

Foreign Direct Investment Roundup Across Europe

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by Anna Monteiro

Being that the UEFA Women's Euro 2022 tournament is underway, and Wimbledon has come to a close, I'll devote this foreign direct investment roundup to the region. Plus, there have been quite a few announcements during Q2 so let's get started.

In **Belgium**, the government there has drafted legislation to establish a framework to screen foreign direct investments. Part of that framework will be a new central body (the Screening Committee) that will deal with foreign investments representing more than 10% or 25% of the company's shares, depending on the area of investment. While no draft text is available, a 2023 effective date is expected. And if you're following the UEFA tournament, Belgium tied with Iceland earning 1 point.

ESMA published its [Final Report](#) on its review of the Short Selling Regulation (SSR).

ESMA's proposals in the Final Report include:

- establish a centralized notification and publication system;
- publication of aggregated NSPs per issuer;
- publish the issued share capital of companies that are admitted to trading or traded in the EU and not included in the list of exempted shares;
- introduce a five-year record keeping obligation for persons entering a short sale;
- changes to the provisions which govern emergency measures, to facilitate the streamlining of issuing bans and standardizing the format of bans; and
- harmonizing the sanctions for breaches imposed across Member States.

In Group D with the Belgians, the French have secured a win, earning them 3 points. On the regulatory front in May, the following **French** order ([arrêté ministériel](#)) came into effect lowering the disclosure threshold (in share capital or/and voting rights) to 90% from 95% when crossing (upwards or downwards) in a **French** issuer with shares admitted to trading on Euronext Growth.

The government of **Iceland** is [seeking comments](#) regarding the enactment of a law on the review of foreign direct investment, particularly with regard to national security and public order. Coming on the heels of that consultation being issued, Iceland tied with Belgium in the Group D first round games.

The Netherlands sit in Group C; the only Group that does not have a clear leader with all 4 teams earning 1 point in first round of play. While the **Netherlands'** parliament [adopted a framework](#) (Dutch) for national security investment screening. The regime encompasses acquisitions of control related to 'critical infrastructure companies' (e.g. energy, ports, banking), 'managers of corporate campuses' (where public-private collaboration occurs involving technology of strategic importance) and 'sensitive technology' (military and dual-use). In the case of 'sensitive technology', the regime also extends to acquiring significant influence and minority shareholdings of **10%, 20% and 25%** of the relevant entity.

In April, **Norway's** Ministry of Finance (MoF) proposed a [draft bill](#) (Norwegian only) amending the substantial shareholding disclosure rules in the Norwegian Securities Trading Act (STA). The draft is a step towards harmonizing Norway's rules with the TDA adopted in 2015 by EU. It's not clear when the Parliament will take up the draft, but we anticipate this to be in Q3 or Q4 this year with an effective date sometime later. Norway is currently at 1-1 in Group A sitting at 3rd place after the 2nd round of play.

Recently, **Poland's** government extended the temporary FDI measures first put in place during Covid-19 to now [60 months](#). These measures are now due to end on 25 July 2025.

Earlier in June, the threshold for the mandatory offer requirement in **Poland** under the Act on Public Offerings was amended to 50% of voting rights with effect from 30 May 2022. If the 50% threshold is exceeded, a shareholder or an entity who acquired the shares indirectly is obliged to launch a mandatory offer for the sale or exchange of all the remaining shares in the public company.

Fielding a strong side in Group B, Spain currently has 3 points and will play Germany today in 2nd round play to decide the Group's leader. [Circular 2/2022](#) was published in **Spain's** Official Gazette on 8 June. The Circular provides an updated substantial shareholder notification form that has been modified to consider loyalty shares that grant double voting rights. While the forms have not taken effect yet, they are available in English and Spanish in the Circular along with explanatory notes. The Circular will enter into force on 6 August 2022 at which time we believe that the new disclosure forms will be available on the [CNMV website](#).

Switzerland may follow other EU nations by screening for foreign direct investment in Swiss companies on public policy or national security grounds. The Swiss government has opened a [consultation](#) for such matter and will run until 9 September 2022. While that is being decided, the Swiss women's team will play Sweden tomorrow to see who will get the first 3 points in Group C.

The host nation England has shown a strong performance through two rounds of play securing the leader position in Group A. They play Northern Ireland tomorrow who unfortunately will exit the tournament afterwards. Leaving the football world for a minute, there were several changes out of the **United Kingdom** starting with the Economic Crime (Transparency and Enforcement) Bill introduced in the **UK** became an Act in April; as a result a new [Register of Overseas Entities](#) will be created. Any overseas entity must take reasonable steps to, amongst other things, identify any registrable beneficial owners (including persons holding 25% or more of the shares or voting rights, see also [Schedule 2](#) of Act) in relation to the entity.

Overseas entities who already own land in the **UK** will be given six months to register their beneficial owners or managing officers. This 6-month period will not begin until the new register has been launched.

Also in the **UK, Guernsey, Isle of Man, and Jersey** the Takeover Panel released its [response paper](#) to its Consultation from 2021 which set out to codify its well-established practice that a custodian or depository is not treated as interested in relevant securities for the purposes of the Code. A new Note was introduced on the definition of "interests in securities" in the Code to make this clear. The amendments to the Code set out in the Response Statement came effective on 13 June 2022.

Rounding out this quarter's coverage is the release of [PCP 2022/2](#) by the **Takeover Panel** for public comment. This consultation paper sets out several proposed amendments to the presumptions of the definition of "acting in concert" in the Takeover Code. Among the proposed changes is raising the threshold in what is currently presumption (1) of the definition of "acting in concert" (which relates to companies) from 20% to 30%, so as to align it with the threshold in the Code's definition of "control". The comment period is open through 23 September 2022.

That's it for this Q2 foreign direct investment roundup but the UEFA Women's Euro Tournament goes through to 31 July - so enjoy the games!

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