



ACT ON THE SCREENING OF FOREIGN CORPORATE ACQUISITIONS IN FINLAND (172/2012, AS AMENDED BY 496/2014 AND 682/2020); INDICATIVE INSTRUCTIONS FOR PARTIES PREPARING APPLICATIONS/NOTIFICATIONS FOR CONFIRMATION

A precondition for the speedy processing of an application is that all information concerning the acquisition required for the confirmation process is submitted to the Ministry of Employment and the Economy in as complete a form as possible. The application must be submitted by the foreign owner (buyer), not the company being acquired. All applications/notifications will be processed by the Ministry urgently and statements from the National Authority Network chaired by the Ministry are requested for each case.

Foreign owners must provide the Ministry of Economic Affairs and Employment all necessary information on the target company subject to screening, foreign owner and transaction related to the confirmation of the corporate acquisition. When preparing a matter concerning a corporate acquisition, the Ministry will instruct applicants and request further information, to the extent that this is necessary.

These updated instructions issued by the Ministry take into account the information requirements specified in Regulation (EU) 2019/452 of the European Parliament and of the Council on establishing a framework for the screening of foreign direct investments into the Union (later referred to as the FDI regulation) and the amendments to the Act on the Screening of Foreign Corporate Acquisitions in Finland, which came into force on 11 October 2020 (172/2012, later referred to as the Act). These instructions are applied as of 11 October 2020, when the FDI regulation will be applied in full. Responses to information requests concerning the corporate acquisition presented on a separate form must also be attached to the application/confirmation, which will then be provided to other EU member states and the Commission as part of national notification.

Key pieces of information that the application/notification should always contain are discussed below (the list is not exhaustive; the applications/notifications are always assessed case-specifically):

1. SUBJECT

- **COVER PAGE.** The subject, the applicant's name and contact details of the applicant's agent should be given in a concise form on the cover page.

- **APPLICATION OR NOTIFICATION? OR BOTH AS LEGAL BASIS?**

- ✓ Does the case involve a corporate acquisition in the defence or security sector referred to in Section 4 of the Act requiring confirmation of acquisition in advance by the Ministry of Economic Affairs and Employment?
- ✓ If the case involves a non-defence industry corporate acquisition (functions vital to society) that does not fall under Section 4 of the Act, which are governed by Section 5 of the Act, the transaction notification may also be supplied after the final conclusion of the transaction. However, the notification is filed in advance in most cases, similarly to applications pursuant to Section 4 of the Act. In practice, the investigation of corporate acquisitions is similar in both cases mentioned above.

- **NON-DISCLOSURE.** As a rule, the Ministry processes applications/notifications and their appendices in confidence. The Ministry will not provide any information on the corporate acquisition to third parties during the investigation or prior to the acquisition being finalised.

2. KEY DETAILS CONCERNING THE CORPORATE ACQUISITION

- **BACKGROUND.**

Background to the acquisition must be provided in brief in the beginning of the application/notification; a summary of the key points relevant to the processing of the matter.

- **INFORMATION ON THE SHARES/BUSINESS TO BE ACQUIRED.** Provide the votes conferred by the shares purchased of the aggregate number of votes (as a percentage) or corresponding actual influence. Does the acquisition possibly target a certain business area of the target company?

- **LISTED COMPANY.** Is a listed company party to the acquisition? Could this be a public takeover offer? Taking any insider rules into account.

- **SHAREHOLDERS' AGREEMENT.** Provide any shareholding/contractual arrangements; provision of the shareholders' agreement as an appendix to the application/notification. These are key pieces of information, when the Ministry assesses the actual influence after the transaction has been completed.

- **PURCHASE PRICE.**

The FDI Regulation requires that the price of each foreign direct investment within the scope of application of the regulation and the national screening mechanism must also be notified. This information must thus also be included in the application/notification provided to the Ministry.

- **OTHER PENDING CORPORATE ACQUISITIONS.**

Does the buyer or another company within the same group have pending corporate acquisitions in other EU member states? Has another EU member state possibly declined a corporate acquisition application submitted by them previously?

- **FUNDING.**

According to the EU FDI Screening Regulation, foreign direct investments covered by its scope of application must also provide information on funding (e.g. financing vehicles within the same group, loans and information concerning the financier and the domicile of the

financier). If the actual financier of the corporate acquisition is a financial institution, whose domicile is outside EU/EFTA countries, for example, it should be given on the application/notification, as it is a key piece of information.

- **CURRENT CORPORATE ACQUISITION STATUS.**

Provide the planned date of the transaction and the phases of the acquisition (e.g. signing the preliminary agreement and finalising the acquisition) as well as demonstrating the maturity of the acquisition, so that the matter may be investigated by the Ministry in an official process.

- **TERMS OF APPROVING THE CORPORATE ACQUISITION.**

Provide any conditions for approving the transaction (the corporate acquisition requiring approval by a General Meeting, for example).

- **OTHER APPROVAL PROCESSES.**

Any other approval processes connected to the corporate acquisition must be stated on the application/notification. Typically, the approval processes of other national authorities, authorities in other **EU member countries and the EU Commission prior to the final approval of the ownership arrangement** must also be reported in connection with the application/notification:

- ✓ Other key national authorities may include e.g. other ministries (Government processing), the Finnish Competition and Consumer Authority and the Financial Supervisory Authority. Does the corporate acquisition also involve approval processes concerning direct foreign investments (corporate acquisitions) required by other EU member countries? A brief description must be provided.
- ✓ Does the corporate transaction also require approval processes by authorities in any other third countries (e.g. competition authorities)?

- **EU SUBSIDIES.**

Have the parties to the acquisition received any EU subsidies? Does the case involve a company that has participated in an EU funding programme and been subsidised through the programme? If yes, please specify the amount and source of the funding.

- **PUBLIC RELEASES.**

Provide any public releases concerning the matter (appended to the application) and e.g. a link to the websites of the parties to the acquisition with a public description of the corporate acquisition.

- **OTHER ADDITIONAL INFORMATION.**

Other pertinent additional information in terms of processing the matter can be appended to the application/notification case-specifically by e.g. linking to the most recent financial report.

3. INFORMATION ON THE APPLICANT (BUYER) (the foreign owner is always the applicant)

- **BASIC INFORMATION**

- ✓ The applicant's branch of industry (NACE code), year of establishment, turnover and number of employees.

- ✓ More detailed information on the corporation, if applicable; e.g. a report of background parties must be provided for private equity companies.
- ✓ Domicile/registered office of the applicant, register number and contact details; the company's extract from the register must be appended to the application/notification.
- ✓ Contact details for the applicant's legal representative (incl. e-mail address, telephone number) and any authorisation to represent the buyer in the acquisition.

- **OWNERSHIP STRUCTURE.**

Provide a description of the current ownership structure including the parent company (incl. the largest individual shareholders and their domiciles, if they own at least 10%). It must be clearly indicated in a diagram, e.g. a more detailed description of the corporation's internal ownership structure and shareholdings, incl. offshore companies and their owners and domiciles.

4. INFORMATION ON THE COMPANY BEING ACQUIRED (target company registered in Finland)

- **BASIC INFORMATION**

- ✓ The company's branch of industry (NACE code), year of establishment, turnover and number of employees.
- ✓ Target company domicile, business register ID and contact details.
- ✓ Current ownership structure; principal owner and parties owning at least 10 per cent of the enterprise and their domiciles.dw

- **LISTINGS.**

Provide any listings in the stock exchange and operations in other countries, in EU member countries in particular.

5. SPECIAL CONSIDERATIONS IN CORPORATE ACQUISITIONS IN THE DEFENCE AND SECURITY SECTORS

(Further information on corporate acquisitions in the defence and security sectors on pages 22–25 of Government proposal 103/2020 in Finnish/Swedish)

- **DESCRIPTION OF GOODS AND SERVICES.**

Applicants must provide a detailed description of individual products and services in a separate appendix.

- ✓ This refers to supplying or producing products and services critical to the statutory tasks of the Defence Forces or key Finnish authorities in terms of the security of society, such as the Border Guard, the Police, the National Emergency Supply Agency, Customs, the National Security Authority (NSA) or the Finnish Transport and Communications Agency (Traficom).

- **DUAL-USE GOODS.**

Provide a report of the production of any dual-use goods; does the export of these products require an export licence issued by the Ministry of Foreign Affairs, if the goods are exported to third countries? The assessment is based on EC Regulation 428/2009 on setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items and the regularly updated list of dual-use items that require export authorisation set out in Annex of the Regulation.

- **BUYER'S INTENTIONS AFTER THE TRANSACTION HAS BEEN COMPLETED.**

How can securing deliveries to the Finnish Defence Forces, for example, be guaranteed in the future regardless of the acquisition?

- **SUMMARY.**

An assessment of how the acquisition will affect national security, public order and security of supply.

DATES AND SIGNATURES

The application/notification and its appendices must be submitted on paper to the Government's mail distribution centre (address: Ritarikatu 2B, Helsinki) in Finnish or Swedish. Any appendices may also be submitted in English, if necessary. Please complete the form for notification to the EU in English.

Please write "YKA kiireellinen" on the envelope and address it to:

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FI-00023 Government

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