



## Coronavirus: Commission issues guidelines to protect critical European assets and technology in current crisis

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The European Commission today issued [guidelines](#) to ensure a strong EU-wide approach to foreign investment screening in a time of public health crisis and related economic vulnerability. The aim is to preserve EU companies and critical assets, notably in areas such as health, medical research, biotechnology and infrastructures that are essential for our security and public order, without undermining the EU's general openness to foreign investment.

President of the European Commission Ursula **von der Leyen** said: *"If we want Europe to emerge from this crisis as strong as we entered it, then we must take precautionary measures now. As in any crisis, when our industrial and corporate assets can be under stress, we need to protect our security and economic sovereignty. We have the tools to deal with this situation under European and national law and I want to urge Member States to make full use of them. The EU is and will remain an open market for foreign direct investment. But this openness is not unconditional."*

Commissioner for Trade Phil **Hogan** said: *"We are facing an unprecedented public health crisis with deep consequences for the European economy. In the EU, we are and wish to remain open to foreign investment. In the current circumstances, we need to temper this openness with appropriate controls. We need to know who invests and for what purpose. The EU and its Member States have the right legal tools for that. Today's guidelines call upon Member States to use these tools to the fullest extent and will bring additional clarity on how to use our investment screening framework to prevent a sell-off of strategic EU assets in the current crisis."*

Under existing EU rules, Member States are empowered to screen foreign direct investments (FDI) from non-EU countries on grounds of security or public order. Protection of public health is recognised as an overriding reason in the general interest. As a result, Member States can impose mitigating measures (such as supply commitments to meet national and EU vital needs) or prevent a foreign investor from acquiring or taking control over a company. National FDI screening mechanisms are currently in place in 14 Member States. With the EU foreign investment screening regulation in force since last year, the EU is well equipped to coordinate control of foreign acquisitions done at the Member States' level.

Issuing its guidelines, the Commission calls upon Member States that already have an existing screening mechanism in place to make full use of tools available to them under EU and national law to prevent capital flows from non-EU countries that could undermine Europe's security or public order.

The Commission also calls on the remaining Member States to set up a fully-fledged screening mechanism and in the meantime to consider all options, in compliance with EU law and international obligations, to address potential cases where the acquisition or control by a foreign investor of a particular business, infrastructure or technology would create a risk to security or public order in the EU.

The Commission also encourages cooperation between Member States, as it comes to FDI screening cases where foreign investment could have an effect on the EU single market. Foreign acquisitions taking place now already fall under the EU FDI screening regulation, and could be reviewed under the cooperation mechanism established by the regulation, which will be fully operational as from October 2020.

On capital movements, the guidelines also recall under which specific circumstances free movement of capital, notably from third countries, linked to acquisitions of stakes may be restricted.

The Commission will also continue to follow closely developments on the ground and stands ready to discuss and ensure coordination on any foreign investment case with a larger European impact. Protection of the EU strategic assets will also be the subject of discussions between President **von der Leyen** and EU leaders in tomorrow's European Council videoconference.

## Background

The EU FDI Screening Regulation was adopted in March 2019. It puts in place for the first time an EU-level mechanism to coordinate the screening of foreign investments likely to affect the security and public order of the Union and its Member States. This mechanism is based on an obligation to exchange information between Member States and the Commission, as well as on the possibility for the Commission and Member States to issue opinions and comments on specific transactions. The application of this mechanism will start on 11 October 2020. The Commission and Member States are already cooperating with a view to adapt national screening mechanisms and ensure a full and swift implementation of the Regulation at EU and national levels.

## For more information

[Guidelines on FDI screening](#)

FDI screening framework: [Regulation](#), [Press release](#), [Factsheet](#)

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