



FOREIGN DIRECT INVESTMENT EU SCREENING FRAMEWORK



'The EU is and will remain open to foreign investment. But this openness is not unconditional. To respond to today's economic challenges, safeguard key European assets and protect collective security, EU Member States and the Commission need to be working closely together. If we want to achieve an open strategic autonomy, having an efficient EU-wide investment screening cooperation is essential. We are now well equipped for that.'

European Commission Executive Vice-President Valdis Dombrovskis, 2020

Welcoming foreign direct investment while protecting essential interests

Investment from countries outside Europe is a major source of growth and jobs.

The EU has one of the world's most open investment regimes, as acknowledged by the [OECD](#). The EU will remain the most attractive destination for foreign direct investment in the world. However, in exceptional cases, foreign investments may represent a risk for security or public order in Member States or in the Union as a whole. This could be the case for example when a foreign investor seeks to acquire control of European businesses supplying critical technologies, infrastructure, inputs or access sensitive information. In some cases, the risk may be exacerbated by the fact that investors are owned or controlled by a foreign state.

CHANGING TRENDS - CHANGING NEEDS

EU-based companies controlled by third country investors are still limited in numbers, but they have a significant economic impact given their larger than average size and their focus on high-technology sectors.

There are growing concerns in Europe about the impact that certain foreign acquisitions may have on security and public order.

While almost half of the Member States already screen investment at national level, a strong EU-wide approach to foreign investment screening is necessary in a time of public health crisis and related economic vulnerability.

Member states with investment screening mechanism:

- Austria
- Denmark
- Finland
- France
- Germany
- Hungary
- Italy
- Latvia
- Lithuania
- the Netherlands
- Poland
- Portugal
- Romania
- Slovenia
- Spain

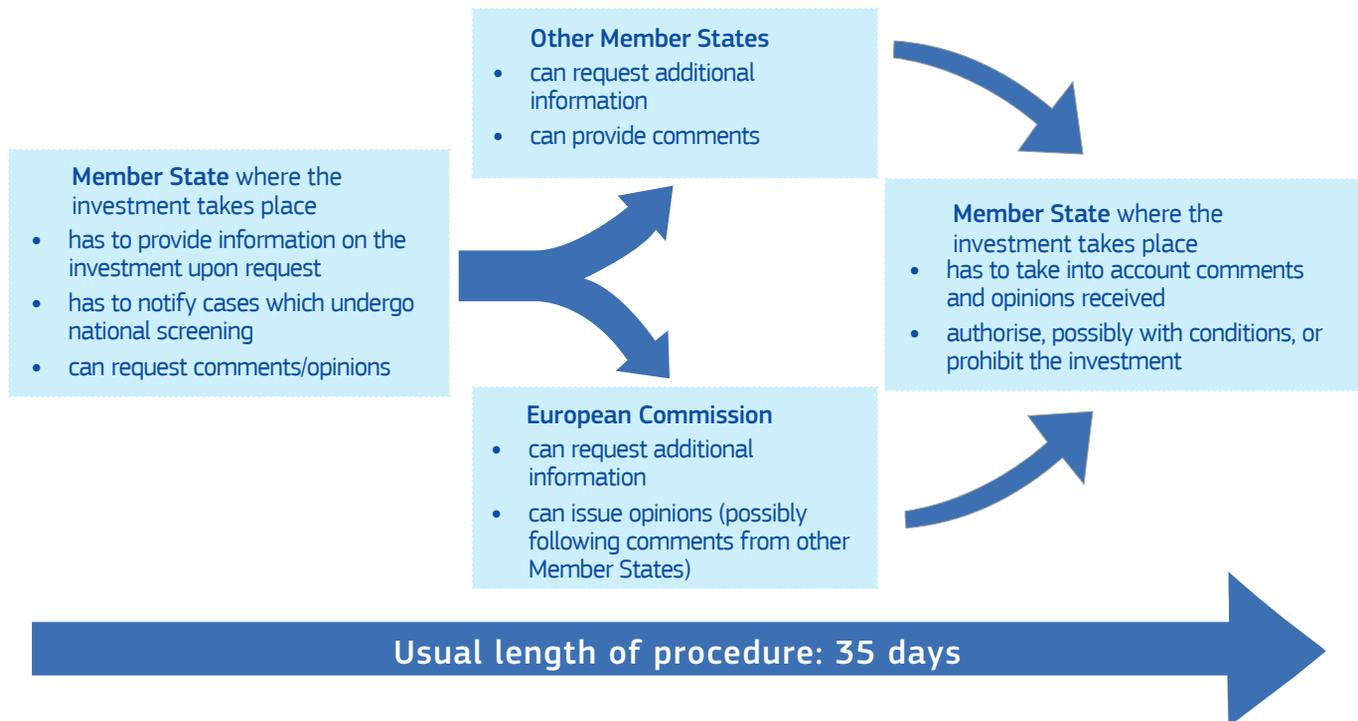




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EU FRAMEWORK FOR FDI SCREENING

Member States and the Commission will now cooperate on inward foreign direct investment affecting security and public order.



WHAT INFORMATION IS EXCHANGED?

- Who is the investor and the target company?
- In which sectors do they operate and where?
- What is the value of the investment and where is the funding coming from?
- When does the transaction take place?

PROJECTS & PROGRAMMES OF UNION INTEREST

- The Regulation lists several EU funded projects and programmes which may be relevant for security and public order, and which warrant particular attention from the Commission.
- That list includes Galileo, Horizon 2020, Trans-European Networks and the European Defence Industrial Development Programme. [The list](#) was updated in 2020 and further updates will follow as necessary.

CRITERIA THAT MAY BE TAKEN INTO CONSIDERATION

The Regulation provides an indicative list of factors to help Member States and the Commission determine whether an investment is likely to affect security or public order. That list includes the effects of the investment on:

- critical infrastructure
- critical technologies
- the supply of critical inputs, such as energy or raw materials
- access to sensitive information or the ability to control information, or
- the freedom and pluralism of the media

Member States and the Commission may also consider whether the investor is controlled by the government of a third country, whether the investor has previously been involved in activities affecting security or public order, or whether there are serious risks that the investor engages in criminal or illegal activities.



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OTHER FEATURES

COORDINATION GROUP

The Commission expert group on FDI screening set up in 2017 provides a forum for exchanging good practices among Member States as well as discussing the implementation of the investment screening regulation.

INTERNATIONAL COOPERATION

The Regulation also encourages cooperation with third countries on policies and practices related to investment screening.

ANNUAL REPORTING

The Commission will publish a yearly report on the implementation of the Regulation.

FRAMEWORK FOR THE SCREENING BY MEMBER STATES

- Member States may maintain their existing screening mechanisms, adopt new ones or remain without such national mechanisms.
- In its Guidance issued in March 2020 the Commission has called upon all Member States to make full use of their FDI screening mechanisms and those Member States that currently do not have a screening mechanism, or whose screening mechanisms do not cover all relevant transactions, should set up a full-fledged screening mechanism.
- 14 EU Member States currently have national investment screening mechanisms. Several are in the course of updating them, or adopting new ones.
- The Regulation establishes some key requirements for national screening mechanisms:

- transparency of rules and procedures
- non-discrimination among foreign investors
- confidentiality of information exchanged
- the possibility of recourse against screening decisions, and
- measures to identify and prevent circumvention by foreign investors