



TECH TAKES THE HELM: HOW EMERGING TECHNOLOGIES HAVE REWRITTEN FDI REGIMES



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TechREG CHRONICLE APRIL 2026

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By Christine Graham, Tom Wright & Peter Vojnits

The landscape of foreign direct investment screening has undergone a profound transformation over the past decade. What was once a relatively niche area of international law – focused on industries traditionally associated with national security such as military and defence – has been fundamentally transformed by the rapid emergence of new technologies. Like many jurisdictions, the developments in these technologies such as artificial intelligence, semiconductors, quantum computing, and advanced data infrastructure, have prompted both the European Union and the United Kingdom to reconsider the scope of their FDI screening frameworks. This article examines the evolution of FDI regimes on both sides of the Channel. It considers how the growing strategic importance of emerging technologies has shaped legislative and policy developments in both the EU and the UK, and looks ahead to what practitioners and investors may expect in the coming years.

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01

THE TECHNOLOGY IMPERATIVE: WHY FDI SCREENING HAD TO CHANGE

Until relatively recently, FDI screening – in much of Europe in particular – was largely restricted to domestic sector authorization requirements or similar mechanisms. However, since the late 1990s, foreign investment globally has become far more prevalent, with technological advances fueling a rapid increase in transnational economic integration and globalization. In 1990, for example, the quantum of foreign investment flowing around the world was six times less than in 2000, just a decade later.² In Europe, foreign investment peaked in 2007, with similar levels reached again in 2015.³

This uptick in foreign investment and globalization provided opportunities but also risks for governments throughout Europe and elsewhere. European companies developing emerging technology were a target for foreign investors and there were concerns with investors linked to foreign governments as shown in the sale of Syngenta, a Swiss agricultural technology company, to state-owned ChemChina.⁴

By the late 2010s, it had become apparent that the non-centralized screening of investments was an inadequate security mechanism at a time when political tensions were rising and emerging technologies were rapidly becoming critical to economic sovereignty and military capability. Ownership of emerging technology was no longer merely a commercial matter – it was a question of national security.

02

THE EVOLUTION OF THE EU FDI SCREENING FRAMEWORK

Following a wave of foreign and state-backed acquisitions of notable European companies, in February 2017 the governments of France, Germany, and Italy voiced concern about third-country investments. In particular, they were concerned about non-EU state-owned companies acquiring critical assets and emerging technologies from European companies, without any reciprocity in terms of opportunities for European investors in those acquiring jurisdictions. At that time, there were only twelve (12) EU Member States with some form of screening mechanism.⁵ Amidst heightened geopolitical uncertainty, the French, German, and Italian governments looked to the European Commission (the “Commission”) to take action to protect Member States and the EU’s internal market. What followed is a move towards greater protectionism in the EU through closer scrutiny of FDI and thus marked a shift away from the bloc’s traditional open-investment policy.

In May 2017, the Commission published a paper reflecting on the risks and opportunities presented by globalization.⁶ Rapid technological advances were at the heart of this evolution, and the Commission recognized that the EU and Member States needed to adapt both to harness the opportunities and to mitigate the risks.

On September 13, 2017, the Commission published a proposal for the screening of FDI coming into the EU, which formed the basis for the mechanism that was ultimately adopted. The proposal included a cooperation mechanism and the Commission’s ability to issue non-binding opinions, to which the screening Member State would have to give due consideration.

Jean-Claude Juncker (then President of the Commission) highlighted the importance of an EU-level FDI screening mechanism in his 2017 State of Union address:

“Let me say once and for all: we are not naïve free traders. Europe must always defend its strategic interests. This is why today we are proposing a new EU framework for investment screening. If a foreign, state-owned, company

2 World Investment Report 2025: International investment in the digital economy | UN Trade and Development (UNCTAD).

3 World Investment Report 2025: International investment in the digital economy | UN Trade and Development (UNCTAD).

4 Briefing European Parliamentary Research Service.

5 Austria, Denmark, Germany, Finland, France, Latvia, Lithuania, Italy, Poland, Portugal, Spain, and the United Kingdom. (State of the Union 2017 - Trade Package: European Commission proposes framework for screening of foreign direct investments).

6 Reflection Paper on Harnessing Globalisation, COM(2017) 240.

wants to purchase a European harbour, part of our energy infrastructure or a defence technology firm, this should only happen in transparency, with scrutiny and debate. It is a political responsibility to know what is going on in our own backyard so that we can protect our collective security if needed.”

Following tripartite dialogue between the Commission, the European Parliament, and the Council of the European Union, the EU FDI Screening Regulation was adopted in March 2019 and entered into force on October 11, 2020 (the “EU FDI Regulation”).⁷ The cooperation mechanism empowered Member States and the Commission to exchange information on investments that may present national security or public order risks. The EU FDI Regulation was intended to increase transparency, enable early warning of potentially problematic investments, and foster a more coordinated approach to FDI screening across the EU, while respecting Member States’ sovereignty in making final decisions on investments in their territories.

The EU FDI Regulation identified several emerging technologies as being critical to national security and thus warranting heightened scrutiny – including in relation to artificial intelligence, robotics, semiconductors, cybersecurity, aerospace, defense, energy storage, quantum and nuclear technologies, nanotechnologies, and biotechnologies. Such technologies have attracted in-depth scrutiny, in particular for transactions relating to semiconductors, artificial intelligence, robotics and, more broadly, ICT.⁸

The screening mechanism established under the EU FDI Regulation is a system that coordinates informationsharing among Member States regarding foreign direct investment. The Commission is not a screening authority itself, with this competence ultimately resting with the Member States. However, the Commission has the right to issue nonbinding opinions on specific transactions, especially when EUwide interests are at stake. Since its inception, the mechanism has been used relatively frequently, with 477 notifications made in 2024 and 488 in 2023.⁹

Importantly, however, the EU FDI Regulation stopped short of obliging Member States to implement domestic screening regimes, leaving significant gaps in coverage. The gaps became increasingly problematic as the geopolitical landscape changed dramatically. Supply chain weaknesses were exposed by the COVID-19 pandemic, emphasizing Europe’s dependency on imports for certain goods. Major conflicts at and near the EU’s borders heightened the focus on national security and the resilience of infrastructure. Governments were also more alive to the growing risks presented by foreign states using investments and economic dependencies as leverage. As a result, the EU FDI Regulation very quickly became outdated.

The Commission presented a comprehensive response package to these new challenges through its 2023 Economic Security Strategy.¹⁰ The Strategy aimed to create a comprehensive approach to identifying and managing risks in the technological and geopolitical environment. It focused on technology security, technology leakage, supply chain vulnerabilities, critical infrastructure, and economic dependencies. This technology-focused dimension was sharpened further in the Commission’s Recommendation on critical technology areas for the EU’s economic security, which identified advanced semiconductors, artificial intelligence, quantum technologies, and biotechnologies as critical areas requiring urgent risk assessment.¹¹

In parallel, reports from the OECD¹² and the European Court of Auditors,¹³ published in 2022 and 2023 respectively, highlighted structural weaknesses that limited the effectiveness of the EU FDI Regulation, in particular, as regards critical assets and technologies.

Against this backdrop, it became clear that the EU’s approach to FDI had to be recalibrated. In February 2026, following months of debate between the European institutions, the text of a revised EU FDI Regulation was published (the “Revised EU FDI Regulation”).¹⁴ The Revised EU FDI Regulation aimed to close the regulatory gaps of the EU FDI Regulation by requiring all Member States to implement a mandatory screening mechanism with a

7 Regulation (EU) 2019/ 452 of the European Parliament of the Council – of March 19, 2019 - establishing a framework for the screening of foreign direct investments into the Union.

8 Fifth Annual Report on the screening of foreign direct investments into the Union.

9 Fifth Annual Report on the screening of foreign direct investments into the Union.

10 2023 Economic Security Strategy.

11 Commission’s subsequent Recommendation of 3.10.2023 on critical technology areas for the EU’s economic security for further risk assessment with Member States.

12 OECD, Framework for Screening Foreign Direct Investment into the EU: Assessing effectiveness and efficiency (2022).

13 European Court of Auditors, Screening foreign direct investments in the EU (2023).

14 Revised EU FDI Regulation.

common minimum sectoral scope and a strengthened two-phase review process. As of March 2026, 25 of the 27 Member States have already implemented a domestic FDI screening mechanism.¹⁵ Consistent with the EU's increasing focus on emerging technologies over the past decade, one of the common sectors to be screened by all Member States is hyper-critical technologies, including artificial intelligence, quantum technologies, and semiconductors.

Emerging technologies have played a key role in driving globalization and the increased integration of global economies, and it is unsurprising that European governments are keen to have oversight over who controls such technologies within their jurisdictions. The same concerns and determination to control investment into these key sectors of the economy can be seen in the UK.

03

THE UK'S NATIONAL SECURITY AND INVESTMENT ACT 2021

Before the UK implemented its own FDI screening mechanism, the UK Government had to rely on the powers conferred on it by the Enterprise Act 2002 ("EA02"). The EA02 allowed the UK Government to screen transactions where there were specified "public interest considerations"¹⁶: (i) national security, (ii) media plurality, (iii) accurate and free press, (iv) stability of the UK financial system, and (v) the capability to combat and mitigate public health emergencies. However, these powers were limited to mergers and acquisitions which (subject to very limited exceptions) met certain turnover or share of supply thresholds within the limits of the UK competition regime. Indeed, as of 2025, the UK Government had used these powers to intervene in transactions on only twenty-five (25) occasions. These included proposed acquisitions of cutting-edge UK technol-

ogy companies, including manufacturers of graphene and semiconductors.¹⁷

The limitations of the EA02's public interest regime generated concerns regarding its effectiveness for managing broad national security risks, in particular where the investment was in sectors that were out of scope. As with the EU, the importance of emerging technologies for critical infrastructure and heightened geopolitical tensions caused alarm in the UK. Such concerns were raised frequently in Parliament when politicians first debated the bill that would eventually become the UK's investment screening regime.¹⁸

The National Security and Investment Act ("NSIA") was introduced as a bill in November 2020 and became law six months later. Its mandatory screening regime entered into force on January 4, 2022. The NSIA was an historic piece of legislation, as it created for the first time a standalone UK investment screening mechanism that expanded the UK Government's powers to intervene in a far broader range of sectors, without having to engage with UK merger control rules. Moreover, unlike the UK's merger control regime, transactions in scope of the NSIA's screening mechanism were subject to a mandatory and suspensory notification obligation and would require clearance before they could be completed.

The UK's regime was also distinct in some ways from the EU FDI Regulation, notably that it captured domestic as well as foreign investments. Since its implementation in January 2022, the regime has attracted a steadily increasing number of notifications per annum, with total notifications rising from 866 in FY 2022/23¹⁹ to 1,143 in FY 2024/25.²⁰

The current NSIA regime includes the mandatory screening of certain transactions where the target carries on activities in the UK in one of seventeen (17) specified sectors. Emerging technologies that are vital for the UK's national security, public order and economic resilience sit at the heart of most of these sectors - notably Advanced Materials, Advanced Robotics, Artificial Intelligence, Computing Hardware, Communications, Cryptographic Authentication, Data Infrastructure, Military and Dual-Use, Quantum Technologies, Satellite and Space Technology and Synthetic Biology.

15 Croatia has enacted FDI legislation, but its screening regime has yet to be fully implemented. Cyprus' screening regime is due to be implemented in April 2026.

16 Section 58 EA02.

17 Shanghai Kington Technology Limited/Perpetuus and NVIDIA/Arm.

18 <https://hansard.parliament.uk/commons/2020-11-17/debates/19A9B0C7-AFEC-4C25-8E47-5AD68BA4F127/NationalSecurityAndInvestmentBill>.

19 [National Security and Investment Act 2021: Annual report 2022-23 \(HTML\) - GOV.UK](#).

20 [National Security and Investment Act 2021: Annual Report 2024-25 \(HTML\) - GOV.UK](#).

Since the implementation of the regime, emerging technologies have attracted significant national security scrutiny from the UK Government. In FY 2024/25, transactions involving Advanced Materials accounted for 27% of the transactions “called-in” for an in-depth review, and Artificial Intelligence was a feature in more than 20% of “call-ins”.²¹ Furthermore, there have also been a number of high-profile technology deals blocked or cleared subject to remedies, notably in the semiconductor and chip design sectors.²²

Reflecting the need for investment screening to keep pace with technological advances, the NSIA’s sensitive sectors are also undergoing a refresh. In July 2025, the UK Government launched a 12-week consultation on proposed amendments to the scope of the NSIA mandatory notification regime.²³ Following the consultation, in March 2026, the UK Government decided that the regime will be updated with a new sector focused on Semiconductors, plus further amendments to existing sectors including Artificial Intelligence, Communications and Data Infrastructure.²⁴

The forthcoming amendments to the UK’s mandatory screening regime are arguably less fundamental than the changes made to the EU FDI Regulation described above. Nevertheless, they demonstrate that governments are having to keep their screening regimes under constant review to take account of technological developments as well as the evolving geopolitical climate.

04 LOOKING AHEAD

With the completion of amendments in 2026, it is unlikely – but not impossible – that the UK and the EU will seek further changes to their FDI screening regimes in the immediate future. However, the pace of technological advancements for critical infrastructure and other national security assets means that it is unlikely that these regimes will remain in exactly their current state beyond the medium term. For in-

stance, while the protection of personal data is within scope of some European FDI screening regimes, it is not caught by all, and it is conceivable that such data could become widely protected in future amendments to screening mechanisms.

Furthermore, the efforts to manage and mitigate these risks are extending beyond the imposition of investment screening mechanisms. In the EU, the focus is turning towards rebuilding Europe’s critical industrial base. In March 2026, the Commission presented its proposal for the Industrial Accelerator Act (“IAA”),²⁵ a legislative proposal to strengthen the EU’s industrial base and stimulate demand for “Made in EU” products and lowcarbon technologies. The proposal includes new value-add conditions for foreign investments of more than €100 million in “emerging strategic sectors” (such as batteries, electric vehicles, photovoltaics, and critical raw materials) where the third country of the foreign investor controls more than 40% of global manufacturing capacity. The IAA aims to strengthen European production capacities and boost demand for European-made clean technologies and products to support long-term economic growth, prosperity, and security in the EU. Alongside the Revised EU FDI Regulation, the IAA will function as an additional layer of regulation to protect the technology interests of the EU economy.

As technologies develop and global dependencies shift, further reforms – both to investment screening mechanisms and via the implementation of standalone protectionist measures – are likely to tackle the risks of digitalized globalization and to exploit its opportunities. Much has changed in this regulatory space over the last ten years, and who knows how different it will look ten years from now. ■

“Furthermore, the efforts to manage and mitigate these risks are extending beyond the imposition of investment screening mechanisms

21 [National Security and Investment Act 2021: Annual Report 2024-25 \(HTML\) - GOV.UK.](#)

22 [Newport Wafer Fab/Nexperia \(2022\)](#), [HiLight Research/SiLight \(Shanghai\) Semiconductor \(2022\)](#), [Pulsic Limited/Super Orange HK Holding \(2022\)](#).

23 [Consultation on the NSI Act Notifiable Acquisition Regulations - GOV.UK.](#)

24 [Greater certainty for British businesses as national security investment rules refined - GOV.UK.](#)

25 [Regulation of the European Parliament and of the Council establishing a framework of measures for the acceleration of industrial capacity and decarbonisation in strategic sectors and amending Regulations \(EU\) 2018/1724, \(EU\) 2024/1735 and \(EU\) 2024/3110, COM\(2026\) 100.](#)

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