Bird & Bird

Foreign Direct Investment

Jurisdictional Guide

October 2024

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Foreign Direct Investment

Jurisdictional Guide

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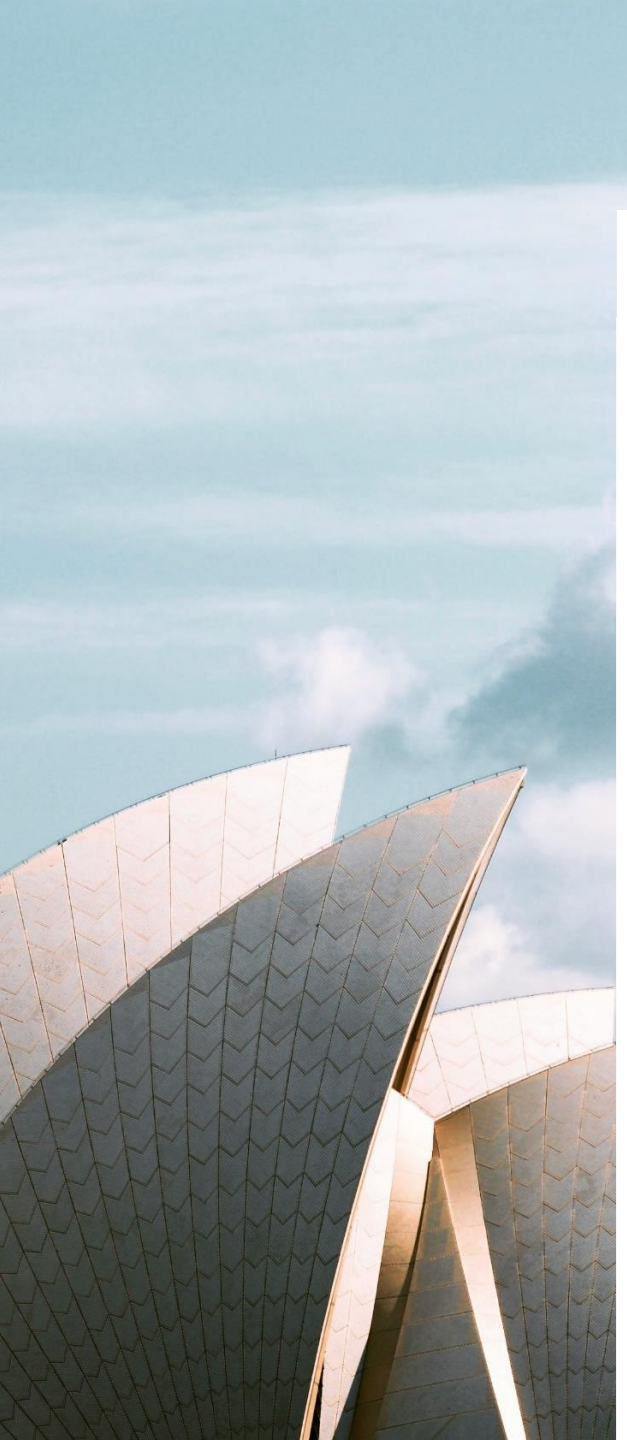

Australia

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Do FDI restrictions apply?

Yes. A foreign investor wishing to invest in an Australian entity, business, or land (or, in some circumstances, to do business in Australia) may require the prior approval of the office of the Treasurer of Australia under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and associated instruments. That said, as a general principle, the Australian Government welcomes FDI.

If yes, which authority is responsible for the verification of an FDI?

The Treasurer of the Federal Government of Australia (or his or her delegate) reviews foreign investment proposals against the national interest on a case-by-case basis. The Foreign Investment Review Board (**FIRB**) is a non-statutory body that advises the Treasurer on Australia's foreign investment regime and is generally responsible for its day-to-day administration. The Australian Taxation Office also plays a role in compliance and enforcement of foreign investment relating to residential real estate and maintains the Register of Foreign Ownership of Australian Assets, while the Australian Prudential Regulation Authority (**APRA**) separately monitors FDI into the banking and financial sectors.

If yes, are these general restrictions or industry/sector-specific restrictions?

There are general as well as sector-specific restrictions. Sector-specific restrictions apply to industries that are considered to be sensitive, i.e. media, telecommunications, transport, defence and military, encryption and security technologies and communication systems, and the extraction of uranium or plutonium or the operation of nuclear facilities. Additional sector specific laws also regulate FDI including banking and finance, shipping and insurance.

If yes, do these restrictions apply to buyers from specific jurisdictions only?

The restrictions apply to all "foreign persons". A "foreign person" includes an individual who is not ordinarily resident in Australia, a “foreign government investor” or any corporation, trustee of a trust or general partner of a limited partnership in which a foreigner has at least a 20 percent interest or two or more foreigners have a 40 percent interest in aggregate. However, in respect of foreign investors from certain countries or regions, higher monetary thresholds usually apply before disclosure of certain proposed investments is required. These higher thresholds reflect the various commitments Australia has made to foreign investment screening under certain free trade agreements. These countries include Canada, Chile, China, Hong Kong, Japan, Mexico, New Zealand, Peru, Singapore, South Korea, the United States of America, and Vietnam (FTA Partner Countries). To be eligible for the higher thresholds, the immediate acquirer must be an entity formed in one of the FTA Partner Countries. An investor acquiring through a subsidiary incorporated in another jurisdiction will be subject to the relevant thresholds of the subsidiary’s jurisdiction.

Additional restrictions apply to foreign persons who are also deemed to be “foreign government investors” (that is, entities in which a foreign government, other government entity, or foreign government investor holds an interest of at least 20 percent), regardless of the country of origin.

Australia

If yes, are these restrictions dependent on certain control thresholds being reached?

The application of restrictions on FDI depends on the type of investor, the type of investment, the industry sector in which the investment will be made and the value of the proposed investment.

In general, outside of sensitive sectors and land transactions, control thresholds may be reached by foreign persons acquiring a "substantial interest" (20 percent or more) or by "foreign government investors" acquiring a "direct interest" (10 percent or more) in an Australian entity or business, depending on the value of the investment. Foreign government investors must also seek approval to start any business in Australia.

Special rules apply for sensitive sectors such as gas, electricity, water, ports, public transport, freight services, aviation, hospitals, data processing and financial services, telecommunications, defence or national intelligence. For businesses within those sectors, foreign persons are required to obtain approval of the Treasurer to acquire a “direct interest”, regardless of the value of the investment, and also require approval to start any business operating in these sectors. Sector specific laws also impose various control thresholds. For example, the Security of Critical Infrastructure Act 2018 (Cth), which requires investments involving the acquisition of at least a 10 percent interest in critical infrastructure (e.g. certain ports, water, gas and electricity assets) to be notified to the Department of Home Affairs for inclusion on a private register.

The Treasurer also has a power to "call in" and review certain investments by a foreign person believed to raise national security concerns, even if the action is not otherwise notifiable under the legislation. The Treasurer’s "call-in" power is activated by investments that are "reviewable national security actions", being, broadly, actions expected to grant or increase the direct or indirect control and influence of foreign persons in certain sectors. The Treasurer also has "last resort" powers to reassess certain foreign investments if subsequent national security risks emerge.

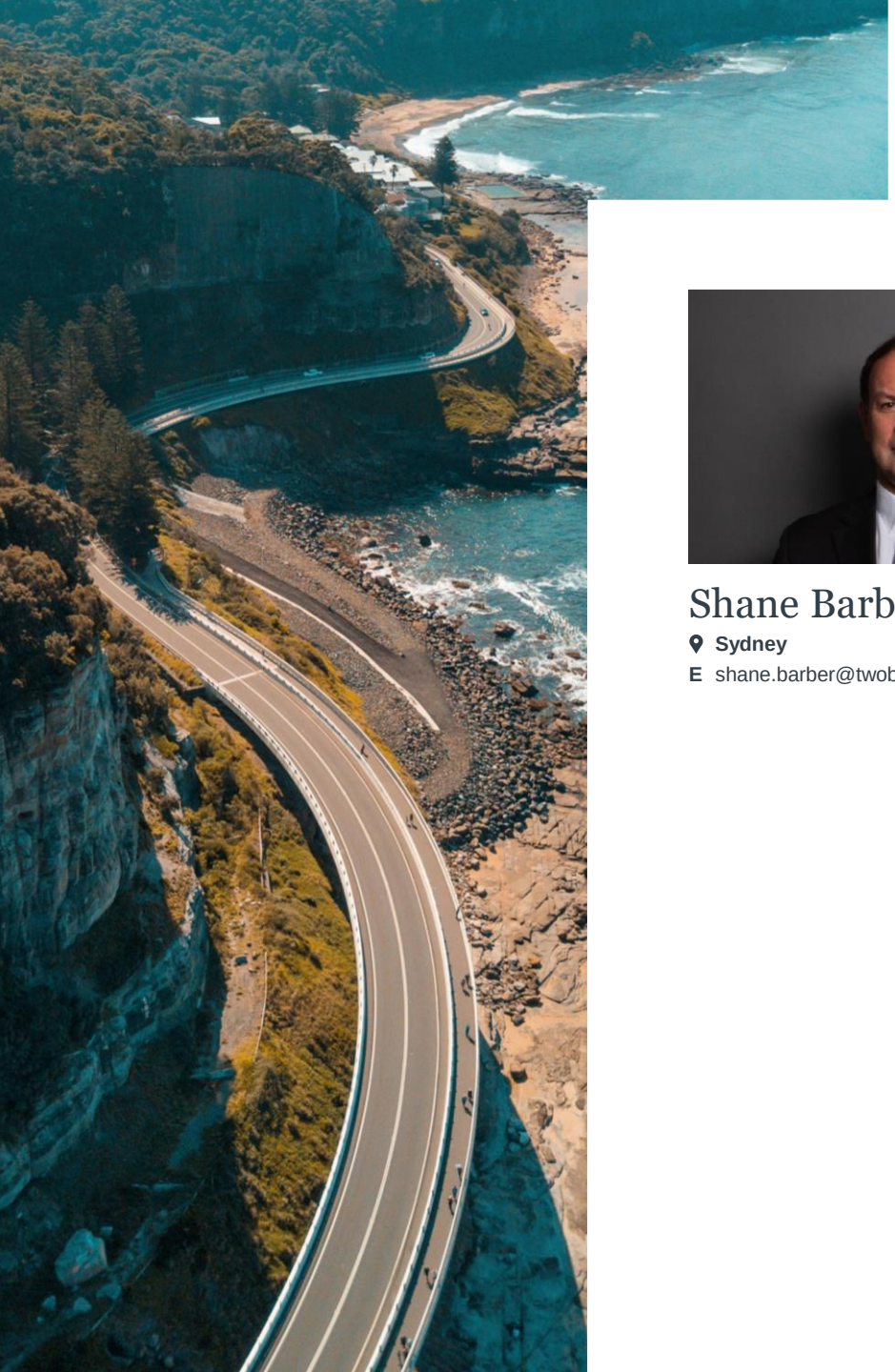
As to land investments, approval may be required for a foreign person to acquire an interest in Australian land, including agricultural land, commercial land, residential land and mining or production tenements, unless an exemption applies (such as an applicable monetary threshold). An ‘interest in Australian land’ includes entering into a lease to occupy Australian land for a term (including any renewals) exceeding 5 years. Approval is also required for all acquisitions of vacant commercial land or residential land, regardless of value..

If yes, what is the administrative procedure?

Where the obtaining of FDI approval is required, a foreign person is required to lodge an online form and covering letter containing information prescribed by FIRB. The type of information required to be included in the application depends on the type of action being taken, but generally includes details of the notifiable action, details of the entity taking the action and reasons why the proposed transaction is not contrary to Australia's national interest. An application for FIRB approval must be lodged in advance of any notifiable transaction taking place. Failure to obtain approval, if required, is an offence. It is common for transactions to be conditional on FIRB approval being obtained. Application fees for foreign investment notifications are charged by the Australian Government and vary depending on the type of action being taken.

The Treasurer is required to make a decision within 30 days of receiving an application and notify the applicant of the outcome within a further 10-day period. It is not unusual for FIRB to invite an applicant to ask for one or more extensions of time to permit FIRB to consider an application, and the application process may ultimately take 1 to 3 months or longer. FIRB may also impose conditions on the transaction or business. A different procedure applies to applications made to APRA.

There is also a separate obligation on foreign persons to register their ownership of certain Australian assets to the Australian Taxation Office for inclusion in the Register of Foreign Ownership of Australian Assets. This includes certain foreign interests in land, registrable water interests, business and entity related interests (where applicable) and mining, production, and exploration tenements.



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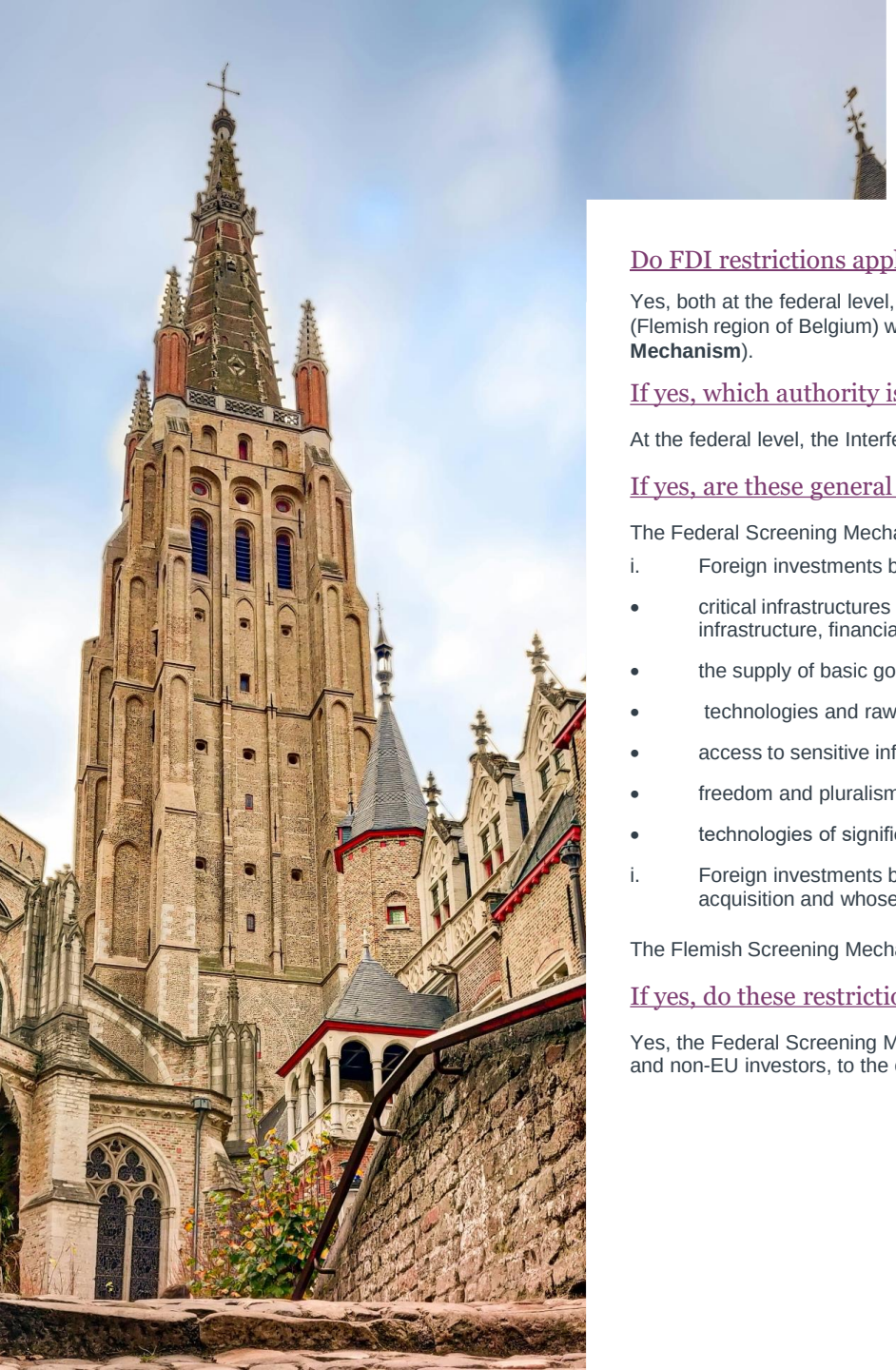

Belgium

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Do FDI restrictions apply?

Yes, both at the federal level, where an ex-ante FDI screening mechanism has come into force on 1 July 2023 (**Federal Screening Mechanism**), and at the regional level in Flanders (Flemish region of Belgium) where a more specific ex-post FDI screening procedure has existed since the entry into force of the Flemish Decree of 7 December 2018 (**Flemish Screening Mechanism**).

If yes, which authority is responsible for the verification of an FDI?

At the federal level, the Interfederal Screening Commission (**ISC**). At the regional level, the Flemish government.

If yes, are these general restrictions or industry/sector-specific restrictions?

The Federal Screening Mechanism essentially targets 2 categories of investment:

i. Foreign investments by which 25% or more of the voting rights are acquired of a Belgian entity whose activities relate to:

- critical infrastructures relating to energy, transport, water, health, electronic communications and digital infrastructure, media, data processing, aerospace, defence, electoral infrastructure, financial infrastructure, etc.
- the supply of basic goods related to raw materials, food security or energy
- technologies and raw materials that are essential for security and public order
- access to sensitive information
- freedom and pluralism of the media
- technologies of significant strategic interest in the biotechnology sector, provided that the target's turnover in the financial year preceding the acquisition exceeds EUR 25 million

i. Foreign investments by which at least 10% of the voting rights are acquired in a company with an annual turnover of at least EUR 100 million in the financial year preceding the acquisition and whose activities are related to defence, energy, cyber security, electronic communications or digital infrastructure.

The Flemish Screening Mechanism applies to all acts by virtue of which a foreign investor would acquire control in public authorities or related bodies if (i.e., it is industry-wide).

If yes, do these restrictions apply to buyers from specific jurisdictions only?

Yes, the Federal Screening Mechanism only applies when the investor or ultimate beneficial owner is based outside the EU. The Flemish Screening mechanism applies equally to both EU and non-EU investors, to the extent this would be compatible with EU law.

Belgium

If yes, are these restrictions dependent on certain control thresholds being reached?

The Flemish Screening Mechanism takes effect as soon as a foreign investor acquires control, i.e. the right or ability to exercise decisive influence on the appointment of the majority of the directors of the company or on the direction of the management of the company. Among other things, control is assumed to be irrefutable if someone holds the majority of voting rights in a company. See above for the Federal Screening Mechanism.

If yes, what is the administrative procedure?

Investments falling within the scope of Federal Screening Mechanism must be notified to the Interfederal Screening Commission (ISC) before closing. Transactions cannot be implemented before the ISC has given its green light. Failure to do so may result in fines up to 30% of the value of the investment. The procedure starts with **Pre-notification contacts** with the ISC secretariat, which will assess whether the filing is complete. Once formally notified, the ISC will examine whether the notified operation could have an impact on national security, public order or the strategic interest of the Federal state, the Regions and the Communities (**Assessment Phase**). Within 30 days, the ISC may authorise the notified operation or, if the operation raises concerns, decide to open an in-depth investigation of the transaction (**Screening Process**).

If the ISC decides to open the Screening Process, it must issue an opinion and recommend to the relevant ministers whether the envisaged operation should be approved (with or without conditions) or blocked, within 20 calendar days. The ministers concerned then has 6 days from receipt of the opinion of the ISC to make a decision. The ISC has 2 days to combine the decisions of the competent ministries into one consolidated decision and notify the decision to the foreign investor.

In the event of a negative decision by the ISC, the foreign investor has the right to appeal against the decision to the Market Court in Brussels.

The Flemish Screening Mechanism does not require prior notification, but the Flemish government can cancel or declare without effect decisions or acts of public authorities or related bodies that would allow foreign investors to control such public authorities or related bodies if this threatens the strategic interests of the Flemish Community or the Flemish Region, in particular if the continuity of vital processes is threatened, if certain strategic or sensitive knowledge threatens to fall into foreign hands or if the strategic independence of the Flemish Community or the Flemish Region is threatened. The government must however first attempt to find an amicable solution with the public authority concerned.

Belgium

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China

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Do FDI restrictions apply?

Yes. In general, FDI is directly or indirectly regulated by the several Chinese laws, i.e. Special Management Measures for the Market Entry of Foreign Investment (**Negative List**), Notice of the General Office of the State Council on Launching the Security Review System for Mergers and Acquisitions of Domestic Enterprises by Foreign Investors (**Notice 6**) and Measures for the Security Review of Foreign Investment (**Security Review Measures**).

Regarding the FDI restriction, the Negative List stipulates the special management measures for the market entry of foreign investors, such as equity restriction and senior manager requirements. Foreign investors shall not invest in sectors in which FDI is prohibited under the Negative List. Sectors not included in the Negative List shall be managed according to the principle of equal treatment of domestic and foreign investment. For some sectors, such as culture, telecommunication and finance, foreign investors must meet not only the requirements stipulated in the Negative List, but also those requirements relating to the administrative approval, qualification requirements and national security, among others, which are provided in other laws and regulations. The Negative List will be updated by relevant authorities on a regular basis.

If yes, which authority is responsible for the verification of an FDI?

Ministry of Commerce (**MOC**) is responsible for the review of the foreign investment fallen into the Negative list.

State Administration of Market Regulation is responsible for foreign invested entity registration and relevant business compliance regulation.

National Development and Reform Commission (**NDRC**) is responsible for foreign investment on project basis.

Foreign Investment Security Review Working Mechanism Office (**Working Mechanism Office**), which is part of the NDRC, is responsible for organizing, coordinating, and guiding the foreign investment security review when related to national security, such as investment in the defence industry or defence related industries as provided in the Security Review Measures. Furthermore, according to Notice 6 above, a joint ministerial meeting is responsible for conducting national security reviews of foreign investments with regard to military industrial enterprises or military industry-related supporting enterprises, enterprises located near key and sensitive military facilities, and other entities relating to national defence. Same applies to foreign investments in key domestic enterprises in areas such as agriculture, energy and resources, infrastructure, transport, technology, assembly manufacturing, among others, whereby the foreign investors might acquire the actual controlling right thereof. Such joint ministerial meeting is led by the state council and organised by the NDRC, MOC and other relevant departments. The content of foreign investment security review includes the impact of the foreign investment on the national security, the stable operation of national economy, the basic societal order and people's living conditions and the R&D capacity for key technologies related to the national security.

If yes, are these general restrictions or industry/sector-specific restrictions?

There are general as well as sector-specific restrictions. FDI in particular sensitive sectors, such as military materials, certain dual-use equipment, critical infrastructures, and universal service are always subject to a prior approval. Otherwise, MIT may initiate a screening procedure if the FDI could affect internal or public order or security, either (i) upon consultation by the foreign investor, or (ii) within 5 years of the completion of the FDI if the foreign investor has not submitted a request for consultation under (i). The MIT will further initiate mandatory screening proceedings if (a) the foreign investor failed to request mandatory sector-specific prior approval for the FDI, or (b) after 5 years from the completion of the FDI, as defined in the previous sentence, it becomes apparent that the foreign investor has withheld information for which the screening proceedings under (ii) could otherwise have been initiated.

If yes, do these restrictions apply to buyers from specific jurisdictions only?

No

If yes, are these restrictions dependent on certain control thresholds being reached?

In general, not, with a few exemptions.

If yes, what is the administrative procedure?

- Filing approval application for the business listed in Negative List with MOC.
- Filing registration for business set up.
- Filing approval with NDRC for specific investment project.
- Filing approval with Working Mechanism Office for national security related investment project.

China

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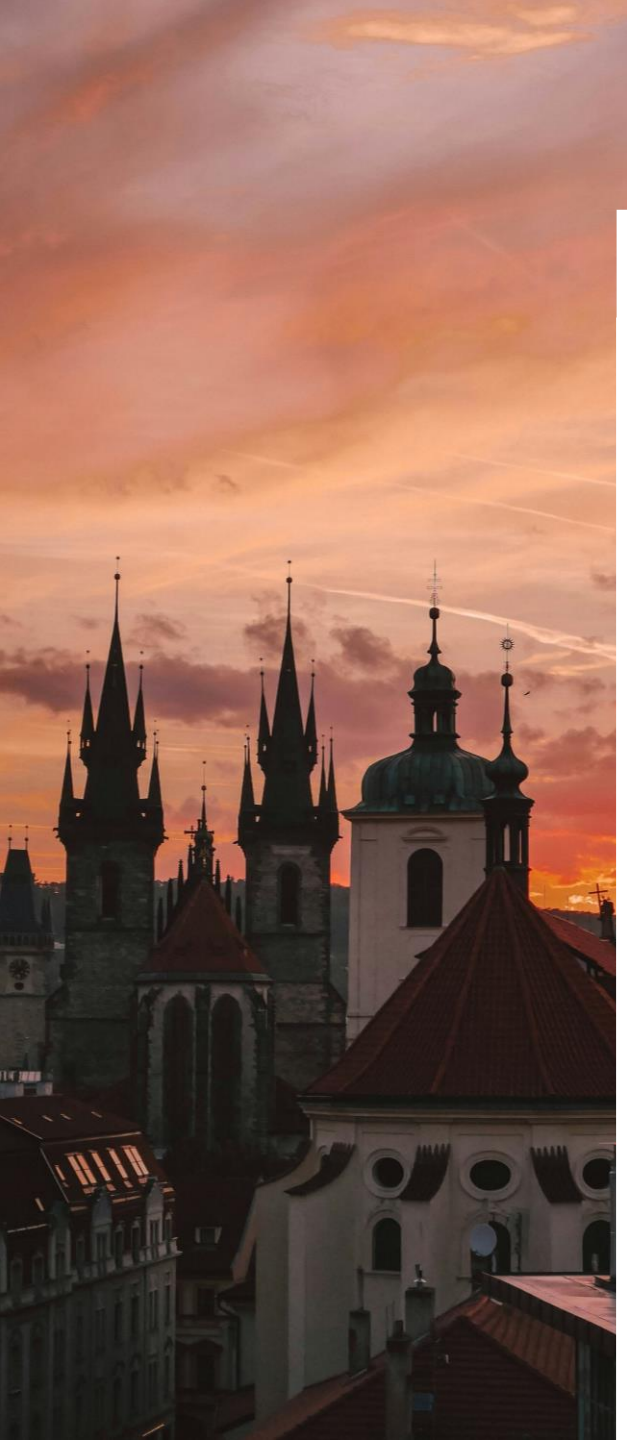

Czech Republic

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Do FDI restrictions apply?

As of 1 May 2021, new FDI Screening Act No. 34/2021 Coll. (**FDI Screening Act**) came into force, adapting the FDI Screening Regulation (EU) 2019/452. The FDI Screening Act imposes mandatory clearance of the Ministry of Industry and Trade (**MIT**) for non-EU FDI in order to prevent gaining control over certain strategic sectors or access to sensitive technology and information. It also imposes mandatory screening of non-EU FDI that may threaten the security as well as the internal or public order of the Czech Republic.

If yes, which authority is responsible for the verification of an FDI?

MIT. If the FDI may threaten internal or public order or security of the Czech Republic, the Government will be consulted. It cooperates with the relevant contact offices of the European Commission and EU Member States.

If yes, are these general restrictions or industry/sector-specific restrictions?

There are general as well as sector-specific restrictions. FDI in particular sensitive sectors, such as military materials, certain dual-use equipment, critical infrastructures, and universal service are always subject to a prior approval.

Otherwise, MIT may initiate a screening procedure if the FDI could affect internal or public order or security, either (i) upon consultation by the foreign investor, or (ii) within 5 years of the completion of the FDI if the foreign investor has not submitted a request for consultation under (i). The MIT will further initiate mandatory screening proceedings if (a) the foreign investor failed to request mandatory sector-specific prior approval for the FDI, or (b) after 5 years from the completion of the FDI, as defined in the previous sentence, it becomes apparent that the foreign investor has withheld information for which the screening proceedings under (ii) could otherwise have been initiated.

If yes, do these restrictions apply to buyers from specific jurisdictions only?

The restrictions apply to any FDI by a buyer who (i) is not an EU citizen; (ii) does not have its registered office within the EU; or (iii) is directly or indirectly controlled by an entity/person under (i) or (ii). For the purposes of this Act also includes a trustee of a trust fund who has made or intends to make a foreign investment in the Czech Republic on behalf of that trust fund, if the founder or trustee of the trust fund fulfils the requirements under (i), (ii) or (iii).

If yes, are these restrictions dependent on certain control thresholds being reached?

Restrictions apply where there is "effective control of business", i.e. (i) the ability of a foreign investor to directly or indirectly control at least 10 percent of the voting rights or the possibility to exercise an equivalent influence in the domestic company; (ii) the membership of the foreign investor or its related persons in the domestic companies' corporate bodies; (iii) the ability of the foreign investor to dispose of the domestic target's asset; or (iv) another form of control resulting in the ability of a foreign investor to gain access to information, systems or technologies that are important for internal or public order or security of the Czech Republic.

If yes, what is the administrative procedure?

The screening proceedings may be initiated either upon the foreign investor's request or ex officio by the MIT (see above). If the sector-specific restrictions apply, the foreign investor must apply for a permission to proceed with the FDI. The foreign investor must provide the MIT with all information required for the screening within 60 days from the date of delivery of the Ministry's request. The MIT will decide generally within 90 days of the initiation of the screening process whether the FDI is to be permitted, permitted under further conditions, or refused permission.

The MIT may open screening proceeding even 5 years after the FDI has been completed, with the possibility of retroactively restricting or annulling the investment. In order to obtain legal certainty, the foreign investor may submit an application to the MIT for the voluntary consultation regarding the FDI, while mandatory consultation only applies to certain domestic companies in the media sector. The MIT will inform the foreign investor of its decision within 45 days of receipt of the application. The decision may be either that the foreign investor may proceed with the FDI or that the FDI must be examined in the screening proceedings.

Significant fines of up to 2 percent of the total turnover or CZK 100 million (approx. EUR 4 million) may be imposed for non-compliance.

Czech Republic

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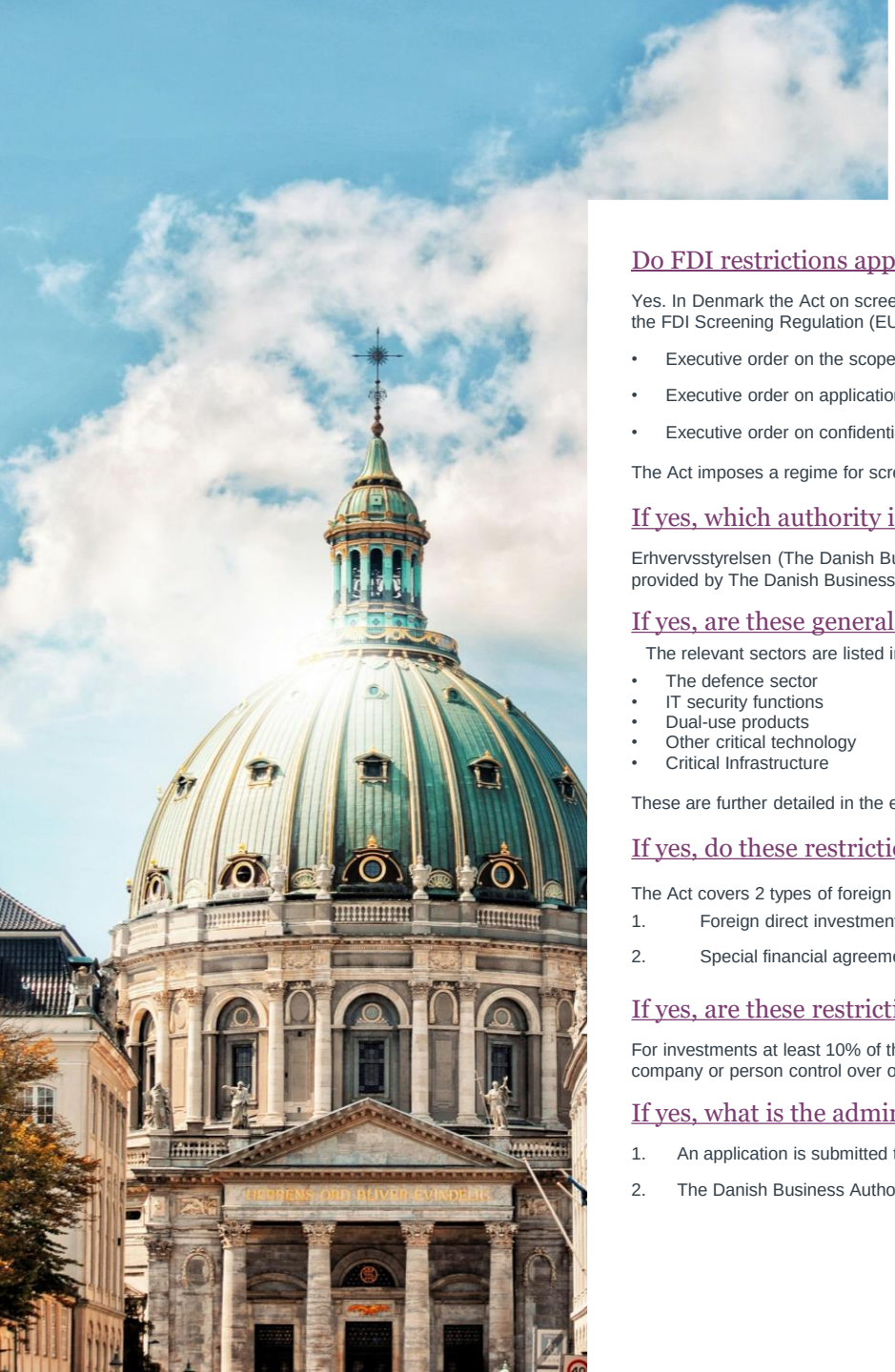

Denmark

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Do FDI restrictions apply?

Yes. In Denmark the Act on screening of foreign investments (Act no. 842 of 10 May 2021 on screening of certain foreign direct investments etc. in Denmark) with later amendments (the **Act**) is the Danish adaption of the FDI Screening Regulation (EU) 2019/452. The Act is supplemented by a number of executive orders specifying the scope and process of investment screening pursuant to the Act. The executive orders include:

- Executive order on the scope of the Act (Executive order no. 1491 of 25 June 2021);
- Executive order on application procedure etc. pursuant to the Act (Executive order no. 1454 of 24 June 2021); and
- Executive order on confidentiality on sharing of information pursuant to the Act (Executive order no. 1455 of 24 June 2021)

The Act imposes a regime for screening of certain foreign direct investments, special financial agreements and establishment of new companies within particularly sensitive sectors.

If yes, which authority is responsible for the verification of an FDI?

Erhvervsstyrelsen (The Danish Business Authority) is the responsible and competent authority – both in regards of application and questions in regard of Act. Applications must be submitted in the application form provided by The Danish Business Authority. The application form can be accessed via the following link:https://blanket.virk.dk/blanketafvikler/orbeon/fr/public_v/6_0d04cedad806783b834a1836cc6d4594b021f6f3/new

If yes, are these general restrictions or industry/sector-specific restrictions?

The relevant sectors are listed in section 6 of the Act. The sectors are:

- The defence sector
- IT security functions
- Dual-use products
- Other critical technology
- Critical Infrastructure

These are further detailed in the executive order on the scope of the Act.

If yes, do these restrictions apply to buyers from specific jurisdictions only?

The Act covers 2 types of foreign investments:

1. Foreign direct investments as detailed in section 5 of the Act. Screening of this type of investment is mandatory for investments made by non-Danish companies or people or companies.
2. Special financial agreements as detailed in section 7 of the Act. Screening of this type of investment is only mandatory for agreements made by people or companies from outside the EU or EFTA.

If yes, are these restrictions dependent on certain control thresholds being reached?

For investments at least 10% of the shares or voting rights must be acquired for the Act to be applicable on a foreign direct investment. Special economic agreements must be notified if they confer the non-Danish company or person control over or significant influence on the Danish company.

If yes, what is the administrative procedure?

1. An application is submitted to the Danish Business Authority by the foreign investor containing all relevant information (can alternatively be sent on behalf of the Danish company).
2. The Danish Business Authority processes its cases based on phases. In a phase 1 processing the screening must be completed within 45 days. A phase 2 screening must be completed within 125 days.

Denmark

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Finland

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Do FDI restrictions apply?

Yes.

If yes, which authority is responsible for the verification of an FDI?

The Finnish Ministry of Economic Affairs and Employment (**MEAE**).

If yes, are these general restrictions or industry/sector-specific restrictions?

These are mainly industry/sector-specific. All acquisitions involving the defence, dual-use or security sectors always require prior approval by the MEAE (pre-closing application procedure). In addition, in the non-military sector, acquisitions of companies that are considered critical to securing vital functions of Finnish society are monitored (in practice, these are always submitted to the MEAE for advance approval).

If yes, do these restrictions apply to buyers from specific jurisdictions only?

The filing obligation concerning the defence and dual-use sectors apply to all acquisitions where the buyer is a non-Finnish entity (there's no difference between EU and non-EU countries).

In other sectors monitoring of transactions only applies to non-EU/ non-EFTA buyer.

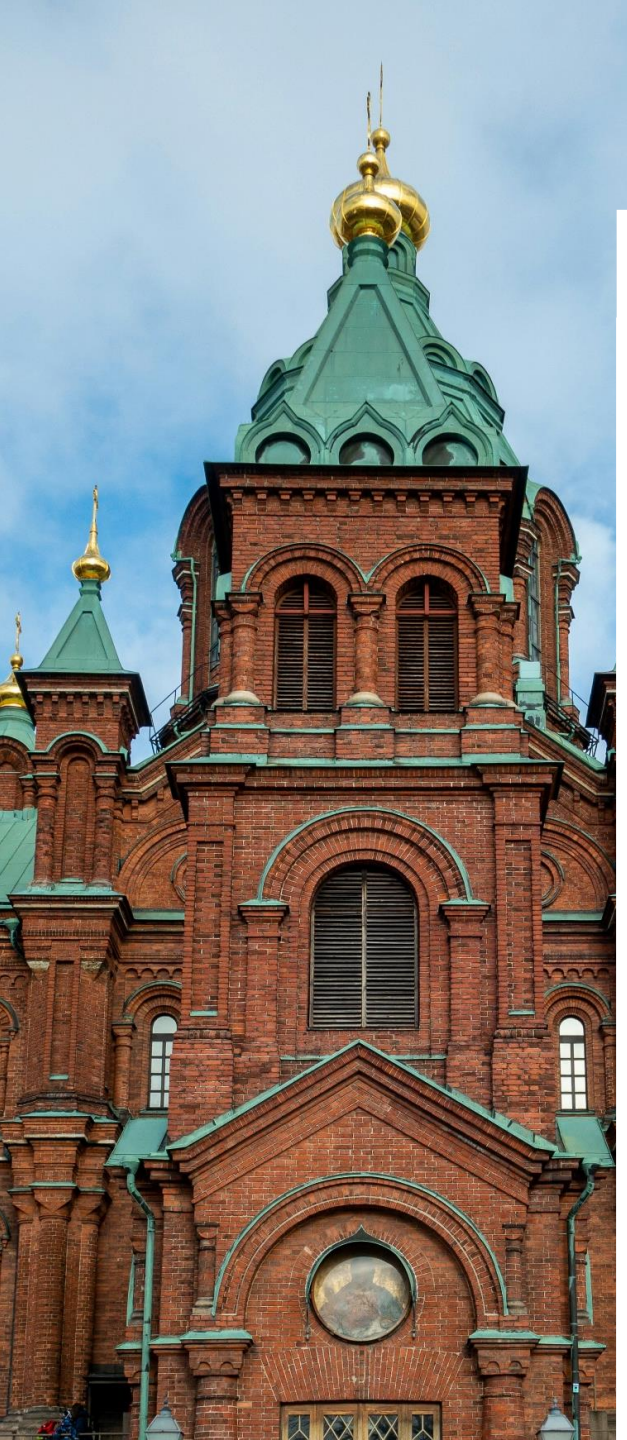
If yes, are these restrictions dependent on certain control thresholds being reached?

The restrictions apply to all transactions through which a buyer acquires control of at least one tenth (10 percent), one third (33.33 percent) or half (50 percent) of the voting rights conferred by all shares in the company (covering also ownership arrangements where the voting power/decision-making authority is acquired indirectly).

In addition, the MEAE may also oblige the buyer to file an application or a notification regarding an increase of the buyer's influence in the company that does not exceed the above-mentioned thresholds.

If yes, what is the administrative procedure?

There are no formal requirements for the application and notification submitted to MEAE. However, the authority has drawn up instructions for preparing the application/notification. Please click here for further information. MEAE may request additional information from the buyer within the first three months after processing the submitted and complete application/notification. All applications/notifications are processed urgently, and the processing times vary case by case (depending on the complexity of the matter). A fee of EUR 8,000 will be charged for processing of each application/notification.



Finland

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France

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Do FDI restrictions apply?

Yes. FDI are subject to authorisation if they involve activities (i) in the exercise of public authority, (ii) that could be harmful to public order, public security or the interests of national defence, or (iii) activities of research, production or marketing of arms, ammunition, or explosives. The precise list of such activities is detailed in the French Monetary and Financial Code.

If yes, which authority is responsible for the verification of an FDI?

The French Minister of Economy and Finance (**FMEF**).

If yes, are these general restrictions or industry/sector-specific restrictions?

Restrictions apply to the sensitive sectors listed exhaustively by the French Monetary and Financial Code (art. L. 151-3 and R. 151-3).

If yes, do these restrictions apply to buyers from specific jurisdictions only?

In principle, restrictions apply to Restricted Investments (as defined below) by any Foreign Investor (defined as (i) any foreign citizen; (ii) any French citizen not having its tax residence in France; (ii) any foreign entity or (iv) any entity governed by French law and controlled, within the meaning of Article L. 233-3 of the French Commercial Code (or, failing that, within the meaning of Article L. 430-1 III of that Code) by one or more of the above persons or entities. In addition, any entity or individual that is part of a chain of control – the combination of an investor entity and its controlling persons or entities - that means controlled by an entity subject to this legal regime, may also qualify as a Foreign Investor.)

If yes, are these restrictions dependent on certain control thresholds being reached?

"**Restricted Investment**" means any action that would result in (i) the acquisition of control (control within the meaning of French Commercial Code) in a company or a branch governed by French law, (ii) a total or partial acquisition of a branch or business activity governed by French law, (iii) the holding (directly or indirectly) of more than 25 percent of the share capital or voting rights of a company governed by French law or (iv) the holding (directly or indirectly) of more than 10% of the voting rights of a company incorporated under French law whose shares are admitted to trading on a regulated market (these two last conditions do not apply to investors from EU member states or from EFTA countries that have entered into an administrative assistance agreement with France to prevent tax fraud and tax evasion).

If yes, what is the administrative procedure?

In principle, Foreign Investors are required to request an approval for an investment. Within 30 working days of receipt of the application for approval, the FMEF notifies the investor either (i) that the investment falls outside the scope of the approval procedure, or (ii) that it is approved without conditions, or (iii) that further examination is required to determine whether the protection of national interests can be ensured by setting conditions to the approval. If there is no reply within this period, the application for approval is deemed to be rejected.

In the event of a further examination, the FMEF is granted an additional 45 working days to reject or approve the investment, subject to conditions if necessary. If there is no response within this period, the application for approval will also be deemed to be rejected. There is also the possibility to make a preliminary request. The target or the Foreign Investor (with target's approval) can consult the French administration prior to the investment to find out whether target's activity falls within the scope of the French FDI scheme.

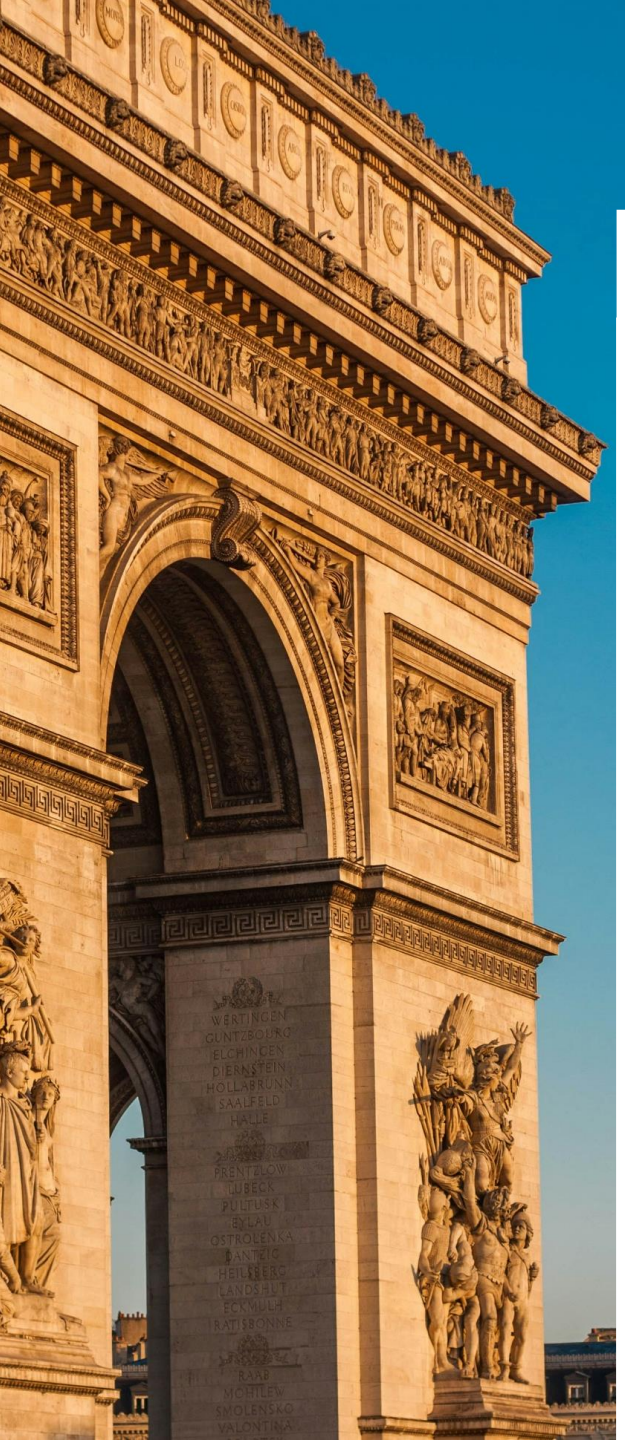
Once the investment is completed, the investor must submit a certain statement within two months of completion.

Furthermore, the cooperation mechanism concerning screened FDI requires France, as a Member State, to notify the EU Commission and the other Member States of any foreign direct investment in its territory that is subject to screening, where an entity in the investor's chain of control is a national of a non-EU country, by providing the information relating to the said investment (referred to in Article 9(2) of the FDI Screening Regulation (EU) 2019/452 (**EU Regulation**)).

In this context, the investor must first, as part of the composition of the application file (for authorisation and/or for a prior request), provide the FMEF with a form and fill in the information referred to in the EU Regulation.

The notification of this form by the FMEF to the EU Commission and to the other Member States is intended to allow a more rapid assessment, within the framework of the cooperation mechanism, of whether FDI subject to screening is likely to affect the security or public order of at least one other Member State. If the said FDI affects projects or programs of interest to the EU, the FMEF will have to take into account the EU Commission's advice, or other Members States' comments, but this advice (or comments) shall not be binding and the FMEF will ultimately decide to authorise the FDI (or not). The EU Commission's advice is not published and is subject to strict confidentiality rules.

In addition, under the said system, Member States may request certain information referred to in the form directly from the investor or the target company, which must provide it without delay.



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Germany

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Do FDI restrictions apply?

Yes. To avoid a threat to the public order or security of Germany acquisitions of shares in, or assets of, domestic companies by foreign buyers can be examined, restricted and prohibited on a case-by-case basis.

If yes, which authority is responsible for the verification of an FDI?

Federal Ministry of Economics and Climate Action (**BMWK**).

If yes, are these general restrictions or industry/sector-specific restrictions?

There are general (cross-sector) as well as sector-specific restrictions. The sector-specific review mechanism is limited to military & defence and IT security software and products, but it may catch a wider range of investments and investors. The cross-sector review mechanism is much broader in scope, but the investment thresholds are typically higher and only non-EU/EFTA investors are caught

If yes, do these restrictions apply to buyers from specific jurisdictions only?

The general (cross-sector) restrictions limit investments or acquisitions by non-EU/EFTA buyers only.

The sector-specific restrictions limit investments or acquisitions by any foreign buyer, including such residing in the EU or EFTA.

If yes, are these restrictions dependent on certain control thresholds being reached?

Yes. Both the sector-specific and the cross-sector review mechanism start from as low as 10% (directly or indirectly) of the voting rights in a German target.

The cross-sector review mechanism, however, takes a more differentiated, staggered approach by which the control threshold triggering a filing obligation may rise to 20% or 25% even, depending on sector. For example, critical infrastructure and telecommunications are considered more sensitive, from a national security perspective, than drones, robotics or AI and, thus, the investment threshold is 10% for the earlier and 20% for the latter.

Follow-on investments and strategic veto rights are covered as well, which means that even below-threshold investments or acquisitions may be caught..

If yes, what is the administrative procedure?

Transactions that are caught by either the cross-sector or the sector-specific regime are subject to a notification obligation and must not be implemented prior to having received approval by the BMWK (suspension obligation). Furthermore, the BMWK can call-in a case even outside the scope of the cross-sector or sector-specific review, provided only the jurisdictional thresholds are met. In order to obtain legal certainty, the buyer can apply for a certificate of non-objection (CNO). The standard review period (for both a formal filing and for obtaining a CNO) is 2 months from filing (phase 1) and the transaction will be deemed cleared by law unless the BMWK opens an in-depth (phase 2) investigation before the expiry of phase 1. The standard review period for phase 2 is 4 months but can be extended. In phase 2 the transaction can be restricted or prohibited. Unless cleared (or confirmed unproblematic in case of a CNO) the BMWK can investigate, and worst-case rewind, a transaction up to 5 years post-closing.

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Hungary

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Do FDI restrictions apply?

Yes. There are two separate FDI screening mechanisms to consider in connection with investments in Hungary:

i. Hungarian Act LVII of 2018 (2018 FDI Act) regarding investments made in certain strategic sectors that are important for the national security of Hungary (2018 FDI Regime), and

ii. Hungarian Act LVIII of 2020 which was introduced to mitigate the consequences of the COVID-19 pandemic during the state of emergency and which is temporarily replaced by Government Decree No. 561/2022. (XII. 23.) (2022 FDI Gov Decree), currently in force until the end of the state of emergency declared in connection with the Ukrainian war (November 2024) but is likely to be extended (2020 FDI Regime).

These acts established two separate FDI regimes which apply in parallel with each other. Accordingly, if an investment triggers the applicability of both FDI regimes, two separate notifications must be made to the competent ministers and the investment may not be completed until both acknowledgements are obtained by the investor, and accordingly, the investor cannot exercise of shareholder rights in the company or conduct any planned business activities. Please note that certain FDI restrictions also apply to the acquisition of agricultural and non-agricultural real estate by foreign persons.

The applicability of the FDI regimes:

2018 FDI Regime: the 2018 FDI Regime is applicable to investments that involve, among others, (i) the establishment and the direct and indirect acquisition of interest in Hungarian companies pursuing certain business activities in a strategic sector; (ii) the start of a new business activity in a strategic sector or (iii) the acquisition of the right of use or right of operation of assets, equipment or tools that are essential for the conduct of such activities.

2020 FDI Regime: the 2020 FDI Regime is applicable to investments that involve, among others (i) the direct and indirect acquisition of interest in; (ii) the increase of capital in; (iii) the merger, demerger or transformation of; (iv) the issuance of convertible bonds or grant of a usufruct (a form usage rights) on the shares of Hungarian companies pursuing certain business activities in a strategic sector as well as the acquisition of infrastructure, facilities and assets that are essential for the conduct of such activities as well as the acquisition of the right of use or right of operation regarding the same.

If yes, which authority is responsible for the verification of an FDI?

2018 FDI Regime: The Head of Cabinet of the Prime Minister (HoC) is entitled to conduct the FDI control procedure and to either approve or prohibit an FDI falling within the scope of the 2018 FDI Act. Compliance with FDI regulations by foreign investors and economic operators are monitored by the Constitution Protection Office as a security intelligence agency.

2020 FDI Regime: It is currently the Minister for National Economy (MNE) who is entitled to conduct the FDI control procedure and to either approve or prohibit an FDI falling within the scope of the 2022 FDI Gov Decree.

If yes, are these general restrictions or industry/sector-specific restrictions?

2018 FDI Regime: The 2018 FDI Act covers sectors and industries considered important to the national security of Hungary. This includes traditionally important industries such as of production of arms and ammunition, military technology, dual-use items and intelligence equipment, as well as other strategic sectors including energy, financial services, certain public utilities and development, operation of electronic systems used by state and local authorities and insurance and reinsurance activities, activities directly related to insurance activities, specified in certain government decrees.

2020 FDI Regime: The 2020 FDI Regime is applicable in the sectors provided by the Regulation (EU) 2019/452 and supplemented by further sectors, including, among others: energy, transport, water, health, education, food and agriculture, construction, communications, media, aerospace, defence, IT, activities of holding companies. The 2022 FDI Gov Decree list the first digits of the Hungarian equivalent of NACE codes (TEAOR number) which are considered to be strategic sectors in scope of the 2020 FDI Regime and if a Hungarian target company pursues such activities, the 2020 FDI Regime is applicable.

Hungary

If yes, do these restrictions apply to buyers from specific jurisdictions only?

2018 FDI Regime: The 2018 FDI Regime applies to foreign investors, i.e. (i) all non-EU/non-EFTA citizens, (ii) all non-EU/non-EFTA legal persons or other entities, and (iii) all legal persons or other entities (including EU and EFTA entities) in which a shareholder, falling within the scope of either (i) or (ii) above, has majority control as defined in the Hungarian Civil Code.

Special FDI-related restrictions apply to acquisitions of real estate by non-EU/non-EFTA citizens. Under the relevant laws, these buyers are (i) prohibited from acquiring agricultural land, and (ii) in case of the acquisition of non-agricultural real estate, are subject to an authorisation procedure by the competent government office.

2020 FDI Regime: The 2020 FDI Regime operates with the same foreign investor definition as the 2018 FDI Regime. Furthermore, it is also applicable to EU/EFTA citizen or legal person investors if the investment reaches HUF 350M (EUR 0.9M) in value and the investor acquires directly or indirectly a majority control as defined in the Hungarian Civil Code as a result of the transaction.

Exempt transactions: Even if a transaction triggers the 2020 FDI Regime, it is possible for it to be exempt under the 2022 FDI Gov Decree. From 13 January 2024, exempt transactions are those performed on an "international level" where the Hungarian subsidiary (within the meaning of the Hungarian Accounting Act) involved in the transaction is a subsidiary of the foreign target company the stakes of which are being sold meaning that indirect acquisitions of Hungarian strategic companies that are controlled by the foreign target company are generally exempted.

If yes, are these restrictions dependent on certain control thresholds being reached?

2018 FDI Regime: If the investment in scope of the 2020 FDI Act is carried out through establishing or acquiring a Hungarian company, the 2018 FDI Regime applies if

(i) the foreign investor acquires directly or indirectly more than 25% of the shares in the Hungarian company or 10% in case of a public company limited by shares;

(ii) the foreign investor acquires a controlling influence as defined by the Hungarian Civil Code; or

(iii) two or more foreign investors' shareholdings would altogether exceed the 25% threshold as a result of the transaction if more than one foreign investor has an interest in a non-publicly traded company.

2020 FDI Regime: 2020 FDI Regime Gov Decree defines the following thresholds which shall be notified to the MNE if the investment is in scope of the 2020 FDI Act:

(i) an EU/EFTA citizen or entity investor acquires directly or indirectly a majority control as defined in the Hungarian Civil Code as a result of the transaction if the investment reaches HUF 350M (EUR 0.9M) in value;

(ii) a non-EU/non-EFTA citizen or entity investor acquires directly or indirectly an at least 5% shareholding in a Hungarian Company or 3% in case of public company limited by shares as a result of the transaction if the investment reaches HUF 350M (EUR 0.9M) in value;

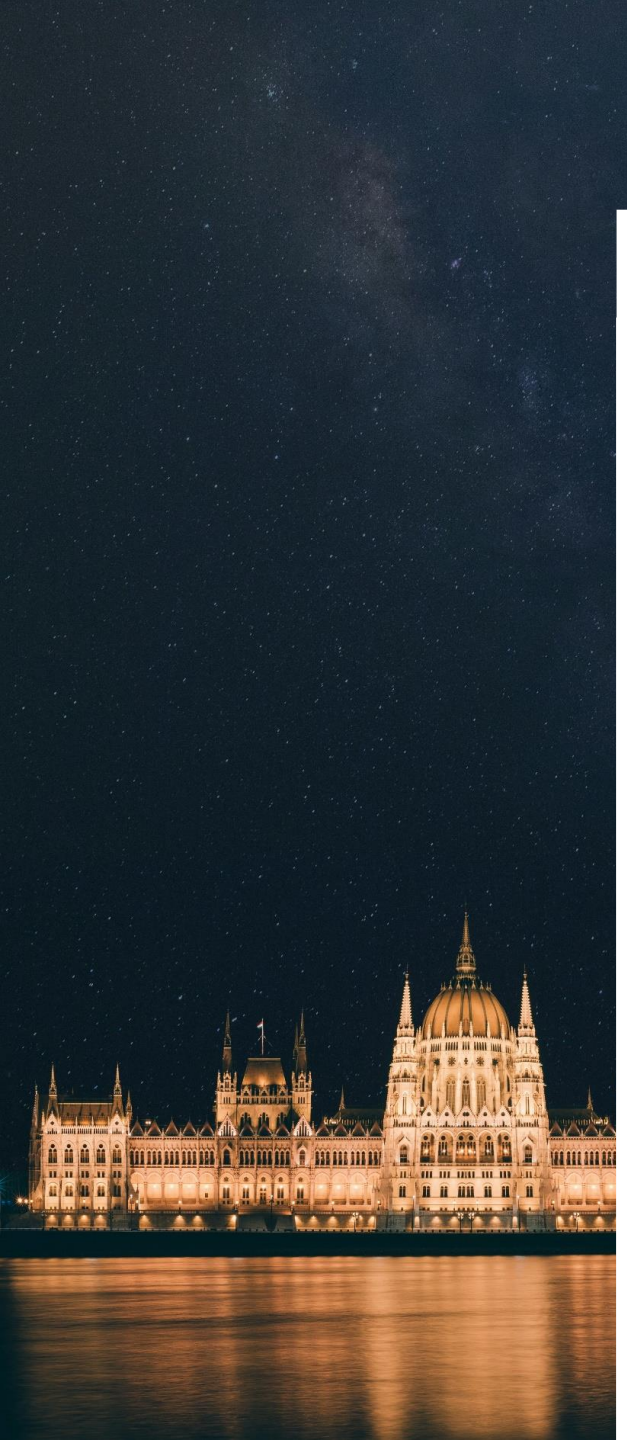
(iii) a non-EU/non-EFTA citizen or entity investor reaches the thresholds of 10%, 20%, and 50% shareholding (directly or indirectly) in a Hungarian company; or

(iv) two or more foreign investors' shareholdings would altogether exceed the 25% threshold as a result of the transaction if more than one foreign investor has an interest in a non-publicly traded company.

If yes, what is the administrative procedure?

2018 FDI Regime: Foreign investors must notify the HoC within 10 days of the execution of the underlying agreement or registration of the new activity. The notification shall be submitted along with the underlying agreement, a summary on past economic activities of the investors and details of ownership structure. The notification must be submitted in Hungarian and must include the sworn Hungarian translations of the accompanying foreign language documents. The HoC has 60 days to either approve or prohibit the FDI; which period may be extended by additional 60 days. In the course of the procedure, the HoC examines whether the proposed FDI violates the national security interests of Hungary. During the screening procedure and even after the approval of the investment, the foreign investor must notify the HoC of any changes in its data submitted to the HoC.

2020 FDI Regime: The MNE must be notified of the transaction subject to the 2020 FDI regime within 10 days from conclusion. The notification must include the description and documents of the contemplated transaction and the ultimate beneficial owners of the foreign investors, among others. The notification must be submitted by the legal counsel of the investor in Hungarian and must include the sworn Hungarian translations of the accompanying foreign language documents. The MNE may request further documents that it wishes to inspect in connection with the transaction within 8 days from the date of the submission. Within 30 working days of the date of the submission, the MNE shall issue the approval or rejection regarding the transaction. The MNE may extend the proceedings with 15 additional days meaning that the whole process is normally completed within approx. 2 months. The MNE may decline to approve the investment if he concludes that the acquisition breaches or has the potential to breach the national security interests or the public order of Hungary or the foreign investor intends to commit a crime or engage in illegal activities. The procedure is somewhat special during the sale and purchase of shares of Hungarian companies whose business activity includes the production of electricity (TEAOR code 3511, NACE code D35.1.1) in the photovoltaic sector to foreign investors as Hungarian State, through MNV Zrt., has been granted a pre-emption right for such investments.



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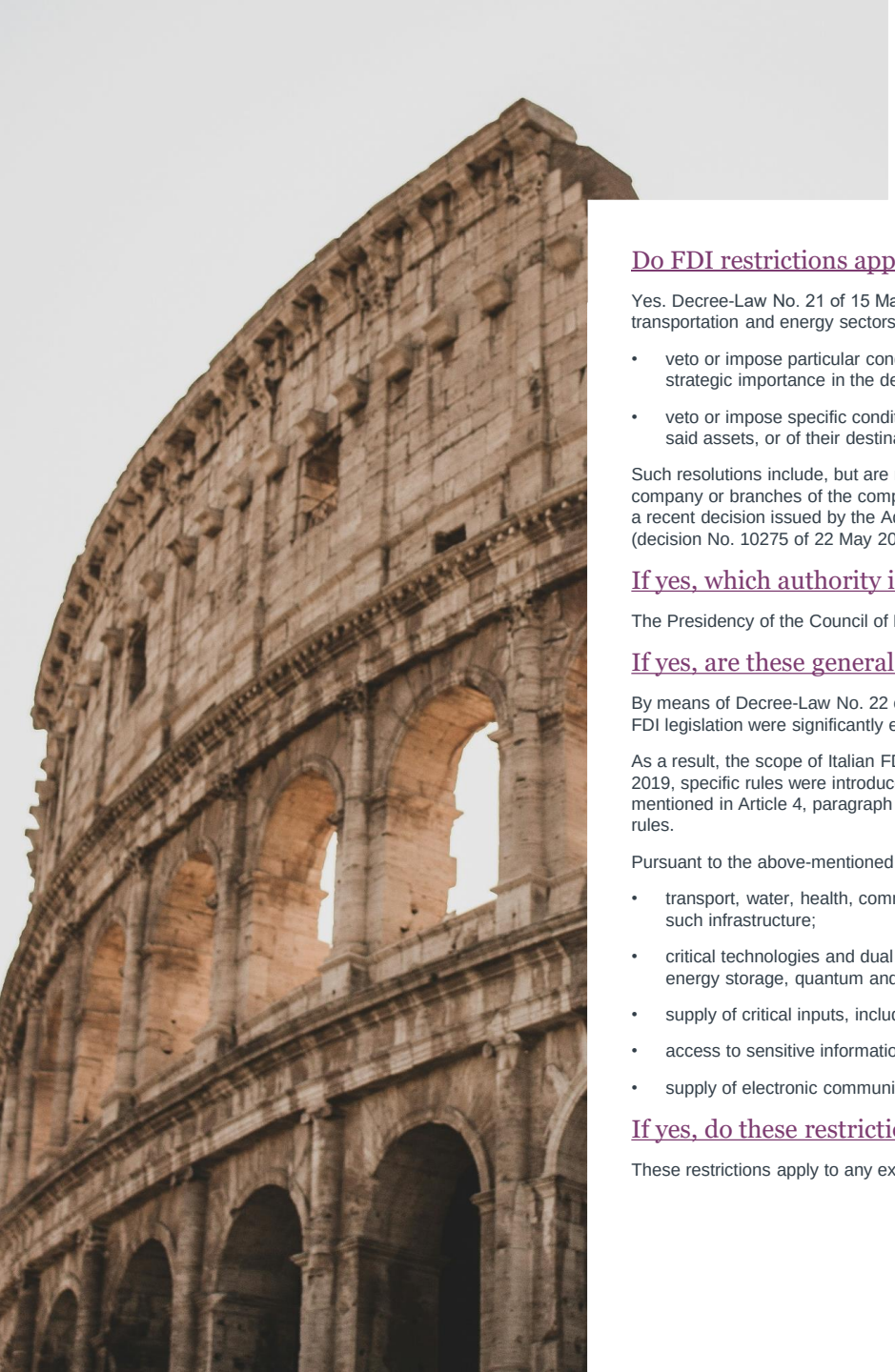

Italy

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Do FDI restrictions apply?

Yes. Decree-Law No. 21 of 15 March 2012 awarded the Italian Government "special powers" (nicknamed "golden powers") on transactions involving strategic assets in the defence and security, communications, transportation and energy sectors. Such powers allow the Italian Government, if a transaction threatens essential national interest, to:

- veto or impose particular conditions and requirements to the purchase by any entity other than the State, public entities or entities controlled by them of shareholdings in companies carrying out activities of strategic importance in the defence and national security sectors, as well as the purchase of shareholdings by a foreign entity in companies holding strategic assets in other specific industrial sectors;
- veto or impose specific conditions and requirements for the adoption of certain corporate resolutions or acts by companies holding strategic assets which result in a change of ownership, control or availability of said assets, or of their destination.

Such resolutions include, but are not limited to, inter alia merger or demerger of the company; transfer abroad of the registered office; modification of the corporate purpose; dissolution of the company; transfer of the company or branches of the company including strategic assets; or assignment by way of security of the shares of the company or branches of the company including strategic assets [in this respect, please note that a recent decision issued by the Administrative Court for Lazio confirmed that also the grant of a pledge over shares of Italian companies in strategic sectors triggers the filing requirement under the Italian FDI regime (decision No. 10275 of 22 May 2024)].

If yes, which authority is responsible for the verification of an FDI?

The Presidency of the Council of Ministers (PCM).

If yes, are these general restrictions or industry/sector-specific restrictions?

By means of Decree-Law No. 22 of 25 March 2019 (converted into Law No. 41 of 20 May 2019) and No. 105 of 21 September 2019 (converted into Law No. 133 of 18 November 2019), the business areas subject to FDI legislation were significantly expanded.

As a result, the scope of Italian FDI legislation it is no longer limited to the industry sectors originally identified by Decree-Law No. 21/2012, namely defence, security, energy, transport and communications. In Spring 2019, specific rules were introduced with reference to the electronic communications 5G sector, while in autumn 2019, the Government increased the number of sectors concerned by such powers to include those mentioned in Article 4, paragraph 1, of EU Regulation No. 2019/452 of the European Parliament and the European Council, which came into force in October 2020 with the aim of coordinating Member States FDI rules.

Pursuant to the above-mentioned legal changes, golden powers apply also in the following industrial sectors:

- transport, water, health, communications, media, data processing or storage, aerospace, defense, electoral or financial infrastructure, and sensitive facilities, as well as land and real estate crucial for the use of such infrastructure;
- critical technologies and dual use items as defined in point 1 of Article 2 of Council Regulation (EC) No. 428/2009, including artificial intelligence, robotics, semiconductors, cybersecurity, aerospace, defence, energy storage, quantum and nuclear technologies as well as nanotechnologies and biotechnologies;
- supply of critical inputs, including energy or raw materials, as well as food security;
- access to sensitive information, including personal data, or the ability to control such information; or freedom and pluralism of the media;
- supply of electronic communication equipment and services to Italian operators managing 5G telecommunications networks.

If yes, do these restrictions apply to buyers from specific jurisdictions only?

These restrictions apply to any extra-EU buyer, but in some cases, they apply also to EU and Italian buyers.

Italy

If yes, are these restrictions dependent on certain control thresholds being reached?

If the FDI takes the form of a share purchase, in the defence and national security sectors, the threshold triggering the obligation to notify the PCM is 3 percent (the buyer is required to repeat the notification when the following thresholds are reached: 5 percent, 10 percent, 15 percent, 20 percent, 25 percent and 50 percent).

In any other sector (i.e., energy, transport, telecommunications and all the sectors mentioned by Article 4, paragraph 1, of EU Regulation No. 2019/452), even acquisitions that allow a non-EU investor to reach a 10% capital share in a company holding strategic assets falls within the scope of golden powers when the value of the transaction exceeds 1 million Euro. Reaching share thresholds of 15%, 20%, 25% and 50% also has to be notified.

In six specific sectors - telecommunications, energy, transportation, health, food/agriculture and financial (including banking and insurance) sectors – also acquisitions by any EU or Italian investor of controlling shares in strategic entities are subject to FDI clearance and therefore must be notified to the PCM.

The establishment of a new company operating in the defence and security sector is always subject to FDI clearance. In other strategic sectors (i.e., energy, transport, telecommunications and all the sectors mentioned by Article 4, paragraph 1, of EU Regulation No. 2019/452), the establishment of a new company triggers the obligation to file the notification to the PCM, if one or more extra-EU shareholders have at least 10% of the voting rights.

If yes, what is the administrative procedure?

The notification must be sent via certified email to the Presidency of the Council of Ministers before adopting any resolution entailing the change in the ownership, control or availability of strategic assets or the change of their destination or before signing any share transaction (share purchase agreements subject to condition precedent are accepted, provided that the agreement is notified within 10 days from signing and remains ineffective until the transaction is cleared).

The obligation to file the notification falls on:

- the company adopting the resolution; and
- the acquiring company in the case of a share deal. If possible, the notification should also be filed jointly with the target company, or the latter shall receive a notice enabling it to participate in the FDI procedure.

The notification must be drafted in both Italian and English and must be signed by the individual having the authority to represent the company.

The notification must provide the Government with a full and detailed description of transaction, as well as with information concerning the parties involved the transaction, including their shareholding structure. It is also mandatory to submit to the Presidency of the Council of Ministers, along with the notification, a copy of the final draft of the resolution and/or contract (if not signed). Please note that the golden powers procedures are secret and exempt from general access to documents rules. To avoid delays in the transaction, early drafts of resolutions and agreement could be submitted, but if they were cleared the approval would not cover significant changes to those drafts, which would require a new notification.

Once the notification has been made, the transaction cannot be implemented until the Government has given the clearance and the President of the Council of Ministers has 45 working days to exercise its special powers on the transaction, vetoing it altogether or imposing specific conditions. Such decision has to be approved by way of a deliberation of the Council of Ministers. In order to provide the grounds for the decision, the Prime Minister Office branch in charge of the administrative investigation delegates a technical assessment to the relevant Ministry (defence, economic development, health) and is supported by a consulting body in which all the main national administration, law enforcement and intelligence organisations are represented.

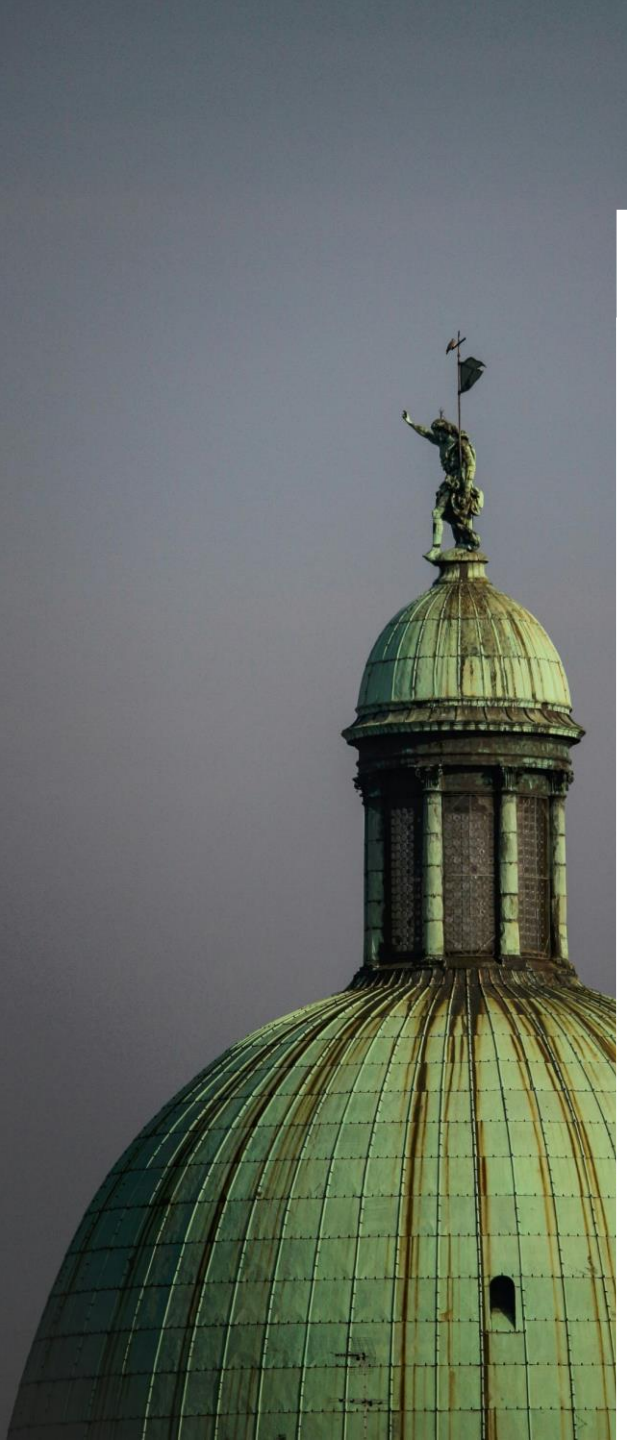
The Government can ask for additional information and, in that case, the 45 working days deadline is suspended for 10 working days. A further 20 days suspension may apply if the Government requires the involvement of third parties. The administrative investigation may involve the summoning of a hearing at which the parties to the administrative procedure are invited, may be asked question and clarifications and are expected to provide input both orally and in writing.

The rule of silent consent applies. Once the 45 (or 75) working days period has expired without the Government intervening, the golden powers are considered to not be exercised. Please note that in practice silent consent never applies, as the Government always issues a formal decision, even when the decision is not to impose any condition on the transaction.

Article 16 of Decree-Law No. 18/2020 has introduced a general framework aimed at regulating the exercise of golden powers, if the entities required to notify a transaction do not fulfil their obligation. In such cases, the Presidency of the Council of Ministers shall initiate the procedure for the exercise of special powers ex officio. The term of 45-75 days shall start to run from the conclusion of the procedure for ascertaining the breach of the notification obligation.

While statutory deadlines are clear and rigorously met by the Government, it has to be emphasized that the normal timeframe of FDI procedures are generally much lower, especially in situations which are deemed not to require any intervention. In our experience, simple cases can be processed in 4-5 calendar weeks, with exceptionally quick turnaround taking as little as two weeks.

As to the penalties, it is important to emphasize that, unless the fact could be characterized as a more serious criminal infringement, the violation of the notification obligation entails the application of a monetary administrative fine up to twice the value of the transaction and in any case not less than 1% of the cumulative turnover achieved by the companies involved in the last financial year for which the financial statements have been approved. Please note that the penalty would apply even if the Government had no objections on the transaction.



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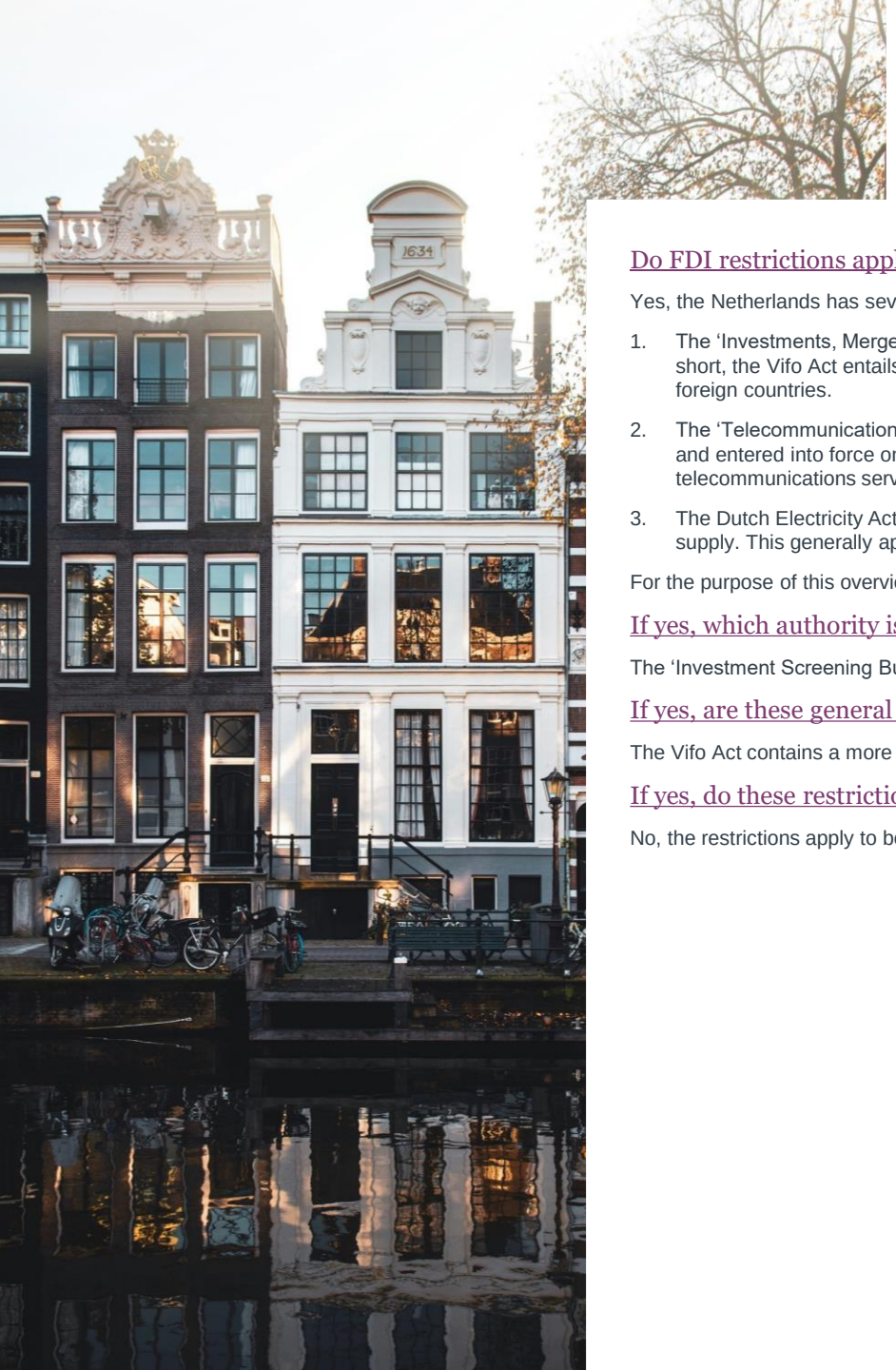

Netherlands

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Do FDI restrictions apply?

Yes, the Netherlands has several (sector-specific) FDI regimes in place.

1. The 'Investments, Mergers and Acquisitions Security Screening Act' (Wet veiligheidstoets investeringen, fusies en overnames, the Vifo Act) entered into force on 1 June 2023. In short, the Vifo Act entails an ex-ante general screening mechanism in order to protect Dutch national security and to prevent unwanted strategic dependence of the Netherlands on foreign countries.
2. The 'Telecommunications Sector (Undesirable Control) Act' (Wet ongewenste zeggenschap telecommunicatie, WOZT) was incorporated in the Dutch Telecommunications Act (DTA) and entered into force on 1 October 2020. The WOZT concerns a sector-specific FDI regime aiming to prevent abuse or potential or deliberate disruption of a provider of telecommunications services in the Netherlands.
3. The Dutch Electricity Act 1998 and the Gas Act in short contain a notification obligation in relation to a change of control in the energy sector with the aim to ensure the security of supply. This generally applies to a change of control in (the operator of) generating facilities with a capacity exceeding 250 MW and LNG facilities / companies .

For the purpose of this overview, we focus on the obligations under the Vifo Act and the WOZT.

If yes, which authority is responsible for the verification of an FDI?

The 'Investment Screening Bureau' (Bureau Toetsing Investeringen, BTI) is the designated competent authority and is part of the Ministry of Economic Affairs and Climate Policy.

If yes, are these general restrictions or industry/sector-specific restrictions?

The Vifo Act contains a more general screening mechanism whereas the telecommunication and energy regimes are sector-specific.

If yes, do these restrictions apply to buyers from specific jurisdictions only?

No, the restrictions apply to both foreign and domestic investors.

*If these thresholds are not met individually, a combination of the criteria can also lead to a notification obligation.

**As defined in Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (eIDAS).

Netherlands

If yes, are these restrictions dependent on certain control thresholds being reached?

Vifo Act

The Vifo Act applies to investments in companies established in the Netherlands and

i. involved in vital processes (also referred to as 'vital providers' such as financial markets infrastructure providers, main transport hubs, heat network or gas storage operators and extractable energy or nuclear power companies),

ii. active in (highly) sensitive technologies (such as military goods, dual-use items, quantum technology, photonics technology, semiconductor technology and high assurance products); or

iii. operating a business campus.

The Vifo Act catches all mergers and demergers, acquisitions and other investments that result in the acquisition of direct or indirect control over a relevant company or, where highly sensitive technologies are involved, significant influence over a relevant company.

Control is defined as in merger control (competition law) and concerns the ability to exercise decisive influence.

The acquisition (or increase) of significant influence is a lower threshold than control. Significant influence can exist if 10%, 20% or 25% of voting rights can be exercised or if there is a right to appoint or dismiss one or more board members. An increase in significant influence to the next threshold will trigger subsequent notification.

The Vifo Act empowers the Minister to designate additional categories of vital providers or (highly) sensitive technologies depending on potential future developments.

WOZT

The WOZT stipulates that the party who has the intention of acquiring 'predominant control' (overwegende zeggenschap) over a Dutch 'telecommunications party' has the obligation to notify this to BTI if such control results in 'relevant influence' in the telecommunications sector.

Predominant control (inter alia) exists if the person acquiring or holding such control: (a) possesses (solely or jointly) at least 30 % of the (direct or indirect) voting rights in the target; (b) has the ability (by agreement or otherwise) to appoint or dismiss more than half of the board of directors or supervisory board members; and (c) has the ability to exercise control through special voting rights. For the assessment it is also of relevance in which telecommunications parties the investor and/or members of its group already hold predominant control in the Netherlands.

Telecommunications party: A telecommunications party is defined as either a branch office, legal entity, sole proprietorship or company established in the Netherlands being a provider, or holder of a predominant control in a provider, of:

a) an electronic communications network or service; or

b) a hosting service, internet node, trust service or data centre (with the exception of data centres exclusively or primarily for personal (single) use).

Relevant influence: The Decree Undesired Control in the Telecommunications Sector (Besluit ongewenste zeggenschap telecommunicatie, BOZT) specifies that relevant influence is assumed if the telecommunications party, and potential other telecommunications parties in which the (group of the) holder or acquirer holds or acquires a predominant control, alone or together* :

a) offers internet access or telephone services to more than 100,000 end-users in the Netherlands;

b) provides an electronic communications network over which more than 100,000 end-users in the Netherlands are offered internet access or telephone services;

c) offers an internet node to which more than 300 autonomous systems are connected;

d) provides data centre services with a power capacity exceeding 50MW;

e) provides hosting services for more than 400,000 .nl-domain names;

f) provides a qualified trust service**;

g) provides an electronic communications service or network, data centre service or trust service for entities in the field of national security (e.g. the General Intelligence and Security Service, National Police or Ministry of Defence).

If yes, what is the administrative procedure?

Vifo Act

If a sector-specific screening regime with a focus on national security applies simultaneously with the Vifo Act, a separate notification under the Vifo Act is not required. This is the case even if the thresholds of a sector-specific screening regime are not met by a particular transaction that is otherwise covered by that regime.

Phase I: The Minister (BTI) renders a decision (screening or no screening) in the screening phase within eight weeks after receipt of the notification. If further investigation is required, this term may be extended by up to six months.

Phase II: The review phase (in-depth review) is also subject to an eight weeks decision period, which period can also be extended by up to six months. Nevertheless, the period for additional investigation during Phase I will be deducted from the maximum decision period in Phase II.

If a decision is not issued within the relevant waiting periods (including any extensions), the transaction will be deemed approved.

If a transaction was closed without observing the notification requirements or if an earlier screening was based on incorrect or incomplete information, the Minister may order the parties concerned, within three months of the Minister becoming aware of the transaction or the incorrectness or incompleteness of the information in the notification, to file a (correct and complete) notification within a reasonable period of time.

Failure to comply with the standstill obligation under the Vifo Act (implementing the transaction without the required approval from BTI) may result in a penalty of up to 10% of the turnover for both the buyer as well as the target. We note that it is possible to request for a waiver of the standstill obligation in urgent situations, such as imminent insolvency of the target if the transaction is delayed.

WOZT

Notifications are non-suspensory but must be made at least eight weeks prior to the envisaged completion of the proposed transaction. BTI has 8 weeks after notification to decide whether the proposed transaction will be prohibited. If BTI decides that further investigation is required, the term may be extended by 6 months.

The Minister (BTI) shall prohibit the acquiring or holding of predominant control if this results in a thread to the public interest. The Minister may also allow the transaction subject to conditions.

Failure to comply with the notification requirements may lead to a fine of up to € 900,000. Where a transaction that should have been notified was completed without having been notified, the Minister can prohibit the transaction within eight months after becoming aware of the transaction.

No administrative fee is involved for a notification under the Vifo Act as well as the WOZT. Furthermore, the terms that apply may be extended if additional information is required (so-called stop the clock).

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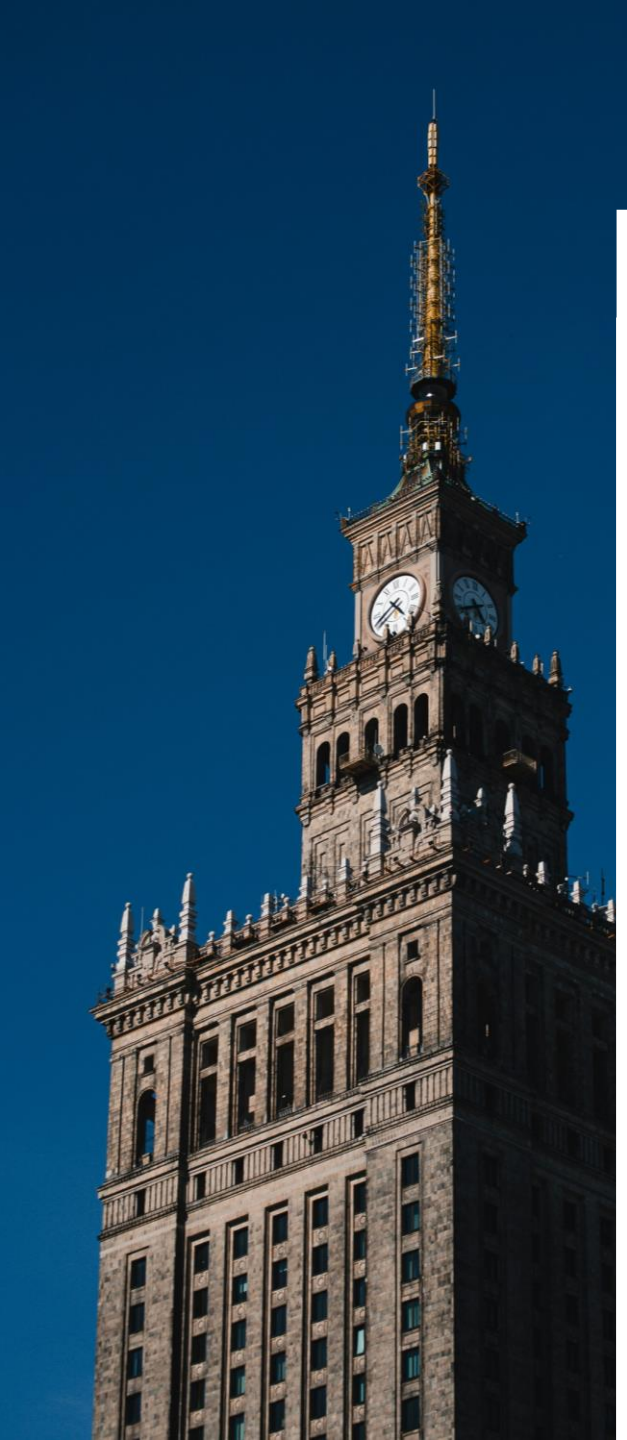

Poland

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Foreign Direct Investment
Jurisdictional Guide

Do FDI restrictions apply?

Yes. FDI requirements apply to transactions concerning certain companies (both share and asset deals) that involve foreign investors. The Polish Act on the Control of Certain Investments of 24 July 2015 (the "Act") sets out the requirements, which apply until 24 July 2025.

Besides, acquisitions of shares in a company owning real estate (and direct acquisitions of real estate) by foreigners are restricted.

If yes, which authority is responsible for the verification of an FDI?

In the case of transactions concerning entities protected by the Act, the President of the Office of Competition and Consumer Protection (UOKiK).

In other cases, the relevant authority varies. For acquisitions involving real properties – the Ministry of Internal Affairs. If the real property is classified as agricultural property – the Polish National Office for Agricultural Support. In the case of other acquisitions; the Ministry of State-Owned Assets, the Ministry of National Defence, the Ministry of Marine Economy, the Polish Financial Supervision Authority, as the case may be.

If yes, are these general restrictions or industry/sector-specific restrictions?

The Act introduces requirements applicable to, i.e., public companies, and companies owning critical infrastructure, developing critical IT software, or operating in strategic sectors, provided that their annual turnover in any of the last two financial years exceeded EUR 10 mil.

Besides, There are restrictions that apply to acquisitions involving real estates and restrictions on the acquisition of certain companies active in sectors such as energy, telecommunications, finance, defence or chemicals.

If yes, do these restrictions apply to buyers from specific jurisdictions only?

Restrictions under the Act apply to acquisitions of equity in protected companies by investors from outside the EU, EEA or OECD

The restrictions concerning acquisitions involving real properties apply to non-EU/non-EFTA buyers. However, if real property is classified as agricultural real property, then restrictions apply to all buyers (irrespective of their home jurisdiction).

Besides, the sector-specific restrictions restrict any acquisitions and concern both Polish and foreign buyers.

Poland

If yes, are these restrictions dependent on certain control thresholds being reached?

Under the Act, investments triggering the restrictions include acquiring dominant participation or significant participation in a protected company, i.a. by purchase of shares (both direct and indirect) by which shares, votes or share in profit, as the case may be, exceed 20 or 40 percent of the protected company's total share capital, votes or share profits, as well as the purchase or lease of a protected company's enterprise or part thereof.

The general (cross-sector) restrictions apply to all transactions by which a buyer directly or indirectly acquires any shares in a company holding real properties.

The sector-specific restrictions apply to all transactions through which a buyer directly or indirectly acquires control of 20 percent, 25 percent, 33 percent and 50 percent of the voting rights or shares in the share capital of a domestic company except for companies from the financial sector, such as banks, insurers and brokerage houses, where the following thresholds apply: 10 percent, 20 percent, 33 percent and 50 percent.

If yes, what is the administrative procedure?

In case of companies protected under the Act, the procedure is modelled on the current two-step procedure for merger control clearance. The preliminary investigation takes up to 30 business days but can be extended for a further 120 calendar days if UOKiK decides to initiate control proceedings. The deadlines are suspended while the authority waits for requested documents and information.

The notification is mandatory, and clearance must be obtained before closing (except for indirect transactions from Article 12c Section 7 of the Act, where the foreign entity obtains the status of a dominant entity in relation to an entity with a significant share in the protected entity or a dominant entity in relation to the protected entity – that exception can be triggered with foreign-to-foreign transactions).

In case of general (cross-sector) restrictions, all acquisitions of companies holding real properties require obtaining a prior positive decision from the Ministry of Internal Affairs. The procedure requires certain documentation regarding the target real property (the company owning the real property) and the prospective buyer must be presented to the Ministry.

In case of acquisitions of companies holding agricultural real properties, the Polish National Office for Agricultural Support may exercise a pre-emption right regarding the shares of the company concerned, which is the subject of the transaction. The Office may carry out its own due diligence in relation to the target company. The office has 2 months to decide whether to exercise its pre-emption right. In case of sector-specific restrictions, in certain cases prior approval from the competent ministry must be obtained in order to proceed with the transaction and the procedure is very formalized. As a rule, the relevant authority has 60 or 90 days (depending on the case) to make its decision. In some other cases, the relevant ministry may object to the transaction within 14 days from being notified.

Poland

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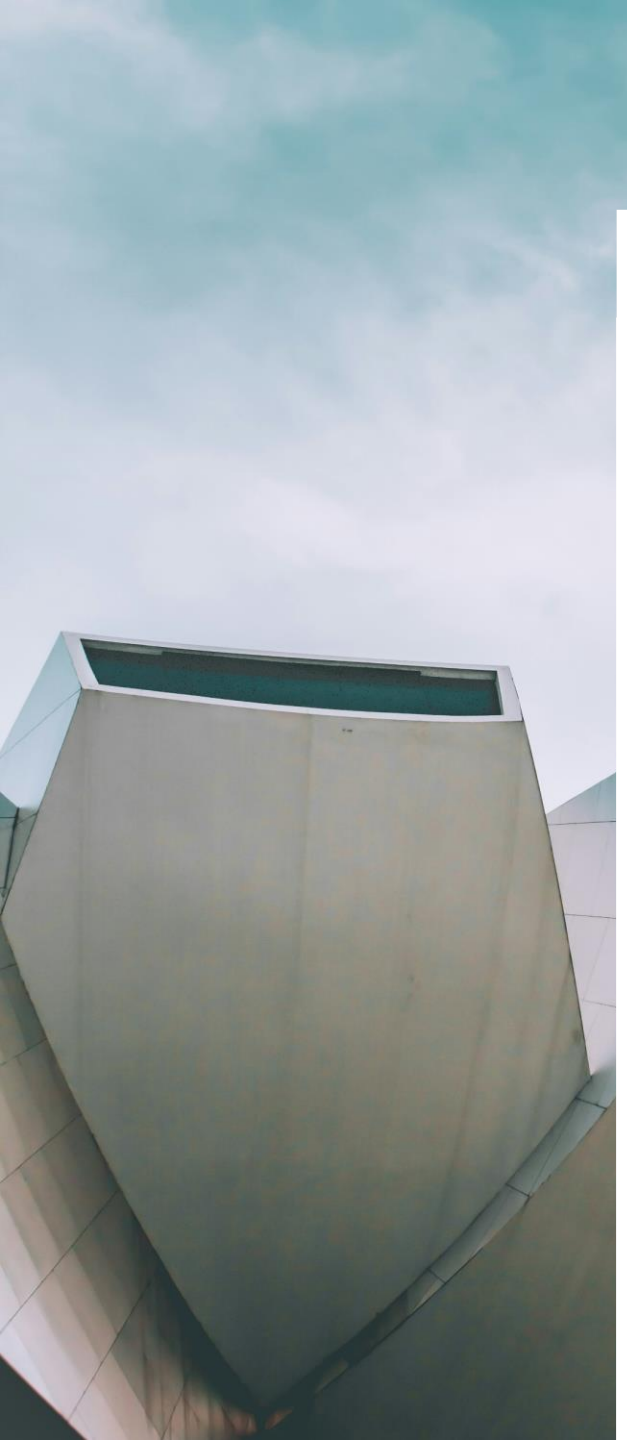

Singapore

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Do FDI restrictions apply?

Yes. While in general, there is no distinction in the treatment of foreign and domestic investment in Singapore, there are restrictions on FDI for a limited list of sectors and certain critical business entities. These FDI restrictions are regulated by sector-specific legislation and the Significant Investments Review Act (SIRA) respectively.

The SIRA aims to protect the national security interests of Singapore by regulating significant investments that affect the ownership and control of critical business entities by both local and foreign investors. The SIRA complements the sector-specific legislation by further designating critical business entities that will be regulated under it. The designation is done by the Ministry of Trade and Industry (MTI).

On 31 May 2024, the list of designated entities was published on the Government Gazette. The nine designated entities that are subject to the SIRA are: ST Logistics Pte. Ltd., Sembcorp Specialised Construction Pte. Ltd., ST Engineering Marine Ltd., ST Engineering Land Systems Ltd., ST Engineering Defence Aviation Services Pte. Ltd., ST Engineering Digital Systems Pte. Ltd., ExxonMobil Asia Pacific Pte. Ltd., Shell Singapore Pte. Ltd. and Singapore Refining Company Private Limited. The designated entities span industries such as defence, petroleum refining, freight transportation and construction and repair of infrastructure, ships and aircrafts.

If yes, which authority is responsible for the verification of an FDI?

There is no central authority regulating and verifying an FDI, and any restrictions on foreign investment are implemented by the relevant sectoral regulatory authority. If FDI involves a designated entity under the SIRA, the MTI will be overseeing the FDI.

If yes, are these general restrictions or industry/sector-specific restrictions?

There are no general restrictions. Restrictions are industry/sector-specific, applying in areas such as telecommunications, financial services, professional services, media and land ownership. Restrictions are also entity-specific under the SIRA, applying to designated entities which are in the MTI's opinion, necessary to be regulated in the interest of Singapore's national security. Such entities can be incorporated in Singapore, carry on any business activity, or provide goods and services in Singapore.

If yes, do these restrictions apply to buyers from specific jurisdictions only?

No

Singapore

If yes, are these restrictions dependent on certain control thresholds being reached?

Sector-specific legislation

The thresholds vary based on the sector in question. For example:

- Real estate, foreign ownership of certain types of residential property (including vacant land, landed residential property, and public residential housing units) is restricted in its entirety, whereas private high-rise residential condominium units, housing on Sentosa Island and industrial and commercial real estate are generally not restricted.
- Domestic newspaper and broadcasting companies require prior approval from the Info-communications Media Development Authority (IMDA) with regard to funds from a foreign source.
- For domestic broadcasting companies whose operations require a broadcasting licence, the IMDA will not grant such a licence if the company is controlled by foreign investors or if foreign investors hold more than 49% of the shares or voting power of the company.

SIRA

There are various circumstances where restrictions are imposed. For example:

- Buyers must notify the MTI within 7 calendar days of becoming a 5% controller of a designated entity. Buyers must seek approval from the MTI before becoming a 12%, 25% or 50% controller, indirect controller, or acquiring a designated entity.
- Sellers of designated entities must seek approval from the MTI if they cease to be a 50% or 75% controller.
- Designated entities must notify the MTI within 7 calendar days of being aware of a change in ownership and control concerning the prescribed thresholds above.
- Designated entities must seek approval from the MTI to appoint key officers and to be voluntarily wound up or dissolved. Officers may be removed if appointed without approval or if approval conditions are breached.
- The MTI may make a special administration order to manage the designated entity during a period in which the order is in force. Such an order will be to ensure the survival and/or security of the designated entity's business.
- The MTI may exercise its power to take targeted action against any entity (even non-designated entities) that has acted against Singapore's national security interests by reviewing such transactions within two years since the occurrence of the transaction. Following the review of the transactions, the MTI may issue a range of directions, such as directing the transacting party to transfer or dispose of his equity interest in the entity or directing the entity to restrict disclosure of confidential information to any person.

If yes, what is the administrative procedure?

Sector-specific legislation

As explained above, the procedure varies for each sector and is set forth in the relevant sector-specific legislation.

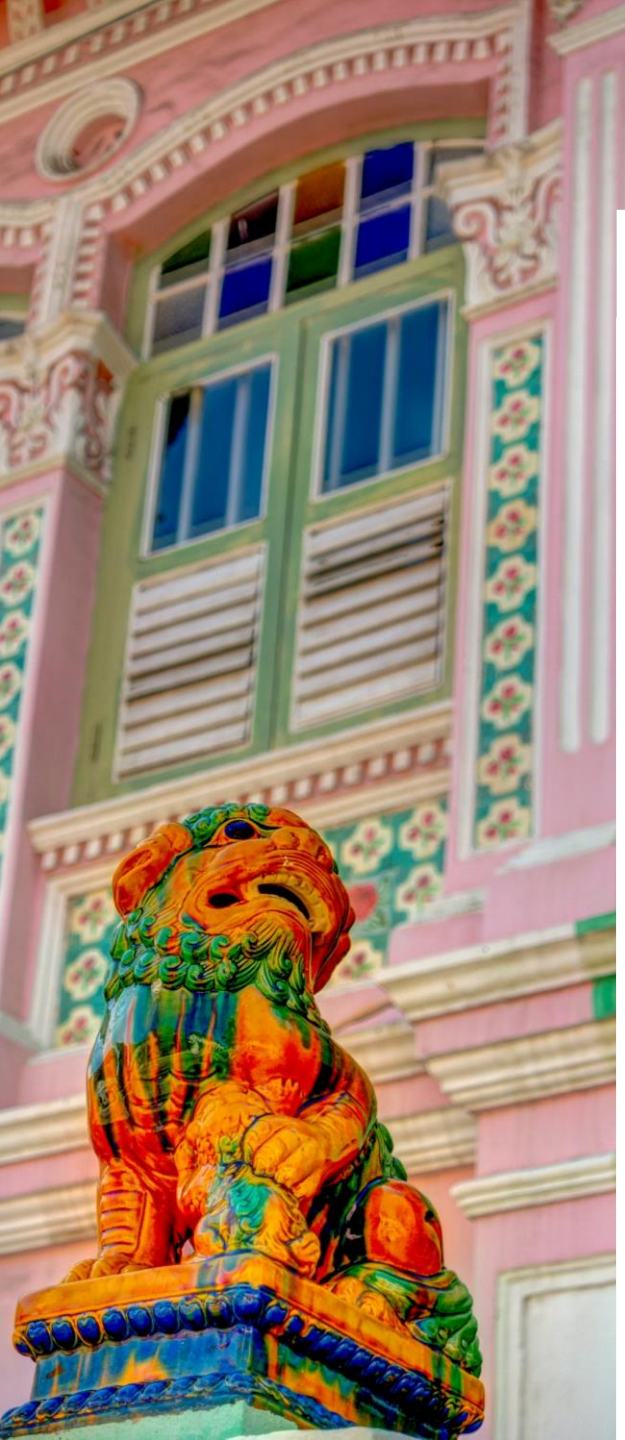
While some transactions (such as restricted foreign land ownership) are not permitted and will be deemed null and void, other decisions are taken by the relevant regulatory authority on a case-by-case basis, such as those relating to applications for foreign financing of domestic newspaper and broadcasting companies. Certain industries such as domestic banking and telecommunications have a licensing regime in which the competent regulatory authority applies qualitative and quantitative criteria to determine whether new entrants should be granted a licence to operate in the sector in Singapore.

Broadly speaking, the Singapore government remains open to foreign investment and encourages, where possible, consultation with regulatory authorities when applications are made by foreign investors applying for approvals to invest into controlled sectors.

SIRA

The Office of Significant Investments Review, set up by the MTI, is a dedicated one-stop touchpoint for stakeholders and provides more information on the administrative procedure.

In general, the MTI has the discretion to issue remedial directions to designated entities and void transactions in contravention of the SIRA. Appeals can be made for appealable decisions (as defined in the SIRA) to the MTI, and subsequently to a reviewing tribunal, whose members are appointed by the President of Singapore on the advice of the Cabinet of Singapore. Determinations by the reviewing tribunal is final and may not be challenged in any court except in regard to any questions relating to procedural compliance under the SIRA.



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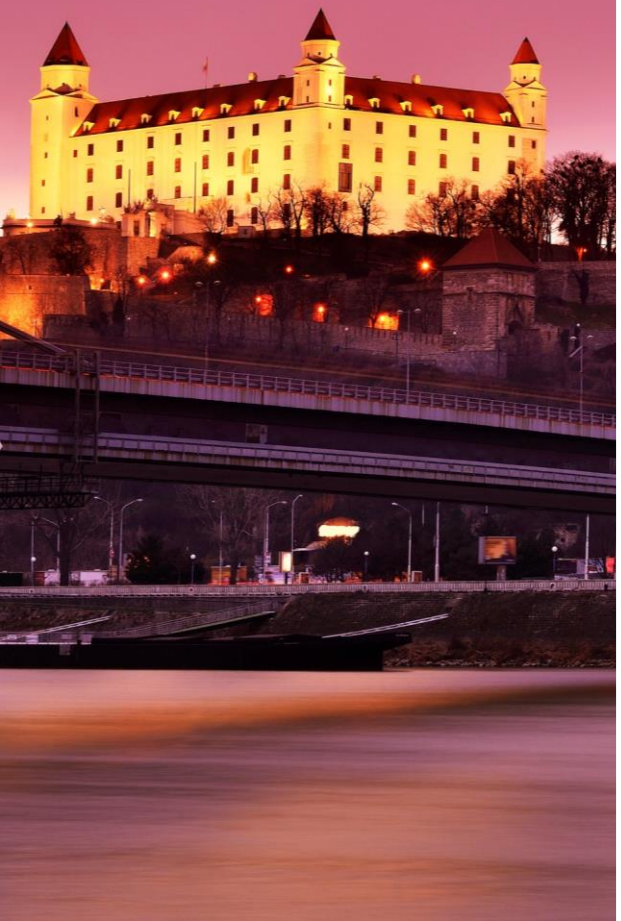

Slovakia

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Do FDI restrictions apply?

Yes, as of 1 March 2023 the Act No. 497/2022 Coll., on the screening of foreign investments (hereinafter referred to as the "FDI Act") became effective. The Act addresses in a comprehensive manner the screening of foreign investments (both asset & share deals) and the acquisition of control in target entity by third country (non-EU) resident or EU resident funded and/or controlled by foreign parent companies or third country public authorities. The FDI Act encompasses both general restrictions and sector-specific restrictions. The FDI Act stipulates legal and administrative procedures for investment screening, competences and privileges of the Ministry of Economy of the Slovak Republic as the competent authority.

If yes, which authority is responsible for the verification of an FDI?

The Ministry of Economy of the Slovak Republic (hereinafter referred to as the "Authority"), cooperating with other relevant Slovak authorities and the European Union institutions during the investment screening.

If yes, are these general restrictions or industry/sector-specific restrictions?

The FDI Act regulates both the general restrictions and sector-specific restrictions limiting the investments in target entities.

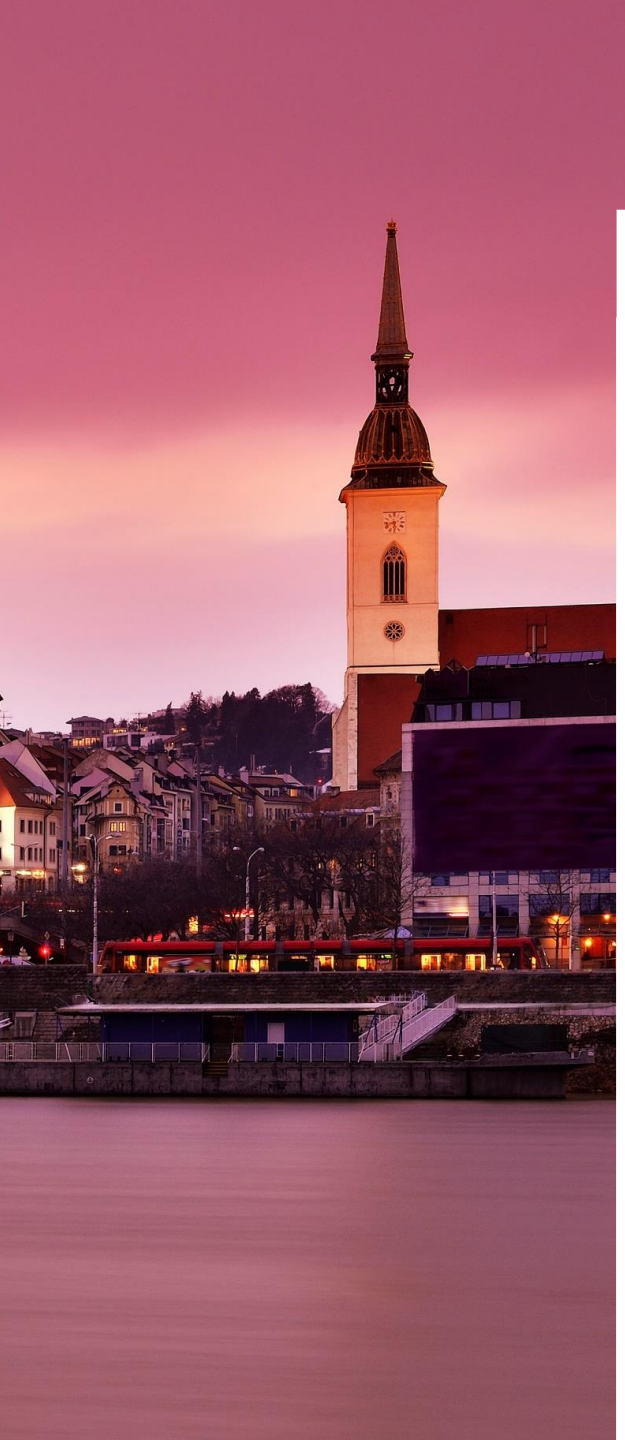
The general (cross-sector) restrictions govern investments in any target entity in the territory of the Slovak Republic with the exception of entities engaged in the critical sectors listed below. In the case of such investments, the submission of an application for investment screening to the Authority is optional.

The sector-specific restrictions limits investment in target entity engaged in business activities in specific sectors, to which the State attributes particular significance and the control or disruption of which might threaten the interests of the Slovak Republic. Such an investment is considered a "critical" foreign investment.

In case of critical foreign investments, the investor is obliged to submit a request for its screening by the Authority, otherwise the investment will not be finalized.

The Slovak Decree No. 61/2023 Coll. expands on the specification of the critical foreign investment, and provides that a critical foreign investment shall be particularly foreign investment in the following sectors:

- manufacturing, research, development, or innovation of arms and military equipment;
- manufacturing, research, development, or innovation of dual-use items (i.e., items that may be used for both civilian and military purposes);
- production, research, development or innovation in the field of biotechnology in the health sector;
- operation of an element of critical infrastructure;
- operation of an essential service (the list of which is public and includes activities related to banking and financial markets, transportation, digital infrastructure, electronic communications, pharmaceutical and chemical industries, smart industry, energy, water management, healthcare, public services, or postal services);
- provision of a digital service in the field of cloud computing;
- manufacturing, research, development, innovation, or possession of national cryptographic information protection products, or components necessary for their security function, if these products are certified by the National Security Authority;
- nation-wide television or radio broadcasting;
- provision of a content sharing platform with annual turnover exceeding EUR 2 million;
- publishing of a periodical publication, operating a news website or a news agency;
- operating a web-based news portal, which is not a community periodical, or news agency.



Slovakia

If yes, do these restrictions apply to buyers from specific jurisdictions only?

No, these restrictions principally apply to all non-EU residents but also to EU residents funded and/or controlled by foreign subjects (e.g. parent companies or third country public authorities).

If yes, are these restrictions dependent on certain control thresholds being reached?

Yes, generally with respect to regular foreign investment, the qualifying condition to fall under the restrictions of FDI Act is the acquisition of an effective interest in the target entity of at least 25% of the target entity's registered capital or at least 25% of the voting rights in the target entity. However, a threshold to trigger limitations for critical foreign investment is the acquisition of an effective interest in the target entity of at least 10% of the target person's share capital or at least 10% of the voting rights in the target entity.

Subsequent increase of regular foreign investment also triggers the restrictions under the FDI Act should the proportion of the registered capital or voting rights increase to at least 50%.

By comparison, the increase of critical foreign investment in participation in the target entity triggers restrictions once the proportion of the registered capital or voting rights increase to a threshold of at least 20% and each time they reach at least 33% or 50%.

If yes, what is the administrative procedure?

The administrative procedure principally consists of two main phases:

Phase 1: Risk Assessment Phase - optional for regular foreign investments.

The Authority is obliged to assess the potential risks of a regular foreign investment within 45 days of receipt of the application, should the Authority fail to do so within 45 days, a legitimate presumption applies that the risks have not been identified.

However, if the Authority detects potential risks to security or public order in Slovakia or in the EU, the screening phase of the investment shall be initiated.

Phase 2: Screening Phase of the Investment - mandatory for all critical foreign investments and for regular foreign investments once relevant risks have been identified in Phase 1.

During the Screening Phase of the Investment, the Authority has 130 days to either approve, issue conditional approval of the investment or to issue a decision to prohibit the foreign investment. If the Authority does not issue a decision within 130 days, it shall be deemed that the Ministry has approved the foreign investment.

The Ministry may initiate the administrative process also ex officio or upon the request of the relevant authority within two years following the date of the foreign investment completion in case:

- there is a reasonable presumption that the foreign investment may have had a negative impact on the security or public order of the Slovak Republic at the time of its implementation,
- there is a suspicion that the law has been circumvented, or
- it receives reasoned comments from another EU Member State or an opinion from the European Commission.

With regards to options for potential appeal, the applicant may file an administrative appeal against the Authority's decision, which would be decided by the Minister of Economy of the Slovak Republic, and subsequently, if unsatisfied, the applicant may also file an action before the Supreme Administrative Court of the Slovak Republic.

Slovakia

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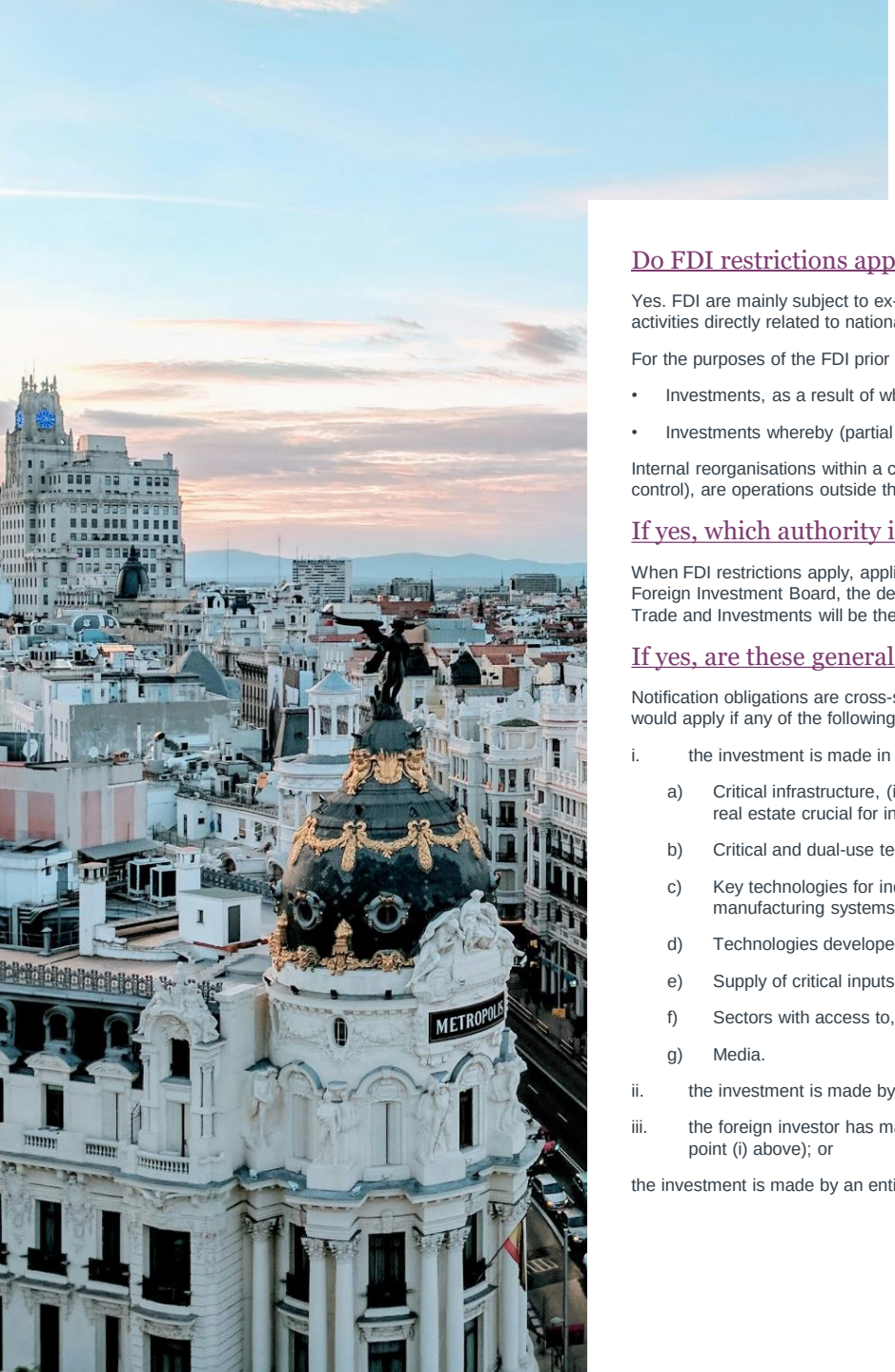

Spain

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Do FDI restrictions apply?

Yes. FDI are mainly subject to ex-post notification obligations for purely statistical purposes. But FDI restrictions will apply to certain investments that may affect activities related to the exercise of public power, activities directly related to national defence, or activities that may affect public order, public safety, and public health.

For the purposes of the FDI prior authorisation scheme, FDIs consist of:

- Investments, as a result of which the investor acquires 10% or more of the share capital of a Spanish company; and
- Investments whereby (partial or total) control of the Spanish company is acquired.

Internal reorganisations within a corporate group and the acquisition of additional shares by investors who already hold at least a 10% stake in the Spanish company (if such acquisition does not entail a change of control), are operations outside the scope of the FDI restrictions.

If yes, which authority is responsible for the verification of an FDI?

When FDI restrictions apply, applications for authorisation shall be addressed to the head of the Directorate-General for International Trade and Investment of the State Secretariat for Trade. Following a report by the Foreign Investment Board, the decision on the authorisation shall be taken by the Council of Ministers. However, if the value of the investment in Spain is below EUR 5 million, the Directorate General on International Trade and Investments will be the body granting the authorisation.

If yes, are these general restrictions or industry/sector-specific restrictions?

Notification obligations are cross-sector. Nevertheless, FDI prior authorisation regime applies only for investments in certain sectors or carried by investors that meet certain criteria. In particular, FDI restrictions would apply if any of the following circumstances is met:

i. the investment is made in a company that conducts its activity in any of the following strategic sectors:

   a) Critical infrastructure, (i.e. inter alia, energy, transport, water, health, communications, media, data processing or storage, aerospace, defence, electoral or financial infrastructure, sensitive facilities, and real estate crucial for infrastructure);

   b) Critical and dual-use technologies (i.e. inter alia, telecommunications, artificial intelligence, robotics, semiconductors, cyber security, aerospace, defence, energy storage);

   c) Key technologies for industrial leadership and training, (i.e. inter alia, advanced materials and nanotechnology, photonics, microelectronics and nanoelectronics, life science technologies, advanced manufacturing systems and transformation, artificial intelligence, digital security, and connectivity);

   d) Technologies developed pursuant to projects or programmes of particular interest to Spain;

   e) Supply of critical inputs;

   f) Sectors with access to, or control, of sensitive information; and

   g) Media.

ii. the investment is made by an entity directly or indirectly controlled by a foreign government (including state bodies, armed forces, or sovereign wealth funds);

iii. the foreign investor has made investments or engaged in activities in strategic sectors affecting security, public policy and public health in another Member State of the EU (particularly the ones mentioned in point (i) above); or

the investment is made by an entity that is likely to be carrying out illegal or criminal activities that affect public security, public order or public health in Spain.

Spain

If yes, do these restrictions apply to buyers from specific jurisdictions only?

Notification obligations apply to any foreign buyer (any natural person residing outside Spain, any legal person domiciled outside Spain and any foreign public entity), alternatively:

- residents of countries outside the EU/EFTA; or
- residents of countries of the European Union or of the European Free Trade Association whose beneficial owner corresponds to residents of countries outside the EU/EFTA.

Until 31 December 2024, investments by residents of EU or EFTA countries may also be subject to authorisation when their value exceeds €500 million or when they are made companies listed in Spain.

If yes, are these restrictions dependent on certain control thresholds being reached?

Certain thresholds and requirements may be considered for the exemption regime:

- Investments in companies whose annual turnover is below EUR 5 million are exempt from the prior authorisation scheme, except for:
  a) companies that have developed technologies under programmes and projects of particular interest to Spain and/or the EU;
  b) specific electronic-communications operators; and
  c) the investigation and operation of strategic raw-material mines.
- Investments in the energy sector will be exempt from authorisation if they meet 3 specific requirements: i) the aggregate installed capacity of the technology controlled by the investor is below 5%; ii) the company does not become a dominant operator; and iii) the target company does not carry out regulated activities.
- Acquisition of real estate not deemed to be crucial for the operation of critical infrastructures will be also exempt from authorisation.

Temporary investments are exempt from authorisation (i.e. short-term investments that lack the ability to exercise influence over the target company).

If yes, what is the administrative procedure?

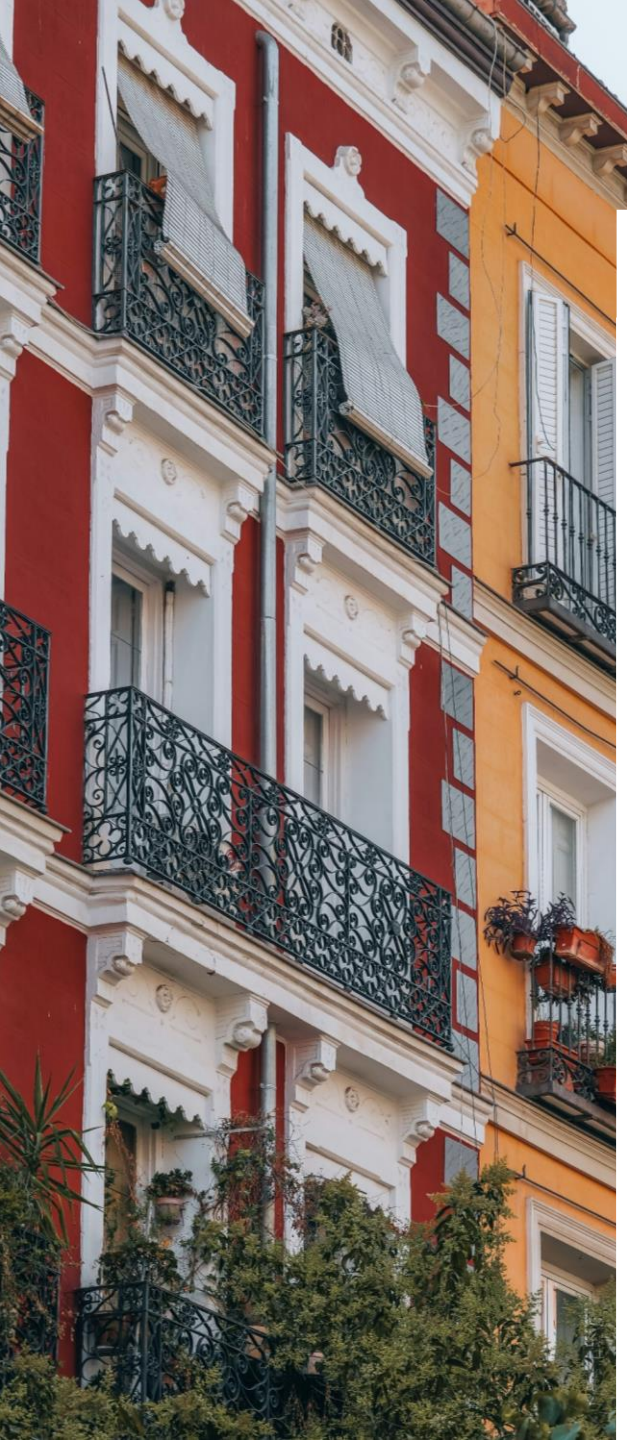
Requests for authorisation shall be addressed to the head of the Directorate General for International Trade and Investment and the decision shall be taken by the Council of Ministers. If a decision is not reached within 3 months after the submission, the request shall be deemed to be rejected. The prior authorisation of FDI will be valid for six months from the date of its presentation. If the investment does not materialize within the deadline, a new authorisation must be submitted.

When in doubt, pre-investment consultations may be made as to confirm whether the prior authorisation scheme applies to a particular investment project. These consultations must be submitted to the General Directorate of International Trade from the Ministry of Industry, Commerce and Tourism and it must be answered within 30 days.

Closing of an investment transaction without FDI authorisation (when required) will render the transaction invalid and without any legal effect until the required authorisation is properly obtained. This means that the economic and voting rights of the foreign investor are suspended until these obligations are met. Violations of the FDI restrictions may also result in penalties of up to the value of the investment.

In addition, as a general rule, all FDIs are required to be notified ex-post to the Registry of Investments of the Ministry of Industry, Commerce and Tourism (including those that are not subject to prior authorisation). Notification must be submitted using a special form and no later than one month from the date of realisation of the investment.

Prior notification to the Registry of Investments is required for FDI from ‘tax haven’ jurisdictions (except if the foreign shareholding does not exceed 50% of the Spanish target company or FDI involves real estate for a value not exceeding EUR 500.000).



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Sweden

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Do FDI restrictions apply?

Yes, the new Swedish FDI Regime, which entered into force on 1 December 2023, requires notification and approval for all investments within certain protected sectors. The review mechanism aims to protect Sweden's national security as well as the public order and public safety in Sweden.

Foreign (outside EU) investments may be prohibited or permitted subject to conditions. Infringement and non-compliance may result in fines of up to SEK 100,000,000 (approx. EUR 8,500,000).

The FDI Regime also applies in parallel with the Protective Security Act, which may require a separate consultation procedure with a different authority. The Protective Security Act applies to anyone who intends to transfer security-sensitive operations (incl. foreign investors). The obligation to consult applies if the target company is a security-sensitive operation or property that is important to Sweden's security. The sectors most affected are within energy production, distribution of energy, mail and telecommunication, defence, nuclear safety, transportation, health, public order and disaster recovery, democratic institutions, payments and banks, food and water supply, and dangerous operations.

If yes, which authority is responsible for the verification of an FDI?

The Swedish Inspectorate for Strategic Products (ISP) is responsible for the transaction screening under the FDI regime.

If yes, are these general restrictions or industry/sector-specific restrictions?

Investments in the following sectors are covered: essential functions of society, emerging or strategic technology, critical raw materials, personal or location data processing, security-sensitive areas, dual-use products and military equipment.

If yes, do these restrictions apply to buyers from specific jurisdictions only?

While the legislation ultimately targets foreign (outside EU) investors, the filing obligations apply to all investors (and does not differentiate between domestic, EU and third-country investors).

If yes, are these restrictions dependent on certain control thresholds being reached?

The following thresholds apply;

- 10% or more of the voting rights; or
- investments exceeding increments of 20, 30, 50, 65, or 90 percent of voting rights; or
- obtaining control or influence via e.g. a purchase of assets, or a right to appoint board members or management.

If yes, what is the administrative procedure?

The target company is responsible for informing the investor of the FDI regime and the notification obligation prior to completion of the transaction. The investor is responsible for notifying the screening authority of the investment. The Authority may also initiate screening of an investment at its own initiative.

The Phase I review allows the authority 25 business days to issue a decision to carry out an in-depth investigation or a decision to take no further action. In a Phase II review, the authority conducts an in-depth investigation for up to 3 months or (if particular grounds exist) 6 months.

Sweden

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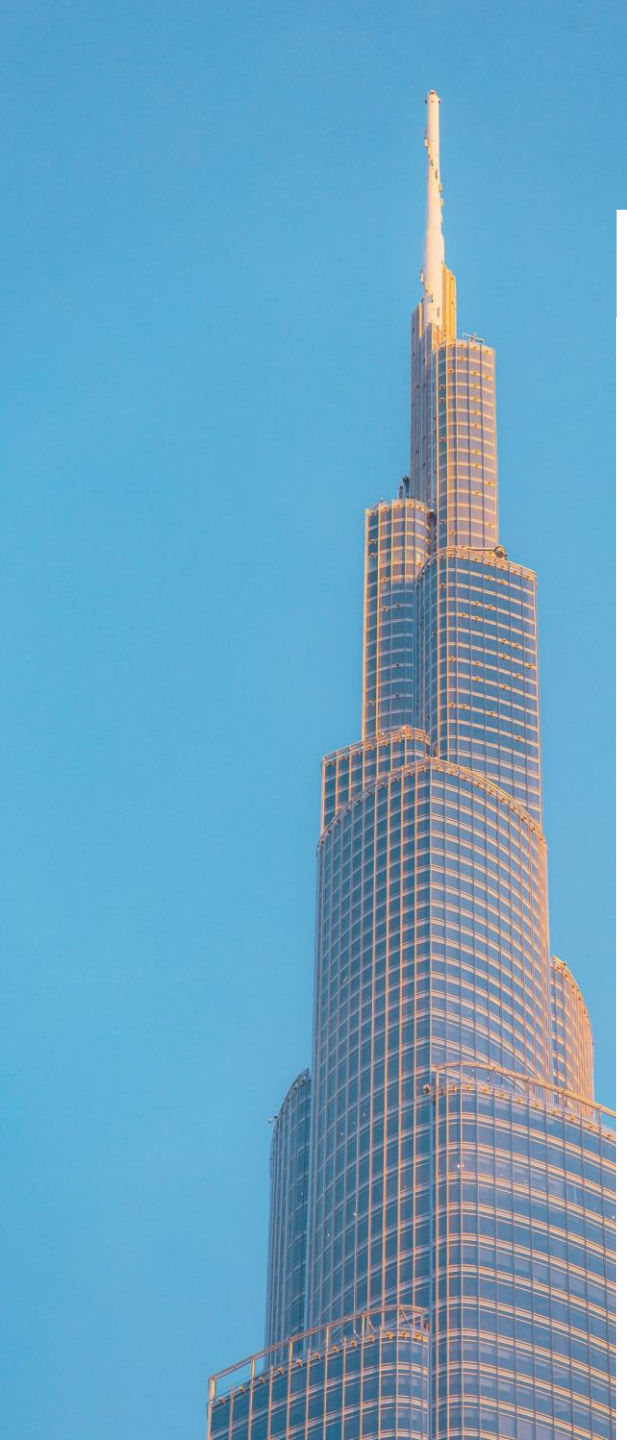

U. A. E.

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Do FDI restrictions apply?

The foreign ownership restrictions set out in the Commercial Companies Law were abolished in 2020 and, unless a specific restriction is created, 100% foreign ownership is possible. In practice, each Emirate has issued a list of activities where 100% foreign ownership is permitted or vice versa have earmarked certain activities (such as certain strategic impact activities) that are only available for companies with 51% or more UAE national ownership.

For completeness, different rules apply to real estate investments which are regulated individually by each Emirate. Typically, foreigners can only own real estate in real estate investment zones.

If yes, which authority is responsible for the verification of an FDI?

The respective economic licensing authority in each Emirate (i.e. typically, the relevant Department of Economic Development).

If yes, are these general restrictions or industry/sector-specific restrictions?

The activities where 100% foreign ownership is permitted, announced by each Emirate, cover different sectors or industries. There might be differences between the individual Emirates and it is possible that changes are implemented from time to time, i.e. certain activities become available for 100% ownership and other activities are no longer available for 100% foreign ownership.

If yes, do these restrictions apply to buyers from specific jurisdictions only?

Generally, the restrictions apply to all foreign investors and are relevant to all non-UAE (and non-GCC) citizens and entities.

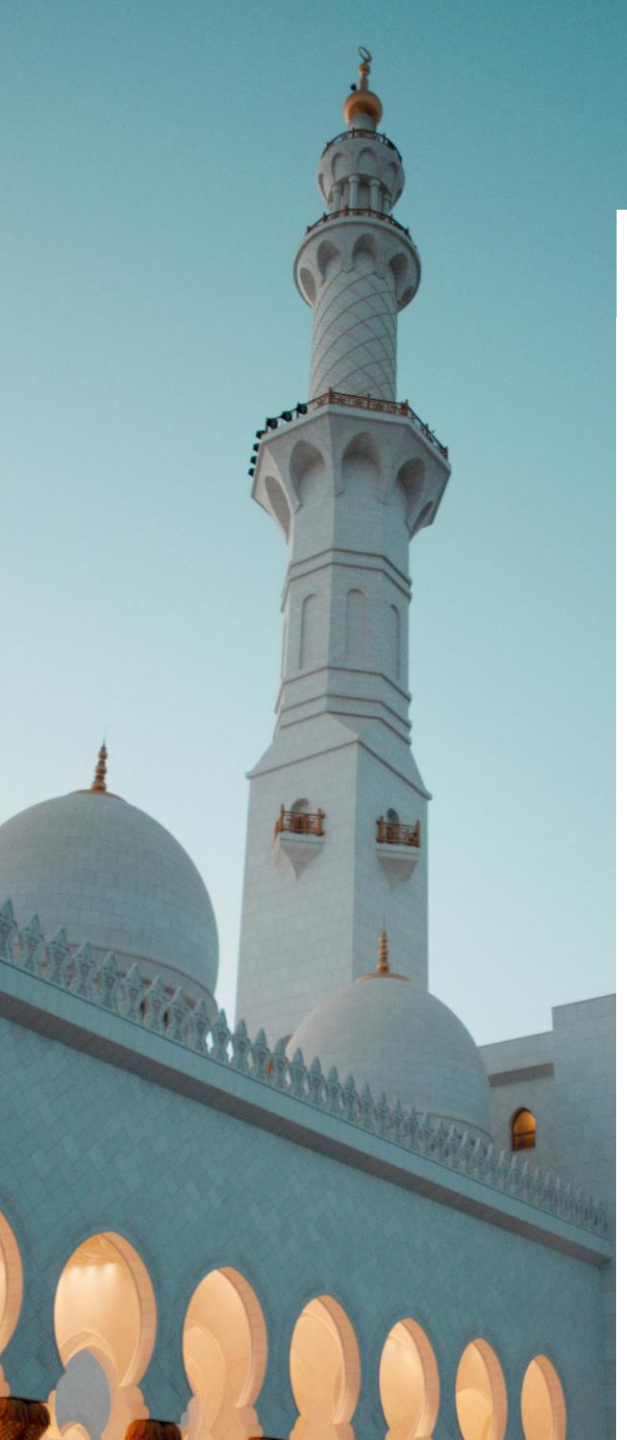
If yes, are these restrictions dependent on certain control thresholds being reached?

Prior to 2020, the Commercial Companies Law limited foreign (i.e. non-UAE national) shareholders to hold a maximum of 49 % of the shares in a company incorporated onshore (i.e. not in a freezone. Freezones are special economic zones with their own licensing and other regulations where foreign ownership has been permitted for a long time.) in any of the seven Emirates.

The Commercial Companies Law now allows foreign citizens and entities to own up to 100% in a company and to retain a controlling majority in a company incorporated onshore, provided its licensed activities are permitted for 100% foreign ownership or vice versa have not been earmarked and require 51% or more UAE national ownership (which is the case for certain strategic impact activities).

If yes, what is the administrative procedure?

If the licensed activities of an entity are permitted for 100% foreign ownership by the respective Emirate, no other special FDI procedure needs to be followed as the FDI approval for such activities is automatic.



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United Kingdom

Bird & Bird
Foreign Direct Investment
Jurisdictional Guide

Do FDI restrictions apply?

The UK's National Security and Investment Act ("NSIA") came into force on 4 January 2022. The NSIA introduces a new mandatory notification regime for certain transactions in one of 17 "sensitive sectors" and it is also possible to submit a voluntary notification for other transactions if parties wish to obtain certainty that a transaction will not be "called in" for national security review. The NSIA regime sits alongside merger control (whereas previously national security concerns were addressed as part of the merger control process).

Mandatory Notification: The Government requires mandatory notification and prior approval of qualifying transactions (which include direct or indirect acquisitions of shares or voting rights which cross the thresholds of 25 percent, 50 percent or 75 percent) involving companies active in one of the specified 17 "sensitive sectors" of the economy (see list below).

- Transactions which are not notified and approved prior to completion will be void and can be "called-in" by the Government for review at any time including after completion.
- Heavy sanctions for a failure to notify and obtain clearance include fines of up to 5 percent of an organisation's global turnover or GBP 10 million, whichever is greater. It is also a criminal offence subject to up to 5-years imprisonment.
- It should be noted that the NSIA regime captures internal corporate re-organisations. Acquisitions of assets fall outside the scope of the mandatory regime.

Voluntary Notification: can be made for other transactions, including acquisitions of control (as above) of companies not active in the 17 sensitive sectors subject to the mandatory regime and acquisitions of assets and lower levels of investment (e.g., where a shareholder may have a material influence (the ability to exert control over management decisions/affairs of the company), where parties wish to seek comfort that the transaction does not raise national security concerns and will not be called in for in-depth review. Non-mandatory transactions can be closed prior to approval (unless the Government imposes an order preventing closing).

Call In: If the Government considers that a transaction may raise national security concerns it can "call-in" the transaction for review. This will apply to any transaction, irrespective of whether it was notified. It should be noted that for transactions that would have required a mandatory notification they can be called in at any time and for other transactions for up to 5 years from closing (unless the Government was made aware of the transaction in which case there is a time limit of six month).

The NSIA regime applies to transactions involving companies active and with a presence in the UK and also to companies established outside the UK that supply goods and services to the UK (although the notification requirements may differ).

The Government can unwind or block deals where national security concerns are found.

It should also be noted that the NSIA regime applies retrospectively to any deals closed after 12 November 2020 and the transaction can be called in for review (it should be noted the mandatory notification requirement only applies to deals closed after 4 January 2022).

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If yes, which authority is responsible for the verification of an FDI?

The Investment Security Unit ("ISU") within the Cabinet Office.

If yes, are these general restrictions or industry/sector-specific restrictions?

The 17 "sensitive sectors" are: advanced materials, advanced robotics, artificial intelligence, civil nuclear, communications, computing hardware, critical suppliers to government, cryptographic authentication, data infrastructure, defence, energy, military and dual use technologies, quantum technologies, satellite and space technologies, suppliers to the emergency services, synthetic biology and transport.

If yes, do these restrictions apply to buyers from specific jurisdictions only?

Restrictions apply equally to domestic and international investment globally, although certain states may be seen to present a higher threat to national security and therefore inform the extent to which intervention might be considered to be in the national interest.

If yes, are these restrictions dependent on certain control thresholds being reached?

The NSIA provides that a mandatory notification is required for acquisitions of in-scope UK businesses where the percentage of the shares that the acquirer "holds" increases above/crosses the 25 percent, 50 percent or 75 percent thresholds. The regime can also capture acquisitions of lower shareholdings and assets.

If yes, what is the administrative procedure?

A notification is submitted to the ISU. There is an initial screening period, up to 30 working days (from acceptance of the notification), and if the ISU calls the transaction in for further review, this can add an additional 30 working days with the possibility of a further 45 working day extension (the clock can also be stopped for information gathering). Parties can also voluntarily extend the review process. Parties should consider deal conditionality as part of the process.

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