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A Busy Fourth Quarter for Foreign Direct Investment

It was a busy fourth quarter for regulations concerning foreign direct investment. It seems that not all were watching the World Cup.

Several jurisdictions issued consultations concerning qualified holdings and investment screening:

- **EU ECB** – issued consultation (now closed) on a draft Guide which aims to increase transparency by clarifying the ECB's approach to the assessment of applications to acquire qualifying holdings in credit institutions, e.g. holdings of 10% or more or the ability to exercise significant influence.
- **Iceland** - released a [draft bill](#) with a [report](#) regarding the review of foreign investments for reasons of national security and public order.
- **Slovakia** – also released a public consultation (now closed) regarding drafting regulation on critical foreign investments particularly those considered to be related to national interest and security. i.e., defense, media, etc.
- **Saudi Arabia** – in its efforts to encourage investment, the CMA [announced](#) (now closed) a public consultation in relation to [Amended Draft Rules for Foreign Investment in Securities](#).

Spain and **France** both extended their temporary FDI controls to expire now on 31 December 2024 and 31 December 2023 respectively. The relevant thresholds for authorization is set at 10% for these extended periods.

The **Bank of Italy**, changed its controls over ownership structures of banks and other financial intermediaries which came into effect on 1 January.

The FSA in **Norway**, issued the [Guide to the Securities Trading Act Chapter 4 – disclosure obligations](#) (Norwegian only) which provides some practical clarifications regarding the NFSAs' interpretation of the new disclosure rules implemented in September. As with Norway an area of particular interest is always the timing of the disclosure. The Guide provides further guidance on the understanding of the absolute disclosure deadline of T+2 (disclosure no later than the opening of the regulated market the second trading date). **The NFSAs emphasize that the deadline of T+2 is a limited exemption, and that the main rule is that a disclosure shall be made immediately.** According to the Guidance, the assessment of whether the disclosure deadline is violated, depends on specific circumstances of the consolidated group in question. Some complex examples are provided in the Guide.

Lastly, the Committee on Foreign Investment in **US** provided guidance through its [CFIUS Enforcement and Penalty Guidelines](#). It covers the three categories of conduct that may represent a violation: Failure to File, Non-Compliance with CFIUS Mitigation and Material Misstatement, Omission, or False Certification. The Guidelines describe the process the CFIUS follow in imposing penalties and some of the factors it considers in determining whether a penalty is warranted and the scope of any such penalty.

I'll be back next quarter with any updates to those closed consultations.

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