

New European Regulation on the Control of Foreign Investments



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In order to help Europe defend its strategic interests and preserve European security and public order, Regulation 2019/452 of 19 March 2019, which came into force on 10 April 2019, sets a framework for foreign direct investment in the Union¹.

This text will automatically apply in the Member States beginning 11 October 2020. The new framework:

- creates a cooperation mechanism whereby Member States and the European Commission will be able to exchange information and raise concerns about specific investments;
- allows the European Commission to issue opinions when an investment poses a threat to the security or public order of more than one Member State or may be detrimental to a project or program in which the whole Union has an interest, such as Horizon 2020 or Galileo3;
- encourages international co-operation in filtering investments, including the sharing of experiences, good practices and information on issues of common interest;
- sets certain requirements for Member States wishing to maintain or adopt a filtering mechanism at a national level, as the Member States will ultimately decide whether or not to authorize a specific investment transaction in their territories; and
- takes into account the need to act within short deadlines that meet companies' requirements while maintaining strict conditions of confidentiality.

Member States will have to notify the European Commission of their national investment screening mechanisms.

By 11 October 2020, the Commission and the Member States will have to take the necessary measures to prepare to apply the regulation, particularly by establishing official contact points, secure channels for the exchange of information and procedures for managing foreign direct investment issues by continuing to co-operate with the States concerned.

The following principles have to be respected: the transparency of the procedure, the principle of non-discrimination towards third States and the possibility of recourse.

The objective thus pursued is ultimately to gradually bring about common practices and positions among States within the European Union, while allowing the control procedures to still differ widely among States, as long as such procedures exist.

1. <https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=uriserv%3AOJ.LI.2019.079.01.0001.01.FRA&toc=OJ%3AL%3A2019%3A079I%3ATOC>
2. <https://ec.europa.eu/programmes/horizon2020/en>
3. <https://galileognss.eu/>