Roundup of Q4 2021 Foreign Direct Investment

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Changes and extensions to foreign direct investment rules in the fourth quarter of 2021 continued to be fueled by Covid-19 as the Omicron variant made its debut in November.

A few countries, **France, Italy**, and **Spain** have extended their existing FDI restrictions that were put in place in 2020 as temporary measures through to 31 December 2022. **France** has also now included restrictions in renewable energy. The technologies involved in the production of renewable energy are to be included in the list of critical technologies that are subject to FDI control. R&D activities involving these new technologies will as a result soon fall within the scope of FDI control. This new restriction became effective 1 January 2022.

Germany made amendments to its definition of "critical infrastructure" which impact several sectors: energy, water, nutrition, IT, telecommunications, health, finance, insurance and transport and lower applicable thresholds that issuers must meet in order to be considered "critical". Germany's FDI regime has a mandatory clearance obligation for investments of 10% or more by non-EU/ETA investors in "critical infrastructure" companies.

Just before the Christmas holiday, the **Polish** parliament adopted a law introducing restrictions on non-EEA holdings in in Media issuers. While this has yet to be signed and entered into force, the amending law introduces new provisions under which no TV broadcasting license can be granted to a service provider in which more than 49% of shares is held (directly or indirectly) by a foreign entity unless the entity's registered office or permanent residence is located in an EEA country.

Early in the fourth quarter, **India** increased its FDI limit in telecom services to 100% from the previous 49% with immediate effect.

Before heading out for the Christmas holiday, **Australia** made broader reforms to its Security of Critical Infrastructure Act (SOCI Act). Coverage was expanded from 4 sectors to 11 and 22 asset classes. The Act applies to communications, data storage or processing, defense, energy, financial services and markets, food and grocery, health care and medical, higher education and research, space technology, transport, water, and sewage. And, as of this writing, we are still waiting for Australia's Treasury to publish the results of their evaluation of their FDI reform efforts.

Be sure to look for the first quarter of 2022 update in March.

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