

SWEDEN



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1.	Relevant legislation (foreign investment legislation in force)
<p>On 13 September 2023, the Swedish Parliament, following a report from the Committee on Justice, voted to enact new legislation relating to the FDI Regulation. The vote confirmed the Government Bill to the Parliament with no alternations. The new Act will enter into force on 1 December 2023 (the “Act”). Supplementary ordinances and various statutory provisions have not yet been enacted. See link (in Swedish): https://svenskforsfattningssamling.se/sites/default/files/sfs/2023-09/SFS2023-560.pdf</p>	
2.	Relevant authority (foreign investment regulator)
<p>The Inspectorate for Strategic Products (the “ISP”) is expected to be appointed as the supervisory authority.</p>	
3.	Specific sectors covered (foreign investment regime involving specific sectors of the economy / business activities)
<p>Under the new Act the Government will have the authority to review and prohibit foreign investments in a broad range of sectors, including critical infrastructure, technology and sensitive industries including defence-related industries. The sectors will be further exemplified in ordinances and regulations from the competent authorities. These are not yet enacted, but examples indicated in the preparatory works include services or infrastructure within energy, transport, healthcare, water supply, food production and food supply, telecommunications, banking and finance, security-sensitive operations, critical inputs or raw materials, activities whose major purpose is processing of sensitive personal data or location data, activities related to emerging technologies and other strategic protected technologies, military equipment and dual-use products.</p>	
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)
<p>The new Act is said to strengthen Sweden’s ability to safeguard national security and protect critical infrastructure from potential risks associated with foreign investments. The method is to prevent foreign direct investments that may harm national security, public order or public safety in Sweden. Certain investments posing security risks shall be reviewed and, if necessary, restricted or prohibited.</p>	

Foreign investor – Government proposal:

The Act defines a foreign direct investment as an investment made by an investor who is:

- a natural person with citizenship of a state not member of the European Union,
- a legal entity domiciled in a state not member of outside the European Union,
- a legal person directly or indirectly owned or controlled by a state not member of outside the European Union; or
- a legal person directly or indirectly owned or controlled by a legal person established in a state not member of a non-European Union or by a natural person who is a national of such a third country.

A foreign direct investment shall also mean an investment made by an investor for the benefit of any of the aforementioned entities.

Activities – Government proposal:

According to the act, activities that require protection pursuant refer to:

- essential activities,
- security-sensitive activities according to the Swedish Protective Security Act (2018: 585),
- exploration, extraction, enrichment or sale of critical raw materials or of metals or minerals that are strategically important for Sweden's supply,
- large-scale processing of sensitive personal data or location data in or through a product or service,
- the manufacture or development of, research into or provision of war material in accordance with the Swedish Military Equipment Act (1992:1300), or the provision of technical support for such war material,
- manufacturing or developing, researching or providing dual-use items or providing technical assistance for such items; and
- research into, or provision of, products or technology in emerging technologies or other strategically important technologies or activities capable of producing or developing such products or technology.

By essential activities means activities, services or infrastructure that maintain or ensure societal functions that are necessary for society's basic needs, values or security.

Assets subject to foreign investment assessment:

The definition does not distinguish between investments in the form of start-ups, known as greenfield investments, and investments consisting of the acquisition of existing assets, so called brownfield investments.

Investment thresholds:

Any party that intends to invest, directly or indirectly, in a limited liability company, a European company or an economic interest grouping engaged in activities worthy of protection shall notify the investment if, after the investment, the investor, or any member of its ownership structure, or any person on whose behalf the investor is acting, would, directly or indirectly, hold voting rights which correspond to or exceed any of the thresholds of 10, 20, 30, 50, 65 or 90 per cent of the voting rights in the legal person. A notification shall be made each time an investment is made whereby the investor, a member of the investor's ownership structure or a person on whose behalf the investor is acting would have votes equal to or exceeding any of the thresholds. A notification must therefore be made if the party holds at least 10 per cent or more of the voting rights in the legal entity.

5.	Parties to be included in the foreign investment assessment (notifying parties and protected entities)
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<p>The investor is liable to notify the supervisory authority about the investment, The target entity is under a statutory obligation to inform the investor about the requirement to notify. In the absence of a notification, the supervisory authority will arrange prepare the documents necessary for a notification.</p>	
6.	Exceptions
<p>A notification is not required for the acquisition of shares in a new issue with preferential rights in relation to the number of shares held by the investor.</p>	
7.	Notification / review type (e.g. mandatory, pre-closing, suspensory)
<p>Within twenty-five working days of a notification being complete, the investigating authority shall decide to either leave the notification without action or initiate an investigation of the investment.</p> <p>A notification shall be left without action if the investigating authority assesses that there is no reason to assume that the investment is a foreign direct investment that could have a harmful effect on Sweden's security or on public order or public safety in Sweden.</p> <p>An investment subject to the notification requirement may only be implemented if the notification of the investment has been left without action or if the investment has been approved in a review.</p> <p>The investigating authority may decide to initiate a review of an investment in an activity worthy of protection that is not subject to a notification obligation, if there is reason to assume that the investment may have a detrimental effect on Sweden's security or on public order or public safety in Sweden.</p> <p>If the review authority has initiated a review on its own initiative, the investment may only be implemented if the investment has been approved during the review.</p> <p>Within three months of its decision to initiate an investigation, the investigating authority shall decide to either prohibit or approve the investment. However, if there are special reasons, the reviewing authority may communicate the decision within six months. If there is no reason to prohibit an investment that has been reviewed, it shall be approved.</p>	
8.	Possibility for third parties to be involved in the review process (requirements, procedural rights etc.)
<p>The investigating authority shall be able to order the investor or the undertaking which is or has been the subject of the investment to provide the information or documents and to grant access. An order may be accompanied by a fine.</p>	
9.	Filing fee
<p>There is no information in the Act about a filing fee. Supplementary ordinance (please see information presented in point 1 above) are not expected to set forth any filing fees.</p>	
10.	Submission deadline / stand-still obligation
<p>Within twenty-five working days of a notification being complete, the investigating authority shall decide to either leave the notification without action or initiate an investigation of the investment. The deadline does not start until the notification is complete.</p>	

<p>The reviewing authority shall, within three months of its decision to initiate a review and decide to either prohibit or approve the investment. However, if there are special reasons, the reviewing authority may issue the decision within six months.</p>	
11.	Availability of pre-notification / informal consultation
<p>There is no information in the Act about this issue. It may be the case that this matter will be specified in supplementary ordinance (please see information presented in point 1 above).</p>	
12.	Scope of information / documents required for filing
<p>The investor and the undertaking which is or has been the subject of the investment shall be obliged to provide, at the request of the supervisory authority, any information or documents necessary for its examination or to verify compliance with the notified conditions.</p> <p>The supervisory authority shall have the right of access, to the extent necessary to obtain the information or documents, to areas, premises and other spaces, other than residential premises, used in the activities of the investor or the undertaking which is or has been the subject of the investment.</p> <p>The investigating authority shall be entitled to order the investor or the undertaking which is or has been the subject of the investment to provide the information or documents and to grant access. An order may be accompanied by a penalty payment.</p> <p>The investigating authority may request executive assistance from the Swedish Enforcement Authority to gain access. The provisions of the Enforcement Code on the enforcement of obligations that do not relate to payment obligations, eviction or removal shall apply.</p> <p>Municipalities and regions and the authorities determined by the Government shall provide information to the review authority if the review authority requests it in connection with its review or its control of compliance with the conditions notified and it is necessary for the authority to be able to fulfil its mission under the Act.</p> <p>According to the Bill, the review authority should consult with the Swedish Armed Forces, the Swedish National Board of Trade, the Swedish Civil Contingencies Agency and the Swedish Security Service in matters reviewed under the Act. The authorities that need to be included in the circle may also vary over time depending on the development of society. Against this background and with reference to the proposal that the review authority should not be designated in the Act, it does not seem appropriate to regulate in law which authorities should be included in the collaboration. This should instead be regulated in an ordinance. The Government considers that it would be unnecessarily burdensome for the authorities to have to cooperate on all notified investments. Cooperation should be mandatory only for investments that the reviewing authority has decided to review. There is otherwise a risk that valuable resources and time would be used for unproblematic investments.</p>	
13.	Proceedings timetable (timing for review)
<p>The reviewing authority shall, within three months of its decision to initiate a review and decide to either prohibit or approve the investment. However, if there are special reasons, the reviewing authority may issue the decision within six months.</p>	
14.	Outcome of the review process (clearance, conditional authorisation, possible commitments etc.)

<p>A notification shall be left without action if the investigating authority assesses that there is no reason to assume that it is a foreign direct investment that could have a harmful effect on Sweden's security or on public order or public safety in Sweden.</p> <p>A foreign direct investment in activities worthy of protection shall be prohibited if it is necessary to prevent harmful effects on Sweden's security or on public order or public safety in Sweden.</p> <p>If there is no reason to prohibit an investment that has been reviewed, it should be approved.</p>	
15.	Publicity of the decision and confidentiality of the information provided
<p>According to the proposal, a confidentiality-breaking provision will be introduced in the Public Access to Information and Secrecy Act (2009:400), which means that international cooperation does not prevent the Swedish Armed Forces or the Swedish Security Service from providing information to the investigating authority if the information is necessary for the investigating authority to be able to fulfil its mission. Information may only be disclosed if the interest in disclosing the information takes precedence over the interest that secrecy is intended to protect.</p>	
16.	Can a decision be challenged or appealed (by whom, on what basis, in which timeframe)
<p>Decisions on injunctions and fines may be appealed to the Administrative Court in Stockholm.</p> <p>Leave to appeal is required for appeals to the Administrative Court of Appeal.</p> <p>Decisions on prohibitions regarding foreign direct investment in operations worthy of protection and decisions on approval with conditions may be appealed to the Government.</p> <p>Other decisions may not be appealed.</p>	
17.	Sanctions for failure to notify (administrative fines or other administrative sanctions, criminal sanctions, civil law consequences)
<p>The investigating authority may decide to levy a penalty on a person who has not made a notification to the examining authority even though there was a duty to notify and has not fulfilled its obligation to provide information.</p>	
18.	Other national security review distinct from FDI rules
<p>None.</p>	
19.	Significant legislative/regulatory developments in the past year and possible proposals for reform
<p>See information presented in point 1 above.</p>	
20.	Helpful links
<ul style="list-style-type: none"> • https://data.riksdagen.se/fil/1D20FA9B-DDFC-406B-AEF6-A4DB8E726291 	

- <https://www.regeringen.se/contentassets/eee59193c02a42148a2eafc22017e312/ett-granskningssystem-for-utlandska-direktinvesteringar-till-skydd-for-svenska-sakerhetsintressen-prop.-202223116.pdf>
- [Ett granskningssystem för utländska direktinvesteringar till skydd för svenska säkerhetsintressen - Regeringen.se](#)
- [New act will stop investments in companies by foreign actors that could harm Sweden - Government.se](#)