The Orrick Guide to

Foreign Investment Reviews

2026 Edition

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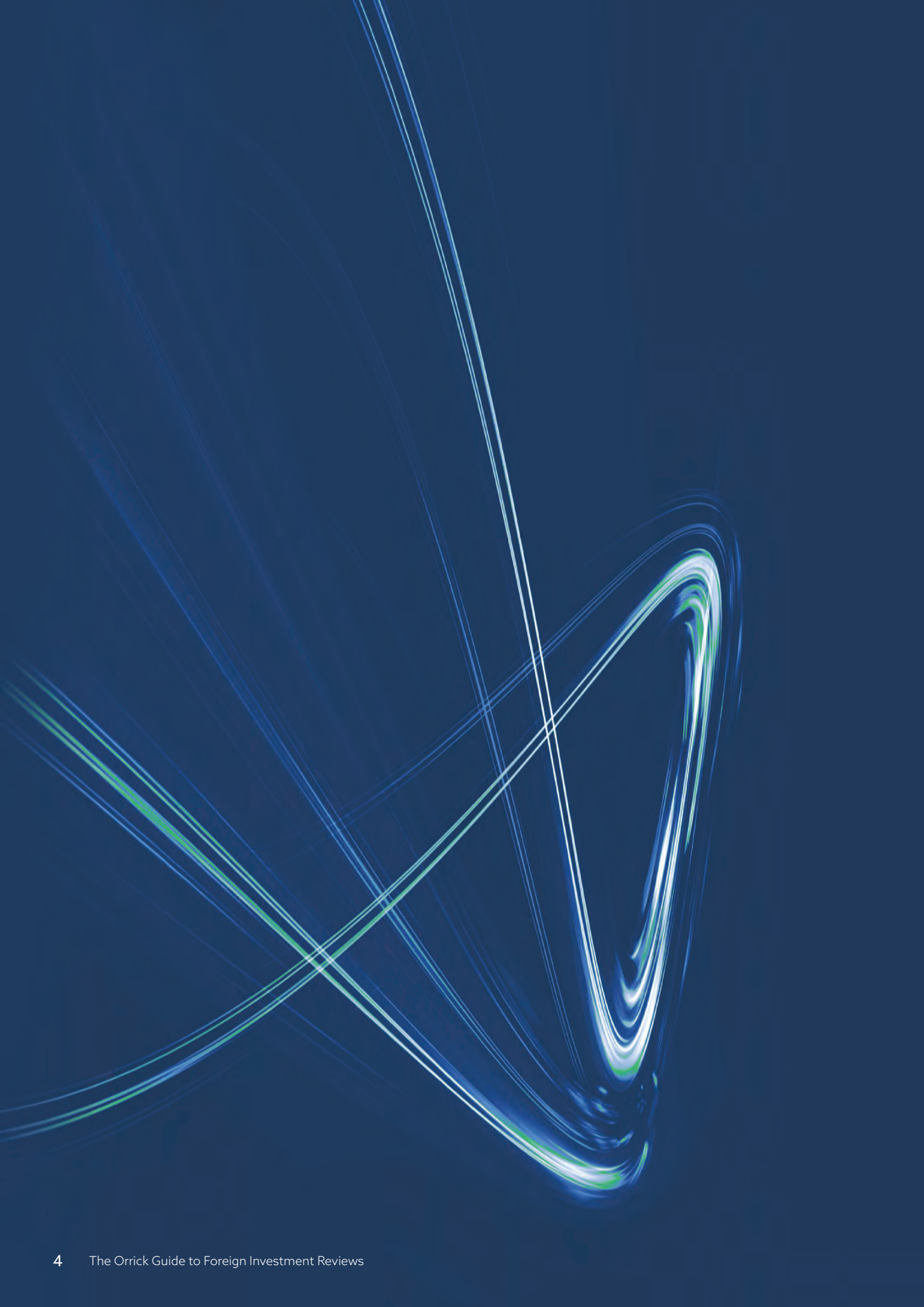
Version: March 2026

Contents



Introduction

Welcome to the 2026 Orrick Guide to Foreign Investment Reviews. In light of increased geopolitical tensions, the worldwide regulatory landscape for foreign investment review continues to evolve rapidly. Across the globe, ever increasing attention is being paid to transactions involving companies operating in advanced technology industries ranging from artificial intelligence and quantum computing to advanced materials and cybersecurity, as well as sectors such as infrastructure, healthcare, energy, and data.

These technologies and sectors are increasingly viewed as critical to national competitiveness and security, leading to heightened scrutiny of investments in companies active in these sectors, even where they are at early stages of development. The intersection between foreign investment controls and export control regulations, which regulate the export of sensitive technologies and products, has also become more pronounced, with governments increasingly conscious of their ability to restrict the sale of such technologies and products to companies controlled by a foreign entity. Many jurisdictions are also implementing or considering outbound investment controls restricting their own nationals and companies from investing in certain foreign entities or sectors. These developments represent a shift from traditional foreign investment policy and reflect growing concerns about technological and supply chain independence.

With no harmonised rules and frequent changes in law and enforcement practice, the assessment of transactions is becoming increasingly complex. Enforcement activity is on the rise, making compliance more important than ever. This Guide has been prepared for dealmakers by experts in our offices worldwide and answers frequently asked questions regarding investment control regimes in key jurisdictions as well as highlighting key trends to watch for.

This Guide reflects the laws and practice as of February 2026. It is for reference only and should not be treated as a substitute for legal advice. For the latest updates or tailored guidance, please contact your Orrick team.

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United States

The Committee on Foreign Investment in the United States (CFIUS) reviews foreign investments for national security risks, especially in critical technology, infrastructure, and data sectors. Mandatory filings are required for certain transactions involving "TID U.S. businesses" (technology, infrastructure, data), with severe penalties for non-compliance. CFIUS has broad powers to block, unwind, or impose conditions on transactions, and recent years have seen increased intervention, especially regarding Chinese and Russian investors. The regulatory landscape is evolving, with new rules expanding CFIUS's reach to real estate and greenfield investments.

European Union

Regulation (EU) 2019/452 established a framework for the screening of foreign direct investment ("**FDI**") into the EU. The Regulation provides a mechanism for EU-wide cooperation to allow Member States to make informed decisions and protect pan-European interests. The decision to set up a FDI screening regime remains the sole responsibility of Member States. On 11 December 2025, the Council presidency and Parliament representatives reached a provisional political agreement on revising the 2019 Regulation. The updated framework will, *inter alia*, require all Member States to introduce an FDI screening mechanism and aims to introduce a more streamlined and harmonised process.

France

France has significantly expanded its foreign investment screening regime, now covering a wide range of strategic sectors including defence, technology, and public health. Mandatory notification is required for any foreign investors acquiring control, and even minority stakes as low as 25% (or 10% in listed companies) for non-EU/EEA investors. The review process is confidential, and the government has broad powers to impose conditions or prohibit transactions on national interest grounds. Recent years have seen a steady increase in the number of filings and a more protectionist stance, particularly in response to geopolitical tensions.

Germany

Germany's FDI regime has become increasingly stringent, with lower thresholds and expanded sector coverage, especially for critical infrastructure and high-tech industries. Both direct and indirect acquisitions by non-EU investors are subject to review, with mandatory filings in sensitive sectors and the possibility of ex officio reviews. The government can block or unwind transactions that threaten public order or security, and recent amendments reflect heightened scrutiny of Chinese and Russian investments. Trends indicate a proactive approach, with more interventions and ongoing alignment with EU-wide FDI screening initiatives.

Italy

Italy's FDI regime (the "Golden Power" rules) covers a broad range of strategic sectors, including defence, energy, communications, and critical infrastructure, with both mandatory and voluntary filing options. Notification is required for acquisitions of control or certain minority stakes by non-EU investors, with special scrutiny for state-owned or state-influenced entities. The government has wide discretion to impose conditions, veto transactions, or unwind deals to protect national interests, and recent cases show increasing willingness to intervene, but also to adhere to new guiding principles considered more coherent with the law. Trends include heightened review of technology and infrastructure deals and ongoing alignment with EU FDI screening regulations.

United Kingdom

The UK's National Security and Investment Act 2021 (NSIA) introduced a broad and mandatory notification regime for acquisitions in 17 sensitive sectors, with significant enforcement powers. The regime applies equally to domestic and foreign investors, with no *de minimis* thresholds, and captures both minority and majority interests if certain control thresholds are met. The government has wide discretion to "call in" transactions for review and can impose conditions, block, or unwind deals on national security grounds. Trends show increasing scrutiny of technology, data infrastructure, and defence-related investments, with a focus on ultimate beneficial ownership.

Singapore

Singapore's new Significant Investments Review Act (SIRA) introduces a national security screening regime for investments in designated "critical entities," supplementing existing sector-specific controls. The SIRA regime is nationality-agnostic, applying equally to local and foreign investors, and covers changes in ownership, control, and key appointments. Sectoral regulations remain important, especially in finance, media, real estate, and telecoms, with mandatory filings and restrictions for foreign participation. Authorities have broad powers to block, unwind, or impose conditions on transactions, reflecting a global trend toward greater scrutiny of foreign investment in sensitive sectors.

China

Recently China has expanded market access for foreign investors by removing all manufacturing sector restrictions in the latest 2024 Negative List and broadening service sector pilots to additional cities, with major liberalisation in telecommunications, healthcare, and finance. New rules for foreign strategic investment in listed companies lowered entry thresholds, diversified investment methods, and simplified procedures. The Regulation on Export Control of Dual-Use Items, effective 1 December 2024, clarifies compliance for dual-use items and may impact foreign investment security reviews. These measures reflect China's dual approach of openness and enhanced regulatory oversight.

Japan

Japan's Foreign Exchange and Foreign Trade Act (FEFTA) requires prior notification for foreign investments in sensitive sectors, including defence, infrastructure, and advanced technology. The regime applies to even small minority acquisitions (as low as 1% in listed companies and one share in unlisted companies), and exemptions are limited, especially for state-owned investors. While there have been no publicised blocked or conditional cases in recent years, authorities theoretically have broad discretion to block or impose conditions on transactions that may affect national security, public order, or critical industries. Recent years have seen expanded sector coverage (*e.g.*, AI, semiconductors, quantum tech) and increased scrutiny of high-risk investors.

China

Relevant laws and authorities

1
What are the main laws regulating foreign investments?

The main laws regulating foreign investments currently in effect include the Foreign Investment Law adopted by the People's Congress on 15 March 2019, and its Implementation Rules issued by the State Council on 26 December 2019. The Foreign Investment Law and its Implementation Rules became effective on 1 January 2020, replacing the previous laws governing joint ventures and wholly foreign-owned enterprises.

The negative lists (including the national Negative List for Foreign Investment Access published annually and the negative lists for Special Economic Zones) specify industries where foreign investment is restricted (e.*g.*, requiring limitations on the percentage of foreign ownership) or prohibited.

2
Which authorities are charged with applying those laws?

The Ministry of Commerce ("**MOFCOM**"), the National Development and Reform Commission ("**NDRC**"), the State Administration for Market Regulation ("**SAMR**") and their local branches are the main authorities applying the laws relating to foreign investment.

3
What other legislation is relevant for foreign investments?

Other important legislation relevant for foreign investments includes but is not limited to Special Administrative Measures (Negative List) for the Access of Foreign Investment, updated version effective on 1 November 2024 ("**Negative List**"); Special Administrative Measures (Negative List) for the Access of Foreign Investment in Pilot Free Trade Zones (2021), effective on 1 January 2022 ("**FTZ Negative List**"); Measures for the Security Review of Foreign Investment, effective on 18 January 2021 ("**Security Review Measures**");

Measures for Foreign Investment Information Reporting, effective on 1 January 2020 ("**Information Reporting Measures**"); Administrative Measures for Approval and Filing of Foreign-Funded Projects, effective on 27 December 2014 ("**Projects Measures**"); Catalogue of Investment Projects Subject to Government Verification and Approval, effective on 12 December 2016 ("**Projects Catalogue**"); Catalogue of Industries for Encouraging Foreign Investment (2022 Revision), effective on 1 January 2023 ("**Encouraging Catalogue**"); Work Measures for Complaints of Foreign-Funded Enterprises, effective on 1 October 2020 ("**Measures for Complaints**"); Measures for Cybersecurity Review, effective on 15 February 2022 ("**Cybersecurity Review Measures**"); Measures for Security Assessment of Outbound Data Transfer, effective on 1 September 2022 ("**Outbound Data Measures**"); Administrative Measures for the Strategic Investment by Foreign Investors in Listed Companies, effective on 2 December 2024 ("**ListCo Investment Measures**"); Anti-Monopoly Law (2022 Revision), effective on 1 August 2022; and Provisions of the State Council on Notification Thresholds for Concentration of Undertakings (2024 Revision), effective on 22 January 2024 ("**Merger Notification Provisions**").

Transactions subject to review

4

Which types of transactions are caught?

The Foreign Investment Law and related laws do not put in place a unified review requirement for all types of foreign investments; rather, the following approvals or filings may be required in different scenarios:

FIE Information Reporting

The Foreign Investment Law outlines a national treatment plus "negative list" approach for access of foreign investment to China and the Information Reporting Measures provide a streamlined filing system for foreign invested enterprises ("**FIEs**") based on China's existing company registration system, which replaced the previous MOFCOM approval and filing procedures. Specifically:

- Foreign investors or FIEs shall file foreign investment information when completing company registration with the local administration for market regulation ("**AMR**"). The AMR will share the same information with MOFCOM.
- The AMR and MOFCOM will determine if the foreign investment complies with the Negative List. The company registration application will be rejected if noncompliance is found.

The foreign investment may be subject separately to the security review and/or project review if applicable.

Security Review

The following transactions are subject to foreign investment security review by the Office of Foreign Investment Security Review Working Mechanism ("**Security Review Office**", jointly established by NDRC and MOFCOM):

a. Investment in the arms industry, an ancillary to the arms industry, or any other field related to national defence security and investment in an area surrounding a military installation or an arms industry facility; and

b. Investment in important agricultural products, important energy and resources, critical equipment manufacturing, important infrastructure, important transportation services, important cultural products and services, important information technology and Internet products and services, important financial services, key technology, or any other important field related to national security, resulting in the foreign investor's acquisition of actual control of the enterprise invested in.

Project Review

Foreign investors' investment in and construction of fixed-asset investment projects (*i.e.*, greenfield foreign investments involving fixed-asset projects) that fall within the scope of the Projects Catalogue shall be subject to approval from NDRC or its competent local branches.

Other foreign-invested fixed-asset projects shall be pending on the completion of filing with NDRC's competent local branches.

5

Are minority interests caught?

Yes. The Foreign Investment Law applies to all types of foreign investments regardless of the foreign investor's shareholding.

However, under the Security Review Measures, for the second category of transactions caught by security review, one condition for application of security review is that the foreign investor shall obtain controlling power over the target post-transaction.

6

How are foreign investors or foreign investments defined by the applicable legislation?

- As defined in the Foreign Investment Law, "foreign investment" means investment carried out directly or indirectly by foreign natural persons, foreign enterprises or other foreign organisations into China, including the following scenarios:
- Foreign investors, independently or jointly with other investors, set up FIEs in China;
- Foreign investors obtain shares, equities, property shares, or other similar rights and interests of Chinese domestic enterprises;
- Foreign investors, independently or jointly with other investors, invest in new construction projects in China; and
- Investment through other means stipulated in laws, administrative regulations, or provisions of the State Council.

7

Are there sector-specific rules?

Yes.

- Encouraging Catalogue. This catalogue contains sectors where foreign investments are encouraged.
- Negative List. Foreign investments in the listed sectors are either prohibited or restricted and subject to approval (the restrictions may include limitations on the percentage of the foreign shareholding or a prohibition of foreign-invested partnerships).
- Projects Catalogue. Foreign investments in projects that fall into the scope of the catalogue are subject to NDRC approval; other foreign-invested fixed-asset projects are subject to NDRC filing.
- Other sector-specific rules such as Administrative Provisions for Foreign-Invested Telecommunications Enterprises (2022 Revision), Administrative Measures for Foreign-Invested Securities Companies (2025 Revision), Administrative Measures for Foreign-Invested Futures Companies, Administrative Regulations on Foreign-Invested Insurance Companies, Regulations on Sino-Foreign Cooperative Educational Institutions, Interim Provisions on Administration of Foreign-Invested Talent Intermediaries and Interim Provisions on Foreign-Invested Cinemas *etc*.

8

Is any threshold applicable (turnover related or otherwise)? Is there any kind of *de minimis* threshold?

According to the Merger Notification Provisions, the merger control filing threshold is as follows:

- The combined global turnover of all parties in the previous fiscal year exceeds RMB 12 billion, and at least two parties each have China turnover exceeding RMB 800 million; or
- The combined China turnover of all parties exceeds RMB 4 billion, and at least two parties each have China turnover exceeding RMB 800 million.

Under the Security Review Measures, for the second category of transactions caught by security review, one condition for applying security review is that the foreign investor shall obtain the controlling power of the target after the acquisition.

9

Are there special rules for investments by foreign state-owned enterprises or sovereign wealth funds?

No. However, during the security review, the Security Review Office will request information on the foreign investor's affiliates and relationship with foreign governments. If any shareholder of the foreign investor involves a foreign government or a foreign state-owned enterprise, the investment may be subject to more intensive scrutiny.

10

Can comfort letters be obtained from the authorities confirming that a transaction is not subject to review?

No. However, under the Security Review Measures, before filing a formal application for security review, an applicant may request a consultation with the Security Review Office on the procedural issues. The consultation is not a prerequisite for submitting the formal application, and the consultation result is not binding.

Procedure

11

Is a filing required (mandatory) or possible (voluntary)?

When applicable, filing is mandatory.

12

Must the parties suspend the transaction until the review is completed?

FIE Information Reporting

- The parties generally do not need to suspend closing unless a national security issue arises, in which case the filing authority will inform the investors that they must submit a security review application to the Security Review Office and suspend the filing procedure.
- If the invested sectors fall under the Negative List, it is advisable to consult the authorities beforehand.

Security Review

The parties shall not proceed with the transaction until it is cleared by the Security Review Office.

Project Review

The parties shall not proceed with the project until approval is obtained, or filing is completed (as applicable).

13

At what point in time should or must a filing be made (before or after signing or closing of the transaction)? Is there a mandatory deadline?

This depends on the type of application.

FIE Information Reporting

- The company registration with the local AMR (and FIE Information Reporting at the same time) should be conducted when a new FIE is incorporated (for greenfield investment) or within 20 business days after the relevant resolution of the domestic company that is to be invested in by a foreign investor (for M&A).
- Considering that the transaction documents need to be provided for AMR registration, the applications should be made after signing. In general, the application could be submitted after closing, but it would be more advisable to consult the authorities in advance if the invested sectors fall under the Negative List.

Security Review

Where security review is applicable, the parties should not proceed to closing until the review is completed.

Project Review

Where project review is applicable, the parties should obtain approval from or complete filing with (as the case may be) NDRC or its competent local branch before starting construction of the project.

14

Which party is responsible for making the notification?

FIE Information Reporting.

- The foreign investors or the FIE should be responsible for making the filing.

Security Review.

- The foreign investors or the relevant parties in China should be responsible for making the filing.

Project Review.

- All parties are equally responsible though, in practice, usually the Chinese party manages the filing because of its relationship with the local government.

15

Are there any filing fees?

There are no filing fees.

16

Are there fines or other sanctions for failure to notify or for closing the transaction without prior approval? If so, are there examples of such sanctions imposed in the past?

FIE Information Reporting

- Where an FIE or its investors fail to make the necessary filing on time or provide materially incomplete filing materials, they can be ordered to make corrections or provide the missing information/documents; if they fail to do so by the prescribed deadline, or if there are serious circumstances, a fine of up to RMB ¥300,000 may be imposed.
- Where an FIE or its investors intentionally or repeatedly fail to make a necessary filing, or provide incorrect or misleading information or fake documents, they can be ordered to make corrections and a fine of up to RMB ¥500,000 may be imposed.

- For foreign investment in restricted sectors where the restrictions are not complied with, or for foreign investment in prohibited sectors, in addition to the above sanctions, MOFCOM or its local branches also have the power to unwind the transaction. Publicly reported instances of such direct administrative orders remain historically rare, primarily due to rigorous pre-entry screening during business registration.

Security Review

Where the foreign investor fails to notify where the relevant authorities, enterprises, social groups, the public *etc.* believe security review is necessary, they may make proposals to the Security Review Office on conducting the review. The Security Review Office may initiate a review based on such proposals, or if it identifies a national security concern by itself. The Security Review Office has the power to suspend or unwind transactions that have an impact on national security. We have found no public record of authority-initiated security reviews or related administrative orders to unwind completed transactions, primarily due to the non-public nature of such proceedings and the strict pre-entry screening at the registration stage.

Project Review

If a project fails to receive approval, or is not filed with the competent authority, NDRC or its competent local branches may order the construction of the project to be suspended.

17

Do the authorities have powers to review and challenge transactions that are not subject to a mandatory review?

As mentioned in the response to question 16 above, the Security Review Office may initiate a security review on its own initiative or other parties' proposals.

18

What is the timeline of the review process? Are fast-track options available?

There are no fast-track options.

FIE Information Reporting

- The company registration with the local AMR (and FIE Information Reporting at the same time) should be conducted when a new FIE is incorporated (for greenfield investment) or within 20 business days after the relevant resolution of the domestic company that is to be invested in by a foreign investor (for M&A).
- Once application documents are submitted, the filing can be completed in a few days, depending on the local practice if the business of the FIE does not fall into the Negative List.
- The local branch of MOFCOM may require the foreign investor or FIE to report supplementary information or make corrections within 20 business days where it finds omissions or mistakes in the report.

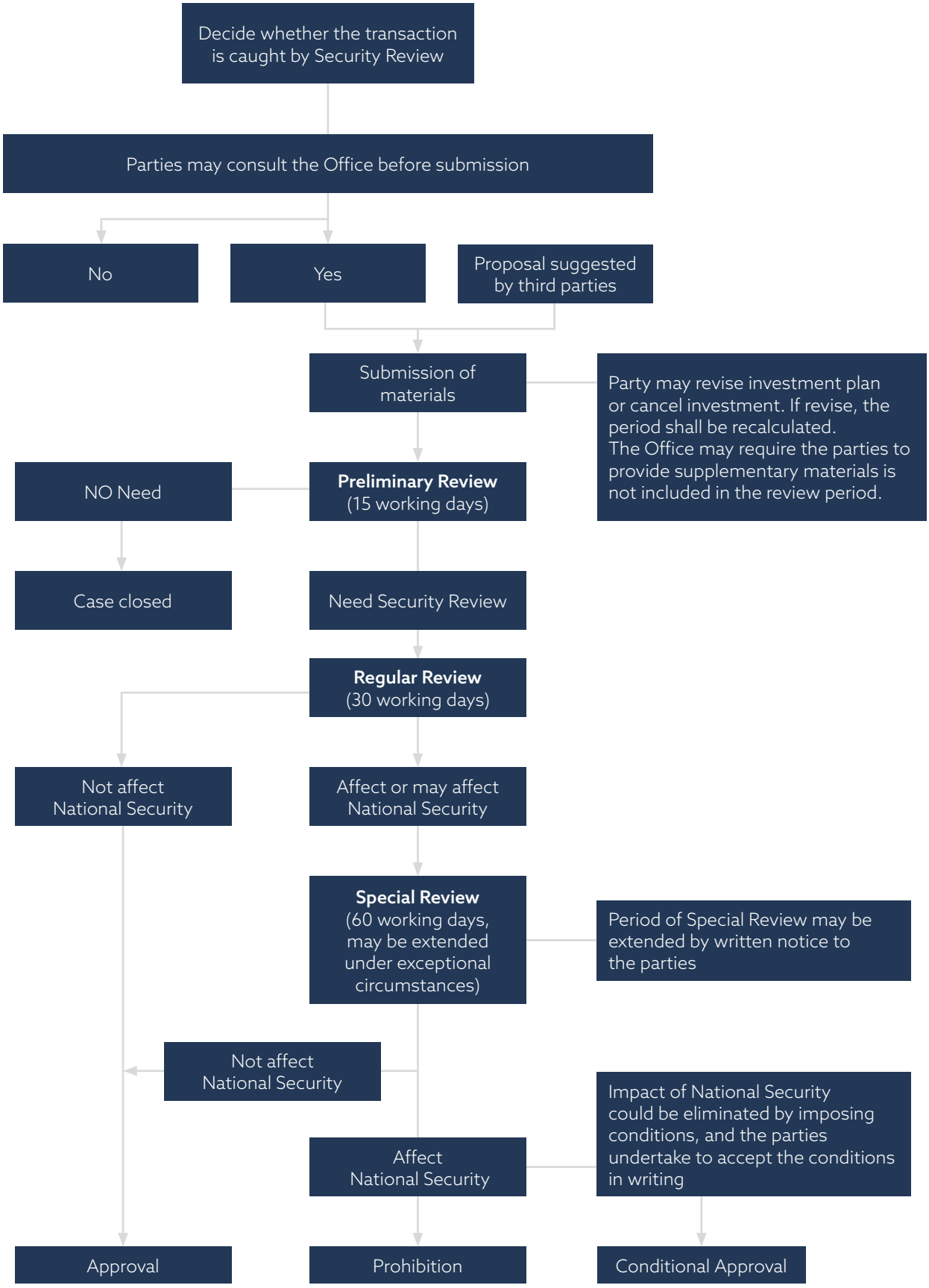
Security Review

See the → Security Review Flow Chart.

Project Review

- Where approval is applicable, the authority should complete the review within 20 business days, which could be extended for another 10 business days. The time required for necessary consultation, assessment, and expert deliberation should be excluded from the time limit above.
- Where filing is applicable, the authority should complete the review within seven business days.

Security Review Flow Chart



19

Do other authorities or government bodies participate in the review process? How does the process relate to other types of review, *e.g.*, merger control by the competition authorities?

Information exchange between and joint enforcement by different government bodies are increasingly common due to the support of big data. For example, the antitrust bureau may forward a case for security review if it finds a national security issue and vice versa.

20

To what extent are the parties involved in the review? Do the authorities expect pre-filing communication?

The authorities for FIE Information Reporting and project review do not expect pre-filing communication; however, they are generally open to pre-filing discussions.

The Security Review Measures offer a pre-filing consultation procedure, but it is not a prerequisite procedure before submitting the formal application, and the consultation result has no binding power and shall not serve as the basis for the formal application.

21

Are third parties (complainants) involved in the review? What rights and/or standing do they have?

Third parties (complainants) are not involved in the review. However, any persons or organisations could report to the competent authorities any unlawful behaviours of FIEs or their investors.

For a foreign investor's acquisition of a domestic enterprise, if the relevant authorities, enterprises, social groups, the public, *etc.* believe security review is necessary, they may make proposals to the Security Review Office.

22

Are there safeguards in place to protect confidential information of the parties?

FIE Information Reporting

MOFCOM may share with the AMR and departments in charge of foreign exchange, customs, taxation, *etc.* relevant information of foreign investors and FIEs. Such information so shared shall not contain trade secrets of FIEs or their investors, and the authorities shall not disclose any information involving state secrets, trade secrets, or personal privacy.

Security Review

The authorities, relevant entities, and personnel participating in the security review shall keep confidential the state secrets, trade secrets, and other confidential information involved in the review.

Project Review

The law does not specify safeguards to protect confidential information.

23

Is the fact that a filing or decision is made published? When?

FIE Information Reporting

Yes. Article 18 of the Information Reporting Measures requires investment information to be disclosed to the public if such information should be disclosed according to the Interim Regulations on the Enterprise Information Disclosure or if the foreign investor or the FIE consents to disclosure.

Security Review

No. There is no legal requirement for the authorities to publish the full decision or reasoning behind a security review outcome.

Project Review

Yes. Article 26 of the Projects Measures provides that the approval and filing authorities should "carry out information disclosure on project approval and filing in accordance with relevant regulations." The approval and filing outcomes shall be announced promptly after the approval or filing decision is made.

Substantive assessment

24

What are the criteria for an intervention? How much discretion do the relevant authorities have in applying those criteria?

FIE Information Reporting

For foreign investment in restricted sectors, the authority will review whether the proposed transaction conforms to the restrictions and whether the relevant prior approvals (if required) have been obtained.

Security Review

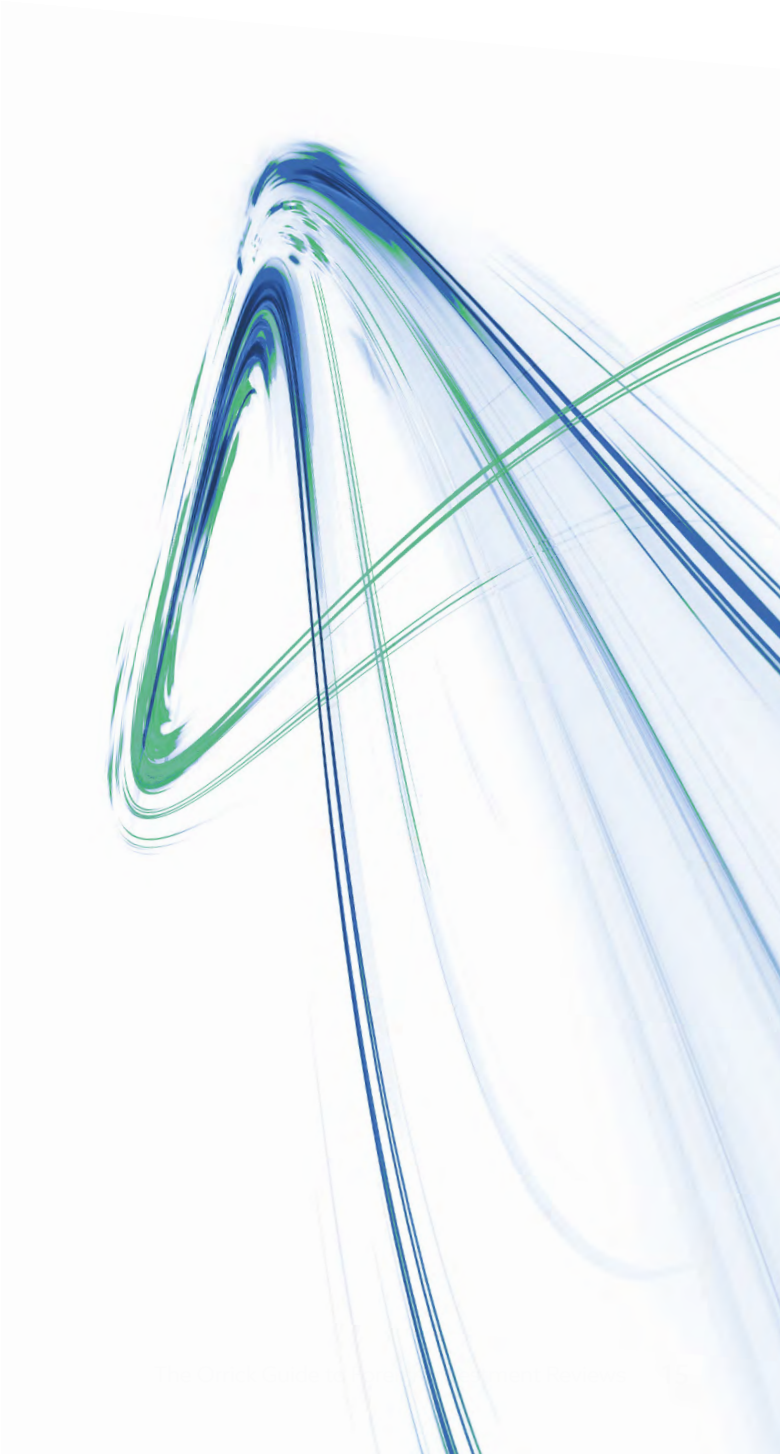
Whether a foreign investor's acquisition of a domestic enterprise should be subject to security review shall be determined by the substance and actual influence of the transaction.

During the review, the Security Review Office shall consider the impact of the transaction on national security, stable operation of the national economy, the basic societal order and people's living conditions; and R&D capacity for key technologies concerning national security.

Project Review

A foreign-invested project that is subject to approval shall be approved if it satisfies all of the following conditions. The filing of such a project will be accepted by NDRC or its local branches if it satisfies the first two criteria:

- In compliance with the Negative List, the Encouraging Catalogue and other relevant laws and regulations;
- In compliance with development planning, industry policies, and industry entry standards;
- Rational development and effective utilisation of resources;
- No effect on national security and ecological security;
- No material negative impact on public interest; and
- In compliance with relevant China's foreign exchange control requirements.



25
Does the nationality of the investor play a role?

The laws do not explicitly address this issue; however, investors from countries that have tensions with China might be prejudiced, especially in a security review.

26
What powers do the authorities have to prohibit or otherwise interfere with a transaction?

FIE Information Reporting

The local AMR can reject the application to process the relevant company registration if the foreign investment violates the Negative List. For foreign investment in restricted sectors where the restrictions are not complied with or foreign investment in prohibited sectors, MOFCOM or its local branches have the power to unwind the transaction.

Security Review

Chinese authorities have broad powers to prohibit, restrict or impose conditions on transactions subject to the security review. Authorities can completely block a transaction if it is determined to endanger national security. Authorities may approve the transaction with conditions to mitigate security risks. If a transaction is completed without proper review or in violation of conditions, authorities can order divestment, unwinding or other corrective actions.

Project Review

NDRC or its competent local branches shall order the construction of the project to be suspended if such project fails to receive approval or be filed with the competent authority.

27
Do the authorities cooperate or consult with authorities in other countries?

No cooperation or consultation is provided for by the law, but exchange of information or views may exist between China and other countries through treaties or agreements. For example, China has actively supported and played a lead role in the WTO's Investment Facilitation for Development ("**IFD**") Agreement, a plurilateral agreement aimed to create more transparent, efficient and predictable domestic regulatory environments to encourage cross-border investment.

While the IFD Agreement is not yet in force, its final version signed on 25 February 2024, encourages governments to exchange information on investment regulations, procedures and best practices and establishes mechanisms for regular consultation and dialogue among member governments.

28
Can remedies be offered by the parties? Are remedies suggested by the authorities?

FIE Information Reporting

If FIEs or their investors violate the obligations under the Information Reporting Measures, they are obliged to make a correction; if not, they could receive a penalty as mentioned in the response to question 16.

Security Review

- During the security review, the applicant may apply for a modification of the transaction plan or cancellation of the transaction. If the authorities determine that the transaction poses national security risks, but such risks can be eliminated, they may approve the transaction subject to binding conditions.
- To mitigate the possible impact of a proposed transaction on national security, the parties should adjust and refile the transaction for approval.
- To mitigate the actual or possible impact of a closed deal on national security, the parties should sell the relevant equities or assets or take other effective measures.

Project Review

The law does not provide for any remedies.

29

Can a negative decision be appealed?

Yes, a negative decision may be appealed through administrative review or administrative litigation.

In addition, if an FIE considers that its lawful rights and interests have been infringed upon by an administrative action taken during the review process, or that there are problems existing in the investment environment, a complaint can be filed by the FIE to the complaint office designated by MOFCOM pursuant to the Measures for Complaints.

Examples and trends

30

Are there any recent cases that reflect how the relevant laws and policies are applied?

Recent cases and regulatory developments reflect both China's ongoing efforts to further open its market and the increasing rigour of national security and cybersecurity reviews.

Expansion of Market Access.

For example,

- Telecommunications Sector: On 10 April 2024, the Ministry of Industry and Information Technology ("**MIIT**") issued a notice launching a pilot programme to expand foreign access to value-added telecommunications services. In February 2025, the first batch of 13 foreign-invested enterprises received approval to operate in this sector, including wholly foreign-owned companies and those with a foreign shareholding exceeding 50%. Most approved entities are subsidiaries of well-known multinational corporations, such as Siemens Healthcare (Germany), Deutsche Telekom (Germany), and Dun & Bradstreet (USA). These companies are now permitted to provide services such as internet access and information services in China, marking a significant step in opening the telecom sector to foreign investment.
- Healthcare Sector: On 7 September 2024, MOFCOM, the National Health Commission, and the National Medical Products Administration jointly issued a notice to launch a pilot programme for expanded foreign access in the medical field. The programme relaxes foreign investment restrictions in areas such as human stem cell and gene diagnosis and therapy technology development and application, as well as wholly foreign-owned medical institutions, in certain regions. This reflects China's willingness to further open up high-value and innovative sectors to foreign investors.

National Security and Cybersecurity Reviews.

- Due to the sensitive nature of national security reviews—which may involve state security, trade secrets, and sensitive personal information—case details are generally not made public. The scope of review under the Security Review Measures is broad, and the Security Review Office has significant discretion. Whether a specific industry or transaction falls within the scope of review is determined on a case-by-case basis.
- Cybersecurity Review – Micron Case: On 21 May 2023, the Cybersecurity Review Office of the Cyberspace Administration of China announced that products from Micron Technology, a U.S. semiconductor company, had failed the cybersecurity review. This was the first explicit "non-approval" decision since the Cybersecurity Review Measures took effect in February 2022, and the first time a review was proactively initiated regarding the supply chain security of critical information infrastructure ("**CII**"). The case demonstrates the broad authority of regulators to initiate reviews and the expanding scope of cybersecurity enforcement, with supply chain security for CII now a key focus.

31

Are there any relevant recent developments or trends?

In recent years, the Chinese government has taken a series of significant steps to further open its market to foreign investment and improve the regulatory environment.

Negative List Reduction.

On 8 September 2024, NDRC and MOFCOM released the latest 2024 Negative List for Foreign Investment Access. This new version completely removes foreign investment restrictions in the manufacturing sector and reduces the restricted sectors from 31 to 29 items, effective 1 November 2024.

Expansion of Service Sector Opening.

With State Council approval, MOFCOM issued the Comprehensive Pilot Programme for Accelerating Service Sector Opening on 11 April 2025. The pilot programme expands the number of cities eligible for foreign investment pilots from 11 to 20. Key measures include:

- Telecommunications: Removal of foreign ownership caps for app stores and internet access services; opening domestic internet VPN services to foreign investors (up to 50% foreign shareholding); further opening of software and information services.
- Healthcare: Support for foreign and Hong Kong/Macau/Taiwan doctors to open clinics; short-term practice for overseas medical professionals; foreign investment allowed in non-profit medical and elderly care institutions; support for foreign nursing colleges.
- Finance: Support for multinational companies to conduct cross-border RMB cash pooling; expansion of Qualified Foreign Limited Partner ("**QFLP**") pilots; encouragement of foreign insurance companies, sovereign funds, pension funds, ESG funds, and certification agencies to provide financing and technical services for green projects.
- Liberalisation and Facilitation: Exemption from foreign exchange registration for reinvestment by foreign-invested enterprises; facilitation of entry and employment for foreign talent.

Encouraging Foreign Equity Investment.

To align with the new Foreign Investment Law and its Implementation Rules, the new ListCo Investment Measures were released on 1 November 2024, and took effect on 2 December 2024. Key revisions include:

- Broader eligibility: Lower investment qualification thresholds; inclusion of foreign individuals as eligible investors; application to companies listed on the National Equities Exchange and Quotations ("**NEEQ**").
- More flexible investment methods: Lower minimum shareholding requirements; shortened lock-up period to 12 months (with restrictions for non-compliant investors); detailed rules for private placements and competitive bidding; introduction of tender offer and cross-border share swap as investment/payment methods.
- Simplified procedures: Removal of MOFCOM approval, replaced by post-investment information reporting; investment process now largely mirrors that for domestic investors; removal of mandatory company resolutions for certain transfer methods.
- Strengthened compliance: Enhanced due diligence responsibilities for domestic intermediaries; introduction of investor commitments and forfeiture of rights for non-compliance; MOFCOM empowered to inspect and penalise false statements or violations.
- Facilitated multichannel investment: Clarifies that other legally permitted means of acquiring listed company shares by foreign investors are not subject to these measures, but shareholding must be aggregated to prevent circumvention of limits.

Export Control and National Security

- On 1 December 2024, the Regulation on Export Control of Dual-Use Items came into effect, which provides clearer guidance for export control authorities' law enforcement and for exporters' compliance in relation to items that may serve both civilian and military purposes.
- Foreign investment in sectors subject to export controls may now be more likely to trigger national security reviews, and the outcome of such reviews may be significantly affected by export control considerations.

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European Union

Relevant laws and authorities

Until recently, there were no measures at the level of the European Union ("**EU**") on the review and control of FDIs. At the national level, such measures have existed in several Member States—and, amid growing concerns about the impact that certain foreign investments may have on national interests, some Member States have made their review procedures significantly more stringent in recent years. However, the fragmented nature of the national review procedures raised questions about their effectiveness to address adequately the potential (cross-border) impact of foreign investments in sensitive sectors.

To respond to such concerns, Regulation (EU) 2019/452 "establishing a framework for the screening of foreign direct investments into the Union" (the "**Regulation**") was adopted by the EU's Parliament and Council on 19 March 2019. The objective of the Regulation is not to harmonise the formal foreign investment mechanisms used in Member States, or to replace them with a single EU mechanism. Rather, it provides a mechanism for EU-wide cooperation and information sharing to allow Member States to make informed decisions, to consider all relevant risks and to protect pan-European interests.

The Regulation became fully applicable on 11 October 2020. The list of projects or programmes of "Union interest" (see below) was updated by the European Commission ("**Commission**") delegated regulations (EU) 2020/1298 of 13 July 2020, and (EU) 2021/2126 of 29 September 2021. In April 2022, the Commission published guidance for Member States in relation to specific threats to EU security and public order from investments subject to Russian or Belarusian government influence, in the context of Russia's invasion of Ukraine. Furthermore, the directive (EU) 2022/2557 on the resilience of critical entities, adopted on 14 December 2022, has a significant impact on the concept of critical infrastructure under the Regulation.

Under the Regulation, the competent authorities of the EU Member States remain in charge of screening FDIs under the applicable national laws. The role of the European Commission is to facilitate coordination and to advise Member States where it considers that an investment would likely affect security or public order in one or more Member States.

On 24 January 2024, the Commission proposed five new initiatives aimed at strengthening the EU's economic security, including a proposal to revise Regulation (EU) 2019/452. If adopted as proposed, it would, *inter alia*, (i) ensure that all Member States have a screening mechanism in place, with better harmonised national rules; (ii) identify minimum sectoral scope where all Member States must screen foreign investments; (iii) extend EU screening to investments by EU investors that are ultimately controlled by individuals or businesses from a non-EU country; and (iv) improve cooperation between Member States in the review and assessment of screening notifications.

On 11 December 2025, the Council presidency and Parliament representatives reached a provisional political agreement on revising the Regulation. The provisional agreement is expected to move to formal endorsement by the Council and the European Parliament in the first half of 2026. Once adopted, the new rules will take effect 18 months after the regulation enters into force.

Moreover, on 14 May 2025, the Commission published an updated version of its frequently asked questions (the "**FAQ**") regarding the Regulation.

Transactions subject to review

The current Regulation does not put in place a review requirement for foreign investments; rather, it sets up a procedural framework for screening mechanisms created by the Member States. The rules of the Regulation apply to any national "procedure allowing to assess, investigate, authorise, condition, prohibit or unwind foreign direct investments".

The definition of "foreign direct investments" is broad and does not require an investment above a defined threshold of shareholder rights or the acquisition of control in the target company. Any investment "aiming to establish or to maintain lasting and direct links" with a business "in order to carry on an economic activity" in a Member State is sufficient. The investment must be made by a "foreign investor", which is defined as "a natural person of a third country or an undertaking of a third country". Third countries are countries outside the EU. Therefore, the Regulation does not apply to the screening of cross-border investments inside the EU.

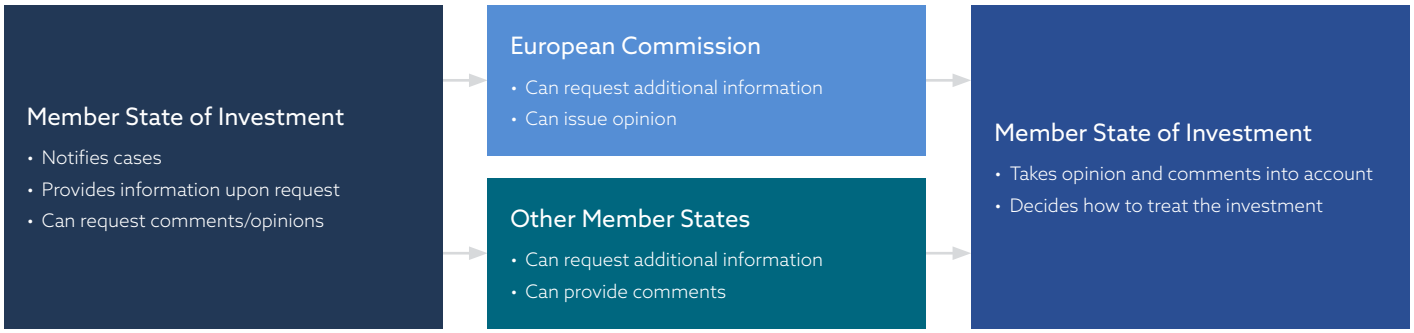
However, the 2024 legislative proposal will extend EU screening to investments by EU investors that are ultimately controlled by individuals or businesses from a third country.

Procedure

The aim of the Regulation is to enhance cooperation and increase transparency between Member States and the European Commission. To this effect, it creates a "cooperation mechanism" that requires Member States to inform each other and the Commission of incoming FDIs affecting security and public order (EU Cooperation Mechanism for the Screening of Foreign Direct Investments).

Where a Member State screens FDIs, it must notify the other Member States and the Commission by providing, "as soon as possible", certain information on the investment (Information Requirements). The other Member States can then comment, and the Commission can issue a (non-binding) opinion within certain time limits, normally within 35 calendar days following the notification (this period is extended if other Member States or the Commission request additional information).

EU Cooperation Mechanism for the Screening of Foreign Direct Investments



Information Requirements

- ☑ Ownership structure of the foreign investor and of the target business (incl. information on ultimate investor and capital participation);
- ☑ Value of the foreign direct investment;
- ☑ Products, services and business operations of the foreign investor and of the target business;
- ☑ Member states in which the foreign investor and the target business conduct business operations;
- ☑ Funding of the investment and its source;
- ☑ Date when the foreign direct investment is planned to be completed or has been completed.

In April 2021, the Commission published a template notification form on its website, that it recommends Member States use to request more detailed information from the investor in order to provide further context to the other Member States. It was lastly updated in November 2023, it is available here.

Where an FDI in a Member State is not undergoing screening and other Member States or the Commission consider that the investment is likely to affect security or public order, the latter may request from the former certain information on the investment (Information Requirements). The other Member States and the Commission may then provide comments or a (non-binding) opinion, respectively, to the Member State receiving the FDI. The time limit for comments and opinions is 35 calendar days following the receipt of information on the investment, although extensions are possible.

Although the final screening decision is the sole responsibility of the Member State receiving the foreign investment, it is required to give "due consideration" to the comments of the other Member States and the opinion of the Commission. Moreover, in cases where the Commission believes that the FDI may affect projects or programmes of "Union interest", the Member State receiving the investment is required to take "utmost account" of the Commission's opinion and provide an explanation if the opinion is not followed. Projects and programmes of "Union interest" are defined in the Annex of the Regulation.

They currently include:

- European GNSS programmes (Galileo & EGNOS)
- Copernicus
- Preparatory Action on Preparing the new EU GOVSATCOM programme
- Space Programme
- Horizon 2020
- Horizon Europe
- Euratom Research and Training Programme 2021-25
- Trans-European Networks for Transport ("**TEN-T**")
- Trans-European Networks for Energy ("**TEN-E**")
- Trans-European Networks for Telecommunications.
- Connecting Europe Facility
- Digital Europe Programme
- European Defence Industrial Development Programme
- Preparatory Action on Defence Research
- European Defence Fund
- Permanent structured cooperation ("**PESCO**")
- European Joint Undertaking for ITER
- EU4Health Program.

In addition to creating the cooperation mechanism, the Regulation also imposes certain minimum standards for the national screening mechanisms of Member States. This includes:

- National rules and procedures must be transparent and not discriminate between third countries.
- Member States must set out the circumstances triggering a screening, the grounds for screening and the applicable detailed procedural rules.
- Member States must apply time frames that allow them to take into account the comments of other Member States and the opinions of the Commission under the coordination mechanism.
- Confidential information must be protected.
- Foreign investors and the undertakings concerned must have the possibility to seek recourse against screening decisions of the national authorities.
- National screening mechanisms must include measures necessary to identify and prevent circumvention.
- The 2024 legislative proposal will improve the harmonisation of national rules, including mandatory criteria to determine whether an investment is likely to negatively affect security or public order.

Substantive assessment

The Regulation does not attempt to harmonise national rules on foreign investments in the EU Member States. However, it does provide a list of factors that the Member States and the European Commission may take into consideration when conducting their assessment. This includes potential effects on the following:

- critical infrastructure (incl. energy, transport, water, health, communications, media, data processing, finance). This notion has been clarified in Directive (EU) 2022/2557 on the resilience of critical entities, which defines it as "an asset, a facility, equipment, a network or a system, or a part of an asset, a facility, equipment, a network or a system, which is necessary for the provision of an essential service". Under Article 6 of this directive, Member States must identify their critical infrastructure by 17 July 2026.
- critical technologies and dual-use items (including artificial intelligence, robotics, semiconductors, cybersecurity, aerospace, defence, energy storage, quantum, nuclear, nano- or biotechnologies);
- supply of critical inputs (incl. energy, raw materials, food, critical medicines);
- access to sensitive information (incl. personal data); or
- freedom and pluralism of the media.

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Patrick Hubert, a Paris-based partner in the Antitrust & Competition group, brings decades of legal experience and innovation in both private practice and government, with experience ranging from acting as chief of staff to the French Minister of Justice, to being general counsel and chief investigator with the French competition authority, and from acting as a judge with the Conseil d'Etat (French Supreme Administrative Court) to even publishing a paper as a cell biologist (when very young).

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France

Relevant laws and authorities

1
What are the main laws regulating foreign investments?

Rules regarding prior vetting of foreign investments in strategic sectors are enshrined in Articles L.151-1 and seq., Articles R.151-1 and seq. of the Financial and Monetary Code.

The latest amendments to the regime were introduced on 28 December 2023 (Décret n°2023-1293 du 28 décembre 2023 relatif aux investissements étrangers en France/Arrêté du 28 décembre 2023 relatif aux investissements étrangers en France) which update the Order of 31 December 2019 (Arrêté du 31 décembre 2019 relatif aux investissements étrangers en France). The Order of 2019 was previously amended by the Order of 10 September 2021 (Arrêté du 10 septembre 2021 relatif aux investissements étrangers en France) and the Order of 27 April 2020 (Arrêté du 27 avril 2020 relatif aux investissements étrangers en France).

In addition, the Ministry of Economy has issued useful Guidelines, the last version of which was published in July 2025.

2
Which authorities are charged with applying those laws?

To the extent FDIs in strategic sectors are concerned, the rules are enforced primarily by the Minister of Economy. A special unit is devoted to this activity within the French Treasury, which is part of the Ministry.

3
What other legislation is relevant for foreign investments?

Sectoral rules specific to foreign investments do exist in France. Sectors concerned are, *inter alia*, banking, air transportation, defence, telecommunications, data collection, audio-visual communication and publishing. Some sectoral rules derive from EU legislation; others are France-specific.

Transactions subject to review

4

Which types of transactions are caught?

Reportable transactions concern activities that are deemed strategic because they relate to the exercise of public authority, and foreign investment is likely to jeopardise national defence interests or the maintenance of public order and public safety. However, the list of strategic activities, which is set in the Financial and Monetary Code, has grown substantially in the last few years and is now quite extensive (➔Strategic Sectors).

Where the target is active in one of these strategic sectors, it will be reportable if a "foreign investor" (see question 5 below) contemplates an acquisition falling under one of the following categories:

- the acquisition of control, within the meaning of Article L. 233-3 of the French commercial code, of an entity governed by French law or an establishment registered in the French Trade and Companies Register;
- the full or partial acquisition of a French entity's strategic business or branch of activity (by any foreign investor); or
- for non-EU/EEA investors only, the acquisition, directly or indirectly, solely or in concert, of more than 25% of the voting rights of a French legal entity (for listed French target companies this threshold is 10%).

An acquisition of "control" may be established based on that concept's definition under French corporate law. Therefore, "de facto" control may suffice to trigger foreign investment control screening.

Particular attention must also be given to the acquisition "in concert" provision. The administration may, in particular when considering whether the threshold for control is met, consider agreements between shareholders that reflect cohesion and solidarity in the exercise of voting rights, such as those relating to non-transferability over a long period, a concerted limitation of respective shareholdings, mutual approval for any purchase or sale, or a joint exit right (*i.e.*, lock-up, approval, tag/drag along *etc.*). If a concert is established, the voting rights of the parties are aggregated. Consequently, a non-EU acquirer with less than 25% could be deemed to cross the 25% threshold in concert with another shareholder, triggering a mandatory filing requirement.

Also note that following the legislative changes of 2023, Article R.151-7 of the French Monetary and Financial Code now provides for an exemption from the prior authorisation requirement for certain intragroup restructurings.

Strategic Sectors

1. Products for military use, dual-use products and technology, national defence, cryptology (encryption), including contractors and subcontractors of the French Ministry of Defence in these areas;
2. Devices for interception or remote detection of conversation or data;
3. Assessment and certification of IT security by approved assessment centres;
4. Gambling (other than casinos);
5. Measures to address the use of biological or chemical threats or to prevent the health consequences of such use;
6. IT security services in relation to the operation of a building, installation or of a key infrastructure ("ouvrage d'importance vitale") within the meaning of the French Code of Defence;
7. Activities involving the processing, transmission or storage of data whose compromise or disclosure could affect the above strategic activities;
8. Infrastructure, goods or services that are vital to guarantee the integrity, security and continuity of
   - energy supply
   - water supply
   - transport networks and services
   - space operations
   - electronic communications networks and services
   - public safety missions carried out by police, gendarmerie, customs, prisons services and other approved providers of security services
   - the operation of a building, installation or of a key infrastructure ("ouvrage d'importance vitale") within the meaning of the French Code of Defence
   - public health
   - food safety
   - print and digital press
   - extraction, processing and recycling of critical raw materials
9. R&D on applications for the above activities, regarding:
   - dual-use goods and technologies
   - cybersecurity
   - artificial intelligence
   - robotics
   - additive manufacturing
   - semiconductors
   - quantum technology
   - energy storage
   - Biotechnology
   - Technologies involved in renewable energy production
   - Photonic

Specifically, no filing is required where, after the transaction, the ultimate controlling party (as defined in Article R.151-1 II) remains unchanged and had already acquired control (within the meaning of Article L.233-3 of the French Commercial Code) of the French target entity prior to the transaction (*i.e.*, even if a foreign entity is inserted into the chain of control).

Caveats:

This exemption does not apply if:

- The transaction would prevent the investor from complying with conditions previously imposed under a prior authorisation; or
- The transaction aims to transfer abroad all or part of a branch of a strategic activity.

This exemption reflects the French authorities' pragmatic approach to purely internal group restructurings that do not result in a change of ultimate control over the French entity, as long as the objective is not to ultimately transfer the underlying strategic activity. This exemption can be of particular interest in the context of a corporate flip.

5

How are foreign investors or foreign investments defined by the applicable legislation?

"Foreign investors" include:

i. Any individual who is not a French national;

ii. Any French national domiciled abroad as defined by the French Tax Code;

iii. Any entity established under foreign law; or

iv. Any entity established under French law that is controlled by an individual or entity falling under one of the three categories above.

One significant key concept that is implemented relates to the "chain of control" of an investor. The "chain of control" is the group composed of the investor and the foreign nationals and/or foreign entities which control said investor. It is now clearly provided that all the entities and nationals in a chain of control are qualified as investors.

The control of an investor is established based on the concept's definition under corporate law or merger control law.

The definition of an investor is broad and encompasses investors from EU/EEA Member States. However, additional information is required for investors from third countries

6

Are minority interests caught?

Yes, subject to the limitations and thresholds detailed in response to question 4 above.

7

Are there sector-specific rules?

Yes, but not within the framework of the foreign investment control regime.

8

Is any threshold applicable (turnover related or otherwise)? Is there any kind of *de minimis* threshold?

No.

9

Are there special rules for investments by foreign state-owned enterprises or sovereign wealth funds?

Mandatory information to be provided by the investor in the filing now includes any significant equity link with, or financial support from, a State or public body outside the EU over the last five years. In addition, the Financial and Monetary Code specifically mentions such links between the investor and a foreign government or public body as an element that may be taken into account by the Minister of Economy when issuing a prohibition decision.

10

Can comfort letters be obtained from the authorities confirming that a transaction is not subject to review?

The framework only allows for comfort letters with a limited scope: a French entity may ask whether any of its activities is deemed strategic, in which case the Minister of Economy must reply within two months. A potential investor can make the same inquiry provided the target agrees, in which case the target will also receive a copy of the response.

Procedure

11

Is a filing required (mandatory) or possible (voluntary)?

Filing is mandatory for foreign investment in any of the strategic sectors, subject to the categories of operation mentioned in the reply to question 4 above.

12

At what point in time should or must a filing be made (before or after signing or closing of the transaction)? Is there a mandatory deadline?

There is no mandatory deadline. Filing needs to be made prior to closing. It might, however, prove useful to discuss an outline beforehand whenever the project is of major importance or politically sensitive.

13

Which party is responsible for making the notification?

The duty to notify lies with the foreign investor. It should be specified that the notification may also be submitted by any member of the chain of control of the investor.

14

Are there any filing fees?

There are no filing fees.

15

Must the parties suspend the transaction until the review is completed?

Yes, the transaction must be suspended until it is authorised. There is no derogation of this standstill obligation.

16

Are there fines or other sanctions for failure to notify or for closing the transaction without prior approval? If so, are there examples of such sanctions imposed in the past?

Yes. There are both administrative (either, whichever of the following is the most significant: 1) twice the amount of the illegal investment; 2) 10% of the global annual turnover of the target company; or 3) EUR €1 million for individuals or EUR €5 million for corporate entities) and criminal sanctions. Besides, transactions closed in violation of the duty to submit a prior notification or get prior approval are deemed null and void.

The Minister also has the power to unwind a transaction and request the parties to restore the situation ex ante and impose injunctions, with penalty payments up to EUR €50,000 per day.

Sanctions are not made public. As foreign investments in France attract increasing public attention and EU Member States are encouraged not only to make full use of their national mechanisms but also to cooperate with the Commission and other Member States (see EU chapter), one cannot exclude that the authorities may decide to adopt a tougher stance in the future.

17

Do the authorities have powers to review and challenge transactions that are not subject to a mandatory review?

No. In the context of merger control, the Minister of Economy has an evocation power (public interest clause) but it only concerns reportable mergers (*i.e.*, transactions that are subject to mandatory merger review before the French Competition Authority). A similar evocation power vested with Member States exists in relation to mergers reportable at an EU level.

18

What is the timeline of the review process? Are fast-track options available?

The timeline for the review process is as follows:

- Within 30 working days after receipt of a complete filing (phase 1) the Minister of Economy must decide whether the transaction is not reportable, should be cleared without condition or requires further scrutiny.
- Where the Minister of Economy decides to investigate further, he/she has an additional 45 working days (phase 2) to choose between prohibition, approval without conditions and approval with conditions.

In both phases, a lack of response by the Minister of Economy by the deadline constitutes a tacit prohibition decision. This considerable change in the regime, provided for by the new applicable legal framework, is also a significant difference from the review process under merger control rules.

No fast-track option is available to the investor.

There is only one fast-track procedure that may only be triggered by the Minister of Economy, not the foreign investor. Indeed, in case of an emergency, exceptional circumstances of an imminent threat to public order, public safety or national defence interests, the Minister of Economy may operate an expedited review and take quite invasive preventive measures. The investor must nevertheless be given formal notice to submit observations, within a time frame that cannot be less than five business days.

19

Do other authorities or government bodies participate in the review process? How does the process relate to other types of review, *e.g.*, merger control by the competition authorities?

Yes. The French Treasury coordinates the review process, but the request for prior approval is generally instructed by other authorities and government bodies that have their say in the proposed commitments where applicable. Several authorities or government bodies may be consulted on a given review process. The authorities or government bodies involved vary according to the strategic sector(s) concerned by the transaction (*e.g.*, Ministry of Defence in relation to defence activities, Ministry of Environment in relation to energy, *etc.*).

There are no procedural links between the foreign investment control process and other review processes. However, it may happen that the French Treasury has discussions with other regulators (*e.g.*, the French Financial Markets Authority).

20

To what extent are the parties involved in the review? Do the authorities expect pre-filing communication?

No pre-filing communication is expected from the parties. Yet in practice, the French Treasury commonly requests additional information from the foreign investor to complete the filing. In the event that commitments (by the foreign investor) are contemplated, meetings may take place with the relevant authorities/governmental bodies.

21

Are third parties (complainants) involved in the review? What rights and/or standing do they have?

There is no specific provision relating to third parties' rights under the French foreign investment control regime. Their rights derive from the general regime of rights recognised to third parties in relation to administrative acts. As the review process is confidential and decisions rendered by the Minister of Economy are not made public, it is difficult, but not impossible, for third parties to assert their rights especially, for instance, for the (minority) shareholders of the target (cf. CE, 3 April 2020, n° 422580).

Even though the European foreign investment screening regulation (see EU chapter) requires national screening mechanisms to have transparent, non-discriminatory rules and procedures, it remains to be seen whether this could impact third parties' rights.

22

Are there safeguards in place to protect confidential information of the parties?

Yes. The process is entirely confidential as the civil servants in charge have a duty of confidentiality.

23

Is the fact that a filing or decision is made published? When?

Please see the response to question 21 above.

Substantive assessment

24

What are the criteria for an intervention? How much discretion do the relevant authorities have in applying those criteria?

Criteria for an intervention are those triggering foreign investment control (see question 4 and the box "Strategic Sectors"). The core concepts which fundamentally justify foreign investment control, *i.e.*, national defence interests, the continuation of public order and public safety, are potentially very broad, and so the definitions of the "strategic sectors" are also rather vague. Thus traditionally, the French Treasury and the other services which are participating in the instruction have enjoyed a wide margin of manoeuvrability for their substantial assessment.

Overall, nevertheless, the main criterion for intervention by the Minister of the Economy in the sectors mentioned in the box "Strategic Sectors" of question 4 is the sensitivity of the activities of the target when it relates to those sectors, it being specified that this assessment is drawn on a case-by-case basis by the French Treasury.

Besides, efforts were made with the latest amendments to provide some guidance, including with practical objectives that may justify imposing conditions (remedies) on the investor (*e.g.*, ensuring that the target's knowledge and expertise is retained), or specific factors that may contribute to a prohibition decision (*e.g.*, equity link to or financial support by foreign states or public bodies).

Finally, the principle of proportionality is specifically mentioned as a safeguard against disproportionate measures affecting the investor, including when imposing conditions (remedies) on the investor.

25

Does the nationality of the investor play a role?

In principle, the nationality of the investor does not play a role (except for the differential treatments provided by law between EU/EEA and non-EU/EEA investors). However, in general, commitments required from EU/EEA foreign investors, where applicable, tend to be less far-reaching than for third countries' investors.

26

What powers do the authorities have to prohibit or otherwise interfere with a transaction?

The Minister of Economy can prohibit a transaction or make their prior approval subject to commitments being undertaken by the foreign investors. They can also impose temporary protective measures and accelerate the review process (see question 18). In addition, special grounds for prohibition include past or potential future criminal infringements, as well as equity links to or financial support by foreign states or public authorities (see question 9).

27

Do the authorities cooperate or consult with authorities in other countries?

Regulation (EU) 2019/452 establishing an EU framework fully applies since October 2020 (see EU chapter). No other specific cooperation or consultation mechanism is provided for by the law. General international cooperation can, however, be used by the competent services. In addition, informal cooperation or consultation may also exist, of which foreign investors may not be informed. In the context of the Covid-19 pandemic, informal cooperation was even publicly encouraged by the EU Trade Commissioner, ahead of the full implementation of the EU framework.

28

Can remedies be offered by the parties? Are remedies suggested by the authorities?

Remedies are suggested by the authorities. Depending on the strategic sector and target concerned, there may be room for negotiations.

If the entity subject to the investment is active in strategic sectors for which the economic and regulatory framework undergoes changes that were unforeseeable on the date of completion, the investor may request the revision of the remedies (not the Minister of Economy).

In the event of changes in the shareholding, either of the entity subject to the investment or of any entity directly or indirectly controlling it, both the investor and the Ministry of Economy can request a revision. Conditions for revision can also be integrated as part of the remedies.

The Minister of Economy can also impose new remedies when the acquisition triggering the original filing did not provide the investor with control under corporate law criteria, but the investor later acquires such control. In that case, the Minister informs the investor with a reasoned decision, and the investor then has 45 working days to present observations on the new remedies.

29

Can a negative decision be appealed?

Yes. Negative decisions may be appealed before administrative courts within two months. However, there are only a handful of precedents.

Examples and trends

30

Are there any recent cases that reflect how the relevant laws and policies are applied?

Note that FDI cases handled by the Ministry of Economy are not publicly accessible. Consequently, any insight into the Ministry's approach is mostly based on direct filing experience, which our team at Orrick has developed through the years.

While the administration has a great margin of appreciation, fuelled by relatively broad legal wordings, our experience shows that authorities generally apply the texts with pragmatism and relative restraint. Present developments in the national and European economic and political context may, however, lead to a more aggressive and protectionist approach.

According to the 2024 annual report from the French Treasury published in July 2025, screening activity in France remained strong in 2024. A total of 392 cases were screened, compared to 309 in 2023. Of the 337 decisions issued regarding prior authorisation requests, 182 related to sensitive sectors affecting public order, security or national defence. Among the authorisations granted, 54% were subject to conditions imposed on foreign investors, and six refusals were issued by the Minister.

Non-European investors made up 65% of authorisation requests in 2024, mainly from the United States, the United Kingdom and Switzerland, while 35% came from within the EU/EEA, primarily Luxembourg, Germany and the Netherlands.

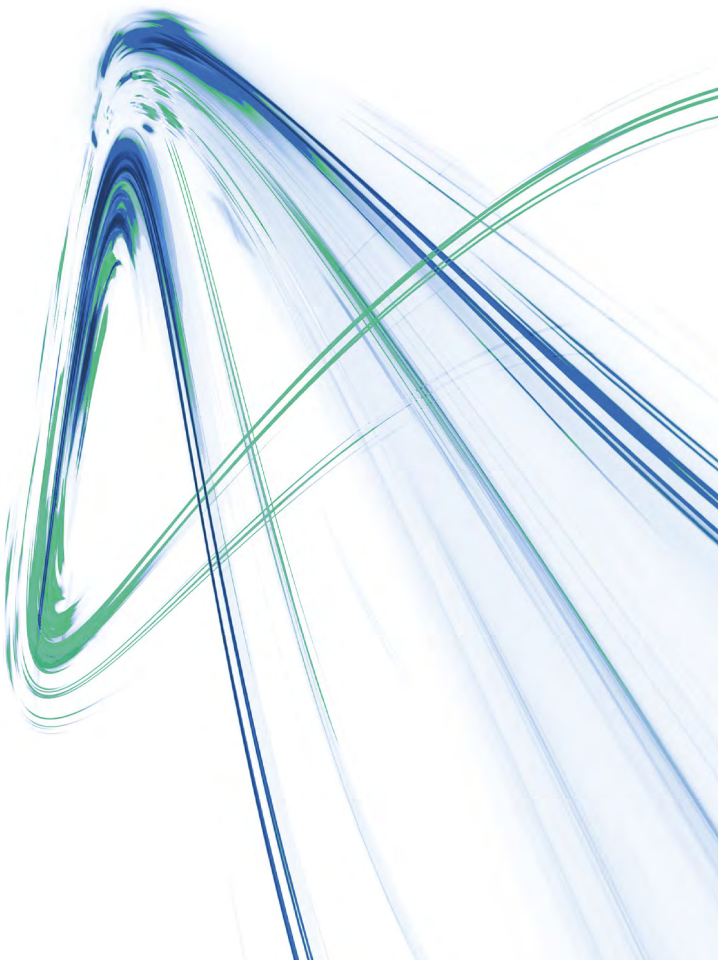
While direct comparison over the years remains challenging due to changes in methodology and the evolving scope of regulations, statistics from previous years show a steady increase in the number of screened FDIs: 137 in 2017, 184 in 2018, 216 in 2019, 275 in 2020, 328 in 2021, and 309 in 2023.

31

Are there any relevant recent developments or trends?

In April 2022, in response to Russia's war against Ukraine, the European Commission adopted a communication providing guidance on FDI originating in Russia and Belarus.

In addition, cooperation with other Member States and the European Commission is expected to further intensify once the proposed revision of Regulation (EU) 2019/452 is adopted, as all Member States will then be required to implement an FDI screening mechanism. Moreover, the harmonisation of national rules across Member States will be further deepened.



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Germany

1

What are the main laws regulating foreign investments?

There are three:

a. The Foreign Trade and Payments Act (*Außenwirtschaftsgesetz*, "**AWG**"), which is an act of parliament and the statutory basis for investment reviews.

b. The Foreign Trade and Payments Ordinance (*Außenwirtschaftsverordnung*, "**AWV**"), which is a legislative decree of the Federal Government implementing the AWG. It can be amended quickly, and often is, to take account of political developments. Since 2019, the AWV has been amended several times, *inter alia*, by extending the catalogue of business segments requiring a mandatory filing, which now includes, *e.g.*, the health sector into the foreign direct investment review due to the Covid-19 pandemic, or future and high-tech sectors such as artificial intelligence, autonomous driving, semiconductors, optoelectronics or quantum technology, due to a special security interest of Germany.

c. The Regulation on the Designation of Critical Facilities pursuant to the BSIG (*Verordnung zur Bestimmung Kritischer Anlagen nach dem BSI-Gesetz*, "**BSI-KritisV**"), which is a legislative decree of the Federal Government implementing the rules on the determination of critical facilities. While it is not primarily designed for investment reviews, the AWV refers to critical facilities according to the BSI-KritisV in one of its major categories, the acquisition of shares in critical facilities. The BSI-KritisV covers different sectors including energy, water, food, IT and telecommunication, health, finance and insurance, transportation and traffic and waste disposal. It sets out quantitative thresholds for a company to be considered as critical facilities. The BSI-KritisV and its definitions of critical facilities are currently under review by the Federal Government and may be subject to an amendment in 2026 due to the announced Umbrella Act for Critical Infrastructure Protection (KRITIS-Dachgesetz), which will align the German requirements for critical infrastructure to the EU's NIS2 Directive on cybersecurity.

2
Which authorities are charged with applying those laws?

The Federal Ministry for Economic Affairs and Energy (*Bundesministerium für Wirtschaft und Energie*, "**BMWE**") is responsible for reviewing foreign investments. It cooperates closely with other parts of the government, such as the Federal Ministry of Defence, the Federal Foreign Office, the Federal Ministry of Health and the Federal Chancellery. In all cases, a prohibition needs to be approved by the majority of the Federal Government. Any order imposing remedies needs to be approved by the Federal Foreign Office, the Federal Ministry of the Interior and the Federal Ministry of Defence, including a consultation with the Federal Ministry of Finance.

3
What other legislation is relevant for foreign investments?

The Act on Satellite Data Security (*Satellitendatensicherheitsgesetz*, "**SatDSiG**") lays down special rules for the acquisition of companies operating a high-grade earth-remote-sensing system. It should be noted that the general review under Section 55 et seq. AWV may be applied in addition to the SatDSiG. Further, other regulations are referred to in the AWV such as the Federal Office for Information Security Act (*Gesetz über das Bundesamt für Sicherheit in der Informationstechnik*, "**BSIG**") or respective ordinances which include relevant thresholds when mandatory filings are required and which can be amended quickly (*e.g.*, the Regulation on the Designation of Critical Infrastructure pursuant to the BSIG (*Verordnung zur Bestimmung Kritischer Infrastrukturen nach dem BSI-Gesetz*, "**BSI-KritisV**" as most recently amended in November 2023).

Transactions subject to review

4
Which types of transactions are caught?

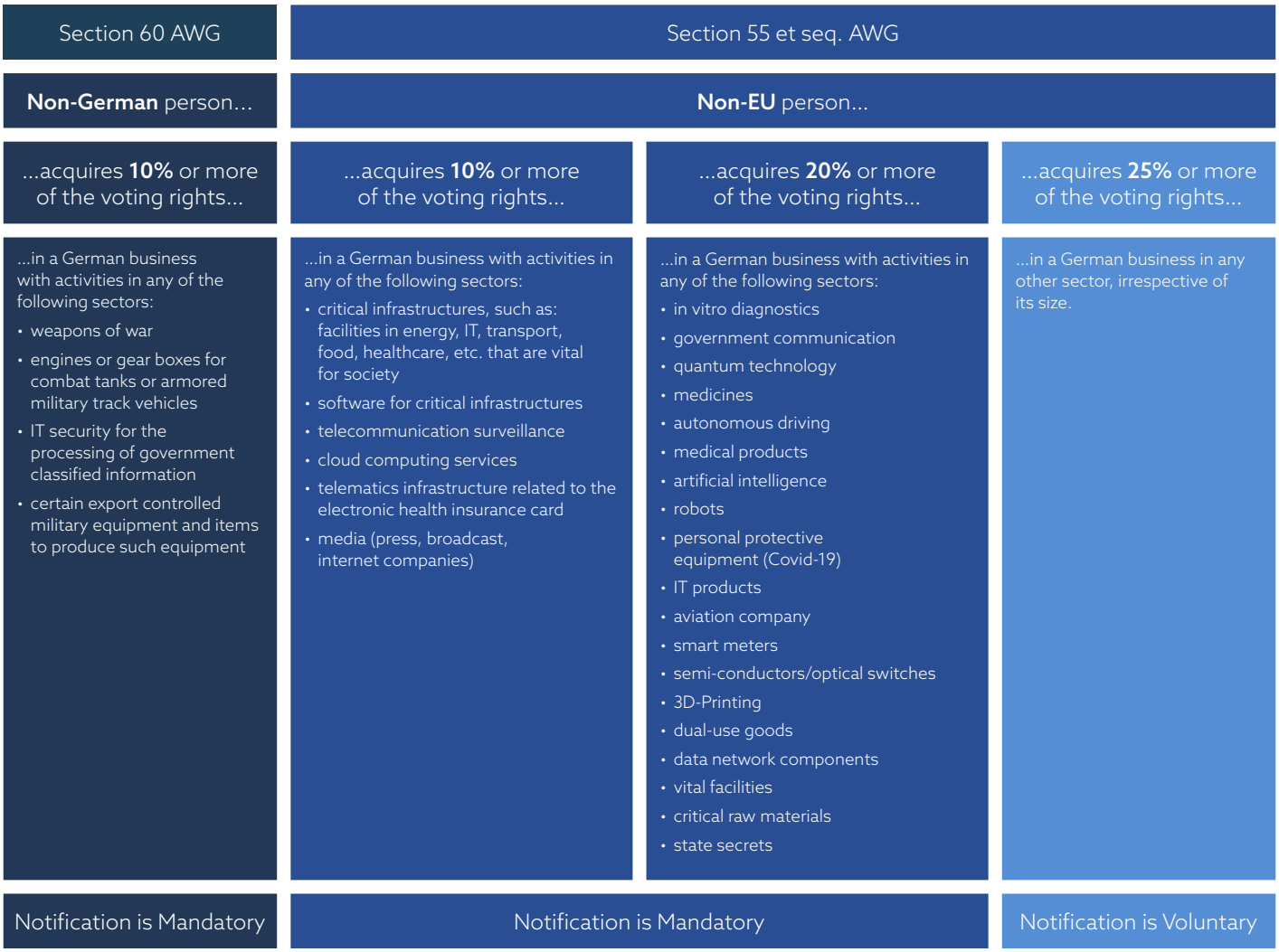
The BMWE has the power to review the direct and indirect acquisition by a foreign acquirer of the voting rights in, or assets of, a German business above specified thresholds. The same is true for an "atypical acquisition of control" which may include additional seats or majorities on the (supervisory) board, veto rights over important business decisions, or the right to demand certain information about the German business.

The definition of "foreign acquirer" and the shareholding thresholds depend on the sector in which the German target company (the "**Target**") is active (Overview of Foreign Investment Reviews in Germany below):

- The sector-specific review of Sections 60–62 AWV applies to acquisitions of certain defence and IT security companies. The review applies if (i) the acquirer is non-German; and (ii) the share of voting rights in the German business that the foreign acquirer will hold directly or indirectly after the acquisition reaches or exceeds 10%. In this sector a filing is mandatory.
- The general review of Sections 55–59 AWV applies to all companies, regardless of their sizes and activities. However, the applicable voting rights threshold is dependent on the sector the Target is active in. In case the German company operates critical infrastructure, or is active in one of the other sensitive sectors listed in Section 55a (1) AWV, the review applies if (i) the acquirer is from a non-EU country; and (ii) the share of voting rights in the German business that the foreign acquirer will hold directly or indirectly after the acquisition reaches or exceeds 10% (lit. 1 to 7) or 20% (lit. 8 to 27). If the Target is active in the sectors mentioned in Sec. 55a (1) AWV, a filing is also mandatory.
- An additional filing requirement may arise in case the Target is active in the sectors mentioned in Sec. 55a (1) AWV or Sec. 60 AWV if the investor increases its share of voting rights reaching a share of 20%, 25%, 40%, 50% or 75%.
- For Targets not active in one of the sensitive sectors listed in Section 55a (1) AWV or Section 60 AWV, the possibility to start an ex officio review of a transaction irrespective of the Target's activities according to Sections 55–59 AWV applies if (i) the acquirer is from a non-EU country; and (ii) the share of voting rights in the German business that the foreign acquirer will hold directly or indirectly after the acquisition reaches or exceeds 25%. While such a possibility of an ex officio review will not require a mandatory filing, a voluntary filing can be advisable depending on a case-by-case basis.
- Asset deals are subject to the same rules, except for the shareholding threshold; instead, the assets that are being acquired must constitute a distinct part of a business unit.

In the case of an "atypical acquisition of control," where, comparable to the acquisition of 10%, 20% or 25% of the shares, additional seats or majorities on the (supervisory) board, veto rights for important business decisions or the right to demand certain information about the Target are granted, there is no mandatory filing requirement. Nevertheless, the BMWE has the right to initiate a review of the transaction at its discretion.

Overview of foreign investment reviews in Germany



5
Are minority interests caught?

Yes. Any direct or indirect acquisition of voting rights in a German company is caught provided the thresholds of 10%, 20% or 25% are met (Overview of Foreign Investment Reviews in Germany). The German FDI regime does not require control to be acquired.

6
How are foreign investors or foreign investments defined by the applicable legislation?

The rules apply to acquisitions of domestic business enterprises by foreign investors. A legal entity or a partnership is a domestic business if it has its registered office or place of management in Germany. Branches and permanent establishments of foreign entities in Germany are also considered domestic if they are managed in Germany (with separate accounting).

Foreign investors are non-German or non-EU persons, depending on the sector in which the German Target is active (see question 4 above):

- Non-German persons are all individuals without residence or habitual abode in Germany and all legal entities and partnerships without registered office or place of management in Germany.
- Non-EU persons are all individuals without residence or habitual abode in the European Union or the European Free Trade Association ("**EFTA**") as well as all legal entities and partnerships without registered office or place of management in the European Union or the EFTA. EFTA member states are Iceland, Liechtenstein, Norway and Switzerland.

7
Are there sector-specific rules?

Yes. Acquisitions of shares in companies active in the sensitive sectors listed in Sections 60 and 55a (1) AWV are subject to a mandatory filing requirement (see question 4). However,

the competent BMWE has the power to start an investigation irrespective of the Target's activities in case of an acquisition of 25% or more of the voting rights or atypical control.

8

Is any threshold applicable (turnover related or otherwise)? Is there any kind of *de minimis* threshold?

Acquisitions below the thresholds of 10%, 20% or 25% are not subject to review. An increase of voting rights not exceeding the additional thresholds of 40%, 50% or 75% is also not subject to review (see question 4). There are no other *de minimis* thresholds such as turnover, number of employees *etc.* However, greenfield investments are currently not subject to a filing requirement, but it is currently being discussed if such investments shall be caught as well.

9

Are there special rules for investments by foreign state-owned enterprises or sovereign wealth funds?

No. However, the fact that an investor is controlled by a foreign state is a factor that shall be taken into consideration in the substantive assessment of the transaction according to Sec. 55a para. 3 AWV. See question 26 below.

10

Can comfort letters be obtained from the authorities confirming that a transaction is not subject to review?

The BMWE is generally willing to discuss contemplated acquisitions before a filing. However, the only way to obtain legal certainty on whether or not an acquisition is subject to review and/or whether it may be prohibited is either to file for a precautionary filing or to apply for a so-called certificate of non-objection (*Unbedenklichkeitsbescheinigung*), which prevents the BMWE from initiating an ex officio review.

Procedure

11

Is a filing required (mandatory) or possible (voluntary)?

A notification to the BMWE is mandatory if the German Target is active in one of the sensitive sectors listed in

- Section 60 AWV: certain defence and IT security companies; or
- Section 55a (1) AWV: *inter alia* critical infrastructure, life support equipment, artificial intelligence, autonomous driving, semiconductors, optoelectronics or quantum technology, media and other similarly sensitive sectors.

Where there is no filing required, the BMWE may initiate a review on its own initiative (ex officio) when it learns about the acquisition (*e.g.*, from media reports or other authorities). An ex officio review can be initiated up to five years after the signing of the respective purchase agreement. To obtain legal certainty earlier, the acquirer may also elect to make a voluntary filing by applying for a certificate of non-objection from the BMWE.

12

Must the parties suspend the transaction until the review is completed?

Yes. The AWG includes a prohibition on completing the transaction for mandatory filings. Any closing actions taken prior to a clearance decision are automatically void.

13

At what point in time should or must a filing be made (before or after signing or closing of the transaction)?

Despite the requirement to submit a mandatory filing prior to closing, there are no deadlines, even for mandatory notifications. In addition, it is advisable to submit a voluntary filing before closing:

- Where a notification is mandatory under Section 60 AWV or Section 55 (1) AWV, it should be done before closing because all legal acts implementing the acquisition are invalid unless and until the acquisition is cleared by the BMWE. Without such clearance, the acquirer cannot, under German law, obtain ownership of the shares or the assets that are the object of the acquisition.
- Typically, all mandatory and voluntary filings under Section 55 AWV are done prior to closing, and clearance is included as a condition precedent in the purchase agreement, because a review post-closing may create considerable difficulties for the parties and may result in unwinding the transaction. See question 27 below.

Filings can already be made before signing provided the parties have agreed on all information required in the filing form provided by the BMWE. Besides basic information on the acquirer, the Target and the seller, information on the transaction includes *inter alia* the purchase price, the transaction structure and the specific amount of voting rights to be acquired.

14

Is there a mandatory deadline?

There is no deadline for a filing to be submitted. However, in cases where a filing is mandatory, closing of the transaction is prohibited (see question 12). Therefore, in this case the filing must be submitted and clearance of the transaction has to be obtained prior to closing.

15

Which party is responsible for making the notification?

In general, the (direct) acquirer is responsible for making a mandatory or voluntary filing.

16

Are there any filing fees?

Yes, according to the applicable Special Fee Ordinance (*Besondere Gebührenverordnung für individuell zurechenbare öffentliche Leistungen für die Investitionsprüfung*) fees of EUR €800.00 are determined for the termination of a pending investment screening proceeding by the BMWE in Phase I. For a Phase II proceeding, higher fees starting at EUR €2,500.00 and going up to EUR €36,000.00 may be determined, depending on the complexity and potential extraordinary circumstances of the proceeding.

17

Are there fines or other sanctions for failure to notify or for closing the transaction without prior approval? If so, are there examples of such sanctions imposed in the past?

Yes. The AWG foresees imprisonment of up to five years or fines in case of *inter alia* a violation of prohibition of completion.

18

Do the authorities have powers to review and challenge transactions that are not subject to a mandatory review?

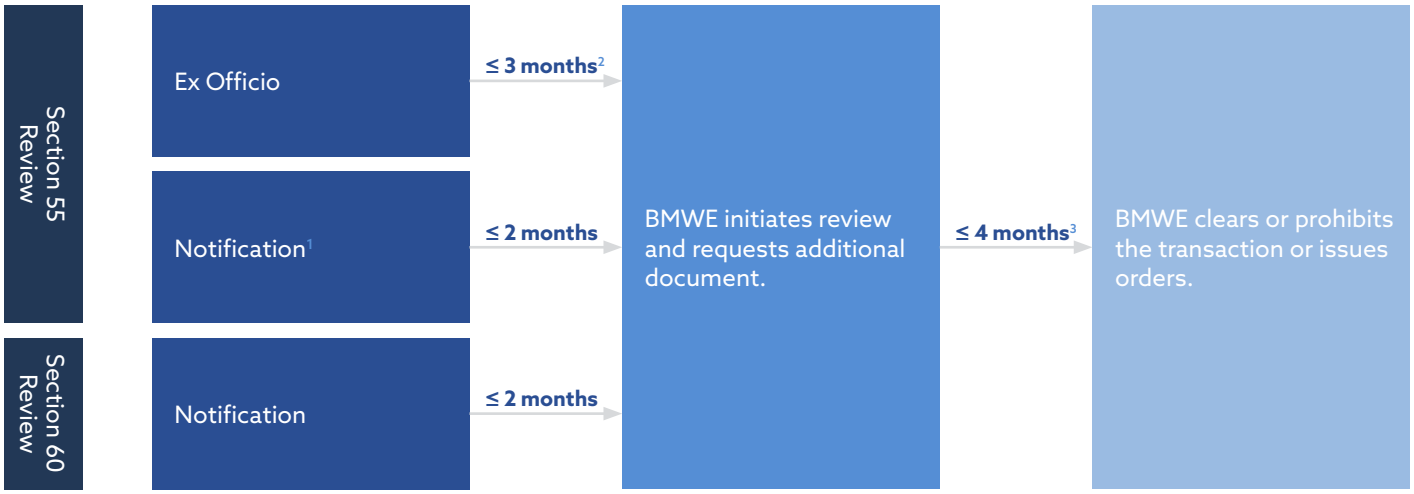
Yes.

19

What is the timeline of the review process? Are fast-track options available?

The timeline depends on whether or not the acquirer notifies the acquisition to the BMWE and whether or not the BMWE initiates a review. A prohibition or an imposition of orders is possible only within the statutory review periods; if the review periods expire without a decision from the BMWE, the acquisition is deemed cleared. There are no fast-track options.

Timeline



1. Applies to both voluntary and mandatory filings.
2. The period commences upon the BMWE becoming aware of the acquisition. A review may be initiated up to five years after the signing of the purchase agreement.
3. The period commences upon the BMWE receiving all requested documents. The period may be suspended if and as long as the BMWE requests further documents or negotiates commitments with the parties.

20

Do other authorities or government bodies participate in the review process? How does the process relate to other types of review, *e.g.*, merger control by the competition authorities?

The BMWE cooperates closely with other parts of the German government during the review. In particular, the Ministry of Defence, the Ministry of Health, the Foreign Office and the Federal Chancellery are involved. The latter is in charge of coordinating the work of the federal intelligence services. In all cases, a prohibition needs to be approved by the entire Federal Government. Any order imposing remedies needs to be approved by the Federal Foreign Office, the Federal Ministry of the Interior, the Federal Ministry of Defence, including a consultation with the Federal Ministry of Finance.

The German Federal Cartel Office does not participate in the review process. However, it can inform the BMWE about a notified merger and thus enable the BMWE to initiate a review ex officio. Furthermore, the Federal Portal requires indication of whether a merger control filing to the Federal Cartel Office or an FDI filing to any other Member State has been submitted.

21

To what extent are the parties involved in the review? Do the authorities expect pre-filing communication?

The parties are required to submit information to the BMWE. Before issuing a prohibition or orders, the BMWE will present its concerns to the parties and offer them the opportunity to comment. The BMWE may also negotiate commitments with the parties to exclude concerns.

The BMWE does not expect pre-filing communications; however, it is generally open to pre-filing discussions.

22

Are third parties (complainants) involved in the review? What rights and/or standing do they have?

No, complainants do not play a role.

23

Are there safeguards in place to protect confidential information of the parties?

Yes. The BMWE and other authorities involved in the review are required to protect confidential information, including personal data and business secrets. Furthermore, in general no information on the submission of a filing will be published. However, recent experience has shown that, *e.g.*, draft prohibition decisions can be leaked, including personal data and business secrets.

24

Is the fact that a filing or decision is made published? When?

No.

Substantive assessment

25

What are the criteria for an intervention? How much discretion do the relevant authorities have in applying those criteria?

For a review under Section 55 et seq. AWV, the relevant criteria are "public policy or public security" of the Federal Republic of Germany, of any other Member State of the EU and of projects and programmes of Union interest. These criteria need to be interpreted in line with the EU guarantees on the free movement of capital, goods, services and labour. Due to an amendment in 2020, an intervention no longer requires a genuine and sufficiently serious threat affecting "public policy or public security", but is now possible in cases where "public policy or public security" is likely interfered with, thus, the threshold has been lowered.

For a review under Section 60 AWV, the relevant criteria are the "essential security interests" of the Federal Republic of Germany. An intervention is justified, in particular, where the acquisition endangers German military policy or military security.

Further to the recently lowered standard of review, in practice, the BMWE has broad discretion in applying these criteria.

26

Does the nationality of the investor play a role?

In general, yes. State-owned or state-controlled acquirers and, in particular, acquirers from China or currently from Russia or Belarus due to its aggression against Ukraine are more likely to raise concerns than acquirers from NATO member states.

27

What powers do the authorities have to prohibit or otherwise interfere with a transaction?

The BMWE has the power to prohibit an acquisition if it raises policy or security concerns (see question 25). If sufficient to mitigate the identified concerns, the BMWE may also impose orders or (more commonly) agree with the parties on contractual commitments (see question 29).

Where the BMWE prohibits an acquisition, the parties may no longer close the transaction. If the transaction has already closed, the BMWE may appoint a trustee to unwind the transaction, and it may prohibit or restrict the exercise of voting rights in the Target. In case of a review of mandatory filings, any legal acts implementing the purchase agreement are void, *i.e.*, the acquirer has not become the legal owner of the shares or assets of the Target. In practice, this consequence can raise further questions which are not ruled upon yet, *e.g.*, in case of a closing under foreign law.

28

Do the authorities cooperate or consult with authorities in other countries?

The Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union sets out in Art. 6 et seq. a mechanism for EU-wide cooperation and information sharing between the Member State in which the case was notified, the European Commission and other Member States. It appears that, in practice, authorities of other Member States or the European Commission are raising issues regarding a filing in another Member State. However, communications appear to be handled exclusively by the authority to which the filing was submitted.

29

Can remedies be offered by the parties? Are remedies suggested by the authorities?

Yes. The parties may commit to measures to mitigate concerns identified by the BMWE (*e.g.*, protection of classified information or of sensitive know-how). Such remedies are typically proposed by the BMWE. The parties will need to conclude a (public law) contract with the Federal Republic of Germany to make the commitments become binding.

30

Can a negative decision be appealed?

Yes. A decision to prohibit an acquisition or to impose orders may be appealed before the Administrative Court of Berlin in first instance.

Examples and trends

31

Are there any recent cases that reflect how the relevant laws and policies are applied?

To date, there are very few prohibition decisions according to publicly available information.

Besides prohibition decisions, there have been numerous cases where the parties either entered into commitments to avert a prohibition or abandoned the transaction altogether when they faced opposition from the BMWE. An example is the attempted takeover of Aixtron, a manufacturer of equipment for the semiconductor industry, by a Chinese investment fund. The deal was abandoned after it was prohibited in the U.S. and met with concerns by the German Federal Government.

Recently, the BMWE has been particularly active with respect to the amendments in the tech sector and critical infrastructure and seems to make full use of its broad discretion when applying these regulations. Further, Russia's aggression in Ukraine led to the BMWE's attention being drawn during its review of the sale of Mr. Mordashov's stake in the German travel giant TUI.

The administrative courts have dealt with only one case in which a prohibition decision was challenged. The judgement is from 2023 but mainly focusses on procedural aspects of the FDI review. Thus, no further information can be derived from this judgement on the material application of the FDI rules.

32

Are there any relevant recent developments or trends?

The Federal Government has amended the AWV and the AWG several times since 2017.

The 2017/2018 amendments were made in order to facilitate interventions against foreign investments. The 2018 amendment, which lowered the shareholding threshold for some acquisitions from 25% to 10%, was justified with the need to intensify the control of "state directed or state financed strategic investments".

The background to lowering the thresholds to 10% had been a significant increase in the acquisition of minority shareholdings in German companies by Chinese investors. In particular, the BMWE had been unable to review the planned acquisition of 20% of the shares in 50Hertz by State Grid Corporation of China. Although 50Hertz, as one of the largest network suppliers in Germany, was classified as a critical infrastructure company, a review under Section 55 et seq. AWV was not possible because the acquisition would have been below the former threshold of 25% for critical infrastructure. Ultimately, the government succeeded in preventing the takeover by instructing its own development bank KfW to take over the shares.

Further amendments in 2020 reflect the importance of the health sector due to the Covid-19 pandemic by including *inter alia* protective equipment, essential medicines or medicinal products and in-vitro diagnostics into the catalogue of cross-sectoral review. With respect to critical infrastructure, relevant thresholds were lowered in early 2022 enabling further

mandatory reviews in this area. The reform of 2017 led to a significant increase in the number of filings according to Section 55 et seq. AWV (223 reviews under Section 55 et seq. AWV and 38 reviews under Section 60 AWV in 2024).

An upcoming development is expected to pass in the Federal Parliament in 2025: The NIS2 Directive issued by the EU requires an enhanced protection of critical infrastructure. According to the current legislative draft of the act implementing the NIS2 Directive it is expected that the BSI-KritisV will be amended and may define further activities as critical infrastructure. However, an assessment of the impact of this implementing act on the FDI regime is currently not possible.

Furthermore, the BMWE has recently announced that it will present an updated draft of a German FDI Act (*Investitionsprüfgesetz*) that may sharpen and redefine cases for a mandatory filing. In the course of this expected legislative process the upcoming updated EU Screening Regulation shall be implemented as well. However, it is not expected that the categories for a mandatory FDI filing will be reduced. Due to the fact that such a draft was already announced during the last legislative period (2021 – 2025) a timeline for a draft can currently not be estimated.

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Italy

Relevant laws and authorities

1
What are the main laws regulating foreign investments?

The matter is regulated by Italian Law Decree no. 21/2012, as well as all the recalled legislative acts and implementing regulation (*e.g.*, Italian D.P.C.M. No. 108/2014,Italian D.P.C.M. No. 179/2020 and No. 180/2020, Italian D.P.C.M. 133/2022) together with EU Regulation 2019/452.

2
Which authorities are charged with applying those laws?

The Authority charged with the powers to apply the special powers is the Italian Presidency of the Council of Ministers (the "**Italian PMO**"). The technical screening phase is carried out by the competent Ministry, as selected by the Italian PMO.

3
What other legislation is relevant for foreign investments?

The EU Regulation 2019/452 is relevant for setting out a framework for review of FDI's coming into the EU (as further explored in the EU section of this guide).

Transactions subject to review

4

Which types of transactions are caught?

The following types of transactions are caught:

- Acquisition of companies operating in any of the sectors listed under articles 1, 1bis, 2 of Italian Law Decree No. 21/2012 (the last category refers to D.P.C.M. No. 179/2020 and No.180/2020);
- Incorporation of new companies falling in any of the sectors already mentioned (so-called greenfield investments);
- Intra-group reorganisations when, as a result of the reorganisation, the registered office of the target will be moved outside of the EU, there will be a change of the social scope of the undertaking, a liquidation of the company, an amendment of statutory clauses, constitution or a transfer of rights or deeds.

5

Are minority interests caught?

Yes, some transactions need to be filed when a minority stake is acquired (10%, 15%, 20%, 25%) from an extra-EU investor.

6

How are foreign investors or foreign investments defined by the applicable legislation?

Foreign investors are defined as "a natural person of a third country or an undertaking of a third country, intending to make or having made a foreign direct investment." Special rules apply to extra-EU investors and third country investors (defined as "an undertaking constituted or otherwise organised under the laws of a third country" where the third Country means a non-EU State).

7

Are there sector-specific rules?

Yes, some differences apply depending on the target's business activity. If it falls within art. 1 (defence and national security) or 1-bis (5G, cloud) or 2 (energy, communications, transport) of the Italian Law Decree No. 21/2012, some differences do exist (*e.g.*, thresholds, notification structure and information to be communicated, a kind of screening procedure).

8

Is any threshold applicable (turnover related or otherwise)? Is there any kind of *de minimis* threshold?

Sometimes specific limits apply, depending on the affected sector. Generally, if the investor is from the EU, an acquisition of control is required (control is presumed when a shareholder holds the majority of votes in the assembly, or if it can have a dominant influence in it. Control may also be acquired through shareholder agreements).

When the investor is an extra-EU entity, instead of a threshold of 10% of participations or shares that must be reached, the value of the investment must be equal to or higher than EUR 1 million, unless there is an acquisition of control (in this case, the value of the transaction will have no relevance).

9

Are there special rules for investments by foreign state-owned enterprises or sovereign wealth funds?

No, but the "FSR Regulation" – EU Regulation No. 2560/2022 must be considered in similar transactions.

10

Can comfort letters be obtained from the authorities confirming that a transaction is not subject to review?

This is possible through the filing of a so-called "pre-notification" to seek the Authority's view of whether or not the transaction falls outside of the scope of the Italian FDI Screening Regime. If it does not, after the expiration of the 30 calendar days deadline, a mandatory filing will be requested.

Procedure

11

Is a filing required (mandatory) or possible (voluntary)?

A filing is required whenever the thresholds are reached, and it becomes mandatory within 10 calendar days following the closing of a transaction. It is also possible to file a notification on a voluntary basis. This may happen for example after the signing of a transaction. It is advisable to proceed in this way in case of any uncertainty on the applicability of the FDI screening regime to a transaction. This will avoid any action from the Italian PMO in a second phase.

12

Must the parties suspend the transaction until the review is completed?

A mandatory filing is not suspensory in nature. However, it is advisable to include a CP relating to the positive outcome of the filing. Subsequently, the effects of the transaction shall be suspended until the Italian PMO issues its decision. This will avoid the imposition of sanctions such as fines and the annulment of the transaction (in case of a Veto power).

13

At what point in time should or must a filing be made (before or after signing or closing of the transaction)? Is there a mandatory deadline?

The filing of a transaction falling within the scope of the Italian FDI Screening Regime is mandatory within 10 calendar days from the transaction's closing.

14

Which party is responsible for making the notification?

Generally, the Acquirer is responsible. However, the filing is normally submitted jointly with the Target, since the relevant provision states that the notification should be filed jointly "if possible" (*i.e.*, when legally feasible, such as under a mutually agreed SPA, rather than, *e.g.*, in the case of a hostile takeover). If a filing is submitted only by the acquirer, the acquirer must also notify a form containing all the relevant information regarding the transaction to the target and then share proof of the notification with the Italian Presidency of the Council of Ministers.

15

Are there any filing fees?

There are no filing fees on notification.

16

Are there fines or other sanctions for failure to notify or for closing the transaction without prior approval? If so, are there examples of such sanctions imposed in the past?

Yes, the Italian PMO can fine the parties if they fail to notify a transaction within the mandatory timeframe. Generally, the party receiving a fine is the acquirer, given that they are the ones responsible for the mandatory notifications (see question number 14). Please note that if the transaction falls under the Public Security and Defence Sector (art. 1 of Italian Law Decree No. 21/2012), both parties are considered to be responsible. The target shall be held responsible if it fails to notify any resolutions, acts/deeds or adopted transactions which may affect the target's strategic assets or governance when such notification was mandatory.

An unusual example of a case where both parties have been fined was the acquisition of Tim S.p.A. ("**TIM**") by Vivendi Société Anonyme ("**Vivendi**"). At the time, Vivendi obtained control of TIM through a specific Shareholders' Agreement, for which Vivendi appointed two-thirds of the directors. The Italian PMO was not notified of the SHA, and, as a consequence, a fine was imposed on both Vivendi and TIM. The fines were imposed (i) on Vivendi as result of missing the mandatory notification (national security sector); and (ii) on TIM due to missing the mandatory notification of the resolution/act that allowed Vivendi to take control of TIM.

17

Do the authorities have powers to review and challenge transactions that are not subject to a mandatory review?

Theoretically not. However, the Italian PMO has high discretionary powers. If during the exercise of these powers they successfully defend its position, then it will be difficult to challenge the decision.

18

What is the timeline of the review process? Are fast-track options available?

The legal timeline is 45 working days, although in practice the Authority will often work to a calendar day timeline. This time frame may be extended when RFIs to parties and to third parties are issued. Respectively, this will result in an additional 10 working days in the first case and/or 20 additional working days in the latter. The screening procedure could be faster if the prenotification is preferred (30 calendar days from the notification). However, in cases where a mandatory filing is requested at the end of the process, this will result in adding 45 calendar days (at least) to the process.

19

Do other authorities or government bodies participate in the review process? How does the process relate to other types of review, *e.g.*, merger control by the competition authorities?

Decisions are made following the intervention of the competent Ministry, which is appointed on a case-by-case basis.

20

To what extent are the parties involved in the review? Do the authorities expect pre-filing communication?

The parties are involved only if RFIs are issued. Otherwise, they will only receive a communication stating which is the competent Ministry for the review and another communication at the conclusion of the screening procedure announcing the decision.

21

Are third parties (complainants) involved in the review? What rights and/or standing do they have?

Third parties are involved only if RFIs are issued to them. Otherwise, they are not involved, and they cannot have access to the filing or the attached documentation.

22

Are there safeguards in place to protect confidential information of the parties?

Yes, confidentiality can be sought as part of the notification. Normally, the screening procedure and filing are not publicly available, but they are accessible by the parties, when submitted jointly.

23

Is the fact that a filing or decision is made published? When?

The decision is not made public and only minimal information (a general overview) is published in the annual report published by the Italian Senate.

Substantive assessment

24

What are the criteria for an intervention? How much discretion do the relevant authorities have in applying those criteria?

The criteria are set out objectively in the law, both in terms of scope of application of the FDI screening regime (*e.g.*, thresholds) and in terms of the conditions for exercising veto powers or imposing commitments (*i.e.*, threats to national interests, national security or public order). However, please note that the Italian PMO maintains relevant discretionary powers.

25

Does the nationality of the investor play a role?

Since it is a politically driven decision, in certain circumstances, the nationality of the investor may be relevant.

26

What powers do the authorities have to prohibit or otherwise interfere with a transaction?

They can exercise a veto power or impose undertakings and commitments on the parties.

27

Do the authorities cooperate or consult with authorities in other countries?

Yes, after the adoption of the EU Regulation No. 2019/452, after a notification is submitted, it is forwarded to the other EU Member States and the EU Commission.

28

Can remedies be offered by the parties? Are remedies suggested by the authorities?

Only in the form of commitments and/or undertakings to be adopted.

29

Can a negative decision be appealed?

Yes, it can be challenged in front of Rome's Regional Administrative Tribunal. However, given the nature of the decision and the discretionary power assigned to the Italian PMO, the prospect of a successful appeal is low.

Examples and trends

30

Are there any recent cases that reflect how the relevant laws and policies are applied?

An important and recent decision comes from case No. 13748 of the Administrative Regional Court (Rome), published on 12 July 2025. The decision partially upheld the appeal filed by UniCredit S.p.A. against the Italian PMO's decision to impose commitments in the context of the acquisition of Banco BPM S.p.A.

This case is particularly interesting for the following reasons:

1. It is one of the rare cases where a commitment imposed under the Italian FDI screening regime has been successfully challenged.
2. The case in question set out specific criteria for when veto powers or commitments can be used by the Italian PMO:
    a. the presence of a threat to primary national interests (*e.g.*, national security);
    b. the absence of alternative measures to achieve the same result as the Italian PMO decision; and
    c. proportionality and adequacy of the golden power decision in relation to the objectives and circumstances in which the latter is adopted.

In the aforementioned case, it was explained that the Italian PMO had not specifically illustrated why two out of four commitments would satisfy the criteria set out *sub 2.c*.

Another important case which upheld the precedent case law is the result of the appeal in *Cedacri*. The decision no. 9619/2025 adopted by the Council of State, published on 5 December 2025, clearly stated that it is not possible to intervene in cases of a potential situation of change of control unless the event triggering such change happens.

This case marked a specific restrictive interpretation of the mandatory notification cases, with reference to the change of control, affirming that a notification is mandatory only when the change of control effectively occurs. More specifically, the creation of a pledge, which in case of a breach of certain conditions confers some shares to the guaranteed party, cannot be compared nor considered as an acquisition of control by the guaranteed party.

31

Are there any relevant recent developments or trends?

The above-mentioned case is very important, considering that, following the commitments imposed on UniCredit, the EU Commission opened an investigation to clarify whether the Italian FDI screening regime is compatible with EU freedom of movement of capital and freedom of establishment rights. The Commission requested an official response from the Italian government and is currently contemplating whether to formally challenge the Italian golden power legislation. At the beginning of January 2026, the Italian government intervened to avoid the opening of the procedure in front of the European Commission. The entry into force of the amended Italian Law Decree no. 175/2025 modified the rules concerning the prerequisite for the adoption of the special power, specifically adding the necessity to defend the economic and financial security of the Nation. The use of the FDI screening regime in the financial sector, moreover, has been limited in the presence of ongoing screening from the competent Authorities (ECB and European Commission), given the Italian FDI process, it may only begin once the ECB or the European Commission completes their review.

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Japan

Relevant laws and authorities

1
What are the main laws regulating foreign investments?

The Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949) ("**FEFTA**") and its related ordinances and regulations.

2
Which authorities are charged with applying those laws?

The Minister of Finance and the competent ministers for the applicable business ("**Competent Ministers**") are charged with applying FEFTA. The Competent Ministers are determined based on the business being conducted by the target company. For example, the Minister of Economy, Trade and Industry and the Minister of Internal Affairs and Communications are the Competent Ministers with respect to companies engaged in information and communications technology related businesses.

All necessary related notifications and reports, however, must be filed with the Minister of Finance and the Competent Ministers through the Bank of Japan ("**BOJ**"), which is the organisation responsible for administrative processing thereof.

3
What other legislation is relevant for foreign investments?

The following is a (non-exhaustive) list of laws that impose certain restrictions on foreign investments by (a) prohibiting foreign investors from holding voting rights above a certain percentage; or (b) prohibiting licences for applicable businesses from being granted to a company in which (i) foreign investors hold more than a certain percentage of the voting rights or (ii) the representatives or more than a certain percentage of directors or officers are foreigners:

Ships Act (Act No. 46 of 1899, as amended);

Radio Act (Act No. 131 of 1950, as amended);

Broadcasting Act (Act No. 132 of 1950, as amended);

Mining Act (Act No. 289 of 1950, as amended);

Civil Aeronautics Act (Act No. 231 of 1952, as amended);

Act on Nippon Telegraph and Telephone Corporation, *etc.* (Act No. 85 of 1984, as amended); and

Consigned Freight Forwarding Business Act (Act No. 82 of 1989, as amended).

Transactions subject to review

4

Which types of transactions are caught?

In principle, with respect to a company engaged in a Prior Notification Business Type, the following transactions or actions conducted by a "**Foreign Investor**" (see question 6 below) are subject to prior filings and/or post facto reports:

i. Acquisition of shares or voting rights in a Japanese listed company (including over-the-counter traded companies; collectively, "**Listed Companies**") where the resulting shareholding or voting rights ratio reaches 1% or more.

ii. Acquisition of shares or membership interests (collectively, "**Shares**") in an unlisted Japanese company (excluding a Specified Acquisition as defined in (xv) below).

iii. Transfer of Shares in an unlisted Japanese company by a non-resident individual to a Foreign Investor, where such Shares were acquired by the individual when he/she was a resident of Japan.

iv. Consent by a Foreign Investor to (a) a substantial change of the business purpose of a Japanese company, (b) the election of such Foreign Investor or a closely related person thereof as a director or statutory auditor, or (c) a proposal for a business transfer, merger, company split or other similar transaction (excluding proposals submitted to a shareholders' meeting by a third party).

v. Establishment by a Foreign Investor of a branch, factory or other business office in Japan, or a substantial change of the type or business purpose thereof.

vi. Advancement of loans to a Japanese company exceeding certain thresholds with a term exceeding 1 year.

vii. Assumption by a Foreign Investor of a restricted business of a Japanese company by means of business transfer, absorption-type company split or merger.

viii. Acquisition of private placement bonds issued by a Japanese company exceeding certain thresholds with a maturity exceeding 1 year.

ix. Acquisition of investment securities issued by the BOJ or other corporations established under special laws.

x. Acquisition of shares in a Listed Company through discretionary investment management, where the resulting shareholding or voting rights ratio reaches 1% or more.

xi. Acceptance of authority to exercise voting rights (proxy arrangements) that relates to important matters such as appointment, dismissal or shortening of the term of directors, amendment of the articles of incorporation, business transfer, merger, or dissolution and that falls under either of the following categories:

   a. For a Listed Company, where after such proxy the proxy holder's voting rights ratio on an effective ownership basis reaches 10% or more; or

   b. For an unlisted company, where the proxy is granted by a person other than another Foreign Investor.

xii. Acquisition of authority to exercise voting rights where, after such acquisition, the acquirer's voting rights ratio on an effective ownership basis reaches 1% or more.

xiii. Delegation by a non-resident individual to a Foreign Investor of authority to exercise voting rights with respect to shares of an unlisted Japanese company that were acquired by such individual while a resident of Japan.

xiv. Acquisition of consent from another non-resident individual or entity holding voting rights in a Listed Company to jointly exercise such voting rights, where the combined voting rights ratio of the parties reaches 10% or more.

(Items (i) through (xiv) are collectively referred to as "**Inward Direct Investment**").

xv. Acquisition of Shares in an unlisted Japanese company from another Foreign Investor ("**Specified Acquisition**").

5

Are minority interests caught?

Yes, generally speaking, an acquisition of any shares in unlisted companies or 1% of shares in listed companies may be caught. Please see responses to question 4 above for further details.

6

How are foreign investors or foreign investments defined by the applicable legislation?

Under FEFTA, a "**Foreign Investor**" is defined as any one of the following persons who is engaged in the transactions as provided under question 4 above:

i. An individual who is not a resident in Japan;

ii. A company or other entity established pursuant to foreign laws and regulations or having its principal office in a foreign country;

iii. A Japanese company in which 50% or more of voting rights are directly or indirectly held by persons meeting the descriptions in (i) and/or (ii);

iv. A limited partnership, if (a) 50 per cent or more of the funds of the limited partnership are directly or indirectly contributed by Foreign Investors, or (b) the majority of the general partners of the limited partnership are Foreign Investors; or

v. A Japanese company or other entity in which a majority of its (a) officers (directors or other individuals equivalent thereto), or (b) officers who have the authority to represent the company, are individuals who are not resident in Japan.

7

Are there sector-specific rules?

Yes. As for Inward Direct Investment and Specified Acquisitions, filing of a prior notification is required if (i) the target company, (ii) the target company's Japanese subsidiary or (iii) the target company's Japanese joint venture company in which the target company (including its subsidiaries) holds 50% of voting rights equally with another joint venture partner is engaged in a type of business with respect to which a prior notification is required to be made, as prescribed under FEFTA (a "**Prior Notification Business Type**"). A Prior Notification Business Type for Inward Direct Investment is a type of business that (i) is likely to impair national security[1], disturb the maintenance of public order[2], or hinder the protection of public safety[3], or (ii) is subject to a reservation lodged by Japan pursuant to the provisions of Article 2b of the Code of Liberalization of Capital Movements of the Organization for Economic Cooperation and Development (the "**OECD Code**")[4].

The Prior Notification Business Type for a Specified Acquisition consists of businesses that are highly likely to cause a situation that impairs national security.[5]

The scope of Prior Notification Business Types has been expanded to include cutting-edge fields such as artificial intelligence ("**AI**"), semiconductors, quantum technology, cybersecurity software industries, medical / pharmaceutical industry and industries related to critical mineral resources (including rare earths), as well as industries related to designated critical materials, from the perspectives of supply chain resilience and measures against technology leakage and risks of military diversion.

If the target company's business does not constitute a Prior Notification Business Type, only a post facto report is required for an Inward Direct Investment, unless a prior notification is required based on the Foreign Investor's nationality (see question 25), and no filing is required for a Specified Acquisition.

8

Is any threshold applicable (turnover related or otherwise)? Is there any kind of *de minimis* threshold?

Among Inward Direct Investments and Specified Acquisitions, there is no *de minimis* threshold related to turnover of the target company. On the other hand, there are certain *de minimis* thresholds that trigger the filing requirements depending on the type of transaction or action, or whether or not the target company is a listed company.

In addition, a foreign investor may be eligible for either a so-called general exemption or a blanket exemption for certain Restricted Share Transactions.

9

Are there special rules for investments by foreign state-owned enterprises or sovereign wealth funds?

The following foreign investors cannot use the exemptions from the prior notification requirement that are set out in the amended ordinances: those with a sanction record or corrective order due to a FEFTA violation or foreign state-owned enterprises and similar entities. From 19 May 2025, the scope of such non-exempt individuals or entities was expanded to include those who are legally obliged to cooperate with information-gathering activities of foreign governments (in cases where such activities may significantly undermine Japan's national security).

1. E.g., manufacture of weapons, aircraft, goods related to nuclear power or space development or goods that are likely to be used for military purposes, manufacture of devices and parts related to information processing, software manufacture for information processing, and information communication services.
2. E.g., electricity, gas, heat supply, water supply, information and communication, broadcasting, railway transport or passenger transport
3. E.g., biological preparations (production of vaccines) or security services.
4. E.g., agriculture, forestry and fishery, oil, manufacture of leather and leather products, air transport or marine transport.
5. Same business types mentioned in Footnote 1 as well as electricity business (limited to ownership of nuclear power plants).

However, among foreign state-owned enterprises, sovereign wealth funds and public pension funds may be eligible for the prior notification exemptions (so-called general exemption) if they are accredited by the Minister of Finance. This requires the fund and the Minister of Finance to enter into a memorandum of understanding, which is not made public.

In addition, after the acquisition of shares in reliance on a prior filing exemption, if, for instance, the following changes are made to the attributes of foreign investors, a post-closing report is required: a foreign government or a state-owned enterprise has become a shareholder of 10% or more of such foreign investor's voting rights; or an officer of the foreign investor has become an official of a foreign government or has been appointed by a foreign government.

10

Can comfort letters be obtained from the authorities confirming that a transaction is not subject to review?

No, except that a memorandum of understanding may be entered into with an accredited foreign state-owned enterprise, sovereign wealth funds and public pension funds as detailed in the answer to question 9 above.

Procedure

11

Is a filing required (mandatory) or possible (voluntary)?

When applicable (and unless any exemption applies), filing is mandatory.

12

Must the parties suspend the transaction until the review is completed?

As to transactions/actions subject to a prior notification requirement, yes, as explained under question 18 below. As to transactions/actions subject to a post facto report requirement, no.

13

At what point in time should or must a filing be made (before or after signing or closing of the transaction)? Is there a mandatory deadline?

A prior notification relating to an Inward Direct Investment, or a Specified Acquisition, must be filed no more than 6 months prior to the planned closing of the transaction.

When considering the timing of the filing, a Foreign Investor should note that the planned transactions or actions must be suspended until the waiting period has expired as explained in questions 12 above and 18 below.

A Foreign Investor who has filed a prior notification must file an implementation report within 45 calendar days after the implementation of certain transactions relating to the prior notification.

A post facto report for Inward Direct Investment must be filed within 45 calendar days after the planned transaction/action is consummated.

14

Which party is responsible for making the notification?

Each Foreign Investor conducting an Inward Direct Investment, or a Specified Acquisition, is responsible for the filing of any prior notifications or post facto reports required under FEFTA. If the Foreign Investor is a non-resident of Japan, such Foreign Investor must appoint a resident attorney-in-fact in Japan and file the prior notification or the post facto report through such attorney-in-fact in Japan.

15

Are there any filing fees?

There are no filing fees.

16

Are there fines or other sanctions for failure to notify or for closing the transaction without prior approval? If so, are there examples of such sanctions imposed in the past?

Failure to file a prior notification could result in criminal and/or administrative penalties.

The criminal penalties include imprisonment for up to three years and/or a fine of three times the value of the Inward Direct Investment or the Specified Acquisition that was made in violation of FEFTA, as applicable, or JPY 1 million, whichever is higher.

Failure to file a post facto report or an implementation report after the related prior notification could result in criminal penalties including imprisonment for up to six months or a fine of JPY 500,000.

If a representative, an agent or an employee of a Foreign Investor breaches the filing requirements, not only would such representative, agent or employee possibly incur a penalty but also the Foreign Investor itself could incur a penalty.

If a transaction is conducted without filing a prior notification, and the Inward Direct Investment or Specified Acquisition is deemed to relate to national security or similar matters, the authorities may order the Foreign Investor who committed the violation to take remedial measures, including the disposal of all or part of the acquired shares or other interests.

However, the latest FEFTA annual report published by the Ministry of Finance reports that there has been no case to date in which any penalty or order to take remedial measures has been imposed for failure to file a prior notification, a post facto report or an implementation report. The latest FEFTA annual report also reports that 534 cases of transactions without prior notification were identified in 2022; 1,184 cases in 2023; and 356 cases in 2024. In such instances, the authorities consider the various circumstances of the violation, including whether the violation was intentional, how the violation was discovered (whether it was voluntarily reported or pointed out by the authorities), whether the foreign investor promptly reported the violation after becoming aware of it, whether there was any attempt to conceal the violation, and whether the violation was repeated or continuous. If the violation is deemed to be particularly egregious, strict measures may be imposed.

17

Do the authorities have powers to review and challenge transactions that are not subject to a mandatory review?

No. However, the introduction of call-in powers for certain investments in non-designated business types is being considered. Please see responses to question 31 for further details.

18

What is the timeline of the review process? Are fast-track options available?

A Foreign Investor who has filed a prior notification may not consummate the subject transaction until 30 calendar days have passed from the filing date, in principle.

Normally, this waiting period is shortened to 2 weeks. According to the latest FEFTA annual report published by the Ministry of Finance, the average waiting period of the 2,903 notifications filed in FY 2024 was 8.2 business days, with approximately 30% of filings being cleared within 5 business days and 79% of the filings being cleared within 2 weeks.

However, if the Minister of Finance and other Competent Ministers find it necessary to examine: (i) whether the Inward Direct Investment subject to the prior notification is likely to impair national security, disturb the maintenance of public order or hinder the protection of public safety or significantly adversely affect the smooth management of the Japanese economy; or (ii) whether the Specified Acquisition subject to the prior notification is highly likely to cause a situation that impairs national security (those criteria, collectively, "**National Security**"), the waiting period may be extended to up to 5 months.

19

Do other authorities or government bodies participate in the review process? How does the process relate to other types of review, *e.g.*, merger control by the competition authorities?

If the Minister of Finance and other Competent Ministers determine that a transaction for which prior notification was filed is likely to harm National Security, they may recommend that the Foreign Investor change the content of the transaction or discontinue the transaction. Before issuing such recommendation, the Minister of Finance and other Competent Ministers need to hear the opinions of the Council on Customs, Tariff, Foreign Exchange and other Transactions (the "**Council**").

The process does not relate to other types of review.

20

To what extent are the parties involved in the review? Do the authorities expect pre-filing communication?

A Foreign Investor who filed the prior notification may receive inquiries or requests for additional information or materials or amendment of the descriptions in the submitted documents from the authorities. If the Foreign Investor receives such inquiries or requests, while they usually do not set any deadline for responses, it is expected to respond to them in a timely manner.

Separately from such formal inquiries or requests, in order to facilitate the review after the filing, the Foreign Investors may informally consult with the BOJ regarding formalities, and the BOJ will review a draft notification/report and provide comments (if any) in response to an informal request. In addition, the Foreign Investors may informally consult with the Ministry of Finance and other ministries regarding substantial matters such as the interpretation or applicability of FEFTA.

21

Are third parties (complainants) involved in the review? What rights and/or standing do they have?

No. Third parties do not have any rights or standing.

22

Are there safeguards in place to protect confidential information of the parties?

Yes, confidentiality is maintained throughout the process. National officials and BOJ officers and employees are obligated to keep confidential any knowledge they acquire in the course of their duties under the National Public Service Act (Act No. 120 of 1947, as amended) or the Bank of Japan Act (Act No. 89 of 1997, as amended), as applicable.

23

Is the fact that a filing or decision is made published? When?

Upon completion of the review process, *i.e.*, 2-4 weeks after the application, and the lifting of the suspension period, the approval will be published in an Excel file (here) on the BOJ's website (here) with the date of reception, the reference number and the earliest permissible date of implementation, typically after 5 p.m. on each business day. The reference number is known only to the filer, and therefore anonymity is ensured.

Substantive assessment

24

What are the criteria for an intervention? How much discretion do the relevant authorities have in applying those criteria?

Generally, the Minister of Finance and other Competent Ministers have broad discretion in assessing whether the transaction/action is likely to harm National Security.

To improve transparency, they have disclosed the factors to be considered in such assessments (https://www.mof.go.jp/english/policy/international_policy/fdi/gaitamehou_20200508.htm).

25

Does the nationality of the investor play a role?

Yes, from the perspective of reciprocity, Inward Direct Investments by a Foreign Investor in countries with no treaties or other agreements with Japan are subject to a prior notification requirement. Currently, there are about 163 countries/regions with such reciprocity.

In addition, Inward Direct Investments related to acquisitions of Shares by Iran-related parties (*i.e.*, the Iranian government, Iranian citizens, companies or other entities established pursuant to Iranian laws, *etc.*) in Japanese companies engaged in certain business are subject to a prior notification requirement.

26

What powers do the authorities have to prohibit or otherwise interfere with a transaction?

If the notified transaction is likely to harm National Security, the Minister of Finance and other Competent Ministers may recommend to the Foreign Investor that it change the content of the transaction or discontinue the transaction.

If the Foreign Investor refuses such recommendation, the Minister of Finance and other Competent Ministers may order the Foreign Investor to change the content of the transaction or discontinue the transaction.

Also, in the following cases, when a Foreign Investor conducts an Inward Direct Investment or a Specified Acquisition that is likely to harm National Security, the Minister of Finance and other Competent Ministers, after hearing the opinion of the Council, may order the Foreign Investor to dispose of the acquired Shares, in whole or in part, or to take other necessary measures:

i. Failure to file a prior notification;

ii. Consummation of a transaction during the waiting period;

iii. False notification;

iv. Failure to follow a recommendation that the Foreign Investor has accepted or violation of an order for change of the content of a transaction;

v. Failure to follow a recommendation that the Foreign Investor has accepted or violation of an order for discontinuance of a transaction; or

vi. Where a Foreign Investor that has conducted an Inward Direct Investment or a Specified Acquisition by relying on the prior notification exemption violates an order to take measures in response to a recommendation for compliance with the relevant standards (Articles 27-24 and 28-24 of FEFTA).

27

Do the authorities cooperate or consult with authorities in other countries?

In FEFTA, there is a provision that allows the Japanese government to exchange information with foreign governmental organisations. This provision appears to be aimed at allowing the Japanese authorities to coordinate with bodies like the Committee on Foreign Investment in the United States ("**CFIUS**").

28

Can remedies be offered by the parties? Are remedies suggested by the authorities?

As the parties are not expected to be involved in the review process, remedies cannot be formally offered by the parties. Remedies are not formally suggested by the authorities other than by way of recommendation as mentioned in the response to question 26 above.

29

Can a negative decision be appealed?

A negative decision can be appealed to the relevant ministers in the form of a request for review to challenge an order to change the content of a transaction or discontinue the transaction. If the Foreign Investor is not satisfied with the determination by the relevant ministers, it can bring an action in court.

Examples and trends

30

Are there any recent cases that reflect how the relevant laws and policies are applied?

Since an attempted acquisition of shares in Electric Power Development Co., Ltd. ("**J-POWER**") by Children's Investment Master Fund ("**TCI Fund**"), in May 2008, there has not been any reported order issued against Foreign Investors to change the terms of or discontinue a transaction. However, in 2021, the FEFTA regime drew the attention of the public in connection with a potential sale of Toshiba Corporation ("**Toshiba**"), which engages in a core Prior Notification Business Type. The transaction gained public attention amid concern that Toshiba's executives and an official of the Minister of Economy, Trade and Industry had attempted to influence voting of some of Toshiba's foreign shareholders, by referring to enforcement against them over their potential breach of FEFTA

In addition, this FEFTA regime recently drew public attention again in 2024 in connection with a proposed acquisition of Seven & i Holdings Co., Ltd., by a Canadian buyer. After the announcement of the proposed acquisition, Seven & i Holdings Co., Ltd. was newly listed as a company conducting core Prior Notification Business Type. Some investors suspected that this listing may have been an arbitrary addition by the Ministry of Finance for the purpose of takeover defence. The Ministry of Finance has explained since that foreign investment regulations under FEFTA are not arbitrarily used for takeover defence purposes.

31

Are there any relevant recent developments or trends?

Since 2019, the scope of Prior Notification Business Types has been expanded almost annually and, following the enforcement of the Economic Security Promotion Act in 2022, the prior notification and post facto reporting requirements for foreign financial institutions have been further strengthened as of May 2025. Further revisions are expected to continue in light of economic security considerations, international developments and technological trends.

On 7 January 2026, the Ministry of Finance's advisory body, the Council on Customs, Tariff, Foreign Exchange and Other Transactions, published a report (the "**Report**") outlining the direction of upcoming amendments to FEFTA. While the Report recommends streamlining the screening process by narrowing the scope of Prior Notification Business Type and transactions subject to prior notification, it also proposes new measures, including (i) regulation of certain indirect acquisitions (*e.g.*, acquisitions of shares in a foreign parent company that directly holds shares in a Japanese company) and (ii) call-in powers for certain investments by Foreign Investors that are considered to pose particularly high risks in non-designated business types. A bill reflecting the Report is expected to be submitted and discussed during the ordinary session of the Diet in 2026.

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United Kingdom

Relevant laws and authorities

1
What are the main laws regulating foreign investments?

The National Security and Investment Act 2021 (the "**NSI Act**") came into force in the UK on 4 January 2022, and gives the UK Government powers to scrutinise and intervene in certain acquisitions to protect national security. There is no formal distinction between domestic and foreign investment under the NSI Act.

2
Which authorities are charged with applying those laws?

The NSI Act is administered by the Investment Security Unit ("**ISU**") in Cabinet Office (having previously sat within the UK Department for Business, Energy & Industrial Strategy, "**BEIS**") and the decision maker is the Chancellor of the Duchy of Lancaster, the Secretary of State in the Cabinet Office.

The Secretary of State also has the power under the NSI Act to "call in" an acquisition for assessment if they reasonably suspect the acquisition has given, or may give, rise to a risk to national security, or arrangements are in progress or contemplation which, if carried into effect, will result in an acquisition that may give rise to national security risk.

3
What other legislation is relevant for foreign investments?

The Enterprise Act 2002 ("**EA 2002**") provides the UK Government with the power to intervene in merger investigations by the Competition and Markets Authority (the "**CMA**") on public interest grounds, namely media plurality, financial stability and the need to maintain the capability to combat and to mitigate the effects of public health emergencies. These public interest grounds previously included national security, but this was removed when the NSI Act came into force. The UK merger control regime is not considered any further in this section.

Transactions subject to review

4

Which types of transactions are caught?

The NSI Act applies to all acquisitions involving a "trigger event," where a person gains control of a qualifying entity or qualifying asset. For acquisitions of an entity, a person gains control of a qualifying entity if the person acquires a right or interest in, or in relation to, the entity and as a result one or more of the following cases arise:

i. where the percentage of the shares or voting rights that the person holds in the entity increases from 25% or less to more than 25%, from 50% or less to more than 50%, or from less than 75% to 75% or more;

ii. where the acquisition of voting rights in the entity (whether alone or together with other voting rights held by the person) enable the person to secure or prevent the passage of any class of resolution governing the affairs of the entity; or

iii. where the acquisition, whether alone or together with other interests or rights held by the person, enables the person to materially influence the policy of the entity.

Under the NSI Act, a "notifiable acquisition" takes place when a person gains control, by virtue of cases (i) or (ii) described above, of a qualifying entity that carries on activities in one or more of 17 specified sectors of the economy (see question 7). Such acquisitions are subject to a mandatory notification requirement (see question 11). Case (iii) above is an additional threshold applicable to voluntary notifications only.

For acquisitions of an asset, a person gains control of a qualifying asset if the person acquires a right or interest in, or in relation to, the asset and as a result, the person is able: (i) to use the asset, or use it to a greater extent than prior to the acquisition; or (ii) to direct or control how the asset is used, or direct or control how it is used to a greater extent than prior to the acquisition. Asset acquisitions are not subject to mandatory notification requirements.

5

How are foreign investors or foreign investments defined by the applicable legislation?

The NSI Act does not distinguish between foreign and domestic investors and does not contain a definition of foreign investors or foreign investment.

6

Are minority interests caught?

Yes, minority interests are caught where the acquisition involves a trigger event for the purposes of the NSI Act (see question 4).

7

Are there sector-specific rules?

Irrespective of the sector concerned, any acquisition involving a trigger event (see question 4) may be called in by the Secretary of State under the NSI Act.

Qualifying acquisitions involving an entity that carries on activities in one or more of 17 specified sectors of the economy are subject to mandatory notification requirements. The 17 specified sectors are currently: (1) Advanced Materials, (2) Advanced Robotics, (3) Artificial Intelligence, (4) Civil Nuclear, (5) Communications, (6) Computing Hardware, (7) Critical Suppliers to Government, (8) Cryptographic Authentication, (9) Data Infrastructure, (10) Defence, (11) Energy, (12) Military and Dual-use, (13) Quantum Technologies, (14) Satellite and Space Technology, (15) Suppliers to the Emergency Services, (16) Synthetic Biology, and (17) Transport.

Definitions for each sector are set out in the National Security and Investment Act 2021 (Notifiable Acquisition) (Specification of Qualifying Entities) Regulations 2021.

8

Is any threshold applicable (turnover related or otherwise)? Is there any kind of *de minimis* threshold?

There are no *de minimis* thresholds. The NSI Act applies to qualifying acquisitions regardless of deal value or the transaction parties' market shares or revenue.

9

Are there special rules for investments by foreign state-owned enterprises or sovereign wealth funds?

While there are no separate statutory rules, the ISU pays close attention to the ultimate beneficial ownership of acquirers, particularly those linked to foreign governments or state-owned enterprises.

Recent case law has confirmed that the ISU has wide discretion to consider how foreign ultimate beneficial owners might come to exert influence from a transaction it is reviewing ([2024] WLR(D) 540).

10

Can comfort letters be obtained from the authorities confirming that a transaction is not subject to review?

No. It is possible to approach the ISU informally to seek guidance on specific points of interpretation, but if parties want certainty that an acquisition will not be called in for review, a mandatory or voluntary notice needs to be submitted.

Procedure

11

Is a filing required (mandatory) or possible (voluntary)?

The NSI Act provides for both a mandatory notification process for "notifiable acquisitions" of qualifying entities carrying on activities in one or more specified sectors (see questions 4 and 7), as well as a voluntary notification process for other acquisitions that are not covered by mandatory notification but for which parties want certainty that an acquisition will not be called in for review.

12

At what point in time should or must a filing be made (before or after signing or closing of the transaction)? Is there a mandatory deadline?

Mandatory notifications under the NSI Act must be made – and clearance obtained – prior to implementation of the acquisition. Voluntary notifications can be made before or after the signing or closing of an acquisition.

The Secretary of State can retrospectively validate a notifiable acquisition which, if completed without the approval of the Secretary of State, is void (see question 16). A retrospective validation notice automatically "**cures**" (renders non-void) a transaction which should have been notified and approved prior to closing under the mandatory notification regime.

13

Which party is responsible for making the notification?

Under the mandatory regime, the person acquiring control of a qualifying entity must submit the mandatory notice. Under the voluntary regime, either the acquirer, the target or the seller can submit the voluntary notice. Any person materially affected by the fact that a notifiable acquisition is void may apply for retrospective validation.

14

Are there any filing fees?

There are no filing fees.

15

Must the parties suspend the transaction until the review is completed?

Mandatory notifications under the NSI Act must be made and clearance obtained prior to implementation of the acquisition (*i.e.*, it has suspensory effect).

16

Are there fines or other sanctions for failure to notify or for closing the transaction without prior approval? If so, are there examples of such sanctions imposed in the past?

A notifiable acquisition that is completed without the approval of the Secretary of State is void.

In addition, the NSI Act includes both civil penalties (fines of up to the higher of 5% of worldwide group turnover or GBP 10 million) and criminal penalties (imprisonment of up to 5 years and/or unlimited fines) for corporates and officers for implementing a notifiable acquisition without the requisite approval. To date, no such sanctions have been imposed.

17

Do the authorities have powers to review and challenge transactions that are not subject to a mandatory review?

Under the NSI Act, the Secretary of State has the power to call in any acquisition if it reasonably suspects that a "trigger event" (see question 4) has taken place in relation to a qualifying entity or qualifying asset, or arrangements are in progress or in contemplation which, if carried into effect, will result in a trigger event taking place in relation to a qualifying entity or qualifying asset, and the trigger event may give rise to a risk to national security.

18

What is the timeline of the review process? Are fast-track options available?

Notifications are subject to a review period of up to 30 business days. Before the end of the review period, the Secretary of State must either issue a call-in notice or confirm that no further action will be taken under the NSI Act.

If an acquisition is subject to a call-in notice, the Government has an additional 30 business days to conduct a national security assessment. This may be extended by 45 business days subject to certain conditions. If necessary, a further voluntary extension is possible, again, subject to certain conditions.

Although there is no formal fast-track option, the ISU may consider acquisitions of targets in material distress on an expedited timeline, subject to suitable evidence being provided.

19

Do other authorities or government bodies participate in the review process? How does the process relate to other types of review, *e.g.*, merger control by the competition authorities?

The ISU may contact other authorities or government bodies to solicit their views where it is deemed appropriate. There is a formal Memorandum of Understanding in place between BEIS (although the ISU was transferred from BEIS to Cabinet in February 2023) and the CMA which establishes a framework for cooperation, coordination and information sharing in the operation of the NSI Act.

20

To what extent are the parties involved in the review? Do the authorities expect pre-filing communication?

In general, the parties have a limited role in the review of an acquisition under the NSI Act. The NSI Act gives the Secretary of State powers to request information from parties by way of an "information notice," and they may also require persons to give evidence in person by way of an "attendance notice." This includes powers to issue information notices and attendance notices to persons outside the UK, in certain circumstances.

The ISU does not expect any pre-filing communication, although it is possible to approach the ISU informally to seek guidance on specific points of interpretation.

21

Are third parties (complainants) involved in the review? What rights and/or standing do they have?

The Secretary of State can issue information notices or attendance notices to third parties (see question 20) where it is deemed appropriate.

22

Are there safeguards in place to protect confidential information of the parties?

For national security reasons, the ISU will not publicly disclose confidential information unless it is required to do so by law. Information about cases is not routinely published, although limited information is made available publicly when a final order is imposed.

Note that Cabinet Office's NSI Act annual reports include anonymised case studies and sectoral data to improve transparency.

23

Is the fact that a filing or decision is made published? When?

There are no requirements under the NSI Act to publish information about individual acquisitions prior to a final order being made, although there are no restrictions on an acquirer making its own announcement. However, when a final order is made (see question 26), the Secretary of State is required to publish a notice of that fact. The contents of the notice are limited, but should include the parties to the order, a description of the trigger event and the entity or asset concerned, and a summary of the order.

Substantive assessment

24

What are the criteria for an intervention? How much discretion do the relevant authorities have in applying those criteria?

The NSI Act intentionally does not set out the circumstances in which national security is, or may be, considered at risk.

Decisions by the Secretary of State on whether to exercise the call-in power are made on a case-by-case basis, considering three primary risk factors:

- Target risk: This concerns whether the target of the qualifying acquisition (the entity or asset being acquired) is being used, or could be used, in a way that raises a risk to national security.
- Acquirer risk: This concerns whether the acquirer has characteristics that suggest there is, or may be, a risk to national security from the acquirer having control of the target.
- Control risk: This concerns the amount of control that has been, or will be, acquired through the qualifying acquisition. A higher level of control may increase the level of national security risk.

Guidance issued by the Government notes an expectation that all three risk factors will be present when calling in an acquisition, but it does not rule out calling in an acquisition based on fewer risk factors.

If an acquisition is called in for assessment, the Secretary of State may issue a "final order" (see question 26) if they: (i) are satisfied, on the balance of probabilities, that a trigger event has taken place (or that arrangements are in progress or contemplation which, if carried into effect, will result in a trigger event), and a risk to national security has arisen from the trigger event (or would arise from the trigger event if carried into effect); and (ii) reasonably consider that the provisions of the final order are necessary and proportionate for the purpose of preventing, remedying or mitigating the risk.

25
Does the nationality of the investor play a role?

All nationalities are subject to the same requirements, including UK-based investors. Government guidance notes that judgments will not be made based solely on an acquirer's country of origin. However, an acquirer's ties or allegiance to a state or organisation which is considered hostile to the United Kingdom will be a factor when assessing whether a qualifying acquisition has given, or may give, rise to a risk to the UK's national security.

26
What powers do the authorities have to prohibit or otherwise interfere with a transaction?

If an acquisition is called in for assessment, the Secretary of State can issue a "final order" that imposes conditions to mitigate national security risks. These can include: (i) placing conditions (whether structural or behavioural) on an acquisition prior to completion; (ii) unwinding the acquisition; or (iii) blocking the acquisition from taking place. A final order remains in place until varied or revoked by the Secretary of State, but an expiry date may be applied to some of its conditions, or the whole order.

At any time during the assessment period, the Secretary of State may also issue an "interim order" that prevents parties from taking any steps which might undermine any conditions the Secretary of State could seek to impose through a final order.

27
Do the authorities cooperate or consult with authorities in other countries?

While duties of confidentiality apply, the Secretary of State may cooperate and share information with overseas public authorities if it is necessary for the purpose of considering a NSI Act notification. There are several other circumstances where information may be shared, for example for the prevention and detection of crime. However, before doing so, the Secretary of State must consider whether such cooperation would unreasonably prejudice the commercial interests of any person concerned.

28
Can remedies be offered by the parties? Are remedies suggested by the authorities?

See question 26.

29
Can a negative decision be appealed?

Decisions made by the Secretary of State under the NSI Act can be appealed by applying to the High Court for judicial review.

In November 2024, the UK's High Court issued its judgment on the first appeal of a final order ([2024] EWHC 2963 (Admin)), confirming that ministers have wide discretion under the NSI Act. The judgment emphasises that national security can override commercial interests, provided the process is fair and proportionate.

Examples and trends

30
Are there any recent cases that reflect how the relevant laws and policies are applied?

The Secretary of State issued twelve final orders in 2025. Transactions have been approved with tailored safeguards to protect national security, including requirements around data, operations and supply continuity.

The recent decision by the UK High Court in *FTDI Holding v Chancellor of the Dutchy of Lancaster*[1] highlights how hesitant the courts are to overturn final orders. In 2021, FTDI Holding, a UK company owned by Chinese state-backed investment funds, acquired an interest in a UK semiconductor integrations company. However, FTDI Holding's interest was only discovered in 2022 when a separate transaction proposed by a different investor involving the target was investigated before it was ultimately abandoned. Only in late-2023 was a call-in notice issued in respect of the initial FTDI transaction, and a final order announced requiring the complete divestment of the FTDI interest. FTDI Holding brought a judicial review claim alleging that the Secretary of State had failed to call in the transaction in time and had failed to give adequate reasons for its decision to require divestment in the final order.

On the timing point, the court held that the statutory six-month period during which the Secretary of State can call in transactions for review only starts once any potential NSI Act implications are actually appreciated, irrespective of when such implications 'ought to have' been appreciated. In practice, this means that the six-month time limit is unlikely to ever prevent the issue of a final order. The court further held that, although it agreed the reasons provided by the Secretary of State were insufficient, this finding did not change the validity of the order, nor impose greater limitations on the ability for the Secretary of State to redact final orders in the future on national security grounds (by *e.g.*, redacting reasoning from versions issued to addressees), provided full reasoning has been set out in internal, confidential versions.

31

Are there any relevant recent developments or trends?

The scope of the NSI Act is very broad. Many types of acquisitions are captured by the requirements of the NSI Act, and transaction parties should assess possible requirements at an early stage. Over the years, the UK Government has expanded and clarified the scope of sectors subject to review under the NSI Act, particularly in technology, AI and data infrastructure.

In the latest annual report (April 2024 to March 2025), it is noted that ISU received 1,143 notifications (954 mandatory, 134 voluntary, and 55 retrospective). Fifty-six acquisitions (28 mandatory, 20 voluntary, one retrospective, and seven for non-notified acquisitions) were called in for national security assessment. Of the 56 acquisitions called in, 32% involved acquirers associated with China, 48% with the UK, and 20% with the US, highlighting a focus on both foreign and domestic investors. The Government issued 17 final orders (imposing conditions), up from 5 the previous year.

Of the 17 final orders, eleven were related to investors from the UK, seven from China and three from the US.

The highest proportion of interventions related to the defence sector (36%), followed by military and dual-use (29%), advanced materials (27%), and then technology-related sectors such as AI and data infrastructure.

The newly published industrial strategy (June 2025) plans to overhaul the NSI Act with the aim of making the UK's foreign-investment rules more "predictable and proportionate" for businesses, including by implementing several new exemptions to the mandatory notification regime. In July 2025, the Government opened a consultation on proposed updates to the current NSI Act sector definitions. This consultation closed in October 2025, but the outcome has not yet been published.

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Vic draws upon her extensive experience, which cuts across both the UK and global landscapes in private and corporate settings, to position herself as a trusted advisor on critical antitrust and competition matters.

Vic's practice encompasses merger control and foreign direct investment/national security, complex behavioural investigations and antitrust counselling. She has represented clients on some of the most high-profile cases before the European Commission, Competition & Markets Authority, Financial Conduct Authority and other national competition agencies around the world. Vic advises clients across the sectors in which Orrick focuses, but she has a particular specialism in the tech, financial services and retail sectors. She is recommended in The Legal 500 UK as a "rising star" and is ranked as a Next Generation Partner.

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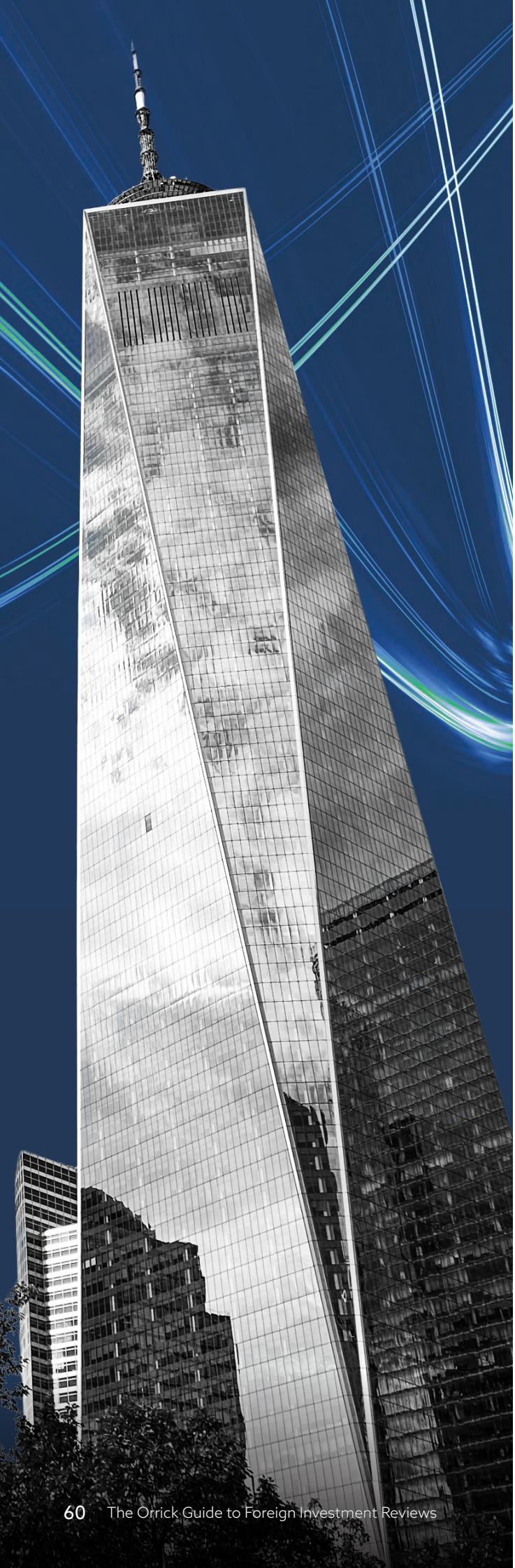
Neetu's practice encompasses merger control and foreign direct investment, having represented clients in several big-ticket cases requiring complex remedies. She provides guidance on compliance and conducts a range of behavioural investigations for clients across multiple sectors.

Before joining Orrick, Neetu was part of the top-tier competition practice at one of India's largest law firms.

1. FTDI Holding Ltd, R (On the Application Of) v Chancellor of the Duchy of Lancaster in the Cabinet Office [2025] EWHC 1922 (Admin) (25 July 2025)



United States

Relevant laws and authorities

1
What are the main laws regulating foreign investments?

Defense Production Act, § 721, 50 U.S.C. § 4565 (the "**DPA**"), as amended by the Foreign Investment Risk Review Modernization Act of 2018.

2
Which authorities are charged with applying those laws?

The U.S. President is authorised to block foreign investment for national security reasons. The Committee on Foreign Investment in the United States ("**CFIUS**") is authorised to examine transactions and advise the President.

3
What other legislation is relevant for foreign investments?

Sector-specific requirements regarding investment in, for example, the U.S. communications sector. See question 7 below.

Transactions subject to review

4
Which types of transactions are caught?

Under the DPA, the President and CFIUS have jurisdiction over:

- investment transactions in which a foreign party (foreign entity or foreign individual) will or could obtain control over a U.S. business (broadly defined);
- investment transactions in which a foreign party will gain one or more "triggering rights" with respect to an unaffiliated "**TID U.S. business**" (U.S. business involved with "critical technology," "covered investment critical infrastructure," or "sensitive personal data"); and
- under certain circumstances, real estate transactions in which a foreign party will obtain ownership of, leasing of or a concession to real estate located within various sensitive areas of the United States.

5
Are minority interests caught?

Yes, they can be. See question 4 above.

6
How are foreign investors or foreign investments defined by the applicable legislation?

In general, the DPA potentially covers an investment in a U.S. business or a real estate purchase, lease or concession by a "**foreign person**"—generally, an individual who is not a U.S. citizen, a non-U.S. government or a legal entity that is (i) organised under the laws of a country other than the United States if either its principal place of business is outside the United States or its equity securities are primarily traded on one or more foreign exchanges, or (ii) controlled by non-U.S. citizens or governments.

7
Are there sector-specific rules?

Not under the DPA. But there are sector-specific foreign investment requirements included in other legal authorities, such as Executive Order 13913, pursuant to which the Committee for the Assessment of Foreign Participation in the U.S. Telecommunications Services Sector, known as Team Telecom, reviews certain Federal Communications Commission applications and licences for national security and law enforcement risks.

8
Is any threshold applicable (turnover related or otherwise)? Is there any kind of *de minimis* threshold?

No, there is no *de minimis* threshold.

9
Are there special rules for investments by foreign state-owned enterprises or sovereign wealth funds?

The DPA provides for more intensive scrutiny of U.S. investment transactions by non-U.S. governments and entities controlled by the same.

10
Can comfort letters be obtained from the authorities confirming that a transaction is not subject to review?

No. The only way to learn the U.S. government's position on a transaction under the DPA is to submit a short-form declaration (an abbreviated submission) or standard written notice to CFIUS.

Procedure

11
Is a filing required (mandatory) or possible (voluntary)?

Some types of foreign investment transactions involving "critical technology" companies or pursuant to which certain foreign parties would obtain a substantial interest in a TID U.S. business are the subject of a legal requirement to notify CFIUS.

Investment transactions triggering a mandatory-filing requirement are those that:

- involve a foreign party obtaining a "**substantial interest**" (*i.e.*, a voting interest of 25% or more) in a TID U.S. business, if the foreign party is one in which a foreign government has a voting interest of 49% or more; or
- involve a foreign party obtaining a controlling or covered non-controlling interest in a TID U.S. business that produces, designs, tests, manufactures, fabricates or develops one or more "**critical technologies**"—equipment, software or technical information the export of which commonly requires a licence from the U.S. government, where one or more "U.S. regulatory authorizations" would be required to export, reexport or retransfer one or more of the U.S. business's critical technologies to the foreign investor or a foreign person holding a significant ownership or control stake in a foreign investor.

CFIUS's regulations except certain investments from the filing requirements.

Parties involved in a transaction triggering the filing requirements must notify CFIUS of the transaction at least 30 days before closing. Parties may electronically file short-form "declarations" or standard written notices. Failure to comply with filing requirements could expose parties to penalties of up to the value of the transaction.

For transactions not subject to a filing requirement, parties may elect to notify CFIUS and seek CFIUS clearance.

12

Do the parties need to suspend the transaction until the review is completed?

The CFIUS regime does not contemplate a requirement to suspend any given transaction while CFIUS is examining the transaction, unless the government issues transaction-specific instructions that the parties do so. Parties often condition closing of transactions on a favourable disposition with CFIUS.

13

At what point in time should or must a filing be made (before or after the signing or closing of the transaction)? Is there a mandatory deadline?

If there is no filing requirement but parties voluntarily notify CFIUS, there is no specified time for doing so. However, parties normally do so shortly after they execute a definitive contract for the transaction.

If a filing requirement applies, the notification must be submitted at least 30 days before the closing of the transaction.

14

Which party is responsible for making the notification?

The buy side and sell side are equally responsible. The parties normally submit a notice or declaration to CFIUS jointly.

15

Are there any filing fees?

Yes, for standard notices. CFIUS has a tiered filing fee structure, based on the value of the transaction and will not begin its review of a final filing until the applicable fee has been paid. No fee is required for transactions where parties elect to file a short-form declaration with CFIUS, rather than a formal notice

16

Are there fines or other sanctions for failure to notify or for closing the transaction without prior approval? If so, are there examples of such sanctions imposed in the past?

If parties violate a filing requirement by failing to submit a mandatory notice to CFIUS, CFIUS is authorised to impose a penalty against the parties of up to USD 5 million, or the value of the transaction, whichever is greater, per violation. Before the U.S. Treasury Department (the "**Treasury**") amended the CFIUS regulations in late-2024, such penalties were capped at the greater of USD 250,000 or the value of the transaction, per violation. To date, CFIUS has not disclosed any penalties for failure to make a mandatory filing.

17

Do the authorities have powers to review and challenge transactions that are not subject to a mandatory review?

Yes. CFIUS uses various methods to identify non-notified/non-declared transactions that are potentially subject to CFIUS's jurisdiction or mandatory filing. Among other methods, CFIUS may pursue information about non-notified/non-declared transactions from parties to those transactions. Sometimes CFIUS then asks the parties to file a notice with CFIUS.

18

What is the timeline of the review process? Are fast-track options available?

Following an initial engagement with CFIUS, the CFIUS screening process for a notice commonly takes around 4 to 5 months. It can take more or less time depending on a variety of factors. Parties are free to submit a declaration, which requires far less information than a standard "notice." For a declaration, CFIUS is required to provide an official response within 30 days of accepting it for assessment. But a possible outcome of a declaration proceeding is a CFIUS instruction to the parties to start over by submitting a full notice.

19

Do other authorities or government bodies participate in the review process? How does the process relate to other types of review, *e.g.*, merger control by the competition authorities?

Since CFIUS is a multi-agency body, it encompasses most parts of the U.S. federal government whose roles could be relevant to CFIUS screening.

CFIUS's interactions with other parts of the U.S. government conducting other statutory proceedings with respect to a transaction (such as antitrust reviews) do not ordinarily affect CFIUS outcomes.

20

To what extent are the parties involved in the review? Do the authorities expect pre-filing communication?

For full notices (but not short-form declarations), CFIUS expects pre-filing communications with the parties, including, at a minimum, with the submission of a draft notice to CFIUS for CFIUS's review and comment.

After CFIUS formally accepts a notice or declaration, CFIUS commonly elicits from the parties additional information while CFIUS is executing its examination.

21

Are third parties (complainants) involved in the review? What rights and/or standing do they have?

Historically, non-parties outside of the U.S. government had no role in CFIUS proceedings. However, after the Treasury amended the CFIUS regulations in late 2024, CFIUS now has the authority to issue information requests to "other persons" in addition to the parties in the transaction.

22

Are there safeguards in place to protect confidential information of the parties?

Yes, with some limited exceptions. CFIUS is forbidden to release information submitted by the parties to persons outside the U.S. government.

23

Is the fact that a filing or decision is made public? When?

Generally, no. If the President issues an order prohibiting a transaction or requiring divestment, the order is made public.

Substantive assessment

24

What are the criteria for an intervention? How much discretion do the relevant authorities have in applying those criteria?

The DPA authorises the President of the United States to block foreign investment and to order divestment with respect to any completed foreign investment transactions if he or she finds that the transaction threatens U.S. national security. The law accords the President broad discretion in this regard. The law does not define national security.

25

Does the nationality of the investor play a role?

Often, yes. CFIUS is, for example, more likely to find national security concerns regarding a transaction if the planned investment is on the part of a Chinese or Russian investor than if it is by an investor based in a U.S.-allied nation.

26

What powers do the authorities have to prohibit or otherwise interfere with a transaction?

The DPA provides the President plenary authority to block foreign investment and to order divestment with respect to any completed foreign investment transactions if he or she finds that the transactions threaten U.S. national security.

27

Do the authorities cooperate or consult with authorities in other countries?

Yes, CFIUS does so and is doing so more frequently.

28

Can remedies be offered by the parties? Are remedies suggested by the authorities?

CFIUS may condition its clearance of a transaction on contractual measures to which transaction parties commit that, in CFIUS's view, adequately mitigate identified national security concerns, requiring parties to enter into negotiation of a mitigation agreement (*i.e.*, an agreement between parties of a covered transaction and an agency to mitigate identified national security risks). CFIUS may consider mitigation measures proposed by parties.

29

Can a negative decision be appealed?

Essentially, no. United States courts have no jurisdiction to reverse a presidential finding under the DPA that a transaction threatens U.S. national security.

Examples and trends

30

Are there any recent cases that reflect how the relevant laws and policies are applied?

According to CFIUS's most recent annual report issued in August 2025 for 2024:

- In 2024, CFIUS received 116 declarations, slightly more than the 109 it received in 2023 (which was a significantly lower number than the two preceding years).
- CFIUS cleared over 78% of submitted declarations in 2024, up from 64% in 2020, 73% in 2021, 58% in 2022 and 75% in 2023.
- In 2024, CFIUS received 206 written notices for transactions it determined to be covered transactions.
- Between 2015 and 2024, excluding notices involving real estate transactions, the majority of notices involved covered transactions in either the Finance, Information and Services sector (45%) or in the Manufacturing sector (35%).
- In 2024, the highest percentage of notices was from Chinese investors (12%), followed by investors from France (11%) and Japan (11%).
- CFIUS reviewed 150 covered transactions involving acquisitions of U.S. critical technology companies in 2024. The top originating countries for investments in critical technology U.S. businesses were Japan (24), France (20), China (16), Germany (14) and the UAE (14)
- In 2024, CFIUS opened non-notified inquiries for 76 transactions and formally requested filings for 12 of these transactions. In addition, in 5 cases, parties who received non-notified-related outreach in 2024 voluntarily filed a declaration or notice before receiving a formal request.

31

Are there any relevant recent developments or trends?

In recent years, CFIUS has continued to become more aggressive in finding national security concerns and impeding foreign investment. This has in part been driven by the increasing prevalence of concerns relating to Chinese and Russian investment in the United States.

CFIUS has also increased its enforcement activity in recent years. Prior to 2023, CFIUS had imposed only two penalties in its nearly 50-year history, but in 2023 alone, it assessed or imposed four penalties (including a USD 8.5 million penalty on a company found to have violated a mitigation agreement called a National Security Agreement ("**NSA**") that imposed mitigation conditions on CFIUS clearance of a transaction), and in 2024, CFIUS imposed 5 penalties (including a USD 60 million penalty on T-Mobile US, Inc. for violating a material provision of an NSA).

Further developments of note include CFIUS's 2023 issuance of the first formal determination of non-compliance, specifically in connection with a failure to comply with mandatory filing provisions, and in 2024, the expansion of CFIUS's jurisdiction of real estate transactions to cover property proximate to additional military installations. Further, effective 26 December 2024, the Treasury amended the CFIUS regulations (specifically, provisions related to penalties, negotiation of mitigation agreements, requests for information by CFIUS and certain other procedures).

President Biden issued several high-profile blocking and divestment orders during his term. In May 2024, President Biden ordered the divestment of MineOne's (a BVI company owned by Chinese nationals) purchase of a cryptocurrency mining facility located one mile away from the highly sensitive Warren Air Force Base in Wyoming. This was the first-ever real estate divestment order under CFIUS authorities. In January 2025, President Biden issued an order prohibiting Japanese Nippon Steel's USD 14 billion takeover of U.S. Steel. However, in June 2025, following the conclusion of a *de novo* review by CFIUS at President Trump's direction, the President issued an order approving the transaction, subject to the parties entering an NSA imposing certain mitigation measures.

In February 2025, the Trump Administration issued an "America First Investment Policy" Presidential Memorandum which announced planned changes impacting CFIUS with the intention to restrict investment in the United States by foreign adversaries, including by 1) using CFIUS to block Chinese parties and China-affiliated persons from investing in critical American businesses and assets in strategic sectors; 2) better protecting U.S. farmland and real estate near sensitive facilities; 3) working with Congress to expand CFIUS's authority over greenfield investments; and 4) streamlining mitigation agreements. The policy changes are also intended to promote investment in the United States from allied countries, including by enabling CFIUS to condition its clearance of certain transactions on foreign investors' commitment to forgo certain relationships with Chinese companies.

The "America First Investment Policy" Presidential Memorandum is consistent with, and reinforces, the current administration's commitment to increasing the scrutiny with which foreign investments are reviewed, with a particular emphasis on Chinese-affiliated entities.

A recent intervention further evidencing this approach is President Trump's July 2025 order forcing Suirui International Co., Ltd. (a Hong Kong-based company) and its parent company, Suirui Group Co. Ltd. (a China-based company), to divest their 2020 acquisition of Jupiter Systems LLC, an audio-visual equipment supplier that contracts with the U.S. government and military. In another example, in January 2026, President Trump ordered HieFo Corporation (a Delaware corporation founded and led by a Chinese citizen) to divest certain assets of EMCORE Corporation (a New Jersey corporation) comprised of EMCORE's digital chips and related wafer design, fabrication and processing business, which included a semiconductor manufacturing facility. The acquisition occurred in April 2024.

Also consistent with the "America First Investment Policy" Presidential Memorandum, in July 2025, the U.S. Department of Agriculture (the "**USDA**") signed a cooperation agreement with the Treasury for CFIUS cases involving U.S. farmland, agricultural businesses, agriculture biotechnology or the agriculture industry. In December 2025, the USDA announced related actions to improve transparency around foreign ownership of U.S. farmland, including by issuing an Advanced Notice of Proposed Rulemaking for public comment on the Agricultural Foreign Investment Disclosure Act of 1978.

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Singapore

Relevant Laws and Authorities

1

What are the main laws regulating foreign investments?

While there is no overarching legislation in Singapore regulating foreign investments in Singapore per se, the Significant Investments Review Act 2024 ("**SIRA**"), which came into force on 28 March 2024, is a catch-all legislation regulating significant investments (whether local or foreign) into designated critical entities ("**Designated Entities**"). The SIRA sets out an investment management regime for entities that are "critical to Singapore's national security interests" but are not otherwise caught by existing sectoral legislation.

As of December 2025, there are 9 Designated Entities under the SIRA (available online at this link) (the "**SIRA Regime**"). These Designated Entities comprise of key providers in the petrochemical industry, manufacturing of defence equipment and security solutions, marine and shipbuilding services and digital services. "**National Security**" in the context of the SIRA is interpreted broadly as areas critical to Singapore's sovereignty and security, including its economic security and resilience, and the continued delivery of essential services.

Aside from the SIRA, Singapore's foreign investment controls are largely sector-specific in nature and regulated either by statutory restrictions in key sectors or through the licensing regime implemented by regulatory authorities in regulated sectors ("**Sector-Specific Regulations**").

2

Which authorities are charged with applying those laws?

There is no central authority regulating foreign investment controls.

SIRA Regime: Where foreign investments involve Designated Entities, the administering authority is the Office of Significant Investments Review, situated within the Ministry of Trade and Industry.

Sector-Specific Regulations: Foreign investment restrictions are regulated by the relevant sectoral regulatory authority such as the Info-communications Media Development Authority ("**IMDA**") for the broadcasting, media and telecommunications industry, the Singapore Land Authority for real estate and land ownership, and the Monetary Authority of Singapore for financial institutions in Singapore.

3

What other legislation is relevant for foreign investments?

Aside from the SIRA, there is no overarching legislation governing foreign investments. Sector-Specific Regulations are governed by various legislations including, but not limited to, the Residential Property Act 1976 for residential property, Broadcasting Act 1994 and Newspaper and Printing Presses Act 1974 for the regulation of broadcasting and newspaper activities in Singapore, Telecommunications Act 1999 for telecommunication licences in Singapore, and Banking Act 1970 and Finance Companies Act 1967 for the regulation of financial institutions in Singapore.

Transactions Subject to Review

4

Which types of transactions are caught?

Sector-Specific Regulations: Sector-specific legislative restrictions apply for transactions in the following key sectors:

a. Newspaper: A person must not, on or after the grant or renewal of a permit to publish a newspaper, receive on behalf of or for the purposes of any newspaper (published at intervals not exceeding one week) any funds from a foreign source without prior approval from IMDA.

b. Real Estate: Foreign persons require prior approval from the Minister for Law to purchase residential property.

c. Broadcasting: A person must not receive any funds from a foreign source to finance a broadcasting service owned or operated by any broadcasting company without the prior consent of the IMDA.

Additionally, a company must not, without approval from the IMDA, be granted or hold a "relevant licence" if (a) any foreign source (i) holds at least 49% of the shares in the company or its holding company; or (ii) is in a position to control voting power of at least 49% in the company or its holding company; or (b) all or a majority of the persons having the direction, control or management of the company or its holding company are (i) appointed by; (ii) accustomed or under an obligation to act in accordance with the directions, instructions or wishes of any foreign source. A "relevant licence" is (a) a free-to-air licence; (b) any broadcasting licence under which a subscription broadcasting service may be provided, which permits broadcast that is capable of being received in 50,000 dwelling-houses or more, but does not include a class licence; or (c) any other broadcasting licence that the IMDA may specify in the public interest or in the interests of public security or order, or national defence.

d. Financial services and banking: There are certain restrictions on equity participation, by locals and foreigners, in Singapore-incorporated banks. For example, regulatory approval is required for any merger or takeover of a local bank or financial holding company, as well as for individuals becoming a 12% controller, or a 20% or indirect controller of designated financial institutions.

e. Legal services: A foreign law firm that is seeking to establish in Singapore may apply to the Legal Services Regulatory Authority, a department under the Ministry of Law, to operate as a foreign law practice. To advise on Singapore law, such foreign law practices will require either a qualifying foreign law practice licence or to enter into a joint law venture or formal law alliance with a Singapore law practice. While foreign law practices and regulated foreign lawyers may hold interests in Singapore law practices, they are subject to certain threshold requirements including limits on the ratio of regulated foreign lawyers to Singapore qualified lawyers.

SIRA Regime: The following requirements apply for transactions involving Designated Entities:

a. Ownership and control transactions: Buyers, sellers and Designated Entities are responsible for notifying or seeking approval for the following specified changes in the ownership and control (by equity amount or voting power) of Designated Entities: (a) buyer who becomes a 5% controller of the Designated Entity must notify the Minister for Trade and Industry within 7 calendar days after becoming a 5% controller; (b) buyers must seek the Minister for Trade and Industry's approval before becoming a 12%, 25% or 50% controller, an indirect controller, or acquiring as a going concern the business or undertaking of the Designated Entity; and (c) sellers of stakes in the Designated Entities which would result in it ceasing to be a 50% or 75% controller must seek the Minister for Trade and Industry's approval.

b. Appointment of new key personnel: Designated Entities must seek approval from the Minister for Trade and Industry for the appointment of key officers such as the chief executive officer, directors and chairperson of the board of directors.

Liquidity events: Designated Entities must seek the Minister for Trade and Industry's consent prior to (i) voluntarily winding up, dissolving or terminating the Designated Entity; (ii) making of any judicial management order; or (iii) appointment of any interim judicial manager.

5

Are minority interests caught?

Please refer to Question 4 above.

6

How are foreign investors or foreign investments defined by the applicable legislation?

As mentioned, there is no overarching legislation pertaining to the control or review of foreign investments and as such, no single definition of "foreign investors" or "foreign investments".

SIRA Regime: SIRA provisions are nationality agnostic and apply to both local and foreign investors.

Sector-Specific Regulations: Sectoral legislation sets out non-exhaustive definitions of similar terms. To illustrate, the Broadcasting Act 1994 and the Newspaper and Printing defines "foreign source" and "funds from a foreign source" in the context of the broadcasting and newspaper industries.

7

Are there sector-specific rules?

Please refer to Question 4 above.

8

Is any threshold applicable (turnover related or otherwise)? Is there any kind of *de minimis* threshold?

Please refer to Question 4 above.

9

Are there special rules for investments by foreign state-owned enterprises or sovereign wealth funds?

While there are no specific requirements or restrictions that apply to specific kinds of foreign investors, Singapore has entered into various bilateral investment treaties and free trade agreements that set out certain standards of protection for investments made in Singapore by investors in signatory jurisdictions.

10

Can comfort letters be obtained from the authorities confirming that a transaction is not subject to review?

There is no formal statutory process for obtaining a binding "comfort letter" or negative clearance under the SIRA or sector-specific regimes, but informal guidance may be sought from the relevant regulators on a regulated transaction. To illustrate, for the telecommunications and media sectors, the Telecom and Media Competition Code contemplates that a person whose commercial interest could be directly and immediately affected, and who has a genuine and substantial question regarding the application of any provision of the Code to its own specific factual situation, may ask IMDA to provide informal guidance on the matter.

Procedure

11

Is a filing required (mandatory) or possible (voluntary)?

SIRA Regime: Please refer to Question 4 above on mandatory notifications for SIRA Designated Entities when certain thresholds of ownership or control are crossed or when there are changes in key appointments.

Mandatory Sector-Specific Regulations: There are certain mandatory filings relating to funding from foreign sources or foreign ownership which apply to certain sectors in Singapore. For example, in the broadcasting industry, a person who receives any fund, without their prior knowledge, consent or solicitation from a foreign source for the purposes of financing a broadcasting service or a newspaper, must report the circumstances and particulars of the receipt of the fund, and the purpose for which the fund was received, to IMDA.

Voluntary Sector-Specific Regulations: Licensed entities in regulated sectors may also be required to notify the relevant regulatory authorities of acquisitions of voting shares or voting powers in that entity, regardless of whether such acquisition is by a local or foreign person.

12

Do the parties need to suspend the transaction until the review is completed?

Yes, as a general rule. Transactions requiring prior approval of a regulatory authority should not be effected until approval is granted. That said, there are certain exceptions. For example, under the SIRA, buyers into SIRA Designated Entities must notify the Minister for Trade and Industry within 7 days of becoming a 5% controller in such entity.

13

At what point in time should or must a filing be made (before or after the signing or closing of the transaction)? Is there a mandatory deadline?

Please refer to Question 12 above. The deadline for submission of a filing for a regulatory authority's approval depends on the sector and the matter in question. For example, (a) the notice which a Designated Telecommunication Licensee is required to provide to IMDA must be given within 7 days after the Designated Telecommunication Licensee first becomes aware of the acquisition of voting shares or voting powers; and (b) buyers into SIRA Designated Entities must notify the Minister for Trade and Industry within 7 days of becoming a 5% controller in such entity.

14

Which party is responsible for making the notification?

SIRA Designated Entities: Under the SIRA, the buyer entity of a Designated Entity is responsible for notifying or seeking approval from the Minister for Trade in the following instances: (a) after they become a 5% controller in a Designated Entity; (b) before becoming a 12%, 25% or 50% controller; or (c) before becoming indirect controllers of a Designated Entity, or when they acquire the business, or parts of it, as a going concern. The seller entity in a transaction involving a Designated Entity will be responsible for seeking the Minister for Trade and Industry's approval when they cease to be a 50% or 75% controller.

Sector-Specific Regulations: Typically, the acquirer or the party increasing its interest is responsible for the filing. In the case of an acquisition of voting shares or voting power in a licensed entity, the party responsible for obtaining approvals would depend on the sector in question. In some instances, both the acquiring party and the licensed entity to be required to jointly apply for the regulatory authority's approval. For instance, for a telecommunication licensee, the acquiring party and the Designated Telecommunication Licensee must jointly file the relevant consolidation application for the acquiring party to become a 30% controller of, acquire the business of, or to obtain effective control over the Designated Telecommunication Licensee.

15

Are there any filing fees?

Under the SIRA Regime, a non-refundable filing fee of $200 applies only if a party is aggrieved either by an initial appealable decision affirmed on reconsideration or a substitute appealable decision made on reconsideration.

16

Are there fines or other sanctions for failure to notify or for closing the transaction without prior approval? If so, are there examples of such sanctions imposed in the past?

SIRA Regime: Generally, SIRA-regulated transactions completed without the necessary approvals will be rendered void. Any approval given by the Minister for Trade and Industry may be granted subject to conditions. If any such conditions are not complied with, the Minister for Trade and Industry may direct persons to take remedial actions such as disposing of interests in the Designated Entity. It is generally an offence to proceed with a transaction without giving the requisite notice or obtaining the requisite approval, the punishment for which is a fine and/or imprisonment. As the SIRA only came into force in March 2024, there are no public examples of sanctions or fines imposed under SIRA.

Sector-Specific Regulations: It is generally an offence to effect an acquisition of voting shares or voting power in a licensed entity without prior approval from a regulatory authority, the punishment for which depends on the specific legislative provision contravened but usually entails a fine and/or imprisonment. Depending on the sector, the regulatory authority may also have the right to cancel or suspend a licensed entity's licence or reduce the period for which a licence is in force and/or impose a financial penalty on such licensed entity.

17

Do the authorities have powers to review and challenge transactions that are not subject to a mandatory review?

SIRA Regime: The Minister for Trade and Industry has "call-in" powers to review transactions involving any entity (not just Designated Entities) if the entity has acted against Singapore's national security interests and there was a change in ownership or control within the previous 2 years.

Sector-Specific Regulations: Generally, sectoral regulators do not have broad ex post review powers unless a transaction falls within their statutory remit.

18

What is the timeline of the review process? Are fast-track options available?

There is no statutorily prescribed timeline for the review process. The review period varies depending on the complexity of the transaction, the completeness of the information provided and the sector and regulator in question. No formal fast-track options are generally available.

19

Do other authorities or government bodies participate in the review process? How does the process relate to other types of review, *e.g.*, merger control by the competition authorities?

Please refer to Question 2 above. The SIRA review is separate from other regulatory approvals such as sectoral licensing, competition or merger control. Parties may need to obtain both SIRA or sectoral review and the Competition and Consumer Commission of Singapore clearance if both regimes are triggered.

20

To what extent are the parties involved in the review? Do the authorities expect pre-filing communication?

The parties in a regulated transaction (*i.e.*, the buyer and where relevant, the seller) are directly involved in the review process. They are responsible for preparing and submitting the requiring notification or approval application, responding to further requests for information and may be asked to provide clarifications or additional documents as part of the review process.

While not expected, it is generally encouraged that early engagement and pre-filing communication be made with regulators, especially for complex or novel transactions.

21

Are third parties (complainants) involved in the review? What rights and/or standing do they have?

Persons other than the relevant applicant(s) generally do not have formal participation rights. However, third parties may be involved in certain instances only at the discretion of the relevant regulatory authority. For example, in an application for an acquiring party to become a 30% controller of, or acquire any business of, or obtain effective control over, a Designated Telecommunication Licensee, IMDA may provide the public or specific consumers, suppliers or competitors with an opportunity to comment on the application, if appropriate.

22

Are there safeguards in place to protect confidential information of the parties?

Generally, when an application contains confidential information, the applicant may request that the regulatory authority treat such information as confidential. The regulatory authority in question may prescribe processes for applicants to indicate proprietary or commercially sensitive information.

23

Is the fact that a filing or decision is made published? When?

SIRA Regime: The fact that a filing or decision has been made is not generally published. The only information that is made public is the designation of an entity as a "designated entity", which is published in the Government Gazette and on the Office of Significant Investments review's website. Individual notifications, applications and decisions (including approvals or rejections) are not published and remain confidential between the parties involved and the authorities.

Sector-Specific Regulations: Regulatory authorities may publish certain information pertaining to an application when clarifying licences awarded. For example, IMDA may, in relation to applications for a facilities-based operator telecommunication licence, disclose the identities of the applicants, unless otherwise requested by the applicant, and IMDA reserves the right to disclose any information submitted by applicants where IMDA deems necessary for the purposes of clarifying the licences awarded.

Substantive Assessment

24

What are the criteria for an intervention? How much discretion do the relevant authorities have in applying those criteria?

SIRA Regime: Under the SIRA regime, the primary criterion for intervention is whether the transaction affects an entity that is "critical to Singapore's national security interests", as stated in response in Question 1. The Minister for Trade and Industry has significant discretion in both the designation of Designated Entities and assessment of whether a transaction poses a risk to national security. For non-Designated Entities, the Minister for Trade and Industry may "call-in" and review a transaction if there are reasonable grounds to believe an entity has acted against Singapore's national security interests and there was a change in ownership or control within the previous two years.

Sector-Specific Regulations: Regulatory authorities in Singapore generally retain a broad discretion to withhold or grant its approval for applications under its purview but are generally guided by statutory and regulatory frameworks and criteria in the exercise of such discretion.

25

Does the nationality of the investor play a role?

SIRA Regime: The SIRA regime does not discriminate between investors based on the nationality or country of origin. The law applies equally to both local and foreign investors, and there are no published "blacklists" or "whitelists" of countries whose investors are subject to any particular scrutiny.

Sector-Specific Regulations: In certain regulated sectors such as the residential property, media and banking industries, regulations may distinguish between Singapore citizens and non-citizens, or between Singapore-incorporated and foreign-incorporated entities. However, these distinctions are based on citizenship or place of incorporation, not on the investor's country of origin per se.

26

What powers do the authorities have to prohibit or otherwise interfere with a transaction?

SIRA Regime: Under the SIRA regime, the Minister for Trade and Industry may prohibit a transaction (*i.e.*, refuse approval for a notifiable or approvable event), issue directions to unwind or reverse a completed transaction, impose conditions on approvals and exercise "call-in" powers for non-Designated Entities.

Sector-Specific Regulations: The powers of regulatory authorities to prohibit or interfere with a transaction depend on the sector and transaction in question, but authorities generally have the authority to refuse, grant or revoke licences, block share transfers or require divestment of statutory requirements that are not met.

27

Do the authorities cooperate or consult with authorities in other countries?

There is no statutory requirement for authorities in Singapore to consult or cooperate with foreign authorities.

28

Can remedies be offered by the parties? Are remedies suggested by the authorities?

Please refer to Question 16 on the requirement for prior approval by the relevant regulatory authorities in order to carry out any regulated act or activity.

29

Can a negative decision be appealed?

SIRA Regime: Under the SIRA regime, certain decisions by the Minister for Trade and Industry are "appealable decisions" and may be appealed by the relevant Designated Entity, the person seeking approval, the person whom directions or conditions were imposed and/or any other person aggrieved by the decision. The appellant must first apply to the Minister for Trade and Industry for reconsideration of such decision. If affirmed on reconsideration, or a substitute appealable decision is made on reconsideration, the appellant may apply to a Reviewing Tribunal for appeal. Every determination of a Reviewing Tribunal is to be final and may not be called in question in any court except in regard to any question relating to compliance with the applicable procedural requirements.

Sector-Specific Regulations: There are mechanisms that permit a person aggrieved by a decision of a regulatory authority or Minister in Singapore to make an appeal or request for reconsideration. The procedure and grounds for approval varies based on sector and the nature of the decision appealed.

Examples and Trends

30

Are there any recent cases that reflect how the relevant laws and policies are applied?

Sector-Specific Regulations:

a. Residential Property: A Singaporean woman purchased three semi-detached landed residential properties in Singapore on behalf of foreigners, intending to transfer ownership to them once they obtained Singapore citizenship. The woman was sentenced to two weeks' jail in January 2022 for her role in purchasing an estate in a restricted residential property with the intention of holding it in trust for a foreigner in contravention of the Residential Property Act 1976.

b. Financial services and banking: In December 2020, MAS granted digital wholesale bank licences to Ant Group (an affiliate company of the Chinese conglomerate, Alibaba Group) and a consortium comprising of Greenland Financial Holdings (the investment arm of Chinese real estate developer and state-owned enterprise Greenland Group), Linklogis Hong Kong and Beijing Cooperative Equity Investment Fund Management. MAS' assessment was done on a holistic basis, taking into account all relevant considerations for each criterion. MAS has stated that it will review whether to grant more of such licences in the future.

SIRA Regime: While no public enforcement cases have yet been reported (as the law is relatively new), the Ministry of Trade and Industry and the Office of Significant Investments Review has been designating entities (as mentioned above) and providing guidance to investors.

31

Are there any relevant recent developments or trends?

The most significant recent development is the enactment and commencement of the SIRA in March 2024, introducing a formal national security screening regime for significant investments in critical entities. The SIRA reflects a global trend towards increased scrutiny of foreign investment in sensitive sectors, aligning Singapore with other major economies that have introduced or strengthened FDI screening mechanisms. Authorities have emphasized that Singapore remains open to foreign investment and that the SIRA is targeted, business-friendly and complements existing sectoral safeguards.

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In the last 20 years, national regulation of investment for national security and other reasons has become a major issue for transactions at all aspects of a company's lifecycle. Whether you are investing in an energy project in France, selling semiconductor equipment in China or doing business in countries that are newly subject to foreign investment and trade regulations, you need advisors who know their way around the global market and the numerous legal restraints and regulations on international trade and investment.

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