

This briefing was produced by the Institute of Directors Ireland in association with McCann FitzGerald LLP for use in Ireland. McCann FitzGerald LLP is one of Ireland's premier law firms, providing a full range of legal services to many of Ireland's leading businesses. Clients include international organisations, major domestic concerns, emerging Irish companies and clients in the State and semi-State sectors.

Briefing: Irish Foreign Investment Screening Regime Now Operational

Following several postponements, the Irish foreign investment screening regime has now entered into full force. The legislation providing for the regime, the Screening of Third Country Transactions Act 2023 ("**Irish FDI Act**"), was enacted on 31 October 2023 and commenced in full on 6 January 2025.

In preparation for commencement of the Irish FDI Act, the Department of Enterprise, Trade and Employment ("**Department**") published the final version of its guidance on the regime, the Guidance for Stakeholders and Investors ("**Guidance**"), and also published an amended version of the notification form on 3 January 2025.

The key elements of the new Irish foreign investment screening regime are therefore now in place.

In this briefing, we provide a short overview of the new regime and summarise several notable changes in the final version Guidance. For a more in-depth look at the regime, please consult our [earlier briefing](#).

Overview of the regime

The Irish FDI Act sets out a new mandatory notification regime, whereby parties are required to notify qualifying foreign acquisitions of Irish targets (whether assets or undertakings) active in particular sectors to the Minister for Enterprise, Trade and Employment ("**Minister**"). A standstill obligation also applies, meaning that a deal that is caught by the mandatory notification regime must be noticed and cleared before completion, failing which criminal penalties may apply.

Briefing prepared for Institute of
Directors Ireland | Irish Foreign
Investment Screening Regime Now
Operational

The thresholds for mandatory notification under the Irish FDI Act may catch many foreign acquisitions of Irish targets, with:

- investments from 'friendly' jurisdictions such as the UK, US and Canada being potentially within scope,
- a low threshold for deal value (€2 million in the absence of an amount prescribed by the Minister), and
- potential application where the transaction relates to or impacts upon have broadly defined 'sensitive' sectors.

The mandatory notification regime sits alongside a broad power of the Minister to call in for review deals that are not within the scope of the mandatory regime.

As set out within the Irish FDI Act, the Minister has wide-ranging powers, including to prohibit, or impose remedial measures, where he or she considers that a transaction may present risks to the security or public order of the State.

Further detail on the notification thresholds and timing for clearance are provided in our [earlier briefing](#).

Changes in the final Guidance

The final version of the Guidance provides clarification on the scope of the sensitive sectors as well as other notable changes on jurisdictional thresholds and procedure.

A. Critical Infrastructure

The Guidance continues to confirm that this sector should be interpreted primarily by reference to whether the target's activities correspond to a category of entity in Annex 1 to the [EU's Critical Entities Resilience Directive \(2022/2557\)](#). However, the Guidance now also refers to critical financial infrastructure, which means the following categories of financial infrastructure may be within scope of the mandatory notification regime: payment systems and payment institutions, electronic money institutions, market operators and investment firms that operate a multilateral trading facility or organised training facility, central securities depositaries, amongst others.

The Guidance also adds that investors and parties to transactions dealing with cybersecurity issues should be cognisant of entities within scope of Directive (EU) 2022/2555, which concerns measures for a high common level of cybersecurity across the Union.

Briefing prepared for Institute of
Directors Ireland | Irish Foreign
Investment Screening Regime Now
Operational

B. Critical Inputs

While earlier versions of the Guidance focused on raw materials falling within this sector, the Guidance now also references medicines for human use that are essential for the proper functioning of the EU healthcare system and whose shortage would lead to an interruption in treatment and thus serious harm to patients. The Guidance directs undertakings to the "Union list for critical medicines" which provides guidance and should be consulted in this regard.

C. Third Country Undertaking

The screening mechanism in the Irish FDI Act applies to transactions and acquisitions by 'third country undertakings' and mandatory notification may be required where the direct investor or the ultimate owner of the investor is a third country undertaking. The Guidance now clarifies that notification may be required even in transactions where the direct acquirer meets the definition of a third country undertaking under the Act but is ultimately controlled by an EU/EEA/Swiss parent (i.e. not meeting the definition of a third country undertaking). This highlights the importance of the choice of acquisition vehicle for certain transactions.

D. Right to be Heard

The Guidance contains new references to the right to be heard, which is provided for in section 21 of the Irish FDI Act. It states that, in addition to the information provided via a notification form, a notifying party may also make an additional submission to the Minister relating to their application. This is to be welcomed, as the existing notification form does not specifically allow the notifying parties to provide their views on the likelihood of national security concerns.

Next Steps

The final version of the Guidance, notification form and other materials can be accessed on the Department's website. Parties which have upcoming or yet-to-close transactions with an Irish element should familiarise themselves with the new regime and consider whether a mandatory notification is required.

© McCann FitzGerald LLP
and IoD Ireland 2025. All
rights reserved.

This document is for general
guidance only and should not
be regarded as a substitute for
professional advice. Such
advice should always be taken
before acting on any of the
matters discussed.

Further information is available from:



Laura Treacy
Partner
+353 1 511 1595
Laura.Treacy@
mccannfitzgerald.com



Stephen Ryan
Of Counsel
+353 1 511 1560
Stephen.Ryan@
mccannfitzgerald.com

Alternatively, your usual contact in McCann FitzGerald LLP will be happy to help you further.