

Brussels, 6 June 2025
(OR. en)

9517/25

Interinstitutional File:
2024/0017 (COD)

LIMITE

POLCOM 110
COMER 86
FDI 18
RELEX 673
DUAL USE 21
RECH 251
ENER 168
ENV 417
CODEC 702

'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)
No. prev. doc.:	5882/24 + ADD 1 + ADD 2 + ADD 3
Subject:	Proposal for a Regulation of the European Parliament and of the Council on the screening of foreign investments in the Union and repealing Regulation (EU) 2019/452 of the European Parliament and of the Council - Mandate for negotiations with the European Parliament

I. BACKGROUND/INTRODUCTION

1. On 25 January 2024, the Commission submitted to the Council a proposal for a Regulation of the European Parliament and of the Council on the screening of foreign investments in the Union and repealing Regulation (EU) 2019/452 of the European Parliament and of the Council¹, which aims to further strengthen the protection of EU security and public order by proposing improved screening of foreign investment into the EU.
2. The draft Regulation is based on Articles 114 and 207(2) of the Treaty on the Functioning of the European Union (TFEU) (ordinary legislative procedure).

¹ 5882/24 + ADD 1 + ADD 2 + ADD 3

3. The Data Protection Supervisor presented its Opinion on 25 March 2024².
4. The European Economic and Social Committee presented its Opinion on 15 July 2024³.
5. The Committee of Regions presented its Draft opinion on 24 January 2025⁴.
6. The Working Party on Trade Questions discussed the proposal at its meetings on 29 January 2024, 7 March 2024, 19 March 2024, 9 April 2024, 24 April 2024, 14 May 2024, 4 June 2024, 19 June 2024, 9 July 2024, 23 July 2024, 3 September 2024, 17 September 2024, 1 October 2024, 20 November 2024, 3 December 2024, 17 December 2024, 14 January 2025, 28 January 2025, 11 February 2025, 5 March 2025, 25 March 2025, 29 April 2025, 26 May 2025 and has agreed on the text in the Annex to this note.
7. In the European Parliament, the Committee on International Trade has the lead responsibility. Raphaël Glucksmann (S&D, France) was appointed rapporteur. The European Parliament adopted its negotiating mandate at the plenary session on 5 May 2025, and the proposal was referred to the Committee on International Trade to start interinstitutional negotiations.

II. CONCLUSION

8. The Permanent Representatives Committee is therefore invited to confirm agreement on the text of the mandate for negotiations with the European Parliament, as set out in the Annex to this note, to enable the Presidency to conduct those negotiations.
9. In accordance with the approach to legislative transparency endorsed by Coreper on 14 July 2020⁵, and in full consistency with Regulation (EC) 1049/2001 and the Council's Rules of Procedure, the text of the mandate thus agreed will be made public unless the Permanent Representatives Committee objects.

² 8210/24.

³ 12273/24.

⁴ OJ C, C/2025/290, 24.1.2025.

⁵ 9493/20.

2024/0017 (COD)

Proposal for a

REGULATION (EU) .../... OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

on the screening of foreign investments in the Union and repealing Regulation (EU) 2019/452 of
the European Parliament and of the Council

**(Changes compared to the Commission proposal are marked with bold italic and
strikethrough for deletions)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles
114 and ~~207~~**207(2)** thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

¹ OJ C , , p. .

² OJ C , , p. .

~~Having regard to the Opinion of the European Data Protection Supervisor of [date], which was consulted pursuant to Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council³,~~

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Investments in the Union contribute to its growth by improving its competitiveness, creating jobs and economies of scale, and bringing in capital, technologies, innovation and expertise.
- (2) Article 3(5) of the Treaty on European Union (TEU) specifies that the Union, in its relations with the wider world, is to uphold and promote its values and interests and contribute to the protection of its citizens. ~~Moreover, the Union and Member States have an open investment environment, which is enshrined in the Treaty on the Functioning of the European Union (TFEU) and embedded in the Union and its Member States' international commitments.~~
- (3) ***The Union and Member States have an open investment environment, which is enshrined in the Treaty on the Functioning of the European Union (TFEU) and embedded in the Union and its Member States' international commitments.*** However, under international commitments made in the World Trade Organization (WTO), the Organisation for Economic Cooperation and Development (OECD), ~~and the~~ ***and in*** trade and investment agreements concluded with third countries, it is possible for the Union ~~and/or its~~ Member States to restrict foreign direct investments (FDIs) on the grounds of security or public order, subject to certain requirements.

³ ~~Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39–98, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>)~~

- (4) ~~In accordance with~~ **Pursuant to** Regulation (EU) 2019/452 of the European Parliament and of the Council⁴ a framework has been set up for ~~the screening FDI into the Union by~~ Member States **of foreign direct investments in the Union by third-country investors**. In particular, that Regulation has set out a cooperation mechanism enabling Member States and the Commission to exchange information on ~~FDIs~~ **foreign direct investments** and raise concerns about risks to security or public order. That cooperation mechanism required the **host** Member State ~~where the FDI was planned or completed~~ to give due consideration to the comments issued by other Member States and the opinion issued by the Commission in its screening decision.
- (5) The framework set up ~~in accordance with~~ **pursuant to** Regulation (EU) 2019/452 has delivered on its objective to provide a formal mechanism for Member States and the Commission to exchange information on ~~FDIs~~ **foreign direct investments** and to raise awareness on cross-border risks to security or public order arising from certain ~~FDIs~~ **foreign direct investments**. **However, a new legislative instrument is needed to strengthen the efficiency and effectiveness of the screening of foreign direct investments and to ensure a higher degree of harmonisation across the Union.**
- (6) ~~However, a new legislative instrument is needed to strengthen the efficiency and effectiveness of Regulation (EU) 2019/452 and ensure a higher degree of harmonisation across the Union.~~
- (7) Certain investments **that are** not covered by Regulation (EU) 2019/452 could create risks for ~~the Union's~~ security and public order. **Those concern**, in particular, ~~this concerns~~ certain investments carried out in Member States that do not have a screening mechanism; investments carried out in Member States that **do** have a screening mechanism ~~whose~~ **but the scope of which** does not include certain sensitive investments; and investments that are made by ~~foreign~~ **third-country** investors through a subsidiary established in the Union and that potentially present the same risks to security or public order as ~~direct~~ investments made **directly** from third countries.

⁴ Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (OJ L 79I, 21.3.2019, p. 1, ELI: <http://data.europa.eu/eli/reg/2019/452/oj>).

- (8) A significant majority of Member States, but not all, have a legislative instrument in place that provides for a mechanism to screen ~~FDIs~~**foreign direct investments**. *The absence of a screening mechanism in certain Member States allows problematic foreign investors wanting to invest in sensitive assets to invest in those Member States as a gateway into the internal market. Furthermore,* in many Member States, national laws also extend ~~to~~ screening **to** intra-Union investments. Among the Member States, there are substantial differences as to the scope, thresholds and criteria used to assess whether an investment is likely to negatively affect security or public order. There are also differences in the screening processes. *This Regulation is aimed at reducing divergences on key elements of the screening mechanisms implemented at national level.* In certain Member States, the investment can be implemented before having received clearance with respect to the impact on security and public order. However, others require that the investment is only finalised after authorisation under the screening mechanism. Such divergences create a problem for the smooth functioning of the internal market. For example, they create an uneven playing field and increase compliance costs for investors seeking to notify transactions in more than one Member State. ~~This Regulation helps in Reducing divergences on key elements of the mechanisms implemented at national level.~~ *This divergence* is crucial to ensure predictability for investors ~~on~~**in respect of** the applicable national regimes and their characteristics, thereby reducing ~~the~~ associated compliance costs. This is all the more relevant considering the level of integration of **the** internal market, which may result in a single transaction impacting multiple Member States across the Union. It is for example possible that a transaction aimed ~~to~~**at** the acquisition of a target company in one Member State (**‘Union target’**) also affects **the** security and public order ~~in~~**of** another Member State, due to the supply chain structure or other economic elements connecting the **Union** target with other companies based in ~~a different~~**other** Member States. In order to address ~~these~~**such problems related to the integration of the** internal market ~~problems~~ and **in order to** ensure greater consistency and predictability, it is appropriate that the criteria and elements to be used for the assessment of foreign investments are established through Union action. *Thus, this Regulation is aimed at increasing the convergence of national rules applicable to the screening of foreign investments, including intra-EU investments, thereby creating a level-playing field, increasing certainty for foreign investors, and preventing the emergence of additional obstacles to the internal market.*

- (9) ***In order*** to ensure a consistent approach to foreign investment screening across the Union, all Member States should be required to screen foreign investments on the grounds of security or public order. ~~Therefore~~**Furthermore**, the core elements of national screening mechanisms should be harmonised. That minimum harmonisation ~~includes the scope of~~**should include an obligation for Member States to ensure that** investments ~~to be~~**targeting entities operating in a specific set of sensitive areas are** screened. ***This obligation should ensure that a common minimum scope of sensitive investments is screened in all Member States. Moreover, the Regulation should further harmonise and clarify the procedures under the cooperation mechanism,*** ~~the screening procedure's essential features,~~ and the interaction between the ~~national mechanisms~~**screening mechanisms** and the ~~Union~~ cooperation mechanism. ***In particular, it is appropriate to ensure that all screening mechanisms include an initial review, which should not last more than 45 calendar days from the date on which the filing is deemed complete by the screening authority. Where necessary, an in-depth and comprehensive review should be carried out. In addition, the timelines for notification to the cooperation mechanism should be harmonised, and the steps for the procedure under the cooperation mechanism, particularly with respect to the provision of comments from Member States and Commission opinions, should also be able to extend the scope of their*** ~~be better aligned. This would allow to address situations where the timelines of national screening mechanism to include other types of foreign investments, procedures are not aligned and could delay a transaction. There should be a certain level of harmonisation on the criteria Member States and the Commission should consider when assessing whether a foreign investments in other sectors, additional Union targets or economic activities that the relevant Member State considers critical for its~~**investment is likely to negatively affect security or public order. When they do so, such screening should also comply with the provisions of this Regulation*****This common set of criteria includes the security, integrity, resilience and functioning of critical entities, the availability of critical technologies or the continuity of supply of critical inputs. This would ensure a more uniform assessment of the impacts of foreign investments on security and public order while preserving the possibility for Member States to take into account further criteria which may differ between Member States.***

(9a) This Regulation only provides for minimum harmonisation. Thus, Member States should have the right to adopt, amend or maintain national provisions that are complementary to or are more specific than the provisions of this Regulation. For example, Member States should be able to extend the scope of their national screening mechanism to include foreign investments in sectors not covered by the minimum scope, and to specify thresholds of voting rights acquired by investors triggering the screening of foreign investments which the Member State concerned considers to be of particular importance for its security or public order. Where a Member State opts to extend the scope of its screening mechanism beyond the minimum scope, such screening should comply with this Regulation, provided that such screening falls within the scope of this Regulation.

- (10) Regulation (EU) 2019/452 only covers ~~FDIs made from third countries into~~ **foreign direct investments made by third-country investors ('foreign investors')** in the Union. However, it is ~~also~~ necessary to extend the scope of the **Union** cooperation mechanism to investments made between Member States, ~~where the investor~~ **that is through an entity established** in one Member State **that** is controlled, directly or indirectly, by a ~~foreign~~ **third-country person or entity** regardless of whether the ultimate owner is located ~~(~~ **('foreign investor's subsidiary in the Union')** ~~)~~. **These investments carry the same specific risks to security or public order as foreign direct investments carried out through a legal entity not established in the Union, because the controlling third-country person or entity has power and influence over the Union target even if exercised through that subsidiary. These specific risks could be caused by the jurisdiction to which the foreign investor is subject or by the influence from the government or non-state actors of a third country. Such risks are not caused by investments carried out by investors that are not controlled, directly or indirectly, by a third-country person or entity. It is therefore appropriate to cover under the cooperation mechanism investments made through a foreign investor's subsidiary in the Union or elsewhere but not investments made by other Union investors, in particular, this extended scope is appropriate to ensure that any investment creating a lasting link between the foreign investor and the Union target, whether it is carried out directly by a foreign investor or through an entity established in the Union and controlled by a foreign investor, is consistently captured and assessed. This should foster covered and screened. This would increase the consistency and predictability of screening rules across Member States, which in turn will would reduce compliance costs for foreign investors and limit incentives to target an investment remove the incentive to invest exclusively in Member States where such transactions are out of scope were not screened.**

- (11) Investments in Union targets carried out by foreign investors, including investments executed through a controlled entity in the Union, may present specific risks to security and public order in the Union and its Member States. Such investor-related risks should not be present and therefore do not need to be addressed in an investment that only involves entities where no ownership, control, connection to or influence from foreign investors is present, including when a foreign investor participates in the Union entity without a controlling stake. Avoiding any divergence in the rules applicable to the treatment of foreign investments, regardless of whether they are made from outside the Union directly or through an entity already established in the Union, is necessary to ensure a coherent investment screening framework and the Union control mechanism. This framework reflects the importance of protecting security and public order and is exclusively targeted at risks that may arise from investments involving foreign entities. Therefore, Member States should ensure at least the screening of those foreign investments, which relate to projects or programmes of Union interest or where the Union target is active in areas, where a foreign investment may affect security or public order in more than one Member State. Member States should also be able to screen other foreign investments. When they do so, such screening should also comply with the provisions of this Regulation. Transactions with no foreign investor involvement or in which the level of involvement does not lead to the direct or indirect control of the Union entity are not covered by this Regulation.

- (12) *The screening of foreign investments should be carried out in accordance with this Regulation, taking into account all factual information available and adhering to the principle of proportionality and other principles enshrined in the Treaties. It should respect the objective of preserving an open investment environment and the internal market.* Moreover, the screening of foreign investments which are carried out through subsidiaries of the foreign investor established in the Union should in all cases comply with the requirements stemming from Union law, and in particular with the Treaty provisions on freedom of establishment and free movement of capital, as interpreted in the case-law of the Court of Justice of the European Union, consistently with the objective of preserving an open and inclusive internal market *Articles 49 and 63 TFEU*. Any restrictions ~~on~~ the freedom of establishment ~~and~~ *the* free movement of capital in the Union, including the screening and measures arising ~~that could result~~ from screening *mechanisms or screening decisions*, such as *the imposition of* mitigating measures and prohibitions *or the prohibition or unwinding of a foreign investment*, should be based on *a justified by reasons of public policy or public security, including* genuine and sufficiently serious ~~threats~~ *threats* to a fundamental interest of society, and should be appropriate and necessary as set out in the case-law. *This includes risks to the functioning of the Court of Justice.* At the same time, when assessing the justification and proportionality of a restriction, the specificities of investments within the Union operated through a subsidiary of a foreign investor may be taken into account when assessing any restrictions on freedom of establishment *institutions and essential public services, to the supply of essential products or services* or to the free movement of capital, including where appropriate in any Commission opinion adopted pursuant to this Regulation. This should be done taking into account the integration of Member State schemes into a Union-wide cooperation mechanism *survival of the population, risks of a serious disturbance to foreign relations or to peaceful coexistence of nations, or risks to military interests.*

- (13) To enable the **Union** cooperation mechanism ~~laid down in~~ **established by** this Regulation to function efficiently and effectively, it is necessary to define a minimum common scope ~~for of~~ foreign investments that all Member States should ~~notify to the cooperation mechanisms~~ **screen**. Member States should remain free to notify foreign investments outside ~~the scope of this Regulation~~.
- (14) ~~It is also necessary to make the Member State where the foreign investment is planned or completed more accountable to the Commission and to those Member States that express duly justified concerns for their public order or security or the Union's.~~
- (15) The common framework set out in this Regulation should be without prejudice to the sole responsibility of Member States to safeguard their national security as provided for in Article 4(2) TEU. It should also be without prejudice to the protection of their essential security interests ~~in accordance with~~ **pursuant to** Article 346 TFEU.
- (16) **This Regulation should cover** foreign investments that create or maintain lasting and direct links between **third-country** investors ~~from third countries~~ (including State bodies) and Union targets carrying out an economic activity in a Member State ~~should fall within the scope of. This Regulation. This should apply where these investments are directly carried out~~ **directly from a third-country investor** ~~from third countries~~ or by a Union entity ~~with foreign control~~ **controlled by such an investor**. However, ~~the framework~~ **it** should not cover the acquisition of company securities intended purely for financial investment without any intention to influence the management ~~and/or~~ control of the ~~undertaking~~ **(company ('portfolio investments'))**. ~~Restructuring operations within a group of companies or a merger of more than one legal entities into a single legal entity do not constitute a foreign investment, provided that there is no increase in the shares held by foreign investors, or the transaction does not result in additional rights that may lead to a change in the effective participation of one or more foreign investors in the management or control of a Union target.~~

- (16a) *Lasting and direct links between the third-country investor and a Union target are created where the foreign investor acquires effective participation in the management or control of the Union target. This is certainly the case where the foreign investor acquires decisive influence over the Union target, meaning the capacity to solely or jointly determine the commercial policy of the target either de facto or de jure. However, effective participation in the management or control might also exist where the foreign investor, without having decisive influence over the Union target, can nonetheless materially impact its commercial policy, behaviour or decisions, for example through shareholding, voting rights, contracts, including leverage resulting from supplier relationships, and significant board representation.*
- (16b) *Restructuring operations within a corporate group and investments made in financial institutions in application of a resolution tool as well as of write down and conversion powers should fall outside of the scope of this Regulation. Internal restructurings should only be excluded from the scope of application to the extent that they are conducted solely for the purpose of the internal reorganisation of a Union target or of the corporate group to which the Union target belongs, without resulting in any changes in the beneficial ownership of the Union target. In particular, internal restructurings should be excluded where they do not result in a situation where a new foreign investor acquires ownership or control over the Union target or over a company that directly or indirectly owns or controls that Union target, where there is an increase in the shares held by foreign investors, or where the transaction results in additional rights for foreign investors that may lead to a change in the effective participation of one or more foreign investors in the management or control of the Union target.*

- (17) Greenfield foreign investments occur where the foreign investor or a foreign investor's subsidiary in the Union sets up new facilities or a new undertaking *for the generation of an economic activity* in the Union. Greenfield foreign investments should fall within the scope of this Regulation ~~to the extent they are considered relevant by a Member State for the purpose of the~~. *However, they should not fall within the minimum scope of* screening of foreign investments because they create lasting and direct links between a foreign investor and such facilities or such undertakings. ~~In addition~~*mechanisms. Thus, by setting up new facilities, a foreign investor can impact on security and public order, including when that risk concerns essential economic inputs. Member States are therefore encouraged**should remain free to decide whether* to include greenfield foreign ~~such~~ investments in the scope of transactions covered by their screening mechanisms, ~~in particular when such investments occur in sectors relevant to their security or public order or when they present characteristics such as size or essential nature to be relevant to their security or public order.~~
- (18) *In order* to ensure consistent and predictable screening processes, it is appropriate to lay down the essential features of the screening mechanisms to be implemented by Member States. Those features should at least include the *minimum* scope of the transactions to be subject to an authorisation requirement, *the division of the screening procedure in an initial review and an in-depth review*, deadlines for the screening, *a public annual report*, and the possibility for ~~undertakings concerned by~~*parties subject to* the screening decision to seek *judicial* recourse against such decisions. Rules and procedures relating to screening mechanisms should be transparent and should not discriminate between third countries.
- (19) The cooperation mechanism laid down in Regulation (EU) 2019/452 enables Member States to cooperate and help each other where a foreign direct investment in one Member State could affect the security or public order of other Member States or of projects or programmes of Union interest. This mechanism has proven very useful so far, hence it should be maintained and strengthened ~~under~~*by* this Regulation.

- (20) To ensure that ***adequately detect*** foreign investments ***that would*** likely to negatively affect security or public order in the Union are adequately identified, Member States should screen foreign investments where the Union target is part of or participates in a project or programme of Union interest or where the Union target's economic activity relates to a technology, asset, facility, ***develops, produces, commercialises dual-use items subject to export controls as listed in Annex I to Regulation (EU) 2021/821 of the European Parliament and of the Council***⁵, and equipment, network, system or service of particular importance for the security or public order interests of the Union. In addition to these criteria, screening mechanisms may apply to other sectors, Union targets or economic activities that the relevant Member State considers ***covered by Council Common Position 2008/944/CFSP***⁶ (the 'EU Common Military List'). ***The list of dual-use items and the EU Common Military List comprise products that are critical for its maintaining, developing and enhancing military capabilities and often incorporating critical technologies, such as semiconductors. As such, those products and the know-how and technology related to them are vital for maintaining security. At the same time, the disruption, failure, loss or destruction of these items can seriously undermine security or public order. In view of the importance of these products and technologies for security or public order, it is necessary to ensure that their development, production and commercialisation is subject to effective controls. To this end, it was decided at Union level to control the export of the listed dual-use and EU Common Military List items, including related technologies, in order to prevent their misuse. Furthermore, covering those sectors under foreign investments screening ensures coherence with export controls. It prevents foreign investors from acquiring means to develop or produce items otherwise subject to export authorisation and their access to controlled technology. In order to have an effective cooperation mechanism to protect security and public order, it is necessary that all Member States screen foreign investments identified in the critical sectors ex ante, that is before the investor completes the relevant foreign investment.***

⁵ ***Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (OJ L 206, 11.6.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/821/oj>).***

⁶ ***Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (OJ L 335, 13.12.2008, p. 99, ELI: <http://data.europa.eu/eli/compos/2008/944/oj>).***

This is because certain risks linked to these investments cannot be remedied ex post. For example, this is the case if a foreign investor acquires access to critical information and know-how linked to the development and production of dual-use or military items.

- (21) ~~To ensure that the~~*For the Union* cooperation mechanism ~~focuses~~*to focus* only on those foreign investments where the characteristics of the foreign investor or the Union target make ~~an~~ *a negative* effect on security or public order likely, it is appropriate to establish risk-based conditions for the notification of foreign investments undergoing screening in a Member State to the other Member States and the Commission. Where a foreign investment does not meet any of ~~the~~*those* conditions, the Member State where the foreign investment is undergoing screening ~~may~~*should still have the possibility to* notify the foreign investment to the other Member States and the Commission, ~~including where the Union target has significant operations in other~~*this* Member States, ~~or belongs to a corporate group that has several companies in different~~*State considers that the foreign investment could negatively affect security or public order in one or more* Member States. *In such case, Member States should explain the reasons for notifying such investments.*
- (22) ~~To ensure that~~*adequately identify* the likely *negative* effect of a foreign ~~investments~~*investment* on the security or public order of one or more Member States ~~is adequately identified~~, Member States should be able to provide comments to a *host* Member State ~~in which a foreign investment is planned or has been completed~~ even if that Member State is not screening that foreign investment or if the foreign investment ~~is~~*has been* screened but not notified ~~to the~~*through the Union* cooperation mechanism. Requests for information, replies and comments from Member States should *simultaneously be transmitted* ~~be notified to the Commission. -simultaneously-~~

- (23) To ~~ensure that~~*adequately identify* the likely *negative* effect of a foreign investment on the security or public order of more than one Member States or the Union as a whole is ~~adequately identified~~*State*, it should be possible for the Commission to issue an opinion within the meaning of Article 288 TFEU to the *host* Member State in which the foreign investment is planned or has been completed, even if that foreign investment is not undergoing screening in that Member State or if that foreign investment ~~is~~*has been* screened but not notified to ~~the~~*through the Union* cooperation mechanism.
- (24) ~~Furthermore, to allow the protection of~~*Where the likely negative effect on* security or public order ~~where the likely effect emanates from a foreign investment into a Union target that provides for the development, maintenance or acquisition of infrastructure, technologies or inputs~~*is part of or participates in one of the projects or programmes of Union interest*, which are critical for the Union as a whole, the Commission should be allowed to issue an opinion. ~~This would give the Commission a tool to protect projects and programmes which serve the Union as a whole and represent an important contribution to the Union's security or public order.~~ A Commission opinion identifying the likely ~~impact~~*negative effect* on projects or programmes of Union interest on the grounds of security or public order should be notified to all Member States.
- (25) ~~Furthermore,~~ It should be possible for the Commission to ~~adopt~~*issue* an opinion addressed to all Member States ~~if~~*where* it identifies several foreign investments that, taken together, are likely to ~~impact the~~*negatively affect* security or public order ~~of the Union~~. This could ~~notably~~*in particular* be the case where several foreign investments present comparable characteristics. ~~These include,~~ *for example*, where the foreign investments are made by the same foreign investor, ~~or~~*where several* foreign investors ~~presenting~~*present* similar risks, or where several foreign investments concern the same target or the same infrastructure, ~~including~~*such as* trans-European infrastructure for transport, energy ~~and~~ communication. Member States and the Commission ~~should~~*could* discuss the ~~risk~~*Commission's analysis of the risks identified in its opinion* and the possible ways to address ~~the~~*those* risks identified ~~in the opinion~~.

- (25a) *The Member States should not take a screening decision before the deadlines for comments and opinions have expired unless security or public order interests, such as avoiding bankruptcy of the Union target, require an earlier decision. Such exceptional circumstances should be notified to the other Member States and the Commission, which should issue their comments or opinion expeditiously.*
- (26) *In order to protect security or public order while providing greater certainty to investors, Member States should have the possibility to make comments, and the Commission should have the possibility to issue an opinion on foreign investments that have been completed but not notified up to 15 months after the completion of ~~the~~that foreign investment.*
- (27) *For ~~greater~~ clarity **purposes**, the list of projects or programmes of Union interest should be listed in **an** annex I. ~~These~~. **Those** should include ~~any foreign investments undertaken on~~ the trans-European networks for transport, energy ~~and~~or communication, as well as programmes providing funding for research and development for activities **that are** relevant for the security or public order ~~of the Union~~. **The list of technologies of particular importance for the security or public order should be set out in another annex.** Due to the importance of ~~these~~**those** projects and programmes **of Union interest and the list of technologies of particular importance** for the security and public order ~~of the Union~~, **the** Member States should ~~screen~~**take them into consideration as a factor when determining the likely negative effect on security or public order of** foreign investments into Union undertakings that are part of, **or participate in, those** ~~or participating in these~~ projects or programmes, including those that receive funding from the Union, **or into Union undertakings that dispose of the technologies are listed in the relevant annex.***

- (28) ~~In order to ensure that~~**To adequately address** the likely *negative* effect of a foreign investment on the security or public order of one or more Member States ~~is adequately addressed,~~ **a Member States receiving**~~State that receives~~ duly justified comments from other Member States or an opinion from the Commission should give such comments or opinion ~~utmost~~**due** consideration, including where it considers that its own security or public order is not affected. ~~The~~**That** Member State should, **where necessary**, coordinate with the Commission and the Member States concerned ~~if necessary~~ and provide them with ~~written feedback on the decision taken and how the comments~~**the operative part** and the ~~opinion have been given utmost consideration~~**summary of the main reasons of its decision**. The final decision on foreign investments should remain the sole responsibility of the *host* Member State ~~where the foreign investment is planned or completed~~.
- (29) To ensure the effective functioning of the *Union* cooperation mechanism, ~~it is important to require that the~~ Member State notifying the foreign investment ~~through~~ the cooperation mechanism ~~provides~~**should be required to provide** a minimum level of information in a standardised format. Where ~~the cooperation concerns~~ a foreign investment **is** not notified ~~through~~ the cooperation mechanism, the *host* Member State ~~where the foreign investment is planned or has been completed~~ should be able to provide at least the same minimum level of information. The Commission and Member States ~~may seek~~**should be able to request** additional information from the *host* Member State ~~where the foreign investment is planned or completed~~. ~~Such~~. A request for additional information should be duly justified, limited to the information necessary for the Member States to ~~provide~~**issue** comments or for the Commission to issue an opinion, proportionate to the purpose of the request and not unduly burdensome for the ~~notifying~~**host** Member State.

- (30) To ensure that the cooperation is based on complete and accurate information, ***the host Member State may request*** a foreign investor or an undertaking ~~should~~ ***any other natural or legal person either within the chain of control of the foreign investor or within the chain of control of the Union target to provide any relevant information. To ensure the quality of information, Member States should take reasonable steps to verify the*** information requested by the Member State where they are established ~~or provided to them by companies and their legal representatives. For example, the Member State where the foreign investment is planned or completed~~ ***should identify obvious contradictions and obviously false, misleading, or missing information.*** In exceptional circumstances, ~~when~~ ***where***, despite its best efforts, a Member State is unable to obtain an information requested by another Member State or the Commission, it should notify them without delay. In such a case, ~~any comment issued by another~~ ***the other*** Member State, ~~or any opinion issued by~~ ***States and*** the Commission as part of the cooperation mechanism ~~should be based~~ ***may base their comment and opinion, respectively,*** on the information available to them.
- (31) ***In order*** to ensure that the ***Union*** cooperation mechanism ~~is only~~ ***would only be*** used for the purpose of protecting security or public order, Member States should duly justify any request for information about a specific foreign investment in another Member State and any comment they issue to that Member State. The same requirements ***should*** apply when the Commission requests information about a particular foreign investment or issues an opinion to a Member State.
- (32) Member States or the Commission, ~~as appropriate, might consider~~ ***should be able to take into consideration*** relevant information received from economic operators, civil society organisations; ***and*** social partners (such as trade unions) about a foreign investment likely to negatively affect security or public order.

- (33) A *host* Member State ~~where a foreign investment is planned or has been completed may inform~~ **should communicate to the** other Member States ~~or~~ and the Commission if it wishes ~~them to further analyse one or more aspects of a foreign investment that the cooperation mechanism is assessing or becomes aware of new circumstances or new information that may impact~~ **could have an influence on** the assessment of the foreign investment. The *host Member State, the* other Member States and the Commission ~~may then be granted~~ **should in such case endeavour to agree on** additional time to complement their assessment of the foreign investment.
- (34) **In order** to ensure the efficiency and effectiveness of the cooperation mechanism, it is necessary to align deadlines and procedures ~~when~~ **where** several foreign investments linked to the same broader transaction are screened in several Member States. In such multi-country transactions, the ~~applicant~~ **applicants** should ~~file the different requests for authorisation~~ **endeavour to make the separate filings** in the Member States concerned simultaneously. ~~In addition,~~ Those Member States should **endeavour to** notify ~~the~~ **those** requests simultaneously ~~to~~ **through** the cooperation mechanism. To ensure an efficient handling of ~~these~~ **those** multi-country transactions, the Member States concerned should **endeavour to** coordinate and agree ~~on~~ **among themselves** whether **and under what conditions**, the foreign investments are notifiable and when they should be notified. Furthermore, ~~the Member States concerned should also coordinate on the~~ **as well as on their** final decision. ~~If~~ **Where** the Member States concerned intend to authorise the foreign investment ~~with conditions~~ **subject to mitigating measures**, they should ~~ensure that these conditions~~ **discuss whether the intended screening decisions** are compatible with one another and **adequately** address cross-border risks ~~adequately~~. Before prohibiting **or unwinding** a foreign investment, the Member States concerned should consider whether a ~~conditional~~ **an** authorisation ~~with~~ **subject to** coordinated **mitigating** measures and their coordinated enforcement ~~is not~~ **would be** sufficient to address the likely **negative** effect on security or public order. The Commission ~~should be able to~~ **may** participate in such coordination.

- (35) To ensure a consistent approach to the screening of **foreign** investments across the Union, it is essential that **some of** the standards and criteria used to assess likely risks to security and public order are ~~those~~ set at Union level in this Regulation. Those **criteria** should **in particular** include the ~~impact~~ **potential effects** on the security, integrity, **resilience** and functioning of **a critical entity within the meaning of Article 2(1) of Directive (EU) 2022/2557 of the European Parliament and of the Council⁷** infrastructure, the availability of critical technologies ~~(including key enabling technologies)~~, and the continued supply of critical inputs for security or public order, the disruption, failure, loss or destruction of which would have a significant impact on security and public order in one or more Member States or on the Union as a whole.- In that regard, Member States and the Commission should also take into account the context and circumstances of the foreign investment. ~~This should include, in particular, whether~~ **the foreign investor, a natural person or entity controlling the foreign investor, the beneficial owner of the foreign investor, any of the subsidiaries of the foreign investor, or any other party owned or controlled by, or acting on behalf or at the direction of the foreign investor is controlled directly or indirectly, for example through significant funding, by the government of likely to pursue a third country or is involved in pursuing's policy objectives of third countries or to facilitate their the development of a third country's military capabilities. In this context, if** **Where** applicable, Member States and the Commission should also consider why the foreign investor, its beneficial owner or any of its subsidiaries or a person acting on behalf or at the direction of such a foreign investor is subject to any type of Union restrictive measures pursuant to Article 29 TEU and Article 215 TFEU. **In addition, Member States and the Commission should also examine whether the foreign investor could be a conduit for a third-country government or a non-state actor to acquire and exert influence on the Union target indirectly. Such influence could go beyond influence conveyed through corporate structures or other means of corporate law and could be conveyed by natural persons like the investor's shareholders, directors or board members in any manner of ways. This extends to informal means including leveraging personal relationships, applying personal or political pressure, and employing threats and other manipulative or deceptive practices.**

⁷ **Directive (EU) 2022/2557 of the European Parliament and of the Council of 14 December 2022 on the resilience of critical entities and repealing Council Directive 2008/114/EC (OJ L 333, 27.12.2022, p. 164, ELI: <http://data.europa.eu/eli/dir/2022/2557/oj>).**

- (36) Where the **host** Member State ~~where the foreign investment is planned or completed~~ considers that a foreign investment is likely to negatively affect security or public order ~~in the Union~~, it is appropriate to require that **that** Member State ~~to~~ take appropriate measures to mitigate ~~the risks~~ **that risk**, where ~~such~~ **adequate** measures are available, ~~and it considers them adequate~~, taking into ~~utmost~~ **due** consideration ~~the~~ **any** comments issued by other Member States and ~~the~~ **an** opinion issued by the Commission, ~~if applicable~~. Foreign investments should **only** be prohibited ~~only or unwound~~ on an exceptional basis, ~~and where mitigating measures or measures available under Union or national law other than those within the screening mechanism are not sufficient to mitigate the negative effect on security or public order.~~
- (37) To support the implementation of the cooperation mechanism and to foster the exchange of good practices among Member States, the expert group on the screening of foreign investments set up pursuant to Regulation (EU) 2019/452 should be maintained.
- (38) Member States should notify **to the Commission** their screening mechanisms and any amendment ~~to them to the Commission~~ **thereto**. They should **publish an annual** report ~~to the public~~ on the application of their screening mechanisms ~~annually on~~, relevant legislative developments and the activities of the screening authority, including aggregate **and anonymised** data on the transactions screened, ~~the outcome of screening procedures, the nationalities of parties to foreign investments and the economic sectors in which those transactions took place.~~

- (39) To ensure the ~~efficacy~~**efficiency** of the ~~coordination~~**cooperation** mechanism, the contact points put in place by Member States and the Commission **for the application of this Regulation** should be ~~suitably~~ placed in the respective administrations. ~~The~~**Those** contact points should have the qualified staff and powers needed to carry out their work under the ~~coordination~~**cooperation** mechanism and ensure a proper handling of confidential information.
- (40) Member States and the Commission should be encouraged to cooperate with the responsible authorities of like-minded third countries on issues related to the screening of foreign investments ~~that could affect~~**on grounds of** security or public order. Such administrative cooperation should aim to ~~strengthen~~**at strengthening** the effectiveness of the framework for screening foreign investments by Member States and the cooperation between **the** Member States and the Commission pursuant to this Regulation. The Commission should be kept informed of ~~such bilateral~~ contacts **with third countries** to the extent that they relate to systemic issues related to investment screening. It should also be possible for the Commission to monitor developments with regard to screening mechanisms in third countries.

(41) Member States and the Commission shall ensure the confidentiality of the information they provide or receive in application of this Regulation, in accordance with national and Union law. ***Information received as a result of the application of this Regulation shall be used only for the purpose for which it was requested, which includes the use of such information in the judicial review of screening decisions.*** Where the unauthorised disclosure of information ~~would~~**might** cause ~~varying degrees of~~ prejudice to the interests of the ~~European~~ Union, or of one or more of the Member States, the originator of the information should classify the information in accordance with national and Union law. When responding to requests ~~of~~**for** access to documents handled in application of this Regulation, Member States and the Commission shall coordinate and provide at least the level of protection of the protected interests available under Article 4 of Regulation (EC) ~~1049/2001~~**No 1049/2001 of the European Parliament and of the Council**⁸, with a view to protect the purpose of investigations. The Commission should take all necessary measures to ensure the protection of confidential information in compliance with, in particular, Commission ~~Decision~~**Decisions** (EU, Euratom) 2015/443⁹ and ~~Commission Decision~~ (EU, Euratom) 2015/444¹⁰. ~~Similarly~~**Furthermore**, Member States and the Commission should take all necessary measures to ensure compliance with the Agreement between the Member States of the European Union, meeting within the Council, regarding the protection of classified information exchanged in the interests of the Union¹¹. This includes, in particular, the obligation not to downgrade or declassify classified information without the prior written consent of the originator. Any non-classified sensitive information or information which is provided on a confidential basis should be handled as such by the authorities.

⁸ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43–48, ELI: <http://data.europa.eu/eli/reg/2001/1049/oj>).

⁹ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41, ELI: <http://data.europa.eu/eli/dec/2015/443/oj>).

¹⁰ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53, ELI: <http://data.europa.eu/eli/dec/2015/444/oj>).

¹¹ Agreement between the Member States of the European Union, meeting within the Council, regarding the protection of classified information exchanged in the interests of the European Union (OJ C 202, 8.7.2011, p. 13).

(41a) To ensure that the confidential information is exchanged efficiently, there should be a secure and encrypted system for the exchange of documents provided to or drawn up by screening authorities that are necessary for the assessment of the investment through the cooperation mechanism. Such substantive communication between the Member States and the Commission should include in particular, notifications pursuant to Article 5, information about the intention to issue a comment or an opinion pursuant to Article 8(1), requests for information pursuant to Article 8(2) and Article 9(4) and answers to these requests, comments and opinions pursuant to Articles 8(3), 9(1) and 9 (2), and substantial new information pursuant to Article 8(4). This should not affect the overall communication between screening authorities and the Commission which should remain possible by all appropriate means.

- (42) Any processing of personal data pursuant to this Regulation should comply with the applicable rules on the protection of personal data. Processing of personal data by the contact points and other entities within Member States should be carried out in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council¹². Processing of personal data by the Commission should be carried out in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council¹³. ***Personal data might be contained in documents and other sources of information which are processed for the purpose of investment screening. This data might include names of natural persons who are investors or target companies, names and contact data of natural persons who are involved in the management of the investor or target company, names and positions of persons involved in operating contact points. Each competent national authority of a Member State and the Commission should be individually responsible for the processing of personal data when using the cooperation mechanism. The Commission and Member States should be considered joint controllers, within the meaning of Regulation (EU) 2018/1725 and Regulation (EU) 2016/679, for the processing of personal data.***

¹² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

¹³ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

(42a) *A Joint Controllershship Arrangement between the European Commission and the Member States' representatives or authorities participating in the cooperation mechanism under Regulation (EU) 2019/452 signed on 28 April 2022, should continue to apply. Therefore, references in the Joint Controllershship Arrangement to provisions of Regulation (EU) 2019/452 should be read as references to the corresponding provisions of this Regulation. However, taking into account the opinion of the European Data Protection Supervisor, specific retention periods for personal data connected to the investments subject to screening should be determined starting from the date that the screening Member State(s), the other Member States or the Commission have closed the file relating to a foreign investment transaction because they do not need the personal data anymore. For other Member States and the Commission, except where issuing comments or an opinion to the screening Member State, the file should be considered closed at the end of the period to reserve the right to issue such comment or opinion or, if they have exercised that right, upon expiry of the deadline to issue such comments or opinions. As regards the screening Member State, when a transaction is approved without mitigating measures and no further action is required by the screening authorities or by the parties to the transaction, such as the investor and possibly the target undertaking, the file should be closed at the end of the relevant approval process. When a transaction is approved with mitigating measures, the file should only be closed when the parties to the transaction no longer have to implement any of the mitigating measures imposed by the screening Member State. A retention period of 15 years should be applied for personal data related to individual personal transactions, while it is appropriate to set a retention period of 50 years for the personal data contained in a screening decision. Such periods are appropriate based on the experience in the application of current rules on foreign investments, as they ensure that data remains available for the foreseeable duration of a screening process. Moreover, experience shows that investors frequently carry out multiple transactions over an extended period of time. Such retention periods would allow Member States and the Commission to access relevant personal data for the assessment of subsequent transactions.*

- (43) The Commission should draw up an annual report on the implementation of this Regulation and submit it to the European Parliament and to the Council. ~~For greater~~ ***In the interest of*** transparency, ~~that~~ ***the*** report should ***also*** be made public. The report should be based on, among other things, reports submitted by all Member States to the Commission on a confidential basis with due respect to the need to ensure the protection of the confidentiality of certain information, in particular where the publication of data could affect the security or public order of the Union or jeopardise ~~commercial confidentiality~~ ***the anonymity of specific transactions***.
- (43a) ***To ensure the effectiveness of the cooperation mechanism, the Commission and the Member States should collaborate to develop a secure database with information on the foreign investments notified to the cooperation mechanism since 12 October 2020.***
- (44) The Commission should evaluate the functioning and effectiveness of this Regulation ~~5 years after the date of application of this Regulation and every 5 years after that~~ and present a report ***thereon*** to the European Parliament and to the Council ***every five years***. That report should include an assessment ~~of whether or not~~ this Regulation should be amended. Where the report ~~proposes amending~~ ***contains a proposal to amend*** this Regulation, ~~it may be accompanied by~~ ***the Commission should be allowed to append*** a legislative proposal ***thereto***.
- (45) The implementation of this Regulation by the Union and the Member States should comply with the relevant requirements for imposing restrictive measures on the grounds of security and public order laid down in the ~~WTO~~ ***Agreements of the World Trade Organisation***, including, in particular, Article XIV(a) and Article XIV bis of the General Agreement on Trade in Services¹⁴ ~~(GATS)~~. ***This Regulation*** should also comply with the ~~Union~~ ***Treaties*** and be consistent with commitments made under other trade and investment agreements to which the Union or Member States are parties ~~and~~ ***as well as*** trade and investment arrangements to which the Union or Member States are adherents.

¹⁴ Council Decision of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the agreements reached in the Uruguay Round multilateral negotiations (1986-1994) (OJ L 336, 23.12.1994, p. 1).

- (46) ~~When~~**Where** a foreign investment constitutes a concentration falling within the scope of Council Regulation (EC) No 139/2004¹⁵, the application of this Regulation should be without prejudice to the application of Article 21(4) of Regulation (EC) No 139/2004. This Regulation and Article 21(4) of Regulation (EC) No 139/2004 should be applied ~~consistently~~**in a coherent manner**. To the extent that the respective scope of application of ~~these two~~**both** Regulations overlap, the grounds for screening set out in Article 12 of this Regulation and the notion of legitimate interests within the meaning of Article 21(4), third subparagraph, of Regulation (EC) No 139/2004 should be interpreted coherently, without prejudice to the assessment of the compatibility of the national measures aimed at protecting those interests with the general principles and other provisions of Union law.
- (47) This Regulation should not affect Union rules on the prudential assessment of acquisitions of qualifying holdings in the financial sector, laid down by Directives 2009/138/EC¹⁶, 2013/36/EU¹⁷ and 2014/65/EU¹⁸ of the European Parliament and of the Council, which is a distinct procedure with a specific objective.

¹⁵ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (OJ L 24, 29.1.2004, p. 1, ELI: <http://data.europa.eu/eli/reg/2004/139/oj>).

¹⁶ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1, ELI: <http://data.europa.eu/eli/dir/2009/138/oj>).

¹⁷ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338, ELI: <http://data.europa.eu/eli/dir/2013/36/oj>)**eu/eli/dir/2013/36/oj**.

¹⁸ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349, ELI: <http://data.europa.eu/eli/dir/2014/65/oj>).

- (48) The application of this Regulation should be consistent with, and without prejudice to, other notification and authorisation procedures set out in Union law. The Commission should be allowed to use the information notified by the Member States ~~to~~***within the framework of*** the cooperation mechanism to exercise its role of overseeing the application of Union law in accordance with Article 17 TEU.
- (49) In order to take into account ~~developments relating to~~***the adoption or amendment of Union legal acts establishing*** projects or programmes of Union interest, and to adapt the list of technologies, ~~assets, facilities, equipment, networks, systems, services and economic activities~~ of particular importance for the security or public order interests of the Union, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amendments to the Annexes to this Regulation. The list of projects and programmes of Union interest set out in ***the respective*** Annex-I should cover projects or programmes ~~covered by EU law which~~***established by Union law that*** provide for the development, maintenance or acquisition of critical infrastructure, critical technologies or critical inputs which are ~~essential~~***of particular importance*** for security or public order. The list of technologies, ~~assets, facilities, equipment, networks, systems, services and economic activities~~ of particular importance for ~~the security or public order interests of the Union~~ set out in ***the respective*** Annex-II should include areas where a foreign investment may affect security or public order in more than one Member State ~~or in the Union as a whole~~ through an Union target, which does not participate in or receive funds from a project or programme of Union interest. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, ***(i.a. the consultation of experts from academia and the Members States)*** and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹⁹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

¹⁹ 16 OJ L 123, 12.5.2016, p. 1.

- (50) In order to ensure uniform conditions for the implementation of this Regulation, in particular as regards the form to be used to provide ~~minimum~~ information about foreign investments, ***and the provision of the technical guidance to Member States concerning the database on the outcome of assessments under national screening mechanism*** implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁰.
- (50a) ***On 15 March 2024, the European Data Protection Supervisor delivered an Opinion having been consulted pursuant to Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council***²¹.
- (51) Regulation (EU) 2019/452 should be repealed. In order to allow ***for*** sufficient time for Member States and entities to prepare for ~~the~~***its*** implementation, this Regulation should ~~apply as of [add date: 15 months]~~***start applying two years*** after ***its*** entry into force]. ~~In the~~ ***During that*** transitional period ~~between the entry into force and the application of this Regulation~~, Regulation (EU) 2019/452 should continue to apply.

²⁰ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13, ELI: <http://data.europa.eu/eli/reg/2011/182/oj>).

²¹ ***European Data Protection Supervisor, Opinion 13/2024 on the Proposal for a Regulation on the screening of foreign investments in the Union and repealing Regulation (EU) 2019/452, 15 March 2024.***

HAVE ADOPTED THIS REGULATION:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation establishes a Union framework for the screening, by Member States, of foreign investments in their territory, on the grounds of security or public order.
 2. This Regulation establishes a cooperation mechanism to enable Member States and the Commission to exchange information on foreign investments, assess their potential impact on security or public order, and identify potential concerns ~~that~~ **to which due consideration shall be addressed** ~~given~~ by the **host** Member State ~~that is screening the foreign investment.~~
 3. ~~Member States may adopt or maintain in force national provisions in fields not coordinated by this Regulation.~~
 4. This Regulation is without prejudice to each Member State having sole responsibility for its national security, as provided for in Article 4(2) TEU, and to the right of each Member State to protect its essential security interests ~~in accordance with~~ **pursuant to** Article 346 TFEU.
 5. ~~This Regulation is without prejudice to Member States' obligations under the Treaties, in particular Articles 49 and 63 TFEU. Member States shall ensure that any measure taken in the framework of this Regulation complies with those obligations. This Regulation is without prejudice to the powers of the Commission under Article 258 TFEU to ensure compliance with Union law.~~
- 5a. This Regulation does not apply to investments made in the application of a resolution tool or of write-down and conversion powers and to internal restructurings.**

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ***‘foreign investment’ means a foreign direct investment or an investment within of any kind carried out either by a foreign investor itself or through a foreign investor’s subsidiary in the Union, aiming to establish or to maintain lasting and direct links between the with foreign control investor and an existing or to be established Union target, to which enables the foreign investor makes capital available in order to carry out an economic activity in a Member State, enabling effective participation in the management or control of that Union target;***
- (2) ***‘foreign direct investment’ means an investment of any kind by a foreign investor aiming to establish or to maintain lasting and direct links between the foreign investor and an existing or to be established Union target, and to which target the foreign investor makes capital available in order to carry out an economic activity in a Member State;***
- (3) ***‘investment within the Union with foreign control’ means an investment of any kind carried out by a foreign investor through the foreign investor’s subsidiary in the Union, that aims to establish or to maintain lasting and direct links between the foreign investor and a Union target that exists or is to be established, and to which target the foreign investor makes capital available in order to carry out an economic activity in a Member State;***
- (3a) ***‘greenfield investment’ means a foreign investment carried out through the establishment of new facilities or of a undertaking for the performance of an economic activity in the Union;***

- (3b) *‘resolution tool’ means a resolution tool within the meaning of Article 2(19) and Article 37 (9) of Directive 2014/59/EU of the European Parliament and of the Council²², Article 3(9) of Regulation (EU) 806/2014 of the European Parliament and of the Council²³, Article 2(4) of Regulation (EU) 2021/23 of the European Parliament and of the Council²⁴, or Article 2(14) and Article 26 (7) of Directive (EU) 2025/1 of the European Parliament and of the Council²⁵;*
- (3c) *‘write-down and conversion powers’ means write-down and conversion powers within the meaning of Article 2(66) of Directive 2014/59/EU or Article 2(56) of Directive (EU) 2025/1 or Article 3 (44) of Regulation (EU) 806/2014;*
- (3d) *‘internal restructuring’ means a reorganisation of a Union target or of a corporate group to which Union target belongs to, which does not result in any changes in the beneficial ownership of the Union target.*

²² *Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190, ELI: <http://data.europa.eu/eli/dir/2014/59/oj>).*

²³ *Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1, ELI: <http://data.europa.eu/eli/reg/2014/806/oj>).*

²⁴ *Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020 on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, (EU) No 600/2014, (EU) No 806/2014 and (EU) 2015/2365 and Directives 2002/47/EC, 2004/25/EC, 2007/36/EC, 2014/59/EU and (EU) 2017/1132 (OJ L 22, 22.1.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/23/oj>).*

²⁵ *Directive (EU) 2025/1 of the European Parliament and of the Council of 27 November 2024 establishing a framework for the recovery and resolution of insurance and reinsurance undertakings and amending Directives 2002/47/EC, 2004/25/EC, 2007/36/EC, 2014/59/EU and (EU) 2017/1132 and Regulations (EU) No 1094/2010, (EU) No 648/2012, (EU) No 806/2014 and (EU) 2017/1129 (OJ L, 2025/1, 8.1.2025, ELI: <http://data.europa.eu/eli/dir/2025/1/oj>).*

- (4) ‘request for authorisation’ means ~~the~~ a filing, under a screening mechanism established pursuant to Article 3, of a request to authorise a foreign investment subject to ~~an~~ a prior authorisation requirement;
- (5) ~~‘notifiable investment’ means a foreign investment meeting at least one of the conditions set out in Article 5;~~
- (6) ‘foreign investor’ means:
- (a) a natural person *who does not hold the nationality of a Member State* of a third country; or
 - (b) an undertaking or entity established or otherwise organised under the laws of a third country;
- (6a) *‘beneficial owner’ means a natural person or, where no natural person is identified, a legal person or trust or similar legal arrangement, who ultimately controls, directly or indirectly, a foreign investor or on whose behalf an investment is made or the control is exercised.*
- (6b) *‘foreign investor’s subsidiary in the Union’ is an undertaking established under the laws of a Member State, which is directly or indirectly controlled by a foreign investor;*
- (7) ~~‘foreign investor’s subsidiary in the Union’ means an economically active undertaking established under the laws of a Member State meeting the conditions set out in Article 22(1) of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013²⁶, and directly or indirectly controlled by a foreign investor;~~
- (8) ‘Union target’ means an undertaking established *or to be established* under the laws of a Member State;

²⁶ ~~Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19–76, ELI: <http://data.europa.eu/eli/dir/2013/34/oj>).~~

- (9) ~~‘Union target economically active in one of the areas listed in Annex II’ means an Union target active or intending to be active in technologies, assets, facilities, equipment, networks, systems, services and economic activities of particular importance for the security or public order interests of the Union, listed in Annex II, including through ownership, use, production or supply thereof;~~
- (9a) ***‘filing’ means the complete request, application, or other form of communication made in writing in accordance with the applicable requirements of the screening mechanism;***
- (10) ~~‘applicant requesting an authorisation’ means the party or parties to a foreign investment transaction who applies for authorisation with the relevant screening authority;~~
- (11) ‘third country’ means a jurisdiction, which is not a member of the Union;
- (11a) ***‘host Member State’ means the Member State in which a foreign investment is planned or completed.***
- (12) ‘screening’ means a procedure that allows a Member State to assess, investigate, authorise, authorise subject to mitigating measures, prohibit or unwind foreign investments on the grounds of security or public order;
- (13) ‘screening mechanism’ means an instrument of general application, such as a law or regulation, and accompanying administrative requirements, implementing rules or guidelines, that set out the terms, conditions and procedures for the screening of foreign investments on the grounds of security or public order;
- (14) ‘screening decision’ means a measure adopted by a screening authority in application of a screening mechanism resulting in the authorisation, authorisation subject to mitigating measures, prohibition or unwind of a foreign investment;
- (15) ‘screening authority’ or ‘screening authorities’ means the authority or authorities designated by a Member State to screen foreign investments;

- (16) ‘completion’ means the point in time when the last condition precedent has been met in relation to an investment decision by the parties to a foreign investment transaction;
- (17) ‘cooperation mechanism’ means the cooperation between Member States and the Commission on foreign investments pursuant to this Regulation;
- (18) ~~‘projects or programmes of Union interest’ means projects or programmes covered by Union law that provide for the development, maintenance or acquisition of critical infrastructure, critical technologies or critical inputs which are essential for security or public order and are listed in Annex I;~~
- (19) ‘notifying Member State’ means a Member State that has notified a ~~notifiable~~**foreign** investment to the cooperation mechanism pursuant to Article 5;
- (20) ‘multi-country transaction’ means a foreign investment subject to screening mechanisms in several Member States;
- (21) ‘multi-country notification’ means a ~~notifiable investment that several Member States are required to notify~~**notification sent to the cooperation mechanism by the Member States concerned with regards to a multi-country transaction;**
- (22) ‘mitigating measure’ means any condition to resolve the likely negative effect ~~to~~**on** security or public order arising from the foreign investment-;
- (23) ‘contact point’ means the person or entity designated by a Member State to notify ~~notifiable~~**foreign** investments to the cooperation mechanism, and to receive and send all communication – **including notifications through the cooperation mechanism** – related to foreign investments covered by this Regulation to the cooperation mechanism, on behalf of the screening authority.

CHAPTER 2

NATIONAL SCREENING MECHANISMS

Article 3

Establishment of screening mechanisms

1. Member States shall establish a screening mechanism in accordance with this Regulation. *This is without prejudice to the right of Member States to adopt, amend or maintain national provisions that are complementary to or are more specific than the provisions of this Regulation.*
2. Member States shall ensure that the screening mechanism referred to in paragraph 1 applies at least to **foreign** investments ~~subject to an authorisation requirement pursuant to covered by~~ Article 4(4).
3. Each Member State shall notify to the Commission the measures adopted pursuant to paragraph 1 *of this Article* no later than [*OJ: please insert the date 24 months after the date of entry into force of this Regulation* ~~date: 15 months after entry into force~~]. Member States shall thereafter notify the Commission of any amendment to their screening mechanism within 30 days of the adoption of ~~the~~**that** amendment.
4. The Commission shall make publicly available a list of Member States' screening mechanisms no later than ~~3~~**three** months after having received all the notifications referred to in paragraph 3 ~~or by [date: 21 months after entry into force], whichever occurs first~~**three** *of this Article*. The Commission shall keep that list up to date.

Article 4

Minimum requirements

1. Rules and procedures related to screening mechanisms, and measures taken pursuant to such rules and procedures, shall comply with Union law, be transparent and shall not discriminate between third countries or between the Member States in which the foreign investor's subsidiary in the Union is established.

2. Member States shall ensure that their screening mechanisms comply with the following requirements:
- (a) *for foreign investments that fall within the scope of their screening mechanism and that are subject to a filing requirement*, adequate procedures shall be provided for the screening authority to ~~determine whether it has jurisdiction over a foreign investment filed for authorisation and to carry out an initial review followed by, where necessary, an in-depth investigation to determine whether that foreign investment is likely to negatively affect security or public order. The purpose of the in-depth investigation shall be, in particular, to determine whether a screening decision as referred to in Article 14(1) is appropriate and to determine its content.~~
 - (i) *carry out an initial review of the investment within 45 calendar days from the date on which the filing is deemed complete by the screening authority, to determine whether an in-depth and comprehensive investigation is necessary to decide if the foreign investment is likely to negatively affect security or public order;*
 - (ii) *based on the results of its initial review, where necessary, carry out an in-depth and comprehensive investigation to determine whether that foreign investment is likely to negatively affect security or public order*
 - (b) the screening authority shall monitor and ensure compliance with the screening mechanism and screening decisions, in particular, ~~it shall put in place adequate procedures to identify and prevent~~ **by identifying and preventing their** ~~circumvention of the screening mechanism and screening decisions;~~
 - (c) the screening authority shall be empowered to ~~start screenings~~**screen** foreign investments ~~by falling within the scope of the respective Member State's screening mechanism on~~ its own initiative for at least 15 months ~~after~~**following** the completion of a foreign investment that is *either* not subject to ~~an~~ **a prior** authorisation requirement *or has not been filed to the screening authority despite the obligation to file* where the screening authority has grounds to consider that ~~the~~**such** foreign investment may affect security or public order;

- (d) confidential information, including commercially sensitive information, made available to the Member State carrying out the screening shall be protected;
- (e) ~~foreign investors, foreign investors' subsidiaries in the Union through which the foreign investment is carried out and undertakings concerned by~~ **the parties subject to the** screening decision shall have the ~~possibility~~ **right** to seek judicial recourse against that screening decision;
- (f) an annual report shall be **drawn up and** made public, ~~and~~ **which** shall include information on **the** relevant legislative developments in the Member State and aggregate and anonymised data on the investments screened, ~~including the outcome of screening decisions, nationalities, or country of establishment as the case may be, of parties to the investments notified to the screening authority, and the economic sectors in~~ **with the exception of data for which those transactions took place complete anonymisation is not possible;**
- (g) foreign investments subject to ~~a~~ **prior** authorisation requirement as referred to in paragraph 4 shall be filed by the applicant requesting **an** authorisation with the screening authority and shall be screened before the foreign investment is completed;
- (h) the screening authority shall be empowered to ~~impose mitigating measures, prohibit, or unwind~~ **adopt a screening decision on** foreign investments subject to ~~a~~ **prior** authorisation requirement as referred to in paragraph 4 that were not filed or that were filed after completion ~~and, where applicable, address effectively the consequences of non-compliance with the mitigating measures;~~
- (ha) the screening authority shall be empowered to effectively address the consequences of non-compliance with mitigating measures;**
- (i) adequate procedures shall be provided for the notification of ~~notifiable~~ **foreign** investments to the cooperation mechanism pursuant to Article 5.

3. Before ~~taking~~**adopting** a decision to authorise a foreign investment subject to mitigating measures or to prohibit **or to unwind** a foreign investment, ~~Member States~~**the screening authority** shall ~~inform the applicant requesting an authorisation and state the reasons on which they intend to take their decision,~~**give the parties** subject to the protection of information the disclosure of which would be contrary to the security or public order interests of the EU or one or more of the Member States and without prejudice to Union and national law concerning the protection of confidential information. Member States shall ~~give the foreign investor~~**intended screening decision** the opportunity to make their views known ~~before taking such decision~~**effectively**.
4. Member States shall ensure that their screening mechanisms impose ~~an~~**a prior** authorisation requirement for foreign investments where the Union target established in their territory **develops, produces or commercialises**:
 - (a) ~~is part of or participates in one of the projects or programmes of Union interest~~**Items** listed in Annex I, ~~including as a recipient of funds as defined in Article 2 paragraph 53 of Regulation 2018/1046 of the European Parliament and of the Council²⁷ to~~**Regulation (EU) 2021/821**, or
 - (b) ~~is economically active in one of the areas~~**Goods and technology** listed in ~~Annex H~~**the EU Common Military List**.
5. **Paragraph 4 shall not apply to greenfield investments.**

²⁷ ~~Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1–222, ELI: <http://data.europa.eu/eli/reg/2018/1046/oj>).~~

CHAPTER 3

THE UNION COOPERATION MECHANISM ON FOREIGN INVESTMENTS LIKELY TO NEGATIVELY AFFECT SECURITY OR PUBLIC ORDER

Article 5

Notification of foreign investments

1. Member States shall notify the Commission and the other Member States through the cooperation mechanism of any foreign investment in a Union target established in their territory that *meets the conditions set out in Article 4(4) as well as any of the following conditions*:
 - (a) ~~meets the conditions set out in Article 4(4) point (a); or~~
 - (i) the foreign investor or the foreign investor's subsidiary in the Union is directly or indirectly controlled by the government, including state bodies, regional or local authorities or armed forces, of a third country, including ~~through~~ *in the form of* ownership structure, significant funding, special rights or state-appointed directors or managers;
 - (b) ~~meets the conditions set out in Article 4(4) point (b) and any of the following conditions~~:
 - (ii) the foreign investor, a natural person or *an* entity controlling the foreign investor, the beneficial owner of the foreign investor, any of the subsidiaries of the foreign investor, or any other party owned or controlled by, or acting on behalf or at the direction of, such a foreign investor is subject to Union restrictive measures pursuant to Article *29 TEU and Article 215 TFEU*; ~~or~~

- (i) ~~the foreign investor or the foreign investor's subsidiary in the Union is directly or indirectly controlled by the government, including state bodies, regional or local authorities or armed forces, of a third country, including through ownership structure, significant funding, special rights or state-appointed directors or managers;~~
- (ii) ~~the foreign investor, a natural person or entity controlling the foreign investor, the beneficial owner of the foreign investor, any of the subsidiaries of the foreign investor, or any other party owned or controlled by, or acting on behalf or at the direction of, such a foreign investor is subject to Union restrictive measures pursuant to Article 215 TFEU; or~~
- (iii) the foreign investor, *a natural person or an entity controlling the foreign investor, the beneficial owner of the foreign investor*, or any of ~~its~~*the foreign investor's* subsidiaries was involved in a foreign investment *which was* previously screened by a Member State and was not authorised or ~~only was~~ authorised *subject to mitigating measures, which were not complied* with ~~conditions~~; to determine this, the notifying Member State shall rely on information available to them, including the information contained in the secure database ~~set up pursuant to~~*referred to in* Article 7(10)~~16a~~ and information provided by the foreign investor on ~~this~~*that* matter.

2. Member States shall notify the Commission and the other Member States of any foreign investment in a Union target established *or to be established* in their territory where they initiate an in-depth *and comprehensive* investigation ~~under~~*in the framework of* their screening procedures. ~~Furthermore, Member States shall notify the Commission and the other Member States of any foreign investment in a Union target established in their territory,~~ *or* in exceptional cases, where they intend to impose a mitigating measure or to prohibit the transaction without an in-depth *and comprehensive* investigation, *where one of the following conditions is met:*

- a) *the Union target is active in a project or programme of Union interest listed in Annex I;*
- b)

the Union target has one or more subsidiaries in other Member States, or is part of a group that has one or more subsidiaries in at least one other Member State.

Foreign investments notified pursuant to paragraph 1 shall not be notified pursuant to this paragraph.

3.

Member States may notify any foreign investment that ~~do not meet the conditions set out in paragraphs 1 and 2~~ ***does not fall under paragraph 1 or 2*** if the ~~host~~ Member State where the Union target is established considers that a foreign investment could be of interest to the other Member States and the Commission from ~~a negatively affect~~ ***an*** security or public order perspective, ~~including~~ ***in one or more Member States, especially*** where the Union target has significant operations in other Member States, or belongs to a corporate group that ~~has~~ ***consists of*** several companies/entities in different Member States which are economically active in one of the areas listed in Annex II ~~subject to a prior authorisation requirement pursuant to Article 4(4). Any such notification shall be duly justified. If that foreign investment is part of a multi-country transaction, the relevant Member States, in cooperation with the Commission, shall endeavour to coordinate their assessment under this paragraph.~~

~~Where a Member State intends to notify a foreign investment in its territory that forms part of a multi-country transaction pursuant to Article 6(2), it shall coordinate with the other Member States who received the request for authorisation. The respective Member States shall notify the multi-country transaction and they shall endeavour to send their notifications to the cooperation mechanism on the same day.~~ ***deleted***

Article 6

Content and procedures for notification of foreign investments

1. Member States shall ensure that a notification pursuant to Article 5 contains the information ~~referred to~~ **set out** in Article 10(1) and is sent to the Commission and other Member States ~~via the secure and encrypted system referred to in Article 12(4):~~
 - (a) within 15 calendar days ~~of receiving the respective request for authorisation for~~ **from the date on which a filing is deemed complete under the Member State's screening mechanism and that refers to a** foreign investments meeting any ~~of investment that~~ **meets** the conditions set out in Article 5(1) ~~or (3);~~
 - (b) within ~~60~~ **45** calendar days ~~of receiving the request for authorisation for~~ **from the date on which a filing is deemed complete under the Member State's screening mechanism and that refers to a** foreign investments meeting the conditions set out ~~in investment notified pursuant to~~ Article 5(2);
 - (c) **without undue delay after making the decision to notify a case in accordance with Article 5 (3).**
2. **Without prejudice to paragraph 1**, the following procedures shall apply to multi-country transactions:
 - (a) applicants ~~requesting an authorisation shall file~~ **endeavour to make** their requests for authorisation **filings** in all relevant Member States **concerned** on the same day, and each request for authorisation **filing** shall make reference to the other requests **filings**;
 - (b) where a Member State receives a request for authorisation **filing** that meets the conditions set out in point (a), it shall **endeavour to** coordinate with the other Member States concerned, inter alia, to determine whether point (c) ~~or (d) of this paragraph~~ is applicable; **at the request of a Member State**, the Commission may participate in such coordination ~~upon request from one or more Member States;~~

- (c) if the requests for authorisation concern ~~any of that meets~~ **filing concerns** a foreign investment meeting the conditions set out in Article 5(1) ~~or (2)~~, the respective Member States shall **endeavour to** send their notifications to the cooperation mechanism on the same day ~~and within the deadline laid down in point (a) of paragraph 1 of this Article;~~
- (d) if the requests for authorisation concern a foreign investment meeting the conditions set out in Article 5(2), the respective Member States shall endeavour to send their notifications to the cooperation mechanism on the same day.

Article 7

~~Comments by Member States and opinions by the Commission~~ Cooperation mechanism on notified foreign investments

1. Any Member State may issue duly ~~motivated~~ **justified** comments to the notifying Member State ~~via the secure and encrypted system referred to in Article 12(4). A Member State may issue such comments if it:~~
 - (a) considers that ~~at~~ **the notified** foreign investment is likely to negatively affect its security or public order; or
 - (b) has information relevant for the screening of that foreign investment.

The Member State issuing comments shall simultaneously send ~~its~~ **those** comments to the Commission and inform **all other Member States** through the cooperation mechanism ~~all other Member States that comments have been provided~~ **issued**.
2. The Commission may issue a duly ~~motivated~~ **justified** opinion addressed to the notifying Member State ~~via the secure and encrypted system referred to in Article 12(4). The Commission may issue such an opinion if it:~~
 - (a) ~~it~~ considers that ~~such~~ **the notified** foreign investment is likely to negatively affect the security or public order of more than one Member State;

- (b) ~~it considers that such a~~ **the notified** foreign investment is likely to negatively affect ~~projects or programmes~~ **a project or programme** of Union interest **as listed in Annex I** on grounds of security or public order; **or**

~~or~~

- (c) ~~it has relevant~~ **additional** information ~~related to~~ **relevant for** that foreign investment.

The Commission may issue an opinion regardless of whether Member States have ~~issued~~ **made** comments.

2a.

Where the notifying Member State duly considers that the notified foreign investment is likely to affect its security or public order, it may request the Commission to issue an opinion or other Member States to provide comments.

3. The Commission may issue a duly ~~motivated~~ **justified** opinion addressed to all Member States if it considers that several foreign investments ~~or other similar investments if they were to be made~~, taken together, and having regard to their characteristics could **negatively** affect ~~the security or public order of the Union~~. After ~~the~~ **the** Commission opinion ~~is~~ **has** issued **its opinion**, the Commission may, ~~as~~ **where** appropriate, discuss with Member States how to address the identified risks.
4. The Commission shall:
- (a) send **the** opinions ~~meeting the conditions set out in~~ **referred to in paragraph 2**, points (a) and (c) ~~of paragraph 2~~, to all Member States that ~~provided~~ **issued** comments and notify the other Member States that an opinion was issued ~~via the secure and encrypted system referred to in Article 12(4)~~;
- (b) send **the** opinions ~~meeting the conditions set out in point (b) of~~ **referred to in** paragraph 2, **point (b)**, and opinions ~~meeting the conditions in~~ paragraph 3 to all Member States ~~via the secure and encrypted system referred to in Article 12(4)~~.

5. Where a **notifying** Member State ~~where the foreign investment is planned or completed~~ receives a comment from another Member State pursuant to paragraph 1 or an opinion from the Commission pursuant to paragraph 2 or 3, it shall give ~~at most~~ **due** consideration to such a comment or **an** opinion. ***The screening decision shall be taken by the Member State undertaking the screening.***
6. Following the receipt of ~~a comment pursuant to paragraph 1, the~~ **comments or an opinion**, ~~the notifying~~ Member State ~~shall~~ **may** set up a meeting with the Member States who issued comments **or with the Commission** to discuss how to best address the risks identified. ~~If the Member State Where the foreign investment is planned or completed disagrees with the risks identified or, if applicable, the measure proposed with the comment, the Member States shall aim to identify alternative solutions. Where the comment concerns~~ **comments or an opinion concern** a multi-country transaction, **the notifying Member State shall invite** the other Member States who notified the foreign investment ~~shall also be invited to discuss whether the intended outcome~~ **screening decisions** are compatible with one another and, ~~where applicable, the intended conditions are able to~~ **adequately** address ~~the identified cross-border risks adequately~~ **to security or public order**. The Commission shall be invited to any such meetings **in case an opinion was received pursuant to paragraph 2 or 3.**
7. ~~Following the receipt of an opinion pursuant to paragraph 2 or 3, the procedure set out in paragraph 6 shall apply mutatis mutandis.~~
8. Following the receipt of **comments pursuant to paragraph 1 or** an opinion pursuant to paragraph 2 or 3, the **notifying** Member State ~~where the foreign investment is planned or completed shall~~ **shall notify to the Member States concerned and to the Commission no later than 7 calendar days after the screening decision enters into force the operative part of its screening decision as well as a summary of the main reasons thereof in view of the issued comments or opinion.**

- (a) ~~notify its screening decision to the respective Member States and to the Commission via the secure and encrypted system referred to in Article 12(4) no later than 3 calendar days after it was sent to the respective parties to the foreign investment;~~
- (b) ~~provide a written explanation to the respective Member States and the Commission via the secure and encrypted system referred to in Article 12(4) no later than 7 calendar days after the screening decision was notified pursuant to paragraph (a) on:~~
- ~~(i) the extent to which it gave the Member States' comments or the Commission opinion utmost consideration; or~~
 - ~~(ii) the reason for its disagreement with the Member States' comments or the Commission opinion.~~
9. ~~Where the Member States or the Commission indicate that the screening decision referred to in paragraph 8, subparagraph (a), of this Article does not give utmost consideration to their comments provided pursuant to paragraph 1 or the opinion provided pursuant to paragraph 2 or 3, the Member State where the investment is planned or completed shall organise a meeting to explain the obstacles encountered or the reasons for disagreement and shall endeavour to identify solutions, should a similar situation arise in the future. Where the screening decision concerns a multi-country notification, the other Member States who notified the foreign investment to the cooperation mechanism shall also be invited. The Commission shall be invited to any meetings organised pursuant to this paragraph.~~
10. ~~The Commission shall set up a secure database made available to all Member States with information on the foreign investments assessed by the cooperation mechanism and the outcome of the assessments under the national screening mechanisms, including information about the relevant screening decisions. The Commission shall upload to that database the information it has at its disposal since 12 October 2020. By [date of application of this Regulation] Member States shall upload to that database the information at their disposal about the outcome of the relevant procedure under their own screening mechanisms. They may also provide additional explanations.~~

11. When issuing comments or an opinion pursuant to this Article, the Member States, ~~and or~~ the Commission, as the case may be, shall consider whether such comments or opinion should be classified information and what level of classification should apply thereto, in accordance with Union *law* and the ~~respective~~*applicable* national law on classified information.

Article 8

Deadlines and procedures for providing comments and opinions on notified foreign investments

1. Before a Member State issues a ~~comment~~*comments* or the Commission issues an opinion pursuant to Article 7, the following procedure shall apply:
 - (a) Member States shall inform the notifying Member State ~~via the secure and encrypted system referred to in Article 12(4) that they reserve~~*about* their ~~right~~*intention* to issue comments no later than 15 calendar days following the receipt of ~~the~~*a* notification pursuant to Article 5;
 - (b) the Commission shall inform the notifying Member State ~~via the secure and encrypted system referred to in Article 12(4) that it reserves its right~~*about its intention* to issue an opinion no later than 20 calendar days following the receipt of ~~the~~*a* notification pursuant to Article 5.
2. ~~When reserving their right to issue comments or an opinion, Member States and the Commission may request additional information from the notifying Member State in addition to the information referred in Article 10(1). Any request for additional information shall be duly justified, limited to the information necessary for the Member States to provide comments or for the Commission to issue an opinion, proportionate to the purpose of the request and not unduly burdensome for the notifying Member State. Where a Member State requests additional information from the notifying Member State, it shall send such requests to the Commission simultaneously.:~~

- (a) *duly justified;*
- (b) *limited to the information necessary for the Member States to provide comments pursuant to Article 7 (1) or Article 7(2a) or for the Commission to issue an opinion pursuant to Article 7(2), Article 7(2a) or Article 7(3);*
- (c) *proportionate to the purpose of the request; and*
- (d) *not unduly burdensome for the notifying Member State.*

Where a Member State requests additional information from the notifying Member State, it shall send such requests to the Commission simultaneously.

2a.

Member States and the Commission may request for the additional information, where such information is necessary for them to reply for a request for an opinion or a comment made by the notifying Member State, pursuant to Article 7(2a).

3. The following deadlines shall apply to the issuing of comments by Member States and opinions by the Commission ~~referred to in~~ *pursuant to* Article 7:
 - (a) where a Member State ~~reserves its right~~ *makes known its intention* to issue comments on a notified foreign investment without requesting additional information from the notifying Member State, the respective comments shall be addressed to the notifying Member State ~~via the secure and encrypted system referred to in Article 12(4))~~ *within a reasonable period of time, and in any case* no later than ~~35~~ *20* calendar days following receipt of the ~~complete~~ notification of the foreign investment;

- (b) where the Commission ~~reserves its right~~**makes known its intention** to issue an opinion on a notified foreign investment without requesting additional information from the notifying Member State, the respective opinion shall be addressed to the notifying Member State ~~via the secure and encrypted system referred to in Article 12(4)~~**within a reasonable period of time, and in any case** no later than ~~45~~**30** calendar days following receipt of the ~~complete~~ notification of the foreign investment;
- (c) where a Member State ~~reserves its right~~**makes known its intention** to issue comments on a notified foreign investment and requests additional information from the notifying Member State, the respective comments shall be addressed to the notifying Member State ~~via the secure and encrypted system referred to in Article 12(4)~~**within a reasonable period of time, and in any case** no later than ~~20~~**15** calendar days following receipt of the ~~complete~~ additional information;
- (d) where the Commission ~~reserves its right~~**makes known its intention** to issue an opinion and requests additional information from the notifying Member State, the respective opinion shall be issued to the notifying Member State ~~via the secure and encrypted system referred to in Article 12(4)~~**within a reasonable period of time, and in any case** no later than ~~30~~**25** calendar days following receipt of the ~~complete~~ additional information.

The notifying Member State shall take ~~their~~**its** screening decision only after the ~~deadlines referred to in~~**respective deadline set out in the first subparagraph** points (a)-(d) ~~have~~**has** expired.

4. The notifying Member State shall ~~notify~~**communicate to** the Commission and the other Member States ~~via the secure and encrypted system referred to in Article 12(4)~~ any substantial new information or circumstances relevant for the assessment of a foreign investment already notified pursuant to Article 5. If ~~this~~**that** information is made available before the ~~deadlines~~**respective deadline** set out in paragraph 3 ~~expire~~, the notifying Member State, the Commission and the other Member States shall, **where necessary**, endeavour to agree on a mutually acceptable, **reasonable** extension of the ~~deadline~~. ~~If the deadlines~~ **by up to 20 calendar days for issuing comments or an opinion**. ~~for the assessment of the initial notification set out in paragraph 3 have passed, they shall resume according to~~ The deadlines set out in point (c) and (d) of paragraph 3 **may be extended only once. The screening authority of the notifying Member State shall inform the foreign investor that has filed the request for authorisation that the deadline has been extended.**
5. The notifying Member State shall **endeavour to** provide the ~~complete~~ additional information, requested by the Commission or other Member States pursuant to paragraph 2 without undue delay ~~via the secure and encrypted system referred to in Article 12(4)~~. Where the notifying Member State provides additional information to a Member State, ~~such that~~ additional information shall be sent to the Commission simultaneously.
6. Where the notifying Member State receives several requests for additional information about the same ~~notifiable~~**notified** investment, it shall **endeavour to** provide all the **requested** additional information ~~requested~~ simultaneously.
7. Where several notifying Member States receive requests for additional information about a ~~given multi-country notification, the deadlines set out in paragraph 3~~ **they shall commence on the date of receipt of the last complete additional** **endeavour provide all requested** information. ~~The Commission shall communicate this date and the deadline to the respective Member States~~ **simultaneously**.

8. Where, due to exceptional circumstances, the notifying Member State considers that its security or public order requires ~~issuing~~**adopting** a screening decision before the ***expiry of respective*** deadlines ~~referred to~~**set out** in paragraph 3 ~~expire~~, it shall notify the other Member States and the Commission of its intention and duly justify the need for immediate action. The other Member States and the Commission shall ~~provide~~**issue** comments or ~~issue~~ an opinion expeditiously. This procedure shall not be invoked to serve purely the commercial interests of the applicant requesting the authorisation.
9. ~~All deadlines set out in this Article shall be suspended between 25 December and 1 January and shall resume on 2 January.~~

Article 9

Own initiative procedure***Cooperation mechanism in relation to non-notified foreign investments***

1. ~~*Any Member State may issue a duly justified comment addressed to a Member State that considers that a*~~***Any Member State may issue a duly justified comment addressed to a Member State that***~~*considers that a*~~***where the*** foreign investment in the territory of another Member State ~~*is planned or completed*~~ which has not been notified to the cooperation mechanism ~~*is likely to negatively affect its security or public order, it may open an own initiative procedure in relation to that foreign investment. Before opening the procedure,*~~ ***where*** the Member State shall check that the Member State where the investment is planned or completed does not intend to notify the foreign investment to the cooperation mechanism ~~*issuing the comment*~~
- (a) *considers that foreign investment is likely to negatively affect its security or public order, or*
- (b) *has relevant information relevant for that foreign investment.*

Member States issuing comments shall simultaneously send those comments to the Commission. The Commission shall notify the other Member States that comments have been issued.

2. *The Commission may issue a duly justified opinion addressed to the Member States shall be granted at least 15 months, after State where the foreign investment has been planned or completed, the right to open the procedure set out in paragraph 1, provided the respective foreign investment which has not been notified to the cooperation mechanism in the meantime, where the Commission:*

- (a) considers that foreign investment is likely to negatively affect security or public order in more than one Member State, or*
- (b) considers that foreign investment is likely to negatively affect projects or programmes of Union interest as listed in Annex I on grounds of security or public order, or*
- (c) has relevant information relevant for that foreign investment.*

The Commission shall notify the other Member States that an opinion was issued.

3. *The Commission may open an own initiative procedure when it considers that a foreign investment in the territory of a Member State which has not been notified to the cooperation mechanism falls under Article 7(2). States, before opening the procedure, issuing comments, and the Commission before issuing an opinion, shall check that whether the host Member State where the investment is planned or completed does not intend intends to notify the foreign investment through the cooperation mechanism pursuant to Article 5.*

4. *Before issuing comments or an opinion in relation to a foreign investment pursuant to paragraph 1, point (a) and paragraph 2, point (a) or (b), the Member States or the Commission shall be granted at least 15 months, after the foreign investment has been completed, to open the procedure set out in paragraph 3, provided the respective foreign investment has not been notified send a request for information to the cooperation mechanism in the meantime host Member State.*

5. ~~The Member States or the Commission shall open the own initiative procedure set out in paragraph 1 and 3 respectively by sending a duly motivated request for information via the secure and encrypted system referred to in Article 12(4) to the Member State where the foreign investment is planned or has been completed. Any request for information pursuant to this paragraph 4 shall be duly justified, limited to the information necessary for the Member States to provide comments or for the Commission to issue an opinion, proportionate to the purpose of the request and not unduly burdensome for the notifying Member State. Where the request for information is submitted by a Member State, that Member State shall send the request to the Commission simultaneously.:~~

(a) duly justified;

(b) limited to the information necessary for a Member State to issue comments or for the Commission to issue an opinion;

(c) proportionate to the purpose of the request, and

(d) not unduly burdensome for the notifying Member State.

A request for information from a host Member State shall simultaneously be sent to the Commission.

6. The **host** Member State ~~where the investment is planned or completed~~ shall provide the ~~complete~~ information requested by the other Member States or the Commission pursuant to paragraph ~~54~~ without undue delay ~~via the secure and encrypted system referred to in Article 12(4)~~. Where the notifying **host** Member State provides ~~additional~~ information to a Member State, such ~~additional information~~ **it shall be sent simultaneously send that** to the Commission ~~simultaneously~~.

7. Following ~~the~~ receipt of information referred to in ~~pursuant to~~ paragraph 6, Member States may ~~provide~~**issue** comments and the Commission may ~~provide~~**issue** an opinion to the **host** Member State where the foreign investment is planned or has been completed. The rules and procedures laid down in Article 7 and 8 shall apply ~~mutatis mutandis~~, subject to ~~the~~**within a reasonable period of time, and in any case no later than 20 calendar days** following ~~modifications~~**the receipt of the information. In case where the opinion of the Commission follows comments from other Member States, the Commission shall have 10 additional calendar days for issuing its opinion.**
8. *A host Member State shall give due consideration to the comments of the other Member States and to the opinion of the Commission. If the host Member State considers that the foreign investment does not require authorisation pursuant to its own national law, it has already screened the foreign investment, or it disagrees with the risks identified by the Member States that have issued comments or the Commission, it shall inform the Member States that have issued comments and the Commission thereof.*
9. *Member States may issue comments pursuant to paragraph 1 and the Commission may issue an opinion pursuant to paragraph 2 no later than 15 months following the completion of a foreign investment.*
10. *This Article shall not apply to foreign investments completed before the entry into force of this Regulation.*

Article 10

Information requirements

1. Member States shall ensure that information provided in the notification referred to in Article 5 and **provided in response to** ~~at the request of information referred to in~~ ~~9(5)~~**pursuant to 9(6)** include:

- (a) the name, *if possible written in both the Latin alphabet and in the original characters and address, where applicable, website address and activities* of the *foreign* investor, the ~~global ultimate~~ name, *if possible written in both the Latin alphabet and in the original characters and address, where applicable, website address of the the beneficial* owner of the *foreign* investor and the Union target, the ownership structure of the *foreign* investor and, where applicable, of the corporate group ~~to of~~ which the *foreign* investor is a *forms* part;
- (b) a comprehensive description of the investment, ~~its value and information on the ownership of the Union target, before and after the foreign investment, on the~~ *approximate value, its* funding of the investment and its ~~and~~ source, on the basis of the best information available to the Member State, *and the date by which the foreign investment is planned to be completed or has been completed;*
- (c) name and address of the Union target, its activities and alternative providers, the *beneficial owner of the Union target, the* ownership structure of the Union target *before and after the foreign investment,* and, where applicable, of the corporate group ~~to of~~ which the Union target is a *forms* part;
- (d) ~~if~~ *where* applicable, information about the other legal entities of the same corporate group as the Union target that are located in other Member States *and about relevant business operations that the Union target conducts in other Member States;*
- (e) ~~activities where applicable, details about the participation of the foreign investor, its name and address, and~~ *Union target in projects or programmes of Union interest as listed in Annex I.*
- (f) ~~the date when the foreign investment is planned to be completed or has been completed.~~

2. ~~The Commission shall set out, by means of implementing acts pursuant to Article 21, to be adopted prior to~~ *By ... [OJ: please insert the date of application of this Regulation], the Commission shall establish, by means of an implementing act pursuant to the date of application of this Regulation referred to in Article 24(2)21, the form to be used to provide the type of information required underreferred to in paragraph 1 of this Article. Where necessary, the Commission may amend that implementing act.*

3. ~~Where the Commission or Member States request additional information pursuant to Article 8(1) or Article 9(5) from the Member State where the foreign investment is planned or has been completed, that Member State shall endeavour to provide such information, if available, to the requesting Member States and the Commission.~~
4. ~~Where necessary, The *host* Member State where the foreign investment is planned or has been completed may request the applicant requesting an authorisation *foreign investor* or any other relevant undertaking *natural or legal person either within the chain of control of the foreign investor or within the chain of control of the Union target* to provide the information referred to in paragraphs 1 and 3. The request for information may concern information necessary for the Member State to determine if any of the conditions set out in *paragraph 1*, Article 5(1) are met. The undertaking concerned shall provide *8(2), 8(2a) and 9(4)*. The requested information *shall be provided* to the *host* Member State where the foreign investment is planned or has been completed within 15 calendar days ~~of~~ *following* the request. *By way of derogation, that Member State may extend the deadline by a period it deems appropriate in light of the complexity or quantity of the requested information.*~~
5. The *host* Member State where the foreign investment is planned or completed and the Commission may request other Member States to ~~seek~~ *gather* information from ~~undertakings in a~~ *natural or legal person within* their territory, provided ~~this that that~~ *that that* information is relevant and strictly necessary for assessing a foreign investment pursuant to Article 13 *and the information request is duly justified*. The Member State receiving the request ~~to seek for~~ information shall *endeavour*, without delay, ~~request the undertaking to provide that information and shall notify~~ *if available or as soon as the information has been made available to* it to ~~both the host the Member State where the foreign investment is planned or completed and the Commission, in accordance with the procedure set out in Articles 8(2) and 9(6) as applicable.~~
6. A Member State shall notify the Commission and the other Member States concerned if, in exceptional circumstances, it is unable, despite its best efforts, to provide the information referred to in paragraphs 3, 4 or 5. ~~That Member State shall duly explain the reasons for not being able to provide the information~~ *or 4* .

7. If no or incomplete information is provided, the ~~comment~~**comments** issued by Member States, or the opinion issued by the Commission may be based on the information available to them.
8. ~~Where the information referred to in paragraphs 1 to 6 originates from an undertaking, the Member State receiving the information from the undertaking shall check the completeness of the information and shall take reasonable steps to ensure that the information is accurate before providing it to the Commission and other Member States.~~

Article 11

Common requirements for screening mechanisms to ensure an effective cooperation mechanism

1. Member States **and the Commission** shall provide the necessary resources; **and** legal and administrative means for their efficient and effective participation in the cooperation mechanism.
2. Each Member State and the Commission shall designate a contact point for the purposes of the cooperation mechanism.
3. Member States shall ensure that the deadlines and procedures set out in their screening mechanisms allow them to provide ~~complete~~ answers to requests for additional information by the Commission or other Member States.
4. Member States shall ensure that their screening mechanisms give sufficient time and means to assess and give ~~utmost~~**due** consideration to other Member States' comments and Commission opinions before a screening decision is taken. This includes having ~~all~~ **at their disposal, in any relevant instrument, including its screening mechanism, the** necessary legal means and powers to consider concerns expressed or likely impacts identified by another Member State or the Commission ~~in its screening decision or in any other relevant instrument at its disposal~~. Where a foreign investment is notified to the Commission and other Member States pursuant to Article 5, the screening ~~mechanisms~~**mechanism** shall not allow ~~Member States~~ **a screening authority** to take ~~their~~ **a** screening decision until the **expiry of** deadlines for comments by the Member States and Commission opinions set out in Article 8(3), **except for cases referred to in Article 8(8)** ~~expire~~.

5. ~~Member States~~ ***Without prejudice to Article 4, screening authorities shall ensure that be empowered to investigate, assess, decide on and monitor foreign investments brought to their national laws allow compliance with the obligations set out in paragraphs 5 to 9 of attention pursuant to Article 79(1) or (2).***
6. ~~The screening authorities shall be empowered to investigate, assess, decide on and monitor foreign investments brought to their attention pursuant to Article 9(7).~~
7. ***Member States shall ensure that they have the necessary legal means and powers to effectively address within their territory the consequences of non-compliance with the mitigating measures provided for in their screening decision.*** Where mitigating measures in a screening decision require compliance by undertakings established in other Member States, the Member States that adopted a screening decision shall ~~cooperate with the~~ ***and*** other ***relevant*** Member ~~State~~ ***States*** or Member States ***in which the*** concerned ~~on undertaking is established or to be established, shall endeavor to cooperate with each other to the extent possible in the monitoring and enforcement of screening decision.~~ Member States shall ensure that they have all necessary legal means and powers to address effectively the consequences of non-compliance with the mitigating measures provided in ~~at the~~ screening decision, ***within the framework of their screening mechanisms.***

Article 12

Confidentiality of information exchanges in the cooperation mechanism

1. Information received ~~in accordance with the procedures set out in Articles 5, 7 and 9~~ ***as a result of the application of this Regulation*** shall be used only for the purpose for which it was requested, unless: ***the originator of the information explicitly agrees to another use.***
 - (a) ~~the originator of the information explicitly agrees to another use; or~~
 - (b) ~~the Court of Justice of the European Union or a court of the Member State where the foreign investment is planned or completed requests such information for the purpose of legal proceedings.~~

2. Member States and the Commission shall ensure the confidentiality of the information they provide or receive in application of this Regulation, in accordance with national and Union law. When dealing with requests for access to documents provided or received in application of this Regulation, Member States and the Commission shall refrain from disclosing any information that would undermine the purpose of the investigations conducted pursuant to this Regulation.
3. Member States and the Commission shall ensure that classified information provided or exchanged under this Regulation is not downgraded or declassified without the prior written consent of the originator.
4. The Commission shall provide a secure and encrypted system to support the exchange of information between the contact points *referred to in Article 11(2)*. ***All substantive communication between the Member States and the Commission pursuant to this Regulation shall be transmitted via that secure and encrypted system.***

CHAPTER 4

FOREIGN INVESTMENTS LIKELY TO NEGATIVELY AFFECT SECURITY OR PUBLIC ORDER

Article 13

Determination of likely negative impact on security and public order

1. ~~Member States shall determine, for the purposes of taking a screening decision pursuant to Article 14 or issuing a duly motivated comment pursuant to Article 7(1) or Article 9(7),~~ ***When determining*** whether a foreign investment is likely to negatively affect security or public order, ***for the purposes of taking a screening decision, or issuing a comment or an opinion, the Member States and the Commission shall in particular consider its potential effects on, inter alia:***
 - (a) ***the availability, including outside the Union as a result of the foreign investment, of technologies covered by the critical technology areas listed in Annex II;***
 - (b) ***a project or programme of Union interest listed in Annex I;***
 - (c) ***the security, integrity, resilience and functioning of a critical entity within the meaning of Article 2(1) of Directive (EU) 2022/2557;***
 - (d) ***the continuity of supply of critical inputs;***
 - (e) ***the protection of sensitive information, including personal data, in particular with regard to the ability of the foreign investor to access, control, and otherwise process such personal data;***
 - (f) ***the freedom and pluralism of the media, including online platforms that can be used for large scale disinformation or criminal activities;***
 - (g) ***the protection of public health;***
 - (h) ***critical transport infrastructure;***
 - (i) ***protection of food security.***

2. ~~The Commission shall determine, for the purpose of issuing a duly motivated opinion pursuant to Article 7(2) or (3) or Article 9(7), whether it considers a foreign investment to be likely to negatively affect security or public order.~~
3. ~~When determining whether an investment is likely to negatively affect security or public order, the Member States or the Commission shall in particular consider whether the investment concerned is likely to negatively affect:~~
- ~~(a) the security, integrity and functioning of critical infrastructure, whether physical or virtual; in that context, based on the information available, it shall also be assessed whether the foreign investment is likely to negatively affect the resilience of any of the critical entities they have identified under Directive (EU) 2022/2557 of the European Parliament and of the Council²⁸ as well as entities in scope of Directive (EU) 2022/2555 of the European Parliament and of the Council²⁹. The results of the Union level coordinated security risk assessments of critical supply chains carried out in accordance with Article 22(1) of Directive (EU) 2022/2555 shall also be taken into account.;~~
 - ~~(b) the availability of critical technologies;~~
 - ~~(c) the continuity of supply of critical inputs;~~
 - ~~(d) the protection of sensitive information, including personal data, in particular with regard to the ability of the foreign investor to access, control, and otherwise process such personal data, or~~
 - ~~(e) the freedom and pluralism of the media, including online platforms that can be used for large scale disinformation or criminal activities.~~

²⁸ ~~Directive (EU) 2022/2557 of the European Parliament and of the Council of 14 December 2022 on the resilience of critical entities and repealing Council Directive 2008/114/EC (OJ L 333, 27.12.2022, p. 164–198, ELI: <http://data.europa.eu/eli/dir/2022/2557/oj>).~~

²⁹ ~~Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (OJ L 333, 27.12.2022, p. 80–152, ELI: <http://data.europa.eu/eli/dir/2022/2555/oj>).~~

4. When determining whether ~~an~~ **foreign** investment is likely to negatively affect security or public order, **for the purposes of taking a screening decision, or issuing a comment or an opinion**, the Member States ~~and~~ the Commission shall also take into account information related to the foreign investor, including:
- (a) whether the foreign investor, a natural person or entity controlling the foreign investor, the beneficial owner of the foreign investor, any of the subsidiaries of the foreign investor, or any other party owned or controlled by, or acting on behalf or at the direction of the— foreign investor ~~was involved in~~ **made** a foreign investment **that was** previously screened by a Member State ~~and that was~~ **yet** not authorised or was only authorised **subject to mitigating measures which were not complied with** ~~with conditions~~; To determine this, Member States and the Commission shall rely on information available to them, including the information contained in the secure database set up pursuant to ~~Article 7(10)~~ **Article 16a (1)**;
 - (b) where applicable, the reasons for subjecting the foreign investor, a natural person or entity controlling the foreign investor, the beneficial owner of the foreign investor, any of the subsidiaries of the foreign investor, or any other party owned or controlled by, or acting on behalf or at the direction of the foreign investor to restrictive measures **adopted** pursuant to **Article 29 TEU and Article 215 TFEU**;
 - (c) whether the foreign investor, **a natural person or entity controlling the foreign investor, the beneficial owner of the foreign investor**, or any of ~~its~~ **the** subsidiaries **of the foreign investor, or any other party owned or controlled by or acting on behalf or at the direction of the foreign investor** has already been involved in activities negatively affecting the security or public order in a Member State;
 - (d) whether the foreign investor, **a natural person or entity controlling the foreign investor, the beneficial owner of the foreign investor**, or any of ~~its~~ **the** subsidiaries **of the foreign investor, or any other party owned or controlled by or acting on behalf or at the direction of the foreign investor** has engaged in illegal or criminal activities, including the circumvention of Union restrictive measures pursuant to **Article 29 TEU and Article 215 TFEU**;

- (e) whether the foreign investor, a natural person or entity controlling the foreign investor, the beneficial owner of the foreign investor, any of the subsidiaries of the foreign investor, or any other party owned or controlled by, or acting on behalf or at the direction of the foreign investor is likely to pursue a third country's policy objectives, or *to* facilitate the development of a third country's military capabilities.

Article 14

Screening decisions on foreign investments likely to negatively affect security or public order

1. Where, taking into account the criteria laid down in Article 13 *as well as any additional information or element it may consider relevant to the foreign investment* and, where applicable, in the light of comments ~~provided~~*issued* by other Member States pursuant to Article 7(1), **7(2a)** or Article 9(7), or an opinion ~~provided~~*issued* by the Commission pursuant to Article 7(2) or (3) or Article 9(7), the *host* Member State ~~in which the foreign investment is planned or completed~~ concludes that the foreign investment is likely to negatively affect security or public order in one or more Member States, ~~including where a project or programme of Union interest is concerned~~, it shall issue a screening decision to:
 - (a) authorise the foreign investment subject to mitigating measures, or
 - (b) prohibit *or unwind* the foreign investment.

The screening decision shall comply with the principle of proportionality and take into consideration all circumstances of the foreign investment.

2. ~~Where~~ The *host* Member State ~~where the foreign investment is planned or completed~~ ~~considers that~~ *shall consider whether* other measures pursuant to Union or national law are available and appropriate to address the foreign investment's ~~effect~~*impact* on security ~~and/or~~ public order; ~~the foreign investment shall be authorised without conditions.~~
3. *The host Member State shall only issue a screening decision to prohibit or unwind the foreign investment where the impact on security or public order could not be adequately addressed through other means.*

CHAPTER 5

FINAL PROVISIONS

Article 15

International cooperation

Member States and the Commission may cooperate with the responsible authorities of third countries on issues relating to the screening of investments on grounds of security and public order.

Article 16

Annual reporting at Union level

1. By 31 March of each year beginning in ~~[add date: first year of application...]~~ ***[OJ: please insert the number of the year that follows the year during which this Regulation starts to apply]***, Member States shall report to the Commission, on a confidential basis, on their activities under their screening mechanism and ~~under the cooperation mechanism for the~~ preceding calendar year. ~~This~~ ***That*** report shall contain information on:
 - (a) the number of foreign investments screened ~~after a request for authorisation and after an own initiative procedure;~~
 - (b) the number of foreign investments ~~approved with and without conditions~~ ***authorised or authorised subject to mitigating measures ;***
 - (c) the number of foreign investments prohibited, ~~the number of foreign investments withdrawn~~ ***or unwound;***
 - (d) the number of foreign investments notified to the cooperation mechanism, ~~and the number of comments issued by the respective Member State;~~
 - (e) ***the number of comments issued by the respective Member State;***

- (e) information on the origin of the foreign investors **and its beneficial owner** and the sector of activity of the targets of the foreign investments screened, authorised or prohibited;
 - (f) an aggregate presentation of **the** risks and vulnerabilities identified in the foreign investments that led to a screening decision;
2. On the basis of the information received in accordance with paragraph 1, and based on its assessment of trends and developments, the Commission shall provide an annual report on implementation of this Regulation **in the preceding year** to the European Parliament and to the Council. That report shall be made public **with a level of detail that guarantees the anonymity of specific transactions**.

Article 16a

Database on the outcome of assessments under national screening mechanisms

1. ***The Commission shall set up a secure database available to all Member States with information on the foreign investments notified to the cooperation mechanism and the outcome of the assessments under screening mechanisms.***
2. ***After completion of the national procedure, Member States shall upload to the database the following information:***
- (a) ***name, address or registered office and, where applicable, national registration number of the foreign investor and, where applicable, of the foreign investor's subsidiary in the Union;***
 - (b) ***name, registered office and national registration number of the Union target;***
 - (c) ***name, registered office and national registration number of companies affiliated with the Union target;***

(d) outcome of the national procedure according to the following categories:

- (i) not subject to national screening mechanism (non-eligible)*
- (ii) authorisation without condition,*
- (iii) authorisation subject to mitigating measures;*
- (iv) prohibition,*
- (v) withdrawal of a filing,*
- (vi) other;*

Points (a) to (c) only apply where this information has not been previously provided pursuant to Article 10 (1) or where it has changed since the notification.

- 3. By ...[OJ: please insert the date of Application of this Regulation] the Commission shall provide technical guidance to Member States concerning implementation of paragraph 2 and 4 of this Article , by means of an implementing act pursuant to Article 22, .*
- 4. The Commission shall upload to the database the information it has at its disposal since 12 October 2020 based on the notifications sent by Member States that screened foreign investments pursuant to Regulation 2019/452. By ...[OJ: please insert the date of application of this Regulation] Member States shall upload to that database the information at their disposal about the outcome of their screening mechanisms under that Regulation. When Member States do so, they may also provide additional explanations.*

Processing of personal data

1. Any processing of personal data pursuant to this Regulation shall be carried out in accordance with Regulation (EU) 2016/679 and Regulation (EU) 2018/1725 and ~~only when~~ ***in so far as it is*** necessary for the screening of foreign investments by Member States and for ensuring the effectiveness of the cooperation ~~provided for in this Regulation~~ ***mechanism***.
2. ***The national screening authorities of the Member States and the Commission shall be considered joint data controllers in accordance with Regulation (EU) 2016/679 of the European Parliament and the Council and Regulation (EU) 2018/1725 of the European Parliament and of the Council for the processing of operational*** personal data ~~related to the implementation of~~ ***under*** this Regulation ~~shall be kept only for the time necessary to achieve the purposes for which they were collected. A Joint Controllershship Arrangement between the European Commission and the Member States' representatives or authorities participating in the cooperation mechanism under Regulation (EU) 2019/452 signed on 28 April 2022, should continue to apply.~~
3. ***Personal data related to foreign investments pursuant to this Regulation shall be retained only for the time necessary to achieve the purposes for which they were collected and in any case for a period of time not exceeding 15 years from the day that the host Member State or the other Member States receiving such personal data in the context of the cooperation mechanism or the Commission have closed the case or, if that occurs later, no legal obligation on the parties to the transaction arises any more from the screening decision.***
4. ***Personal data in screening decisions, Member States comments and Commission opinions shall be retained not longer than 50 years after the adoption of those decisions or opinions.***

Article 18

Evaluation

1. The Commission shall evaluate the functioning and effectiveness of this Regulation- 5 years after the date of application of this Regulation and every 5 years thereafter and present a report to the European Parliament and to the Council. Member States shall be involved in this exercise and, ~~if~~**where** necessary, provide the Commission with additional information for the preparation of that report.
2. Where the report from the Commission recommends amendments to this Regulation, it may be accompanied by a legislative proposal.

Article 19

Delegated acts

1. The Commission is empowered to adopt delegated acts in accordance with Article 20 for the purposes of amending, where necessary, the list of projects or programmes of Union interest, set out in Annex I, **in order** to take account of the adoption ~~and/or~~ amendment of Union law relating to **legal acts establishing** projects or programmes **that provide for the development, maintenance or acquisition of critical infrastructure, critical technologies or critical inputs which are of particular importance** of Union interest relevant to security or public order.
2. The Commission is empowered to adopt delegated acts in accordance with Article 20- for the purposes of amending, where necessary, the list ~~technologies, assets, facilities, equipment, networks, systems, services and economic activities~~ **of technology areas** of particular importance for ~~the security or public order interests of the Union~~ set out in Annex II to take account of changes in the circumstances relevant to the security or public order ~~interests of the Union~~. In particular, these considerations shall include the following:
 - (a) the resilience of supply chains of particular importance for the security or public order ~~interests of the Union~~;

- (b) the resilience of infrastructures of particular importance for the security or public order ~~interests of the Union~~;
- (c) the advancement of technologies of particular importance for security or public order ~~of the Union~~;
- (ca) *the risk of leakage or misuse of technologies of particular importance for security or public order*;**
- (d) the emergence of vulnerabilities in relation to access to or other forms of processing of sensitive information, including personal data to the extent they are likely to negatively affect the security or public order ~~interests of the Union~~; and
- (e) the emergence of a geopolitical situation of particular importance for security or public order ~~of the Union~~.

3. ***When determining whether to amend the list of technology areas of particular importance for security or public order set out in Annex II, and based on, inter alia, the consultation of experts from academia and the Members States, the Commission shall take into account whether the technology area has:***

- a) a dual-use potential;***
- b) a maturity, an innovation trajectory or a scalability that makes it susceptible to create strategic dependencies by shaping market standards or security environments ;***
- c) applications that are or have the potential to be essential for the security or public order of one the areas referred to in Article 13, paragraph 1, points (c) to (i).***

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts shall be conferred on the Commission for an ~~indefinite~~ period of time from **5 years from ...** [OJ: please insert the date of entry into force of *this Regulation*]. **The delegation of power shall be tacitly extended for periods of identical duration, unless the European Parliament or the Council opposes to such extension no later than three months before the end of each period**~~the basic legislative act~~.
3. The delegation of power **referred to in Article 19** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 19 shall enter into force only if no objection has been expressed by the European Parliament or the Council within ~~2~~**two** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by ~~2~~**two** months on the initiative of the European Parliament or of the Council.

Article 21

Committee procedure for implementing acts

1. The Commission is empowered to adopt implementing acts ~~setting out~~**establishing** the forms to be used to provide the information indicated in Article 10(1) **and for the provision of the technical guidance pursuant to Article 16a(3).**
2. **The** implementing acts referred to in paragraph 1 shall be adopted in accordance with the advisory procedure referred to in Article 22(2).

Article 22

Committee

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

Article 23

Repeal of the Regulation 2019/452

Regulation (EU) 2019/452 is repealed with effect from ... [*OJ: please insert the date*;~~15~~ **24** months after **the date of the** entry into force **of this Regulation**].

References to the repealed Regulation shall be construed as references to this Regulation.

Article 24

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from ... [*OJ: please insert the date*: ~~15~~ **24** months after *the* entry into force].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

Annex I

Projects or programmes of Union interest

1. Preparatory Action on Preparing the new EU GOVSATCOM programme

Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, and in particular Article 58(2) point (b) thereof (OJ L 193, 30.7.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/1046/oj>).

2. Space Programme

Regulation (EU) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU (OJ L 170, 12.5.2021, p. 69, ELI: <http://data.europa.eu/eli/reg/2021/696/oj>).

3. Union secure connectivity programme

Regulation (EU) 2023/588 of the European Parliament and of the Council of 15 March 2023 establishing the Union Secure Connectivity Programme for the period 2023-2027 (OJ L 79, 17.3.2023, p.1, ELI: <http://data.europa.eu/eli/reg/2023/588/oj>).

4. ~~Horizon 2020 including research and development programmes pursuant to Article 185 TFEU, and joint undertakings or any other structure set up pursuant to Article 187 TFEU~~

~~Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 — the Framework Programme for Research and Innovation (2014-20) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104, ELI: <http://data.europa.eu/eli/reg/2013/1291/oj>).~~

5. ~~Horizon Europe, including research and development programmes pursuant to Article 185 TFEU, and joint undertakings or any other structure set up pursuant to Article 187 TFEU~~
- ~~Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/695/oj>).~~
6. Euratom Research and Training Programme 2021-25
- Council Regulation (Euratom) 2021/765 of 10 May 2021 establishing the Research and Training Programme of the European Atomic Energy Community for the period 2021-25 complementing Horizon Europe – the Framework Programme for Research and Innovation and repealing Regulation (Euratom) 2018/1563 (OJ L 167I, 12.5.2021, p. 81, ELI: <http://data.europa.eu/eli/reg/2021/765/oj>).
7. Trans-European Networks for Transport (TEN-T)
- Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/1315/oj>).
8. Trans-European Networks for Energy (TEN-E)
- Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 (OJ L 115, 25.4.2013, p. 39, ELI: <http://data.europa.eu/eli/reg/2013/347/oj>).

9. Trans-European Networks for Telecommunications ¹

Regulation (EU) No 283/2014 of the European Parliament and of the Council of 11 March 2014 on guidelines for trans-European networks in the area of telecommunications infrastructure and repealing Decision No 1336/97/EC (OJ L 86, 21.3.2014, p. 14, ELI: <http://data.europa.eu/eli/reg/2014/283/oj>).

10. Connecting Europe Facility

Regulation (EU) 2021/1153 of the European Parliament and of the Council of 7 July 2021 establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014 (OJ L 249, 14.7.2021, p. 38, ELI: <http://data.europa.eu/eli/reg/2021/1153/oj>).

11. ~~Digital Europe Programme~~

~~Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240 (OJ L 166, 11.5.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/694/oj>).~~

12. European Defence Industrial Development Programme

Regulation (EU) 2018/1092 of the European Parliament and of the Council of 18 July 2018 establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovation capacity of the Union's defence industry (OJ L 200, 7.8.2018, p. 30, ELI: <http://data.europa.eu/eli/reg/2018/1092/oj>).

¹ Regulation (EU) No 283/2014 is maintained in this Annex in view of Article 27(2) of Regulation (EU) 2021/1153 establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014.

13. Preparatory Action on Defence Research

Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, and in particular Article 58(2) point (b) thereof (OJ L 193, 30.7.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/1046/oj>).

14. European Defence Fund

Regulation (EU) 2021/697 of the European Parliament and of the Council of 29 April 2021 establishing the European Defence Fund and repealing Regulation (EU) 2018/1092 (OJ L 170, 12.5.2021, p. 149, ELI: <http://data.europa.eu/eli/reg/2021/697/oj>).

15. Act in Support of Ammunition Production (ASAP)

Regulation (EU) 2023/1525 of the European Parliament and of the Council of 20 July 2023 on supporting ammunition production (ASAP) (OJ L 185, 24.7.2023, p.7, ELI: <http://data.europa.eu/eli/reg/2023/1525/oj>).

16. European Defence Industry Reinforcement through common Procurement Act (EDIRPA)

Regulation (EU) 2023/2418 of the European Parliament and of the Council of 18 October 2023 on establishing an instrument for the reinforcement of the European defence industry through common procurement (EDIRPA) (OJ L 2023/2418, 26.10.2023, ELI: <http://data.europa.eu/eli/reg/2023/2418/oj>).

17. Permanent structured cooperation (PESCO)

Council Decision (CFSP) 2018/340 of 6 March 2018 establishing the list of projects to be developed under PESCO (OJ L 65, 8.3.2018, p. 24, ELI: <http://data.europa.eu/eli/dec/2018/340/oj>).

Council Decision (CFSP) 2023/995 of 22 May 2023 amending and updating Decision (CFSP) 2018/340 establishing the list of projects to be developed under PESCO (OJ L135, 23.5.2023, p. 123, ELI: <http://data.europa.eu/eli/dec/2023/995/oj>).

18. ~~European Joint Undertaking for ITER~~

~~Council Decision 2007/198/Euratom of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it (OJ L 90, 30.3.2007, p. 58, ELI: <http://data.europa.eu/eli/dec/2007/198/oj>).~~

19. EU4Health Programme

~~Regulation (EU) 2021/522 of the European Parliament and of the Council of 24 March 2021 establishing a Programme for the Union's action in the field of health ('EU4Health Programme') for the period 2021–27, and repealing Regulation (EU) No 282/2014 (OJ L 107, 26.3.2021, p. 1, ELI: <http://data.europa.eu/eli/reg/2021/522/oj>).~~

20. Important Projects of Common European Interest (IPCEI)

~~Described in the Communication from the Commission – Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest (2021/C 528/02) (OJ C 528/10, 30.12.2021, p.10) as referred to on the website of the Commission services.²~~

² ~~https://competition-policy.ec.europa.eu/state-aid/ipcei/approved-ipceis_en~~

Annex II

List of technologies, assets, facilities, equipment, networks, systems, services and economic activities *Technology areas* of particular importance for the security or public order interests of the Union

1. ~~Items listed in Annex I to Regulation (EU) 2021/821 of the European Parliament and of the Council (common list of dual use items subject to export controls)~~
2. ~~Equipment covered by Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment (Common Military List of the European Union)~~
3. The following critical technology areas for the EU's economic security ~~annexed to Commission Recommendation (EU) 2023/2113 of 3 October 2023 on critical technology areas for the EU's economic security for further risk assessment with Member States:~~
 - a. ~~Advanced Semiconductors technologies:~~
 - ~~high frequency chips~~*i. design of integrated circuits and other semiconductors¹, including related semiconductor intellectual property core;*
 - ~~semiconductor manufacturing equipment at very~~*ii. electronic design automation software for the design of integrated circuits and other semiconductors, or for the design of advanced node sizes*~~packaging;~~

¹ *The concept of “integrated circuits and other semiconductors” includes but is not limited to microprocessors, graphic processors, microcontrollers, logic chips, memory chips, radio frequency chips, photonic chips, analog chips, quantum chips, optical semiconductors, power semiconductors, discrettes and sensors / microsystems.*

- iii. *front-end fabrication of integrated circuits and other semiconductors;*
 - iv. *assembly, testing and packaging of integrated circuits and other semiconductors, including advanced printed circuit boards and packaging;*
 - v. *semiconductor manufacturing equipment, both for the front-end and back-end fabrication of integrated circuits and other semiconductors, including etching, deposition, epitaxy, lithography, advanced packaging, testing or metrology tools;*
 - vi. *core components or software of semiconductor manufacturing equipment;*
 - vii. *materials used in the fabrication of integrated circuits and other semiconductors, in particular specialty chemicals, rare gases, semiconductor materials, substrates or wafers.*
- b. Artificial intelligence technologies, *meaning any technology related to a machine-based system that is designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment, and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments ('AI system'), used for the following applications:*
- (a) i. *generative AI systems trained using more than 10^{25} FLOPS (floating point operations);*
 - (b) ii. *generative AI systems trained in a significant part on biological/ genomic data, or designed to be used in a biotechnological, space or defence context.*
- ~~high performance computing~~
 - ~~cloud and edge computing~~
 - ~~data analytics technologies~~
 - ~~computer vision, language processing, object recognition~~



- c. Quantum technologies:
 - i. quantum computing;
 - ~~quantum cryptography~~
 - ii. quantum communications;
 - iii. quantum sensing ~~and radar~~.
- d. Biotechnologies:
 - i. techniques of genetic modification
 - ii. new genomic techniques
 - iii. gene-drive
 - iv. synthetic biology
- e. Advanced connectivity, navigation and digital technologies:
 - i. Secure digital communications and connectivity, such as RAN ~~& amp;~~ Open RAN (Radio Access Network) and 6G
 - ii. Cyber security technologies incl. cyber-surveillance, security and intrusion systems, digital forensics
 - iii. Internet of Things and Virtual Reality
 - iv. Distributed ledger and digital identity technologies
 - v. **Advanced** guidance, navigation and control technologies, including avionics and marine positioning

- f. Advanced sensing technologies:
- i. Electro-optical, radar, chemical, biological, radiation and distributed sensing
 - ii. Magnetometers, magnetic gradiometers
 - iii. Underwater electric field sensors
 - iv. Gravity meters and gradiometers
- g. Space & propulsion technologies:
- i. Dedicated space-focused technologies, ranging from component to system level
 - ii. Space surveillance and Earth observation technologies
 - iii. Space positioning, navigation and timing (PNT)
 - iv. Secure communications including Low Earth Orbit (LEO) ~~connectivity~~ **connectivity**
 - v. Propulsion technologies, including hypersonics and components for military use
- h. Energy technologies:
- i. Nuclear fusion technologies, reactors and power generation, radiological conversion/enrichment/recycling technologies
 - ii. Hydrogen and new fuels
 - iii. Net-zero technologies, including photovoltaics
 - iv. Smart grids and energy storage, batteries
- iv. Robotics and autonomous systems:

- vi. Drones and vehicles (air, land, surface and underwater)
- vii. Robots and robot-controlled precision systems
- viii. Exoskeletons
- ix. AI-enabled systems
- j. Advanced materials, manufacturing and recycling technologies:
 - i. Technologies for nanomaterials, smart materials, advanced ceramic materials, stealth materials, safe and sustainable by design materials
 - ii. Additive manufacturing, including in the field
 - iii. Digital controlled micro-precision manufacturing and small-scale laser machining/welding
 - iv. Technologies for extraction, processing and recycling of critical raw materials (including hydrometallurgical extraction, bioleaching, nanotechnology-based filtration, electrochemical processing and black mass)
- 4. ~~Listed critical medicines: Medicines for human use that are essential for the proper functioning of the EU healthcare system and whose shortage would lead to an interruption in treatment and thus serious harm to patients, as listed in the Union list for critical medicines².~~

² ~~Union list of critical medicines <https://www.ema.europa.eu/en/human-regulatory-overview/post-authorisation/medicine-shortages-and-availability-issues/availability-critical-medicines#ema-inpage-item-64278>~~

5. The following critical entities and activities in the Union's financial system: central counterparties³, payment systems and payment institutions⁴, electronic money institutions⁵, market operators and investment firms that operate a multilateral trading facility or an organised trading facility⁶, central securities depositories⁷, significant issuers of asset-referenced tokens or e-money tokens and crypto-asset service providers operating trading platforms for crypto-assets⁸, large institutions⁹, global providers of specialised financial messaging services and designated critical ICT third-party service providers¹⁰.

-
- ³ Article 2(1) of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p.1, ELI: <http://data.europa.eu/eli/reg/2012/648/oj>.
- ⁴ Article 4(7) and Art 4(4) of Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35, ELI: <http://data.europa.eu/eli/dir/2015/2366/oj>.
- ⁵ Article 2(1) of Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p.7, ELI: <http://data.europa.eu/eli/dir/2009/110/oj>.
- ⁶ Article 4(1)(18) of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349, ELI: <http://data.europa.eu/eli/dir/2014/65/oj>.
- ⁷ Article 2(1)(1) of Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p.1, ELI: <http://data.europa.eu/eli/reg/2014/909/oj>.
- ⁸ Articles 3(1)(6), 3(1)(7) and 3(1)(10), 3(1)(15) and Article 3(1)(18) of Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p.40, ELI: <http://data.europa.eu/eli/reg/2023/1114/oj>.
- ⁹ Article 4(1)(146) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p.1, ELI: <http://data.europa.eu/eli/reg/2013/575/oj>.
- ¹⁰ Article 3(23) of Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011 (OJ L 333, 27.12.2022, p.1, ELI: <http://data.europa.eu/eli/reg/2022/2554/oj>.