

Recent Developments in Law and Policy Regarding the Food Supply Chain, Agricultural Land Ownership, and Antitrust Investigations

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Overview:

The Trump Administration recently made two announcements that will have notable impacts on the U.S. agricultural industry, with a particular emphasis on food supply security. These include:

- (1) a proposed rulemaking under the Agricultural Foreign Investment Disclosure Act (AFIDA); and
- (2) an Executive Order addressing anti-competitive actions that create food supply chain risk.

These developments signal a heightened federal focus on food and agriculture as matters of national and economic security and bring the potential for additional legislative changes for individuals and companies operating across the agricultural industry.

AFIDA Proposed Rulemaking

The U.S. Department of Agriculture (USDA) issued an advanced notice of a proposed rulemaking under AFIDA. The AFIDA statute, enacted in 1978, requires foreign persons who acquire or transfer an interest in domestic agricultural land to report such transactions to USDA. In the recent notice of proposed rulemaking, USDA stated that its goal was to “obtain valuable, comprehensive, and verifiable information about interests in U.S. agricultural land held by foreign persons.” USDA is seeking comments on ways to improve AFIDA reporting and filing

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Practice Areas

Committee on Foreign Investment in the United States (CFIUS)
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mandates and on any other issues involving AFIDA, “particularly as they relate to national security interests,” and is asking whether requesting legislative changes is warranted.

The notice stated that the proposed rulemaking is intended to address a number of issues including: growing concerns about national security issues that could result from foreign ownership of agricultural land; findings from a recent Government Accountability Office (GAO) report identifying deficiencies in AFIDA implementation; and requirements in the Fiscal Year 2023 Consolidated Appropriations Act for USDA to “establish a streamlined process for electronic submission and retention” of AFIDA disclosures. The comment period recently closed, but parties should follow this closely as follow-up actions by USDA on these matters could be impactful.

Executive Order on Security Risks in the Food Supply Chain

President Trump recently issued an Executive Order (EO), “Addressing Security Risks from Price Fixing and Anti-Competitive Behavior in the Food Supply Chain.” In explaining the background for the EO, the EO stated “[a]n affordable and secure food supply is vital to America’s national and economic security. However, anti-competitive behavior, especially when carried out by foreign-controlled corporations, threatens the stability and affordability of America’s food supply.” Additionally, the EO noted certain sectors in the food supply chain that are vulnerable to anticompetitive conduct, including “meat processing, seed, fertilizer, and equipment.”

The EO directs the U.S. Department of Justice (DOJ) and the Federal Trade Commission (FTC) to establish a “Food Supply Chain Task Force” that will investigate anti-competitive behavior in the food supply chain, particularly when carried out by foreign-controlled corporations. The agencies are tasked with identifying whether the increased presence of foreign-controlled corporations in food-related industries poses a threat to national and economic security. The EO cites price-fixing claims in the food industry and the vulnerability of certain agricultural sectors to anticompetitive behavior as justifications for increased antitrust scrutiny over the food supply chain and foreign control. It authorizes DOJ and FTC to remedy any anti-competitive practices uncovered in the investigations by pursuing enforcement actions or proposing a new regulatory framework. The

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Task Force is required to provide joint briefings to Congress summarizing progress and any recommended congressional actions within 180 days of the EO's release, and then again within 365 days.

WHAT IT MEANS FOR INDUSTRY and OTHER STAKEHOLDERS:

Heightened AFIDA Reporting Requirements

The advanced notice of proposed rulemaking on AFIDA reporting requirements demonstrates the Administration's continued focus and concern regarding foreign ownership of agricultural land. Reforming the AFIDA process was listed as a priority in the Trump Administration's National Farm Security Action Plan, and there have been several recent legislative attempts to strengthen AFIDA reporting requirements, including the bipartisan AFIDA Improvements Act of 2025 (H.R. 4362) and the Farmland Security Act of 2025 (H.R. 1629). As indicated in the National Farm Security Action Plan, USDA launched a new online portal to report transactions involving foreign acquisitions of U.S. farmland on January 22, 2026. While the information gathered by the online portal remains the same as that of the current submission form, the creation of the digital portal signals that there will be continued efforts to modernize the AFIDA reporting process.

Potential changes to the AFIDA reporting process may include requirements to provide additional details about the agricultural land in question, including geospatial information and ultimate beneficial ownership. They may also include increased civil penalties for AFIDA violations. While the changes to the AFIDA process that USDA will propose are uncertain, because the Committee on Foreign Investment in the United States (CFIUS) uses AFIDA data in its national security reviews, heightened AFIDA reporting requirements may indicate a shift towards greater CFIUS scrutiny over transactions in the agricultural sector.

CFIUS Implications

Given the EO's emphasis on food security as a national security issue and focus on foreign-controlled corporations, increased scrutiny by CFIUS on agriculture related transactions is very likely. This action aligns with recent bipartisan legislative proposals, such as the Protecting American Agriculture from Foreign Adversaries Act of 2025 (H.R. 1576) and the Agricultural Risk Review Act of 2025 (H.R. 1713), that would restrict foreign ownership of farmland, particularly by foreign entities affiliated with China. These bills add the Secretary of Agriculture as a permanent member of CFIUS and direct CFIUS to review transactions involving countries of concern, as required in disclosures under AFIDA, that the USDA believes to be under the jurisdiction of CFIUS. The emphasis on agriculture as an element of national security is additionally present in the recently signed MOU between USDA and the U.S. Department of Defense/War, which establishes a framework for the agencies to "more closely [] defend the nation's food and agricultural systems, strengthen domestic productivity, and address emerging security threats to American agriculture" in line with the National Farm Security Action Plan.

The issues highlighted in the EO fall within the scope of CFIUS's jurisdiction, particularly given the ongoing inclusion of the USDA in CFIUS cases, as detailed in an MOU between the agencies published in July 2025. USDA's role within the CFIUS process for transactions relating to "agricultural land, agriculture biotechnology,

[and] the agriculture industry” was formalized in the Consolidated Appropriations Act of 2024.

CFIUS has the authority to review covered transactions involving foreign acquisition of certain U.S. businesses and real estate to determine the national security risks. Although the EO does not specifically address CFIUS standards or reviews, it directly calls for addressing national security considerations in analysis of transactions involving food and agriculture.

Antitrust Implications

This EO is part of a series of federal actions aimed at strengthening competition in the domestic food supply and reinforces this as a priority for the Trump Administration. For context, in September 2025, the Antitrust Division of the DOJ and USDA issued a Memorandum of Understanding describing the continued cooperative relationship between the two agencies in monitoring competition for agricultural inputs. President Trump additionally directed DOJ to investigate price fixing in the meat packing industry in a social media post in November, citing “foreign-dominated conglomerates that control America’s meat supply.” This comes on the heels of a reported DOJ investigation into collusion among egg producers in the spring of 2025 (which spawned a wave of private antitrust lawsuits in late 2025) as well as the DOJ’s ongoing litigation involving benchmarking and information sharing among meat processors.

Moreover, recently, members of Congress and the Administration have been discussing antitrust issues in the agriculture industry. Senator Chuck Grassley (R-IA) recently wrote to the FTC and the DOJ advocating for the agencies to use federal trust regulations on fertilizer companies. The Senator also reintroduced legislation, the Fertilizer Research Act (S. 2808), which would require USDA to study competition in the fertilizer industry and provide more price transparency in the market. Rep. Nikki Budzinski (D-III.) who introduced the companion Fertilizer Research Act in the House (H.R. 6192) said she is working to include it in the upcoming Farm Bill.^[1] At the American Farm Bureau Convention in January, Secretary of Agriculture Brooke Rollins said that the fertilizer industry had “vulnerabilities to price-fixing”.^[2]

Given these initiatives, producers and suppliers across the food supply chain should prepare for increased antitrust scrutiny by federal, state, and private antitrust enforcers. Such companies should proactively assess and update their compliance programs—including policies governing pricing, information sharing, trade association participation, and interactions with competitors and customers—to mitigate heightened enforcement risk in an evolving regulatory environment.

Wiley’s cross-disciplinary attorneys have extensive experience at multiple government agencies. Our Food & Drug, FTC and Consumer Protection, National Security, International Trade, Antitrust and Strategic Competition/ Supply Chain teams have unparalleled experience and expertise representing a broad range of U.S. and multinational clients in complex matters. For more information on this EO and any other food security issues, please contact any of the attorneys listed on this alert.

[1] Rachel Shin, *Morning Agriculture*, Politico Pro (Feb. 3, 2026), <https://subscriber.politicopro.com/newsletter/2026/02/ag-antitrust-busters-00761450>.

[2] *Id.*