

Targeted consultation on the evaluation and review of the EU's FDI Screening Regulation (Reg. (EU) 2019/452)

Fields marked with * are mandatory.

A

Introduction

The purpose of this targeted consultation is to provide evidence for the evaluation and possible revision of the FDI Screening Regulation, in order to ensure that it remains a tool fit for the purpose of identifying and addressing risks related to certain foreign direct investments while keeping its exclusive focus on security and public order.

For further information about this consultation, please consult the explanatory document which is available in PDF format under "Background Documents" on the right hand side of your screen. A brief guide on the terminology used in this questionnaire is also provided.

The questionnaire will be open until **21 July 2023** (at midnight).

You can save your survey response even if you have not yet completed the survey — and finish your response on a later occasion. However, you need to submit your contribution before the end of the consultation period.

B About you

* B.1 Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French

- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* B.2 I am giving my contribution as

(If you are a law firm or consultant assisting companies involved in transactions undergoing screening, please select the response option: **company/business**)

- Academic/research institution
- Business association
- Company/business
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association, 'consumer association', 'EU citizen') country of origin, organisation name and size, and its**

transparency register number, are always published. Your e-mail address will never be published.

Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* B.4 Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

Public

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

I agree with the [personal data protection provisions](#)

* B.6 First name (anonymity waived)

Sofia

* B.8 Surname (anonymity waived)

Bournou

* B.9 Email (this won't be published)

s.bournou@businessseurope.eu

* B.13 Organisation name

255 character(s) maximum

BusinessEurope

* B.14 Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

B.15 Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

3978240953-79

* B.16 Country of origin

Please add your country of origin, or that of your organisation.

This list does not represent the official position of the European institutions with regard to the legal status or policy of the entities mentioned. It is a harmonisation of often divergent lists and practices.

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|---|--|--|--|
| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Martin |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> Samoa |
| <input type="radio"/> American Samoa | <input type="radio"/> Egypt | <input type="radio"/> Macau | <input type="radio"/> San Marino |
| <input type="radio"/> Andorra | <input type="radio"/> El Salvador | <input type="radio"/> Madagascar | <input type="radio"/> São Tomé and Príncipe |
| <input type="radio"/> Angola | <input type="radio"/> Equatorial Guinea | <input type="radio"/> Malawi | <input type="radio"/> Saudi Arabia |
| <input type="radio"/> Anguilla | <input type="radio"/> Eritrea | <input type="radio"/> Malaysia | <input type="radio"/> Senegal |
| <input type="radio"/> Antarctica | <input type="radio"/> Estonia | <input type="radio"/> Maldives | <input type="radio"/> Serbia |
| <input type="radio"/> Antigua and Barbuda | <input type="radio"/> Eswatini | <input type="radio"/> Mali | <input type="radio"/> Seychelles |
| <input type="radio"/> Argentina | <input type="radio"/> Ethiopia | <input type="radio"/> Malta | <input type="radio"/> Sierra Leone |
| <input type="radio"/> Armenia | <input type="radio"/> Falkland Islands | <input type="radio"/> Marshall Islands | <input type="radio"/> Singapore |
| <input type="radio"/> Aruba | <input type="radio"/> Faroe Islands | <input type="radio"/> Martinique | <input type="radio"/> Sint Maarten |
| <input type="radio"/> Australia | <input type="radio"/> Fiji | <input type="radio"/> Mauritania | <input type="radio"/> Slovakia |
| <input type="radio"/> Austria | <input type="radio"/> Finland | <input type="radio"/> Mauritius | <input type="radio"/> Slovenia |
| <input type="radio"/> Azerbaijan | <input type="radio"/> France | <input type="radio"/> Mayotte | <input type="radio"/> Solomon Islands |

- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago

- Cameroon
- Canada
- Cape Verde
- Cayman Islands

- Central African Republic
- Chad
- Chile
- China

- Christmas Island
- Clipperton
- Cocos (Keeling) Islands

- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba

- Curaçao
- Cyprus
- Czechia

- Democratic Republic of the Congo
- Denmark

- Iceland
- India
- Indonesia
- Iran

- Iraq
- Ireland
- Isle of Man
- Israel

- Italy
- Jamaica
- Japan

- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan

- Laos
- Latvia
- Lebanon

- Lesotho
- Liberia

- North Macedonia
- Norway
- Oman
- Pakistan

- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines

- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia

- Rwanda
- Saint Barthélemy
- Saint Helena
Ascension and
Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia

- Tunisia
- Türkiye
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu

- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States
Minor Outlying
Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

C About your knowledge and experience of FDI screening

C.1 My main activity is:

- 01. Agriculture, Forestry and Fishing
- 02. Mining and quarrying
- 03. Manufacturing
- 04. Electricity, gas, steam, and air conditioning supply
- 05. Water supply; sewerage, waste management and remediation facilities
- 06. Construction
- 07. Wholesale and retail trade; repair of motor vehicles and motorcycles
- 08. Transportation and storage
- 09. Accommodation and food service activities
- 10. Information and communication
- 11. Financial and insurance activities
- 12. Real estate activities
- 13. Professional, scientific and technical activities
- 14. Legal services to companies involved in transactions undergoing screening
- 15. Administrative and support service activities
- 16. Public administration and defence; compulsory social security
- 17. Education
- 18. Human health and social work activities
- 19. Arts, entertainment and recreation
- 20. Other service activities
- 21. Activities of households as employers; undifferentiated goods and services
- 22. Activities of extraterritorial organizations and bodies
- 23. Other
- 24. Not applicable

C.2 .

	Not at all familiar	Slightly familiar	Moderately familiar	Very familiar
How familiar are you with the screening mechanism of the Member State(s) where you or your organisation is established or active?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

How familiar are you with the EU framework for investment screening?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
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C.3 .

	Yes	No	Don't know	Don't wish to reply
Do you or your organisation have direct experience with the implementation of national screening mechanisms?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

C.5 .

	Yes	No	Don't know	Don't wish to reply
Do you or your organisation have direct experience with the implementation of the EU framework for investment screening?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

D About the relevance of the EU's framework for FDI screening

D.1 .

	Yes	No	Don't know	Don't wish to reply
In your view, is the objective of protecting security and public order from the risks posed by certain FDIs still relevant?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

D.2 If your answer is either "yes" or "no", please explain.

In an increasingly complex geo-economic environment, risks that certain types on FDIs pose to national security and public order, which can result from foreign ownership or control of sensitive industries, remain. Although one has in mind acquisitions of firms on sensitive sectors by China in particular and other jurisdictions, the COVID-19 pandemic to a certain extent, when it comes to public health, as well as Russia's war of aggression against Ukraine, have also contributed to an increased awareness of those risks.

E About the added value of the EU's framework for FDI screening

E.1 .

	Yes	No	Don't know	Don't wish to reply
In your view, has the EU's FDI Screening Regulation increased the effective protection of security and public order from the risks posed by certain FDIs beyond what would have been achieved by Member States each operating individually?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

E.2 If your answer is either "yes" or "no", please explain.

This was possible under the implementation of the coordination mechanism, which helps gaining a better understanding of FDI in the EU, in terms of volume, sectoral and geographical distribution. This information is crucial in identifying risks and allowing Member States to act accordingly, including by introducing the necessary mitigating measures to allow FDIs to take place but alleviate national security or public risks.

E.3 To what extent do you agree with the following statements about the impact of the adoption and implementation of the EU's FDI Screening Regulation on national screening mechanisms?

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
The cooperation mechanism provides security-relevant information to Member States that they would not otherwise have access to (in the absence of the cooperation mechanism).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The cooperation mechanism (comments by other Member States, opinions by the Commission) has an impact on the decision taken by the respective Member State screening the transaction.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

The cooperation mechanism has increased convergence among Member States on the issue of what may constitute a risk to security or public order.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The cooperation mechanism has increased convergence among Member States on the issue of how risks to security or public order should be assessed.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The cooperation mechanism has promoted adoption or modernisation of national screening frameworks.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The cooperation mechanism has increased convergence among Member States on the procedural aspects of national screening mechanisms (in particular: deadlines, information requirements, user-friendliness).	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

F About the effectiveness of the EU's framework for FDI screening: **GENERAL**

F.1 .

	Yes	No	Don't know	Don't wish to reply
In your view, has the EU's framework for FDI screening generally been effective in assessing the likely impact of specific FDIs on security or public order within the EU?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

F.2 If your answer is either "yes" or "no", please explain.

Notifications of certain transactions through the cooperation mechanism and the possibility for Member States to provide comments and for the Commission to provide an Opinion is important in assessing the impact of certain types of FDIs on national security and public order. This is particularly the case where investments take place in multiple jurisdictions, therefore a thorough assessment, provided by the perspective of different Member States and the Commission further helps understand the broader national security and public order implications.

F.3 .

	Yes	No	Don't know	Don't wish to reply
In your view, has the EU's framework for FDI screening generally been effective (ie, met its objectives) in identifying and sharing information about FDIs in the EU both between the Member States themselves, and between the Member States and the Commission?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

F.4 If your answer is either "yes" or "no", please explain.

see reply E.2

F.5 .

	Yes	No	Don't know	Don't wish to reply
Do you consider that the FDI Screening Regulation has allowed Member States and the Commission to correctly identify the FDI transactions that are likely to have an adverse impact on EU critical assets in cases where security or public order is affected?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

F.6 If your answer is either "yes" or "no", please explain.

see reply F.2

F.7 .

	Yes	No	Don't know	Don't wish to reply
Do you consider that the current EU framework – which leaves Member States free to decide on most of the parameters of their national screening mechanisms – has been effective in identifying risks to security and/or public order for EU critical assets?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

F.8 If your answer is either "yes" or "no", please explain.

We see this question in the framework of Article 8 of the Regulation – on FDIs likely to affect projects or programmes of Union interest. For instance, it is not clear to which extent the Commission's Opinion is taken into account in the final decision taken by the Member State concerned. Although we do not suggest to change the decision making process, we see room for supporting the role of the Commission in these particular cases, assessing security and public order risks that may have an impact on projects or programmes of Union interest.

F.9 .

	Yes	No	Don't know	Don't wish to reply
Do you consider that the current EU framework – which leaves Member States free to decide on most of the parameters of their national screening mechanisms – has been effective in identifying risks to security and/or public order for Member States other than the Member State where the FDI takes place?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

F.10 If your answer is either "yes" or "no", please explain.

Partially yes, partially no. It very much depends on the level of information shared among Member States. It is also not clear to which extent comments provided by other Member States are taken into account by the Member State concerned. We would like to explore ways to improve potential implications, without changing the EU's Regulation in a way that makes the comments of other Member States legally binding on the Member State where the transaction is planned or completed. (See also questions F.8 and question H.1.) An additional implication is that, as not all EU Member States have a screening mechanism in place, there could be situations where risks relating to national security and public order are not properly identified.

F.11 .

	Yes	No	Don't know	Don't wish to reply

Do you consider that the provisions of the FDI Screening Regulation are adequate to effectively protect sensitive and/or confidential information about FDI transactions submitted by the notifying party/parties to Member States' screening authorities?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
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F.13 .

	Yes	No	Don't know	Don't wish to reply
Do you consider that the indicative list of factors which may be taken into consideration when assessing an FDI transaction on grounds of security or public order is adequate? (The indicative list is provided in Art. 4 of the regulation)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

F.14 If your answer is either "yes" or "no", please explain.

Although indicative, these factors provide a good basis for the Member States' national screening mechanisms. What we need to ensure is that the legal ground of national screening mechanisms remain national security and public order. In other words, we need to continue to ensure that these factors do not become economic criteria, jeopardizing the EU's openness to investments and the functioning of our market economy.

F.15 .

	Never	Rarely	Sometimes	Often	Always	Don't know	Don't wish to reply
In your view, does the existence of a national screening mechanism and its specificities influence business decisions on investments?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

F.16 Please give reasons for your answer.

Potential investors may consider the existence of screening mechanisms in different ways. Some investors use the voluntary notification possibilities as a way to reassure the host Member State of their intentions. Other investors look more into the potential administrative burden as a deterrence. More generally speaking, having a clearer understanding of (legitimate) expectations is important to investors.

G About the effectiveness of the EU's framework for FDI screening: *EU COOPERATION MECHANISM*

G.1 In particular, has the cooperation mechanism set up under the FDI Screening Regulation been effective in identifying and sharing information about...

	Yes	No	Don't know	Don't wish to reply
... FDIs notified to the cooperation mechanism by the Member State screening the transaction at a national level?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
... FDIs in undertakings located in different Member States, which are part of the same company/corporate group?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
... FDIs that are not subject to screening at a national level?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
... FDIs in an existing undertaking?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
... FDIs where a foreign investor establishes new operations in a Member State (also referred to as a "greenfield" investment)?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

G.2 If you think that the cooperation mechanism set up under the FDI Screening Regulation has been effective in some other way not mentioned above, please explain.

G.3 .

	Yes	No	Don't know	Don't wish to reply

Do you consider that the FDI Screening Regulation has significantly contributed to the efforts of Member States and the Commission to correctly identify the FDI transactions that are relevant for the EU's security or public order?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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G.4 If your answer is either "yes" or "no", please explain.

see reply F.14

G.5 The following set of questions concerns the investigation and authorisation of FDI. For the time being, both of these tasks are performed by the Member State where the transaction is planned or completed. For each of the five questions, it is possible to select more than one response option.

Reminder: for the purpose of this questionnaire, the term *investigate* refers to the carrying out of a systematic or formal inquiry to discover and examine the facts of an FDI transaction, including the hearing of interested parties, in order to establish whether the transaction is likely to affect security or public order.

	The Member State where the transaction is planned or completed	The Member State where the transaction is planned or completed, in close cooperation with other Member States and with the Commission.	The Member State where the transaction is planned or completed, in close cooperation with other Member States (in cases where their security or public order might be affected) and with the Commission	The European Commission	Don't know	Don't wish to reply
In your view, who is/are best placed to investigate FDI likely to affect security or public order in more than one Member State?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
In your view, who is/are best placed to investigate FDI likely to affect security or public order in cases where EU critical assets are involved?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
In your view, who is best placed to authorise, condition (and monitor), prohibit or unwind FDI likely to affect security or public order in more than one Member State?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<p>In your view, who is best placed to authorise, condition (and monitor), prohibit or unwind FDI likely to affect security or public order in cases where EU critical assets are involved?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>In your view, who is best placed to identify FDI likely to affect security or public order in one or more Member States – in cases where the FDI is not subject to screening by the Member State where the transaction is planned or completed?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

G.6 .

	Never	Rarely	Sometimes	Often	Always	Don't know	Don't wish to reply
In your view, does the existence of the EU cooperation mechanism influence business decisions on investments?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

H About the effectiveness of the EU's framework for FDI screening: *LIMITATIONS*

H.1 To what extent do the following elements of the cooperation mechanism impact limit its effectiveness in identifying and addressing adverse impacts on the EU's security or public order?

	Not a problem	Minor problem	Moderate problem	Major problem	Don't know	Don't wish to reply
The fact that the Member State screening the transaction does not have to report to other Member States and to the Commission about the outcome of its assessment of security or public order risks.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>The fact that the Member State screening the transaction does not have to explain to other Member States and/or to the Commission whether and to what extent it took into account other Member States' comments or the Commission opinion in its final decision.</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>The fact that the comments of other Member States are not legally binding on the Member State where the transaction is planned or completed.</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>The fact that the Commission's opinion concerning security or public order in more than one Member State is not legally binding on the Member State where the transaction is planned or completed.</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>The fact that the Commission's opinion concerning critical EU assets is not legally binding on the Member State where the transaction is planned or completed</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>The fact that unless EU critical assets are concerned, the Commission's opinion identifying a likely impact on the EU's security or public order is shared only with the Member State screening the transaction, and not with the other Member States.</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>The fact that Member States' comments identifying a likely impact on their security or public order are shared only with the Member State screening the transaction and the Commission, but not with the other Member States.</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>The fact that Member States may choose not to have a mechanism that allows them to screen FDI transactions on the grounds of their potential impact on security or public order.</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>The fact that Member States may implement a screening mechanism which allows screening only after the FDI has been completed</p>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>The fact that Member States are free to decide at a national level which sectors, assets (for example infrastructure, technologies, inputs) and economic activities they screen on the grounds of their potential impact on security or public order</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>The fact that the FDI Screening Regulation does not provide criteria against which to monitor and assess cumulative effects of FDI on security and/or public order</p>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

| About the effectiveness of the EU's framework for FDI screening:
FORWARD LOOKING

I.1 In your view, which transactions should be examined by the cooperation mechanism based on the origin or the country of establishment/incorporation of the investor? (Additional info available)

The FDI Screening Regulation covers foreign direct investments, i.e. those investments made by a person or entity established outside the EU. The regulation provides for a limited exception to the above rule in cases of **circumvention**. In particular, recital 10 of the regulation states that:

- *Member States that have a screening mechanism in place should provide for the necessary measures, in compliance with Union law, to prevent circumvention of their screening mechanisms and screening decisions. This should cover investments from within the Union by means of artificial arrangements that do not reflect economic reality and circumvent the screening mechanisms and screening decisions, where the investor is ultimately owned or controlled by a natural person or an undertaking of a third country. This is without prejudice to the freedom of establishment and the free movement of capital enshrined in the TFEU.*

The following question explores whether this scope covers all types of transactions that could pose a risk to security or public order – or whether other types of transactions should be included as well. If you tick only the first response option, you imply that the scope of the EU's FDI Screening Regulation should remain unchanged in this respect.

- Where the direct investor is **either a natural person or an undertaking from a third country**
- Where the direct investor is **established in the EU – but is ultimately owned by a natural person or an undertaking from a third country** that can effectively participate in the management or control of the target company

I.2 If you think that any other types of transaction should also be examined by the cooperation mechanism, please explain.

This is a sensitive discussion as it concerns companies established in the EU. However, potential risks from controlling a target company should be mitigated.

I.3 .

	Yes	No	Don't know	Don't wish to reply
Do you consider that the effectiveness of the current EU framework would be increased if the regulation listed a minimum set of sectors for which all Member States must screen proposed transactions whenever the target (of the FDI) is active in one of the listed sectors?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

I.5 Do you consider that the effectiveness of the current EU framework would be increased if all Member States were **required to notify to the cooperation mechanism** proposed transactions whenever the target (of the FDI) is active in certain particularly sensitive sectors of infrastructure, technologies and economic activities which would be listed in the FDI Screening Regulation?

- Yes – in those cases where the FDI transaction is undergoing screening
- Yes – regardless of whether or not the transaction is undergoing screening
- No
- Don't know
- Don't wish to reply

I.6 If your answer is "yes" or "no", please explain.

We should find the right balance between increasing awareness of risks while avoiding additional burden for the Member States and the Commission. Making notifications mandatory for those transactions undergoing screening should achieve this objective.

I.7 In order to address cases where an adverse impact on the EU's security or public order is likely, would it be more effective ...

- ... to require national screening authorities to notify to the cooperation mechanism **all** the FDIs they receive from the notifying parties?
- ... to require national screening authorities to notify to the cooperation mechanism **only** those FDIs which they have initially identified as potentially posing a risk to security or public order?
- ... to require national screening authorities to notify only those FDIs that meet certain criteria (eg: specific sensitive sectors, critical technologies, a likely impact of the FDI on more than one Member State – for example due to significant cross-border sales or the existence of a "sister company" of the target in one or more other Member States)
- Don't know
- Don't wish to reply

I.8 When assessing whether FDIs pose a risk to security or public order, what criteria should be used by the national authorities?

- National authorities should apply their own **national criteria**
- National authorities should apply an agreed set of **European criteria**
- National authorities should apply their own national criteria **combined** with an agreed set of European criteria
- Other (please explain below)
- Don't know
-

Don't wish to reply

J About the effectiveness of the EU's framework for FDI screening: *INTERNATIONAL COOPERATION*

J.1 Article 13 of the regulation allows **international cooperation** with the responsible authorities of third countries on matters relating to FDI screening.

	Yes	No	Don't know	Don't wish to reply
Do you consider that this cooperation has helped the Commission and Member States to identify and address security risks posed by certain FDIs?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

J.2 If your answer is either "yes" or "no", please explain.

see replies E.2 and F.2

J.3 In your view, what should be the Commission's objective(s) when representing the EU for international cooperation on FDI screening?

- Exchange of information on FDI trends
- Exchange of good practices related to the implementation of screening mechanisms
- Promotion of investment screening on grounds of risks to security and public order in other countries
- Exchange of information about certain non-EU investors of concern – in order to be able to better assess and address transactions where the investor is involved (without revealing whether any **specific** transactions are undergoing screening)
- Exchange of information on individual FDI transactions undergoing screening (including the name of the investor and the target), on a case-by-case basis, with a view to taking an informed decision on the transaction
- Other (please explain below)
- Don't know
- Don't wish to reply

J.5 In your view, who should implement international cooperation on specific FDI cases?

- The Commission should be in the lead and the competent authority of the Member State where the transaction is planned or completed should always be involved

- The competent authority of the Member State where the transaction is planned or completed should be in the lead, and the European Commission should always be involved
- The cooperation should be led either by the Member State(s) screening the transaction or by the Commission, depending on the case or the issue that needs to be addressed
- The cooperation should only be done by the Member State(s) screening the transaction
- The cooperation should only be done by the Commission
- Other (please explain below)
- Don't know
- Don't wish to reply

K About the efficiency of the EU's framework for FDI screening

K.1 To what extent do you agree with the following statements about different aspects of the cooperation mechanism?

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
The cooperation mechanism does not unduly delay the decision by the respective Member State screening the transaction.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The cooperation mechanism allows other Member States to become aware of transactions that are likely to impact their security or public order.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The cooperation mechanism allows the Member State undertaking the screening to obtain relevant information on individual transactions that it would not have obtained if the cooperation mechanism did not exist.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

The administrative burden on the parties to the transaction arising because of the cooperation mechanism is reasonable.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The administrative burden on the Member States arising because of the cooperation mechanism is reasonable for all transactions.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The administrative burden on the Member States arising because of the cooperation mechanism is reasonable – at least for transactions posing a serious risk to security or public order (ie even if disproportionately high for others).	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The Commission’s annual reports provide adequate information about the implementation of the cooperation mechanism.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Member States should be required to publish annual reports on the implementation of their screening mechanisms.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The EU framework should provide common minimum requirements for the content and methodology of annual reports by Member States and the Commission.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

K.2 To what extent do you agree with the following statements about the scope of the information to be notified as part of the cooperation mechanism?

--	--	--	--	--	--	--

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Don't know
The scope of the information that must be notified as part of the cooperation mechanism is sufficient .	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The scope of information that must be notified as part of the cooperation mechanism should be broadened in order to reduce the need (for either the Commission or the Member State where the transaction is planned or completed) to ask for additional information after their first assessment of the case.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The scope of information that must be notified as part of the cooperation mechanism should be narrowed so as to alleviate the administrative burden (even if this increases the need to provide additional information at a second stage).	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There is sufficient transparency about the scope of information that must be provided as part of the notification.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The information that must be provided as part of the notification should be more standardised .	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The administrative burden on the Member States arising because of the cooperation mechanism is reasonable						

– at least for transactions posing a serious risk to security or public order (ie even if disproportionately high for others).	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The scope of additional information to be provided at the request of the Commission or other Member States is sufficient.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There is sufficient transparency about the scope of additional information that may be requested.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The scope of additional information to be provided at the request of the Commission or other Member States should be more standardised .	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

K.3 In order for the Member States and the Commission to perform and provide their own security assessments in a timely manner to the Member State which is undertaking the screening, would it be more **efficient ...**

- ... to require national screening authorities to notify to the cooperation mechanism **all** the FDIs they receive?
- ... to require national screening authorities to notify to the cooperation mechanism **only** those FDIs which they have initially identified as potentially posing a risk to security or public order?
- ... to require national screening authorities to notify only those FDIs that meet certain criteria (eg: specific sensitive sectors, critical technologies, a likely impact of the FDI on more than one Member State – for example due to significant cross-border sales or the existence of a "sister company" of the target in one or more other Member States)
- Don't know
- Don't wish to reply

K.4 To what extent do the following procedural aspects of the cooperation mechanism limit its efficiency?

	Not a problem	Minor problem	Moderate problem	Major problem	Don't know	Don't wish to reply

The fact that the parties to the FDI transaction are free to determine the date when they request authorisation from the national authority before the transaction is completed.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The fact that Member States' timelines for screening FDI transactions are not harmonised across the Member States.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The fact that the moment when FDI transactions are notified to the cooperation mechanism is only determined by the start of formal screening by the Member State.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

K.5 In your view, would any of the following proposed solutions increase the efficiency of the cooperation mechanism in identifying and assessing threats to the EU's security or public order?

	Yes	No	Don't know	Don't wish to reply
A single, secure IT platform for the relevant authorities of the 27 Member States and the Commission – where the notifying parties are required to provide information linked to individual FDI transactions to be assessed by the cooperation mechanism.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A single, secure IT platform for the relevant authorities of the 27 Member States and the Commission – for the Member States to exchange information relating to individual FDI transactions.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Harmonised timelines at national level for screening FDI transactions subject to the EU cooperation mechanism (eg, an identical point in time by which the Member States must notify the transaction to the cooperation mechanism; identical timeframes for the conduct of the assessment; suspension of national procedures until the cooperation with the	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Commission and other Member States has concluded; etc.).				
Harmonised timelines for the request of additional information from the parties and for the submission of such information.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Minimum common criteria in order to assess which transactions, among those screened by the Member States, pose a risk to public order and security	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

L About the coherence of the EU's framework for FDI screening with other EU legislation and other EU policies

L.1 Transactions subject to the EU cooperation mechanism for FDI screening may also require authorisation at national and/or at EU level under other regulations. (Additional info available)

Examples include:

- merger control (Art. 21(4) of Reg. (EC) 139/2004);
- rules for the prudential assessment of acquisitions of qualifying holdings in financial sector entities (Directive 2016/36/EU);
- the certification of transmission system operators of networks for electricity and natural gas in the EU (Art. 10 of Directive 2009/72/EC, and Art. 10 of Directive 2009/73/EC).

	Yes	No	Don't know	Don't wish to reply
Do you consider that the processes required by the FDI Screening Regulation are coherent overall with these other scrutiny and authorisation procedures?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

M Other contributions

M.1 If there is any other comment about the application of the FDI Screening Regulation that you wish to bring to the Commission's attention and which has not been addressed in your replies to the previous questions, please do so here:

On question L.1, please consider the relevance with the Foreign Subsidies Regulation.

M.2 If you wish to share any documents (eg. data, research paper, position paper, etc.) that may be relevant for the evaluation of the FDI Screening Regulation, please upload them here.

Please make sure you do not include any personal data in the file you upload if you want to remain anonymous.

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Background Documents

[Background Document for the Questionnaire](#)

[Brief Guide on Terminology](#)

Contact

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