

QUESTIONS AND ANSWERS ABOUT THE ACT ON THE MONITORING OF FOREIGN CORPORATE ACQUISITIONS:

What are the aims of the act?

The starting point of the Act on the Monitoring of Foreign Corporate Acquisitions in Finland is a positive attitude to foreign ownership. Consequently, it is important to remember that the act was primarily intended as an instrument for monitoring foreign acquisitions.

In practice, the Act strives to safeguard key national interests, particularly those concerning national defence, security of supply and functions fundamental to society.

If necessary for a particularly vital national interest, the act makes it possible to restrict the transfer of influence over companies subject to monitoring to foreign owners.

In recent years, several other EU member states have also reviewed and updated their legislation on foreign investments. Member states have the right to restrict both the freedom to provide services and the freedom of establishment by measures that are justified by "public order and security".

What does a foreign owner mean?

Foreign owners are foreign natural persons who do not have a place of residence in the territory of an EU or EFTA member state, and foreign organisations and foundations that do not have a domicile in the territory of an EU or EFTA member state.

Foreign owners also include any organisation or foundation domiciled within EU or EFTA member states in which another foreign owner controls at least one tenth of the aggregate number of votes conferred by all shares in a limited liability company, or has a corresponding actual influence over the organisation.

In addition, in corporate acquisitions in the defence sector (including dual-use goods) a party that has a domicile in another EU or EFTA member state apart from Finland is considered as a foreign owner.

What kind of a company is viewed as critical to securing functions fundamental to society?

With a view to securing functions fundamental to society, the level of criticality may vary in accordance with the prevailing security policy situation in Finland. As a general rule, it is crucial that national security of supply can be ensured in any situation.

The act does not specify sectors or operations in the private or public sector where companies fall within the scope of monitoring. This is due to the fact that it is not possible to determine over longer term which sectors or operations will be critical to securing functions fundamental to society. The needs of national defence, public order and security and other critical functions of society are ultimately decided by the conditions prevailing at any one time. However, the fact that a company operates in a sector that plays a key role for security of supply or other vital functions does not necessarily mean that it is monitored under the act. For example, a great number of companies operate in the food supply or logistics sectors, do not have a key role for security of supply.

Indicative information about the act's scope of application is available from such sources as the public guidance documents on security of supply and national security regularly published by the government.

[Government Decision on the Goals of Security of Supply \(1048/2018\)](#)

[Security Strategy for Society \(Government resolution of 2.11.2017\)](#)

What does a defence industry enterprise mean?

A defence industry enterprise is a business undertaking that has produced or supplied, or still produces or supplies defence equipment or other services or goods important to military defence or dual-use goods for the Ministry of Defence, the Finnish Defence Forces or the Border Guard.

A business producing so-called dual-use goods referred to in the Act on the Control of Exports of Dual-Use Goods (562/1996) is also regarded as a defence industry enterprise.

When should an application/notification concerning a corporate acquisition referred to in the act be filed?

If the acquisition concerns a defence industry enterprise, filing an application in advance to the Ministry of Economic Affairs and Employment (MEAE) is compulsory. The act does not specify deadlines by which the Ministry can intervene in a defence sector acquisition if an application has not been filed with the Ministry.

If the acquisition concerns other than a defence sector company, a notification may also be submitted on a voluntary basis in advance. However, an advance notification can only be submitted in the phase immediately preceding the final conclusion of the acquisition (for example, a letter of intent that is conditionally binding to the parties has been signed).

The Ministry of Economic Affairs and Employment monitors foreign corporate acquisitions concerning monitored companies together with its partner network. The monitoring duty also entitles the Ministry to, on its own initiative, request information about acquisitions that are subject to monitoring under the act.

If the applicant feels that a monitored company could be critical for functions fundamental to society, it is recommended that they file a notification to the Ministry of Economic Affairs and Employment.

What are the ownership shares laid down in the act that make confirmation of the acquisition by the Ministry of Economic Affairs and Employment necessary?

If a foreign owner gains control of at least one tenth, one third or one half of the aggregate number of votes conferred by all shares in a company subject to monitoring, or a holding that otherwise amounts to actual influence over a company subject to monitoring, an application/notification must be submitted.

For a specific reason, the buyer may also be obliged to file an application/notification concerning a step to increase their influence in the monitored company that would not result in exceeding these limits taken after the processing of their application.

The amendments relevant to the definition of a corporate acquisition came into force on 1 July 2014.

Is a ready-made form available for the application/notification? What kind of information should be included in the application?

While the application/notification can be worded freely, it should contain key information needed for confirming the acquisition about the monitored company, the foreign owner and the acquisition.

The Ministry of Economic Affairs and Employment is entitled to keep requesting further information needed for processing the matter until the information provided is considered to be sufficient for making a decision. The Ministry must request information within three months of being notified of the corporate acquisition.

For an indicative check list of the information to be included in an application/notification, visit the [website of the MEAE](#).

How long will the confirmation process at the Ministry of Economic Affairs and Employment take?

All applications/notifications will be processed by the Ministry urgently.

The processing times vary case by case, depending on the complexity of the matter. When preparing a matter concerning a corporate acquisition, the Ministry will, to the extent that this is necessary, request statements from other authorities, and the applicant should also take the delay caused by this process into consideration. The circulation for comments usually takes some three weeks.

The delay of six weeks granted for further examination of the matter, and the three-month deadline for potentially referring the matter to the government plenary session, will only be calculated starting from the date on which the Ministry of Economic Affairs and Employment considers that all information needed for processing the matter has been received from the applicant.