

CLIENT ALERT

Appeals Court Finds Foreign Investor Due More Process Than CFIUS Provided

Jul.16.2014

Yesterday in *Ralls v Committee on Foreign Investment in the U.S.*, the D.C. Circuit reversed the district court's dismissal of Ralls' challenge to a Presidential Order requiring divestiture of its investment in certain wind farm properties, ruling procedurally that the Defense Production Act's prohibition on judicial review of the President's decision did not bar review of an as-applied constitutional due process challenge to the process by which the decision was reached. Substantively, the court held that Ralls was deprived of property without due process by the government's failure to provide Ralls with at least the unclassified information upon which the President relied and an opportunity to rebut that information, and the court also remanded to the district court to address Ralls' APA and other challenges to CFIUS's process and recommendations to the President.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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