

ESTONIA



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1.	Relevant legislation (foreign investment legislation in force)
	<ul style="list-style-type: none"> • Foreign Investment Reliability Assessment Act (“FDI Act”), adopted on 25.01.2023 and in force as from 01.09.2023 (https://www.riigiteataja.ee/en/eli/504042023002/consolide); • Regulation of the Minister of Economy and Information Technology of 30.06.2023 "Procedure for submitting an application for a foreign investment" (https://www.riigiteataja.ee/akt/111072023004?leiaKehtiv – the act is only available in Estonian); • Rules of Procedure of the Foreign Investment Commission (https://www.riigiteataja.ee/akt/115072023054 - the act is only available in Estonian); • Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02019R0452-20211223).
2.	Relevant authority (foreign investment regulator)
	The Consumer Protection and Technical Regulatory Authority (“ CPTRA ”) is competent to exercise state supervision of compliance with the requirements provided for in the FDI Act.
3.	Specific sectors covered (foreign investment regime involving specific sectors of the economy / business activities)
	<p>The following target companies are within the scope of the FDI Act:</p> <ul style="list-style-type: none"> • providers of vital services; • companies with the state’s qualifying holding; • undertakings which manufacture or, on the basis of a valid contract, supply military goods and/or dual-use items, or provide technical assistance related to such goods and/or items to state authorities (exception apply to undertakings which are already subject to investment restrictions under the Weapons Act). • providers of national television or radio service and providers of on-demand audiovisual media services, as well as publishers of news, newspapers and magazines in the print media and on the internet whose turnover in Estonia in the previous calendar year in relation to the relevant activity was at least 3 million euros; • undertakings holding a geological exploration or extraction permit for the exploration or extraction of oil shale or a raw material found in Estonia and included in the List of Critical Raw Materials for the European Union as prepared by the European Commission; • undertakings with whom the state’s operation stockpile contract or delegated stockpile contract has been concluded; • undertakings that own a permanent national defence object;

- undertakings that own a piece of the mast infrastructure with a height of at least 200 meters necessary for the functioning of national communication or the transmission of broadcasting programmes;
- railway infrastructure managers who operate a public railway;
- certified aerodrome or heliport operators who operate an aerodrome or heliport which is open for international scheduled air traffic, and the air navigation service providers who ensure servicing air traffic in the Tallinn Flight Information Region;
- operators of Estonian maritime ports belonging to the trans-European transport network (as defined in Annex II to Regulation (EU) No 1315/2013).

4.

Types of transactions caught and notification thresholds (definition of a foreign investor / activities / turnover / assets subject to foreign investment assessment / investment threshold - e.g. % of votes in the target triggering the notification)

“Foreign investor” means:

- a natural person who holds: (i) the citizenship of a third country, or (ii) several citizenships, at least one of which is the citizenship of a third country, or (iii) who is a stateless person;
- an undertaking established on the basis of the law of a third country;
- an undertaking controlled by the natural person specified in clause 1 or by the undertaking specified in clause 2, regardless of their place of establishment.
- For the purposes of the FDI Act, **“third country”** means a country other than a Member State of the European Union.

Activities caught under the notification obligation and included in the scope of the FDI Act are the activities listed under question no. 3 above.

Transactions caught by the FDI Act: A notifiable transaction (a foreign investment) is a transaction or related transactions through which a Foreign investor:

- acquires direct or indirect qualifying holding in the target undertaking;
- achieves direct or indirect control over the target undertaking; or
- acquires a part of the target undertaking.

For the purposes of the FDI Act:

- **“qualifying holding”** means any direct or indirect holding in the share capital of a company which represents 10% or more of the share capital of the company, of all rights related thereto or of the voting rights in the company or which makes it possible to exercise a significant influence over the management of the company in which that holding subsists;
- **“control”** and **“a controlled undertaking”**- a company controlled by a person is a company which meets at least one of the following conditions: (1) the person holds the majority of the votes represented by shares in the company or holds the majority of the votes as a general partner or limited partner; (2) the person who is a general partner or limited partner of the company has the right to appoint or remove the majority of members of the supervisory board or management board of the company; (3) the person who is a general partner, a limited partner, a partner or a shareholder of the company controls alone the majority of votes pursuant to the agreement entered into with other general partners, limited partners, partners or shareholders; (4) a person exercises or has the power to exercise dominant influence or control over a company;
- an **“undertaking”** is a company, sole proprietor, any other person engaged in economic or professional activities, an association which is not a legal person, or a person acting in the interests of an undertaking;

<ul style="list-style-type: none"> • “turnover”: there is no turnover threshold, except for providers of national television or radio service and providers of on-demand audiovisual media services, as well as publishers of news, newspapers and magazines in the print media and on the internet, for whom the FDI Act applies if the turnover in Estonia in the previous calendar year in relation to the relevant activity was at least 3 million euros. 	
5.	Parties to be included in the foreign investment assessment (notifying parties and protected entities)
<p>In order to obtain a foreign investment authorisation, a foreign investor must submit an application to the CPTRA. If the target undertaking or another party to the foreign investment becomes aware that the foreign investor has not applied for a foreign investment authorisation, they have to notify the CPTRA thereof as soon as possible.</p> <p>A foreign investment authorisation from the CPTRA is granted by assessing the impact of the foreign investment on the security and public order of Estonia or another Member State of the European Union.</p>	
6.	Exceptions
<p>As a general rule, the completion of a foreign investment subject to a FDI authorisation is prohibited before the FDI authorisation is obtained. However, this does not prohibit the conduct of a transaction to offer securities to the public or the conduct of securities transactions as a series, including the conduct of transactions with securities to be converted into other securities listed on the stock exchange, if an application for obtaining a foreign investment authorisation is immediately submitted to the CPTRA and, until obtaining the foreign investment authorisation, the foreign investor does not exercise the rights, in particular the voting rights, that the qualifying holding to be acquired or the control to be achieved entails.</p>	
7.	Notification / review type (e.g. mandatory, pre-closing, suspensory)
<p>The notification is mandatory and must be filed prior to completion of the transaction. The completion of a foreign investment subject to a FDI authorisation is prohibited before the FDI authorisation is obtained.</p>	
8.	Possibility for third parties to be involved in the review process (requirements, procedural rights etc.)
<p>Another Member State of the European Union or the European Commission may provide comments or an opinion on the basis of Regulation (EU) 2019/452 of the European Parliament and of the Council establishing a framework for the screening of foreign direct investments into the Union (OJ L 79I, 21.3.2019, p. 1–14).</p>	
9.	Filing fee
<p>There is no filing or similar fee.</p>	
10.	Submission deadline / stand-still obligation
<p>If the transaction is notifiable, a foreign investor must submit the application after the entry into the contract or conduct of another transaction serving as a basis for the foreign investment but before completing the foreign investment. The completion of a foreign</p>	

investment subject to a FDI authorisation is prohibited before the foreign investment authorisation is obtained.	
11.	Availability of pre-notification / informal consultation
A foreign investor, a target undertaking and another party to a foreign investment may, prior to applying for a FDI authorisation or in the authorisation procedure, seek clarification from the CPTRA, as well as seek advice from the Authority as to whether the foreign investment is subject to a FDI authorisation.	
12.	Scope of information / documents required for filing
An application must include a description of the foreign investment and the data of the foreign investor, the target undertaking, a part of the target undertaking, their ownership structure, beneficial owner, and economic activities as well as the value of the foreign investment, the source of financing and the time schedule. A more precise list of the scope of information is established by a regulation of the minister in charge of the policy sector (available here in Estonian: The procedure for submitting an application for a foreign investment permit).	
In addition, the CPTRA has the right to request that the applicant submit, in addition to the aforementioned, data and documents if these are necessary for assessing the reliability of the foreign investment.	
13.	Proceedings timetable (timing for review)
The CPTRA adopts an official decision within 30 calendar days of the submission of a complete application. The review period may be extended by up to 90 calendar days if more time is required for assessing the impact of the foreign investment or if other member states or the Commission have notified their intention to provide comments or an opinion on the basis of Regulation (EU) 2019/452. The review period may also be extended by up to 60 calendar days if CPTRA and the foreign investor engage in commitment negotiations.	
14.	Outcome of the review process (clearance, conditional authorisation, possible commitments etc.)
The CPTRA makes the decision either to (i) grant a foreign investment authorisation; (ii) refuse to grant a foreign investment authorisation; or (iii) notify the applicant that the foreign investment is not subject to a FDI authorisation.	
The FDI authorisation may contain a secondary condition which obliges a foreign investor or a target undertaking to take measures to avoid endangering the security or public order of Estonia or another Member State of the European Union, including to divest holding of a certain size in the target undertaking or continue effective contracts for the supply of products or provision of services.	
15.	Publicity of the decision and confidentiality of the information provided
The reasons for the refusal to grant a FDI authorisation, as well as the information and evidence collected in the course of the procedure are not disclosed, including to the applicant, to the extent in which it may endanger the security or the protection of public order of Estonia or another Member State of the European Union or in which it is subject to the restriction on access provided for in law.	

16.	Can a decision be challenged or appealed (by whom, on what basis, in which timeframe)
<p>The decision may be challenged or appealed by the person who finds that his/her rights or freedoms are violated, either by filing a challenge against the CPTRA or filing an appeal with the administrative court. In either case, the challenge or appeal must be filed within 30 days as of the date the person becomes or should become aware of the decision.</p> <p><u>An appeal may seek:</u></p> <ul style="list-style-type: none"> • the full or partial annulment of the administrative act (annulment complaint); • the issue of an administrative act or the taking of an administrative measure (mandatory complaint); • a prohibition to issue certain administrative act or take a certain administrative measure (prohibition complaint); • compensation for harm caused in a public law relationship (compensation complaint); • elimination of unlawful consequences of an administrative act or measure (reparation complaint); • a declaration of nullity of an administrative act, a declaration of unlawfulness of an administrative act or measure, or a declaration ascertaining other facts of material importance in a public law relationship (declaratory complaint). <p><u>A challenge may seek:</u></p> <ul style="list-style-type: none"> • repeal of an administrative act; • repeal of a part of an administrative act unless partial challenge of the administrative act is restricted by law; • issue of a precept for the issue of an administrative act, new resolution of a matter or taking a measure. 	
17.	Sanctions for failure to notify (administrative fines or other administrative sanctions, criminal sanctions, civil law consequences)
<p>If a foreign investment subject to a FDI authorisation has been made without FDI authorisation, the CPTRA may issue a precept to the foreign investor, the target undertaking and another party to the foreign investment, obliging them to divest the holding or a part of the target undertaking, reverse the transaction or perform other acts to restore the situation prior to the foreign investment. In the event of a failure to observe a precept, the CPTRA may impose non-compliance levy of up to EUR 100,000. The non-compliance levy can be imposed repeatedly until the precept is complied with.</p> <p>In addition, closing a transaction without the authorisation may result in the transaction being void. Under Estonian law, transactions that violate prohibitions provided by law are void if the purpose of the prohibition is to render the transaction void in the event of non-compliance of the prohibition.</p>	
18.	Other national security review distinct from FDI rules
<p>There are no other general national security review regimes distinct from the procedure set out in the FDI Act. There are certain specific regimes and limitations based on the national security considerations, applicable to acquisition of interest in companies engaged in handling of military weapons, acquisition of land in the vicinity of the Estonian national borders, etc.</p>	

19.	Significant legislative/regulatory developments in the past year and possible proposals for reform
<p>The FDI Act was adopted on 25 January 2023, and it came into force on 1 September 2023. At this time, to our knowledge, no new amendments are foreseen.</p>	
20.	Helpful links
<p>Foreign Investment Reliability Assessment Act: https://www.riigiteataja.ee/en/eli/504042023002/consolide</p> <p>The regulation "Procedure for submitting an application for a foreign investment" (in Estonian): https://www.riigiteataja.ee/akt/111072023004?leiaKehtiv</p> <p>The CPTRA webpage: https://ttja.ee/en/business-client/entrepreneurship/foreign-direct-investment-screening</p> <p>Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union: https://eur-lex.europa.eu/legal-content/ET/TXT/?uri=CELEX:32019R0452</p>	