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by Anna Monteiro

First Half Catchup on Foreign Direct Investment

Most regulatory activity for foreign direct investment in this first half of 2023 has been focused on issuing consultations for proposed changes to existing laws. Several countries issuing consultations in the first 6 months of the year include:

- **Australia:** issued a consultation in March as part of its [foreign investment reforms](#) which resulted in a new Register of Foreign Ownership of Australian being introduced on 1 July 2023. The Australian Tax Office (ATO) has released further [information](#).
- **Japan:** issued a consultation (March) on adding core business sectors to its Foreign Exchange and Foreign Trade Act. In April, the Government [announced](#) that revisions shall apply to inward direct investment and equivalent actions to be made on or after 24 May. The related [document](#) explains the additional business sectors below to be added to the core business sectors in order to secure stable supply chains.
- **Norway:** a [bill expanding FDI screening provisions](#) under the Norwegian Security Act has been submitted by the government. Proposed changes include: entities in-scope for screening; lowering notification threshold (10%); subsequent thresholds (20%, 33.3%, etc.) and increased penalties including criminal penalties.
- **South Korea:** published a [consultation](#) (Korean only) on proposed changes applicable to foreign investors reporting under the Foreign Investment Promotion Act. Currently, foreign investors are required to file a report prior to acquiring 10% in any Korean issuer whether listed or unlisted. Changes to the reporting form are being considered under this consultation. Comment period open until 19 June 2023. Also coming out of SK, the FSC [announced](#) the ending of the foreign investors' registration system from **14 December 2023**.
- **Sweden:** a proposed law for screening foreign direct investments to protect Swedish security interests has been submitted to the Swedish Parliament. If implemented as written, the law would enter into force on 1 December 2023 and it would establish a notification obligation for any investor in sensitive industries with a starting threshold of 10% of voting rights. More details can be found [here](#).
- **Switzerland:** following on from the Federal Council's foreign investment control consultation from last year which was rejected by most participants, the FC has [announced](#) that revised draft legislation will be produced by the end of 2023 which will be narrower in scope than the previous draft legislation and will be limited to investments critical to security.

Screening actions of other countries:

- **Estonia:** adopted a [foreign investment screening](#) (Estonian only) regime in January which will be effective 1 September 2023. Like many other screening regimes, it regulates non-EU foreign investors with holdings of 10% or more. The range of target companies include providers of critical services, state-owned enterprises, manufactures or suppliers of military or dual-use goods, owners of defense facilities, certain media companies and owners of transport infrastructure.
- **Slovakia:** effective 1 March 2023, is the [FDI Act](#) which screens investments made by foreign investor (having no EU element), includes a Slovak target either critical (comprise engineering structures including telecommunication infrastructure; cybersecurity; arms; dual-use products; biotechnology; encryption; media activities; cloud computing) or non-critical.

Additional insight on Italy's qualified holdings regime:

- Following on from the end of 2022 update on Italy's [qualified holding regime](#) whereby a new ex-post notification obligation starting at 3% for holdings in Italian Banks, SIM, SGR, SICAV and SICAF, financial

intermediaries, payment institutions and e-money institutions which entered into force on 1st January 2023, it appears that the new provisions do not make it clear whether the 5% threshold is still in place in addition to the 3%. Due to lack of clarity, it may be prudent to make an ex-post notification at 5% should that be reached. Should clarification on this come about, you'll find it here next time.

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