

THE SWEDISH FOREIGN DIRECT INVESTMENT REGIME

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ESTABLISHMENT GUIDE

This guide provides an overview of the process for the Swedish foreign direct investment (“FDI”) regime.

THE SWEDISH FDI REGIME

Since 1 December 2023, Sweden has had a law in force on foreign direct investments (Sw. Lag (2023:560) om granskning av utländska direktinvesteringar) (“FDI Act”). The FDI Act has established a notification requirement which covers a wide range of mergers, acquisitions, and other types of investments in Sweden. The screening authority is the Inspectorate of Strategic Products (“ISP”).

WHAT TYPES OF INVESTMENTS ARE COVERED?

The definition of an investment in the law is broad and includes various means by which an investor can gain influence in a target company. For investments in limited liability companies, there are specific investment thresholds. The FDI Act covers both direct and indirect investments that result in the acquisition of voting rights equal to or exceeding 10%, 20%, 30%, 50%, 65%, or 90%, including carve-outs, in companies conducting protected activities. It is worth noting that, unlike the criteria observed in merger control procedures, there are no general turnover or deal value thresholds. Additionally, the FDI Act does not necessitate a transfer of control to the buyer; rather, it is sufficient to acquire, for instance, a non-controlling minority holding of 10% of the voting rights in order to trigger the mandatory notification obligation under the FDI Act. For groups, the aggregate shareholding in the target company is the basis for determining whether a threshold is exceeded, or whether the investment





THE RIKSDAG (SWEDISH PARLIAMENT),
STOCKHOLM, SWEDEN

results in the group otherwise having a direct or indirect influence on the management of the target company. Furthermore, other types of influence can also trigger a filing obligation. For instance, the notification obligation may be triggered if the investor becomes directly or indirectly involved in the management of the target company, such as through board representation or extensive veto rights.

Furthermore, it should be noted that the Swedish FDI regime also covers:

- *a renewed investment by an existing owner (exceeding a threshold),*
- *intra-group transactions,*
- *investments in both private and listed companies,*
- *so-called “greenfield” investments, i.e., where the future operations of the company are to conduct protected activities, and*
- *asset deals.*

Swedish and EU investors must notify investments

The notification obligation applies to anyone who intends to invest directly or indirectly in an activity worthy of protection, irrespective of the investor's country of residence or nationality. In other words, Swedish investors and investors from other EU countries are also subject to the notification obligation.

ISP's substantive assessment

The assessment of risks is based on the target company's activities, the characteristics of the investor, and whether the transaction may have a detrimental impact on Sweden's security, public order or public safety.

WHAT INVESTMENTS ARE COVERED?

The FDI Act applies to investments in protected activities in limited liability companies, European companies, or partnerships, economic associations and foundations with registered offices in Sweden. The law also applies to investments in protective activities carried out in Sweden in other legal entities. According to the FDI Act, the law applies to companies in all sectors engaged in the following activities:

- *Essential services.*¹
- *Security-sensitive activities as set out in the Protective Security Act.*
- *Activities related to critical raw materials, e.g. investments in companies that prospect for, extract, enrich or sell critical raw materials, metals or minerals that are strategically important for Sweden.*
- *Processing large amount of sensitive personal data or location data.*
- *Manufacturing, developing, conducting research into or supplying military equipment or providing technical support for military equipment*
- *Manufacturing, developing, conducting research into or supplying dual-use products or supplying technical assistance for such products, and*
- *Emerging technologies and other strategic protected technologies.*

However, these categories cover activities in a wide range of sectors. Sectors largely covered by the FDI regime:

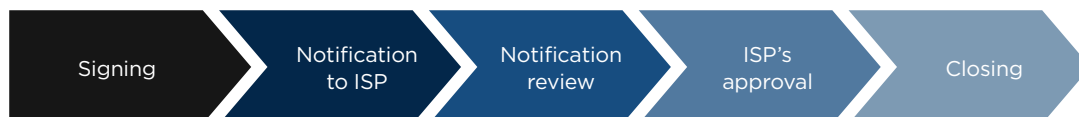
- *Food and agriculture*
- *Pharmaceuticals and medtech*
- *Schools and education*
- *Healthcare and social care*
- *The mining industry*
- *Nuclear power*
- *Space*
- *Battery industry*
- *Communication infrastructure*
- *Water, sewerage and waste*
- *Energy*
- *Construction of infrastructure*
- *Finance and insurance*
- *Public and specialized transport*
- *Road transport, shipping and aviation*
- *Security-sensitive operations*
- *The defense industry*
- *Property management in relation to vital societal functions*

The FDI Act is thus applicable to a wide range of activities across various sectors. The sectors covered by the legislation are partly governed by government and agency regulations, which may be subject to amendments in the future. In each individual case, an assessment must be made to determine whether the business operations are covered.



¹ [Elaborated on in the Swedish Civil Contingencies Agency's regulations](#)

TRANSACTION TIMELINE



THE PROCESS OF FILING

The investor is responsible for notifying the screening authority. However, the target company is obliged to inform the buyer that the transaction is notifiable and to provide the investor with necessary information regarding the applicability of the FDI Act. The screening authority is the ISP.

The filing is submitted through a notification form. Upon receiving a complete notification, ISP will decide within 25 working days, in Phase I, either to take no further action or to initiate an in-depth investigation, a Phase II-investigation. If the ISP chooses to conduct an in-depth review, it must conclude the assessment within three months (or extendable to six months under specific circumstances), after which it will make a decision to either sanction the investment, impose conditions, or prohibit it entirely.

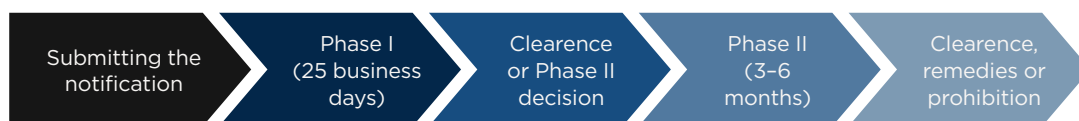
The filing obligation is mandatory, and an investment or transaction cannot be completed

before it has been approved by the ISP. Typically, a filing is submitted after an agreement has been signed, but can also be submitted based on other types of agreements such as a letter of intent, as long as the investment is imminent. Similar to merger control, the ISP can approve investments under certain conditions and reservations related to the target company's activities and the investor's behaviour.

THE RISK OF SANCTIONS AND POSSIBILITY TO APPEAL

Administrative fines of up to SEK 100 million can be imposed for violations, including failure to notify. Decisions can be appealed to the government or to the administrative court, depending on the type of complaint. The ISP's decision to prohibit an investment may be appealed to the Swedish government. Other decisions, including administrative fines, may be appealed to the Stockholm Administrative Court.

ISP'S REVIEW PROCESS



USEFUL CONTACTS

GOVERNMENT AGENCIES

Inspectorate of Strategic Products

(Inspektionen för strategiska produkter)

Box 6086, SE-171 06 Solna

+46 8 406 31 00

www.isp.se

Swedish Civil Defence and Resilience Agency

(Myndigheten för samhällsskydd och beredskap)

SE-651 81 Karlstad

+46 771 240 240

www.mcf.se



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