

119TH CONGRESS
2^D SESSION

S. _____

To require a review of acquisitions by investment companies involving acquisition of controlling interest of major defense suppliers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. WARREN (for herself and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To require a review of acquisitions by investment companies involving acquisition of controlling interest of major defense suppliers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Critical Defense Own-
5 ership Review Act”.

1 **SEC. 2. REVIEW OF ACQUISITIONS BY INVESTMENT COMPA-**
2 **NIES INVOLVING ACQUISITION OF CONTROL-**
3 **LING INTEREST OF MAJOR DEFENSE SUP-**
4 **PLIERS.**

5 (a) IN GENERAL.—Except with the prior review of
6 the Department of Defense, no investment company shall
7 engage in a covered transaction with a major defense sup-
8 plier that results in an investment company having a di-
9 rect or indirect equity interest of at least 25 percent or
10 direct or indirect control of a major defense supplier.

11 (b) PREMERGER NOTIFICATION REQUIREMENT.—
12 Parties to a covered transaction as described in subsection
13 (a) shall submit a premerger notification to the Depart-
14 ment of Defense consistent with the requirements of sec-
15 tion 857 of the National Defense Authorization Act for
16 Fiscal Year 2024 (Public Law 118–31; 15 U.S.C. 18a
17 note).

18 (c) DEPARTMENT OF DEFENSE REVIEW.—The De-
19 partment of Defense shall conduct a review of each
20 premerger notification submitted pursuant to subsection
21 (b) that assesses, at a minimum—

22 (1) any impact of the covered transaction on
23 national security and the industrial and techno-
24 logical base, and whether the covered transaction is
25 within the public interest;

1 (2) the potential effect on competition for De-
2 partment of Defense contracts and subcontracts, in-
3 cluding future programs and technologies of interest
4 to the Department of Defense;

5 (3) the potential restriction of a supplier, good,
6 or service that is critical to the defense industrial
7 base, critical technologies, or national security;

8 (4) the potential risks associated with the cov-
9 ered transaction on the financial stability of the
10 major defense supplier and the continued steward-
11 ship of critical military capabilities, including any
12 anticipated increased costs to the Department of De-
13 fense;

14 (5) any other factor resulting from the covered
15 transaction that may adversely affect the satisfac-
16 tory completion of current or future Department of
17 Defense programs or operations; and

18 (6) the financial stability of the investment
19 management company involved in the covered trans-
20 action and an analysis of whether its projected fi-
21 nancial plan for the major defense supplier impairs
22 the ability of the major defense supplier to maintain
23 its supply or services to the Department of Defense.

24 (d) REPORT TO ANTITRUST AUTHORITIES.—Not
25 later than 30 days after the date on which the Department

1 of Defense receives a premerger notification under sub-
2 section (b), the Secretary of Defense shall submit to the
3 Federal Trade Commission or the Assistant Attorney Gen-
4 eral in charge of the Antitrust Division of the Department
5 of Justice, as applicable, a written report on the review
6 conducted under subsection (c).

7 (e) DEFINITIONS.—In this section:

8 (1) CONTROL.—The term “control” means the
9 power, direct or indirect, whether exercised or not
10 exercised, to determine, direct, or decide important
11 matters affecting an entity.

12 (2) COVERED TRANSACTION.—The term “cov-
13 ered transaction” means any proposed merger, ac-
14 quisition, joint venture, strategic alliance, or invest-
15 ment pending on or occurring after the date of the
16 enactment of this Act.

17 (3) INVESTMENT COMPANY.—The term “invest-
18 ment company” means an entity that would be an
19 investment company under section 3 of the Invest-
20 ment Company Act of 1940 (15 U.S.C. 80a–3) but
21 for the application of paragraph (1) or (7) of sub-
22 section (c) of such section ; and

23 (4) MAJOR DEFENSE SUPPLIER.—The term
24 “major defense supplier”—

1 (A) means any prime contractor or subcon-
2 tractor that supplies or could supply goods or
3 services directly or indirectly to the Department
4 of Defense or any company with technology po-
5 tentially significant to defense capabilities; and

6 (B) includes—

7 (i) any current prime contractor of a
8 major system (as that term is defined in
9 section 3041 of title 10, United States
10 Code); and

11 (ii) any current prime contractor,
12 under a contract awarded pursuant to sec-
13 tion 3204(a)(1) of title 10, United States
14 Code.

15 **SEC. 3. TRIENNIAL REVIEW OF MERGER AND ACQUISITION**
16 **ACTIVITY ASSOCIATED WITH MAJOR DE-**
17 **FENSE SUPPLIERS.**

18 (a) TRIENNIAL REVIEW.—The Assistant Secretary of
19 Defense for Industrial Base Policy shall triennially review
20 merger and acquisition activity associated with major de-
21 fense suppliers, including assessing the resulting financial
22 health of these firms and whether resulting mergers and
23 acquisitions have affected the supply of an essential good
24 or service needed to support the Department of Defense’s
25 mission to provide national security and defense.

1 (b) TRIENNIAL REPORT.—Not later than December
2 31, 2027, and triennially thereafter, the Secretary of De-
3 fense for Industrial Base Policy shall submit to the con-
4 gressional defense committees a report with the findings
5 of the review conducted for the previous three fiscal years,
6 including a description of the effects of completed mergers
7 and acquisitions on the health of the defense industrial
8 base and actions taken to mitigate any risks identified.