

Non-U.S. Foreign Direct Investment Reviews

Skadden

Skadden has extensive experience with non-U.S. national security review processes involving foreign direct investments (FDI), including in Canada, the European Union, the U.K., France, Germany, Russia, Australia and Japan. We have counseled entities based in the U.S. as well as overseas — including purchasers, sellers, minority investors, financial institutions, private equity consortia and other institutional investors — in some of the largest and most complex international transactions.

We offer a holistic perspective on varying FDI control regimes worldwide. Whether a country imposes mandatory FDI notification requirements, allows for voluntary notification or a combination of both, Skadden provides clients with a globally coordinated and informed view of the regulatory risks and processes involved. We also guide companies on different countries' review priorities, from those that concentrate on national security and critical infrastructure concerns to others that emphasize economic impacts and industry-specific issues.

Our attorneys are well-versed in the notification processes and timelines associated with reviews, and we stay abreast of developments, trends and reform efforts impacting foreign investment controls in North America, Europe and Australia. As part of the firm's global platform, our team includes worldwide attorneys advising on FDI issues in various jurisdictions. Additionally, we have extensive experience managing the review processes in multijurisdictional contexts, where foreign buyers must obtain similar authorizations from multiple foreign national authorities or agencies, including the Committee on Foreign Investment in the United States (CFIUS).

United Kingdom

Skadden's U.K. national security team is uniquely equipped to guide clients on the country's developing foreign investment regime and the wide-ranging changes introduced by the National Security and Investment Act, impacting how transactions are planned, structured and implemented. Our team possesses strong experience in national security, transactional and antitrust matters. We have successfully worked with the government's Investment Security Unit in addressing national security considerations arising in complex, multijurisdictional transactions involving the U.K.

Our team in London has helped clients navigate their way through the U.K.'s new national security regime in transactions across a range of different sectors, including defense, aviation, transport, logistics, medical, data processing, IT services and cybersecurity.

France

Attorneys in Skadden's Paris office regularly advise foreign buyers on cross-border M&A transactions triggering French foreign investment control, and we have significant experience navigating reviews before the country's authorities. Our work obtaining French foreign investment clearance has increased as the country's mandatory preclosing approval scheme has expanded to cover key strategic sectors, critical infrastructure and technologies, and other economic security matters, in addition to national defense and public security.

We have negotiated mitigation agreements across a full range of industries, including defense, aeronautics, public security, telecommunications, transportation, energy, health care, IT services and technology. Our attorneys bring to each client's situation a strong understanding of the overall French institutional framework, including the interplay between the foreign investment office at the Ministry of the Economy and Finance, governmental agencies overseeing national defense and security matters, economic intelligence services, and other relevant ministries and agencies.

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Germany

Our attorneys in Germany have deep experience obtaining clearances under the country's robust and evolving FDI regime, which particularly emphasizes the review of transactions in the defense and other security-sensitive areas, and has grown through frequent expansions to include the medical device and high-tech industries. We are well-positioned to guide companies through the complex legal framework before, during and after the initiation of review proceedings in order to deliver the best approach to each transaction. Our Frankfurt-based lawyers frequently act before the Federal Ministry of Economic Affairs and Energy — the competent authority for German FDI reviews — in multijurisdictional transactions across all industries.

Australia

Although Skadden does not practice Australian law — or the law of any of its states — we routinely work closely with local counsel to navigate complex Australian Foreign Investment Review Board (FIRB) filings. Our attorneys have first-hand experience with contentious and high-profile reviews, and we draw on our work with Australian counsel to provide clients a globally integrated understanding of regulatory issues and procedures. With recent changes focused on national security businesses and a mandatory filing regime for investors with minority government ownership, Australia's FDI framework requires early consideration of potential FIRB filings in order to manage competitive deal dynamics and transaction timelines.

European Union

Our European team is well-equipped to manage potential complexities arising from cross-border transactions involving multi-foreign investment filings within the European Union. We help clients follow an integrated and coordinated approach to navigating the EU's framework for screening inbound foreign investments, which introduces the possibility of heightened disclosure obligations during the FDI filing processes in certain member states and potentially impacts the timing of national foreign investment reviews.

Japan

Our attorneys in Tokyo regularly advise foreign buyers on cross-border M&A transactions triggering Japanese foreign investment control, which the government recently tightened to include transactions involving Japanese targets engaged in "core sectors," such as dual-use technologies and cybersecurity. We have significant experience obtaining clearance from the Japanese FDI regulatory body.

Canada

While Skadden does not practice Canadian law, we regularly engage with local counsel on cross-border M&A transactions that trigger filings under the Investment Canada Act (ICA). Our attorneys have significant experience representing clients in transactions involving key areas of focus for the Canadian government, including sensitive technology and personal data. We often work with Canadian counsel to guide our clients as they navigate the risks associated with ICA filings and recent updates to the government's guidance regarding ICA reviews.

Russia

Our attorneys have extensive experience assisting our international clients with various matters relating to FDI regulatory clearance under Russia's Strategic Enterprises Law and Foreign Investments Law. We regularly provide in-depth analysis on whether FDI regulatory approvals are required and assist our clients through all stages of preparing an application and working with the regulatory authorities in Russia to obtain such approvals with no (or minimum) restrictive conditions.

In cases where the need for an approval may be triggered for a global transaction or internal restructuring, we advise our clients on options for best addressing Russian regulatory jurisdiction and concerns. In addition, in situations where it is unclear if a transaction requires FDI regulatory approval, we work with Russian authorities to obtain formal clarifications that no such regulatory approval is required. Our experience includes advising clients investing in the energy, industrials, telecommunications, health care and pharmaceuticals sectors. Since 2007, we have successfully obtained almost 60 competition and foreign investment control (strategic enterprises) clearances in Russia for our international clients.