



2021 RISING STAR

Nathan Mitchell

Kirkland & Ellis LLP's Nathan Mitchell helped secure Committee on Foreign Investment in the United States approval for Capgemini SE's \$4.1 billion tender offer for a rival and Zayo Group Holdings' \$14.3 billion sale, landing him a spot among the international trade lawyers under age 40 honored by Law360 as Rising Stars.

Why he's a national security attorney:

Mitchell knew he wanted to work in national security issues even as far back as high school. He also liked the idea of being a lawyer. Becoming a national security attorney felt like an easy marriage of the two, he said.

"I thought that being a lawyer could be a really interesting way to be involved in national security," he said.

Mitchell had a relatively long career in the government before he entered the private sector. He was an active

duty army officer in the Office of the Army General Counsel. As a civilian, he later served as an associate deputy general counsel. He then joined the Office of the Director of National Intelligence as an associate general counsel. He also worked in the U.S. Department of Justice's National Security Division.

It was during his time in the government that Mitchell first gained significant experience with the Committee on Foreign Investment in the U.S. — a skill set that he broadened when he moved to the private sector.

"That really coincided with a time where CFIUS work in the private sector was expanding rapidly, it still is, but especially in the 2018-2019 timeframe," he said.

The most interesting case of his career:

Mitchell ranked a category of cases as his most interesting: the non-notified reviews in which CFIUS reviews a transaction that wasn't voluntarily submitted for review.

The cases raise several challenges. In the non-notified context, CFIUS has already formed a preliminary opinion that the transaction raises some security concerns — by the time these cases arrive on Mitchell's desk, he's already lost the opportunity to frame the case. The transactions are also typically closed.

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“We lose the opportunity to potentially structure the transaction in a way that might address potential CFIUS concerns up front,” Mitchell said, and “we lose the opportunity to put in place any types of measures that we think might be helpful proactively addressing concerns.”

Additionally, the non-notifieds typically occur under more public scrutiny — congressional scrutiny, especially.

“Those are the most challenging cases for a CFIUS lawyer,” Mitchell said.

Mitchell has been involved in some of the most significant non-notified reviews conducted by CFIUS over the past three years, according to Kirkland & Ellis. He currently advises on a non-notified review of a \$5 billion deal where he avoided a negative CFIUS outcome, the firm said.

Other notable cases:

Mitchell ushered several companies through the CFIUS process throughout the pandemic. He advised Zayo Group Holdings Inc. through the security review for its \$14.3 billion acquisition by affiliates of Digital Colony Partners LP and EQT Infrastructure IV. He also helped global consulting firm Capgemini SE obtain approval for its \$4.1 billion tender offer for rival Altran Technologies.

Mitchell also represented KEMET Corp. before CFIUS in connection with its \$1.8 billion sale to the Taiwanese Yageo Corp. A leading global supplier of capacitor products, KEMET sells various MIL-SPEC products to the U.S. Departments of Defense and Energy, complicating the regulatory process.

All the cases he took on in the early days of the pandemic had its own wrinkles to contend with — particularly for clients who sold to the government.

“Global supply lines were shutting down, factories were shutting down not only across the U.S., but in other parts of the world,” Mitchell said. “In some of these cases, we’re talking about very highly specialized factories that are producing products within national security.”

On how the practice will change in the next 10 years:

Mitchell predicts that deal-makers will become increasingly concerned with national security issues. He attributed the trend to the number of companies that have become relevant to the U.S.’ national security interests, pointing out that it’s not just large defense firms that are involved, but smaller businesses that work in artificial intelligence, autonomous driving and other critical sectors.

It’s all made CFIUS much more important, Mitchell said. He also sees export controls and sanctions getting more attention in the near future.

“We’re increasingly seeing an integration of all these issues,” he said. Part of it goes back to the Foreign Investment Risk Review Modernization Act, which broadened the CFIUS mandate, but it’s also driven by a government effort to more “holistically” approach national security, Mitchell said.

His proudest moment as an attorney:

Mitchell considers one of his proudest moments to be his contribution to a “groundbreaking study” into the underlying causes of soldier suicide. The project was jointly administered by the Army and the National Institute of Mental Health. Mitchell participated in the project in a legal capacity early in his Army days.

“Even now, I feel very fortunate that I was able to make even the smallest contribution to an effort like that,” he said.

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