/>.

3. Did CFIUS, or any of its members, brief the President and/or White House personnel on the Henniges transaction? If so, when was the briefing provided, who provided the briefing, and who was briefed?
4. Was the Henniges transaction subject to a national security arrangement? If so, please provide the documentation of the arrangement. If it was not subject to such an arrangement, why not?

I anticipate that your written reply and some responsive documents will be unclassified. Please send all unclassified material directly to the Committee. In keeping with the requirements of Executive Order 13526, if any of the responsive documents do contain classified information, please segregate all unclassified material within the classified documents, provide all unclassified information directly to the Committee, and provide a classified addendum to the Office of Senate Security. Although the Committee complies with all laws and regulations governing the handling of classified information, it is not bound, absent its prior agreement, by any handling restrictions.

Should you have any questions, please contact Joshua Flynn-Brown of my Committee staff at (202) 224-4515. Thank you for your attention to this important matter.

Sincerely,



Charles E. Grassley
Chairman
Committee on Finance