

## Around the World of Foreign Direct Investment

July 2021

by Anna Monteiro

Just coming up for some air, having had a busy first half to 2021 and realizing that my update on foreign direct investment is long overdue. Let's not waste any time because there's plenty to report since my end of year (2020) [roundup](#).

Early in the year, **Germany** issued a consultation to amend its FDI regime and made the following [effective 1 May 2021](#):

- Expansion of the mandatory clearance requirement for transactions by which a Non-EU or Non-EEA investor acquires directly or indirectly 20 % or more of the voting rights in specific sensitive sectors.
- Added 15 new sectors mostly high tech focused (AI; Automated and Autonomous Driving; Robotics; Semiconductors; IT Security; Airlines; Dual-use Products; Quantum Technology; Additive Manufacturing; Wireless Networks; Smart Metering; Security Clearance related Activities; Raw Materials; Secret Patents; Agriculture)

**Italy and Spain** have extended their temporary FDI controls to end on 31 December 2021 and **Hungary** has extended until an end to the pandemic in Hungary.

In the **Czech Republic**, new FDI screening controls became effective 1 May 2021, while the [Act No. 34/2021 Coll](#) outlines several controls, here are some highlights:

- Requires notification of foreign investor and is defined as: any person who is (a) not a national or a national of another EU Member State; (b) does not have a seat in the Czech Republic or another EU Member State; or (c) is indirectly controlled by a person meeting conditions under points (a) and (b). Note that the Act applies to investors from countries belonging to the EEA, including Norway and Liechtenstein and also the UK.
- Mandatory notification for investments in specified activities in strategic sectors such as military material, infrastructure elements, etc.
- Sets the scope of transactions to include any entry of a foreign investor into a target person which enables the investor to exercise an *'effective degree of control'* over the economic activity of the target. See Act on the *effective degree of control* definition.
- Investing without approval can lead to a fine of up to 1% of turnover.

Back in February, **Malta** issued FDI screening controls and made them retrospective from 11 October 2020. The [National FDI Screening Office Act](#) sets out the below information (see the Act, Guidelines and Form for complete screening regime):

- Investment threshold of the foreign investor is direct or indirect ownership or control of 10% plus one share or more than 10% of the voting rights or an ownership interest of more than 10% in the entity carrying out the specified activity.

- Any investment by a foreign investor that aims to establish or to maintain lasting and direct links in or to carry out an economic activity in Malta or change an existing investment in Malta to one in a specified activity is considered to be a foreign direct investment.
- Screening Office can impose fines of upwards of €100,000.

**Slovakia** amended its act on Critical Infrastructure (Act no. 45/2011 Coll.) to increase scrutiny of investing in companies in the energy and industry sectors. While this applies to direct and indirect transactions or transfers, an indirect transaction for purposes of this act, is a change in persons, who have a direct or indirect share in the company in the extent above 10% of the company's registered capital or voting rights, or they exercise control over the operation of the company comparable to the aforementioned interest in shares.

Although **New Zealand** narrowed the criteria for assessing foreign direct investors by using a 12 prescribed character and capability factors back in March, they recently revoked their temporary screening regime as of 7 June to transition to a "call-in" regime giving the Overseas Investment Office the power to review foreign investments in "strategically important businesses" that would not otherwise require consent. More to come on this "call-in" regime when available.

That's a wrap for the first half of 2021, enjoy the summer.

**About Solutions Atlantic:** Solutions Atlantic is the market leading provider of shareholding disclosure solutions to the global financial services industry. For nearly 20 years, its Regulatory Reporting System (RRS) has been at the forefront of global shareholding disclosure obligations and currently supports a client base having nearly \$10 trillion in aggregated assets under management. With regulatory rules for over 100 jurisdictions, RRS leads the way in complete workflow automation including monitoring, alerting, and generating submission-ready disclosures reports. Solutions Atlantic serves a global customer base and is headquartered in Boston, MA.