

2017/0224 (COD)

## REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**establishing a framework for screening of foreign direct investments into the European Union**

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 Article 207(2) thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Foreign direct investment contributes to the Union's growth, by enhancing its competitiveness, creating jobs and economies of scale, bringing in capital, technologies, innovation, expertise, and by opening new markets for the Union's exports. It supports the objectives of the [...]Investment Plan for Europe and contributes to other Union projects and programmes.
- (2) *Article 3(5) of the Treaty on the European Union (TEU) specifies that the Union, in its relations with the wider world, shall uphold and promote its values and interests and contribute to the protection of its citizens. Moreover, [...]the Union and the 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 international commitments undertaken by the Union and its Member States with respect to foreign direct investment.*
- (3) Pursuant to the international commitments undertaken in the World Trade Organisation, the Organisation for Economic Cooperation and Development, and in the trade and investment agreements concluded with third countries, *it is possible for* the Union and Members States *to* [...]adopt restrictive measures to foreign direct investment on the grounds of security or public order, subject to certain requirements. *The framework established by this Regulation relates to foreign direct investment into the European Union. Outward investment and market access to third countries are dealt with under other trade and investment policy instruments.*
- (4) *This Regulation is without prejudice to the right of Member States to derogate to the free movement of capital as laid down in Article 65(1)(b) TFEU.* Several Member States have put in place measures according to which they may restrict [...]those movements [...]on grounds of public policy or public security. Those measures reflect [...]the objectives and concerns *of Member States* with respect to foreign direct investment, and result in a number of different measures in terms of scope and procedure. Other Member States do not have such mechanisms. *Member States wanting to put in place such mechanisms in the future may take*

*into account the functioning, experiences and best practices of mechanisms already in place.*

- (5) There is currently no comprehensive framework at **Union level** [...]for the screening of foreign direct investments on the grounds of security or public order, **while the major trading partners of the Union have already developed such frameworks.**
- (6) Foreign direct investment falls within the common commercial policy. In accordance with Article 3(1)(e) TFEU, the European Union has exclusive competence with respect to the common commercial policy.
- (7) It is important to provide legal certainty **for Member States' screening mechanisms on the grounds of security and public order**, and [...]ensure EU wide coordination and cooperation [...]on the screening of foreign direct investment [...]likely to affect security or public order. This **common framework** is without prejudice to the sole responsibility of the Member States for **safeguarding their** [...]national security, **as provided for in Article 4(2) TEU. It is also without prejudice to the protection of their essential security interests in accordance with Article 346 TFEU.**
- (8) The framework for the screening of foreign direct investment **and cooperation** should provide the Member States and the Commission with the means to address risks to security or public order in a comprehensive manner, and to adapt to changing circumstances, whilst maintaining the necessary flexibility for Member States to screen foreign direct investments on grounds of security and public order taking into account their individual situations and national circumstances.

***The decision whether to set up a screening mechanism, or to screen a particular foreign direct investment remains the sole responsibility of the Member State concerned.***

- (9) A broad range of investments which establish or maintain lasting and direct links between investors from third countries **including State entities**, and undertakings carrying out an economic activity in a Member State should be covered. **For greater certainty, this Regulation does not apply to portfolio investment.**
- (10) Member States should be able to take the necessary measures, in compliance with Union law, to prevent circumvention of their screening mechanisms and decisions to protect security or public order. This should cover investments within the Union by means of artificial arrangements that do not reflect economic reality and circumvent the screening mechanisms and screening decisions, where the investor is ultimately owned or controlled by a natural person or an undertaking of a third country. This is without prejudice to the freedom of establishment and free movement of capital enshrined in the TFEU.

[...]

- (11) ***Member States should be able to assess risks to security or public order arising from significant changes to the ownership structure or key characteristics of a foreign investor.***

[...]

- (12) To guide Member States and the Commission in the application of the Regulation, it is appropriate to provide a list of factors that may be taken into consideration

when [...] **determining whether a** foreign direct investment [...] **is likely to affect** security or public order. This list will also improve transparency of [...] **Member States' screening mechanisms** for investors considering making or having made foreign direct investments in the Union. This list of factors that may affect security or public order should remain non-exhaustive.

[...]

(13) In determining whether a foreign direct investment may affect security or public order, Member States and the Commission should be able to consider all relevant factors, including the effects on critical infrastructure, technologies, including key enabling technologies, and inputs which are essential for security or the maintenance of public order, and the disruption, **failure**, loss or destruction of which would have a significant impact in a Member State or in the Union. In that regard, Member States and the Commission should also be able to take into account **the context and circumstances of the foreign direct investment, in particular** whether a foreign investor is controlled directly or indirectly (e.g. through significant funding, including subsidies) by the government of a third country **or is pursuing State-led outward projects or programmes**.

(14) **Member States or the Commission, as appropriate, might consider relevant information received from economic operators, civil society organisations, or social partners such as trade unions, in relation to a foreign direct investment likely to affect security or public order.**

[...]

(15) It is appropriate to lay down the essential elements of the procedural framework for the screening of foreign direct investment by Member States to allow investors, the Commission and other Member States to understand how such investments are likely to be screened. [...] **Rules and procedures related to screening mechanisms should be** transparent [...] and [...] **should not discriminate** between third countries. Those elements should at least include [...] timeframes for the screening and the possibility for foreign investors to seek [...] **recourse against** screening decisions.

[...]

(16) A mechanism which enables Member States to cooperate and assist each other where a foreign direct investment in one Member State [...] **could** affect the security or public order of other Member States should be set up. Member States should be able to provide comments to a Member State in which the investment is planned or has been completed, irrespective of whether **this Member State maintains a screening mechanism, or such investment is undergoing screening**. [...]

The **requests for information, replies and** comments of Member States should also be forwarded to the Commission. The Commission should [...] have the possibility, where appropriate, to issue an opinion **within the meaning of Article 288 TFEU** to the Member State in which the investment is planned or has been completed. [...]

**A Member State should have the possibility to request the Commission to issue an opinion or other Member States to provide comments on a foreign direct investment taking place in its territory.**

(17) **When a Member State receives comments from other Member States or an opinion from the Commission, it should give them due consideration through,**

*where appropriate, measures available under their national legislation, or in their broader policy-making, in line with its duty of sincere cooperation under Article 4(3) TEU.*

*The final decision in relation to any foreign direct investment undergoing screening or any measure taken in relation to a foreign direct investment not undergoing screening remains the sole responsibility of the Member State where the foreign direct investment is planned or completed.*

- (18) *The cooperation mechanism should only be used for the purpose of protecting security or public order. For that reason, Member States should duly justify any request for information as regards a specific foreign direct investment in another Member State, as well as any comment they may address to that Member State. The same requirements should apply when the Commission requests information on a particular foreign direct investment or issues an opinion to a Member State. Compliance with these requirements is also important in situations where an investor of a Member State competes with investors of third countries for acquiring assets or making an investment in another Member State.*

[...]

- (19) Furthermore, the Commission should have the possibility to [...] *provide an opinion within the meaning of Article 288 TFEU with regard to* foreign direct investments likely to affect projects and programmes of Union interest on grounds of security or public order. 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 its economic growth, jobs and competitiveness. This should include in particular projects and programmes involving a substantial EU funding or established by Union legislation regarding critical infrastructure, critical technologies or critical inputs. For greater clarity, [...] *those* projects or programmes of Union interest [...] *should be listed in an Annex. The opinion should be communicated in parallel to the other Member States.*

*The Member State should take utmost account of the opinion received from the Commission through, where appropriate, measures available under its national legislation, or in its broader policy-making, and provide an explanation to the Commission if it does not follow this opinion, in line with its duty of sincere cooperation under Article 4(3) TEU. The final decision in relation to any foreign direct investment undergoing screening or any measure taken in relation to a foreign direct investment not undergoing screening remains the sole responsibility of the Member State where the foreign direct investment is planned or completed.*

[...]

- (20) *In order to update the list of projects and programs of Union interest, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend the list of projects and programmes of Union interest annexed to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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.*

- (21) *In order to provide greater certainty for investors, Member States should have the possibility to make comments and the Commission should have the possibility to issue an opinion in relation to completed investments not undergoing screening for a limited period of 15 months after the completion of the foreign direct investment. The cooperation mechanism should apply only to foreign direct investments completed after the entry into force of this Regulation.*

[...]

- (22) [...] Member States should notify their screening mechanisms and any amendment thereto to the Commission, and should report on the application of their screening mechanisms on an *annual* [...] basis, *including as regards the decisions allowing, prohibiting or subjecting foreign direct investments to conditions or mitigating measures and the decisions regarding foreign direct investments likely to affect projects or programmes of Union interest.* [...] All Member States [...] should [...] report on the foreign direct investments that took place in their territory, on the basis of the information available to them. *In order to improve the quality and comparability of information provided by Member States as well as to facilitate compliance with the notification and reporting obligations, the Commission should provide standardised forms considering, inter alia, relevant forms applied for the purpose of reporting to Eurostat when appropriate.*

[...]

- (23) [...] *In order to ensure the effectiveness of the cooperation mechanism,* it is also important to ensure a minimum level of information and coordination with regard to foreign direct investments falling under the scope of this Regulation in all Member States. This information should be made available by the Member States *for foreign direct investment undergoing screening as well as, upon request, for other foreign direct investment* [...]. Relevant information includes aspects such as the ownership structure of the foreign investor and the financing of the planned or completed investment, including, when available, information about *funding of the investment, including* subsidies granted by third countries. *Member States should seek to provide accurate, comprehensive and reliable information.*

- (24) *Upon request by a Member State where the foreign investment is planned or has been completed, the foreign investor or the undertaking concerned should provide the information requested. In exceptional circumstances, when, despite its best efforts, a Member State is unable, to obtain such information, it should notify the Member States concerned or the Commission without delay. In such case any comment issued by another Member State or any opinion issued by the Commission in the framework of the cooperation mechanism may be made on the basis of the information available to them.*

- (25) *When making available the information requested, Member States shall comply with Union law and national legislation that complies with Union law.*

[...]

- (26) The communication and cooperation at Member State and Union level should be enhanced through the establishment of *a* contact point[...] for the [...] *implementation of the Regulation* in each Member State *and the Commission.*

- (27) *The contact points appointed by the Member States and the Commission should be appropriately placed within the administration, qualified to perform their functions under the coordination mechanism and to ensure a proper handling of confidential information.*
- (28) *The development and implementation of comprehensive and effective policies should be supported by the Commission expert group on the screening of foreign direct investments into the European Union composed of representatives of the Member States. This group should discuss, in particular, issues related to the screening of foreign direct investments, share best practices and lessons learned, exchange views on trends and issues of common concern related to foreign direct investments and consider systemic issues relating to the implementation of this Regulation. The Commission should consult the expert group on draft delegated acts in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making<sup>1</sup>.*
- (29) *Member States and the Commission should be encouraged to cooperate with the responsible authorities of like-minded third countries on issues related to screening of foreign direct investment likely to affect security or public order. Such administrative cooperation should aim at strengthening the effectiveness of the framework for screening of foreign direct investment by the Member States and for cooperation between Member States and the Commission pursuant to this Regulation. The Commission should also be able to monitor developments with regard to screening mechanisms in third countries.*  
[...]
- (30) *Member States and the Commission should take all necessary measures to ensure the protection of confidential and other sensitive information in compliance with in particular the Commission Decision (EU, Euratom) 2015/443<sup>2</sup> of 13 March 2015, on security in the Commission, Commission Decision (EU, Euratom) 2015/444<sup>3</sup> of 13 March 2015, on the security rules for protecting EU classified information and 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 European Union<sup>4</sup>.*
- This includes notably the obligation not to downgrade or declassify classified information without the prior written consent of the originator<sup>5</sup>.*
- Any information which is by nature sensitive (but not classified) or which is provided on a confidential basis should be handled as such by the authorities.*
- (31) *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 the Member States should be carried out in accordance with Regulation (EU) No 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural*

---

<sup>1</sup> OJ L123, 12.5.2016, p. 1.

<sup>2</sup> OJ L 72, 17.3.2015, p. 41.

<sup>3</sup> OJ L 72, 17.3.2015, p. 53.

<sup>4</sup> OJ C 202, 7.7.2011, p. 13.

<sup>5</sup> *Article 4(1)(a) of 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 European Union and Article 4(2) of Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information.*

*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)<sup>6</sup>. Processing of personal data by the Commission should be carried out in accordance with [revised Regulation (EC) No 45/2001<sup>7</sup>].*

(32) *On the basis of, inter alia, the annual reports submitted by all the Member States, and with due respect to the confidential nature of certain information included in those reports, the Commission should draw up an annual report on the implementation of this Regulation and submit it to the European Parliament and the Council. For greater transparency, the report should be made public.*

(33) *The European Parliament should have the possibility to invite the Commission to an ad-hoc meeting of its responsible committee to present and explain systemic issues related to the implementation of this Regulation.*

[...]

(34) [...]By (INSERT A DATE: 3 years of the start of application of this Regulation) and every five years thereafter, the Commission should [...]evaluate the functioning and effectiveness of this Regulation and present a report to the European Parliament and the Council. The report should include an assessment of whether or not the Regulation requires a modification. Where the report proposes modifying the provisions of this Regulation, it may be accompanied, where appropriate, by a legislative proposal.

[...]

(35) The implementation of this Regulation by the Union and the Member States should comply with the relevant requirements for the imposition of restrictive measures on grounds of security and public order [...]in the WTO Agreements (including in particular Article XIV (a) and Article XIV bis of the GATS) [...]. *It should also comply with EU law and be consistent with commitments made under other trade and investment agreements [...]and arrangements to which the Union or Member States are adherents or parties.*

[...]

(36) When a foreign direct investment constitutes a concentration falling within the scope of Council Regulation (EC) No 139/2004<sup>8</sup>, the implementation 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 in a consistent manner. To the extent that the respective scope of application of the two regulations overlap, the grounds for screening set out in Article 1 of this Regulation and the notion of legitimate interests within the meaning of Article 21(4), third paragraph, of Regulation (EC) No 139/2004 should be interpreted in a coherent manner, without prejudice to the assessment of the compatibility of the national measures aimed at protecting these interests with the general principles and other provisions of Union law.

(37) *This Regulation does not affect EU rules for the prudential assessment of acquisitions of qualifying holdings in the financial sector, which is a distinct procedure with a specific objective<sup>9</sup>.*

<sup>6</sup> Ref to be inserted

<sup>7</sup> Ref to be inserted

<sup>8</sup> 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).

<sup>9</sup> Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and

[...]

- (38) This Regulation is consistent with and without prejudice to other notification and screening procedures set out in sectoral Union law,

HAVE ADOPTED THIS REGULATION:

### *Article 1* **Subject matter and scope**

1. This Regulation establishes a framework for the screening by the Member States [...]of foreign direct investments into the Union on the grounds of security or public order [...]and for a cooperation mechanism between Member States and between them and the Commission with regard to foreign direct investments likely to affect security or public order, including the Commission's possibility to issue opinions on such investments.
2. *This Regulation is without prejudice to the sole responsibility of the Member States for the maintenance of national security, as provided for in Article 4(2) TEU, and to the right of the Member States to protect their essential security interests in accordance with Article 346 TFEU.*
3. *Nothing in this Regulation shall limit the right of each Member State to decide whether or not to screen a particular foreign direct investment within the framework of this Regulation.*

### *Article 2* **Definitions**

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

1. 'foreign direct investment' means investments of any kind by a foreign investor aiming to establish or to maintain lasting and direct links between the foreign investor and the entrepreneur to whom or the undertaking to which the capital is made available in order to carry on an economic activity in a Member State, including investments which enable effective participation in the management or control of a company carrying out an economic activity;
2. 'foreign investor' means a natural person [...]or an undertaking of a third country, intending to make or having made a foreign direct investment;

---

*2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector, OJ L 247, 21.9.2007, p. 1; 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; 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; 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.*



3. 'screening' means a procedure allowing to assess, investigate, authorise, condition, prohibit or unwind foreign direct investments;
4. 'screening mechanism' means an instrument of general application, such as a law or regulation, and accompanying administrative requirements, implementing rules or guidelines, setting out the terms, conditions and procedures **to assess, investigate, authorise, condition, prohibit or unwind** foreign direct investments on grounds of security or public order;
5. ***'foreign direct investment undergoing screening' means a foreign direct investment undergoing a formal assessment or investigation pursuant to a screening mechanism;***
- [...]
6. 'screening decision' means a measure adopted in application of a screening mechanism;
- [...]
7. 'undertaking of a third country' means an undertaking constituted or otherwise organised under the laws of a third country.

### *Article 3*

#### **Screening mechanisms of Member States [...]**

1. ***In accordance with the provisions of this Regulation,*** Member States may maintain, amend or adopt mechanisms to screen foreign direct investments ***in their territory*** on the grounds of security or public order[...].
- [...]
2. ***Rules and procedures related to [...]***screening mechanisms, ***including relevant timeframes,*** shall be transparent and not discriminate between third countries. In particular, Member States shall set out the circumstances triggering the screening, the grounds for screening and the applicable detailed procedural rules.
3. Member States shall [...]***apply*** timeframes [...]***under their*** screening [...]***mechanisms.*** [...] ***The screening mechanisms*** shall allow [...]***Member States*** to take into account the comments of ***other*** Member States referred to in Article 6 and 7 [...]and the opinion of the Commission referred to in Articles 6, 7 and 8[...].
4. Confidential information, including commercially-sensitive information, made available ***to the Member State undertaking screening*** [...]shall be protected.
5. Foreign investors and undertakings concerned shall have the possibility to seek [...]***recourse*** against screening decisions of the national authorities.
6. Member States ***with a screening mechanism*** [...]shall maintain, amend or adopt measures necessary to ***identify and*** prevent circumvention of the screening mechanisms and screening decisions.
7. Member States shall notify to the Commission their existing screening mechanisms by [...] (INSERT DATE: *30 days of the entry into force of this Regulation*) at the latest. Member States shall notify to the Commission any amendment to an existing screening mechanism or any newly adopted screening

mechanism within 30 days of entry into force of the screening mechanism *or its amendments* at the latest.

8. *No later than three months after notifications referred to in paragraph 7, the Commission shall make publicly available a list of Member States' screening mechanisms. The Commission shall keep the list up to date.*

#### Article 4

#### Factors that may be taken into consideration by the Member States or the Commission [...]

1. In [...] *determining whether* a foreign direct investment *is likely to affect* [...] security or public order, Member States and the Commission may consider [...] *its* potential effects on, inter alia:
  - (a) critical infrastructure, *whether physical or virtual*, including energy, transport, *water, health*, communications, *media*, data *processing or* storage, *aerospace, defence, electoral* or financial infrastructure, as well as sensitive facilities *and investments in land and real estate, crucial for the use of such infrastructure*;
  - (b) critical technologies *and dual use items as defined in Article 2.1 of Regulation (EC) No 428/2009*, including artificial intelligence, robotics, semiconductors, [...] cybersecurity, *quantum, aerospace* [...], *defence, energy storage*, nuclear technolog[...]*ies, nanotechnologies and biotechnologies*;
  - (c) supply of critical inputs, [...] including energy or raw materials, as well as food security;
  - (d) access to sensitive information, *including personal data*, or the ability to control [...] *such* information; or
  - (e) *the freedom and pluralism of the media.*
2. In determining whether a foreign direct investment is likely to affect security or public order, Member States and the Commission may *also* take into account, *in particular*, whether:
  - (a) the foreign investor is *directly or indirectly* controlled by the government, *including state bodies or armed forces* of a third country, including through *ownership structure or significant funding* [...];
  - (b) *the foreign investor has already been involved in activities affecting security or public order of a Member State; or*
  - (c) *whether there is a serious risk that the foreign investor engages in illegal or criminal activities.*

[...]

Article [...]5  
[...]4[...]nnual reporting

[...]

1. *By 31 March of each year, Member States [...]shall provide the Commission with an annual report covering **the preceding calendar year and including aggregated information on** foreign direct [...] investments that took place in their territory, on the basis of information available to them, **and aggregated information on the requests received from other Member States pursuant to Articles 6(6) and 7(5).***
2. *For each reporting period, Member States that maintain screening mechanisms shall provide **in addition** [...]aggregated information on the application of their screening mechanisms. [...]*
3. *The Commission shall provide an annual report on the implementation of this Regulation to the European Parliament and the Council. That report shall be made public.*
4. *The European Parliament may invite the Commission to an ad-hoc meeting of its responsible committee to present and explain systemic issues related to the implementation of this Regulation.*

Article [...]6

**Cooperation mechanism in relation to foreign direct investments undergoing screening**

1. Member States shall **notify** [...]the Commission and the other Member States of any foreign direct investment[...] **in their territory** that **is** [...]undergoing screening [...]by providing the information referred to in Article 9(2) as soon as possible[...]. **The notification may include a list of Member States whose security or public order is deemed likely to be affected.** As part of the [...]notification, and when applicable, the screening Member State[...] shall endeavour to indicate whether it considers that the foreign direct investment **which is** undergoing screening is likely to fall within the scope of Regulation (EC) No 139/2004.
2. Where a Member State considers that a foreign direct investment [...]undergoing screening in another Member State is likely to affect its security or public order, **or has information relevant for such screening**, it may provide comments to the Member State **undertaking the screening**[...]. **Those** [...]comments shall be forwarded to the Commission in parallel.  
  
*The Commission shall notify other Member States that comments were provided or an opinion was issued.*
3. Where the Commission considers that a foreign direct investment **undergoing screening** is likely to affect security or public order in [...]more **than one** Member State, **or has relevant information in relation to that foreign direct investment**, it may issue an opinion addressed to the Member State **undertaking the screening**[...]. The Commission may issue an opinion irrespective of whether other Member States have provided comments. **The Commission may issue an opinion following comments from other Member States. The Commission shall**

*issue such opinion where justified, after at least one third of Member States consider that a foreign direct investment is likely to affect their security or public order.*

4. *A Member State which duly considers that a foreign direct investment on its territory is likely to affect its security or public order may request the Commission to issue an opinion or other Member States to provide comments.*
5. *The comments referred to in paragraph 2 and the opinions referred to in paragraph 3 shall be duly justified.*
6. *No later than 15 calendar days following the receipt of the information referred to in paragraph 1, other Member[...] States and the Commission shall notify the Member State undertaking screening of their intention to provide comments pursuant to paragraph 2 or an opinion pursuant to paragraph 3. The notification may include a request for additional information to the information referred to in paragraph 1.*

*Any request for additional information shall be duly justified, limited to information necessary to provide comments pursuant to paragraph 2 or to issue an opinion pursuant to paragraph 3, proportionate to the purpose of the request and not unduly burdensome for the Member State undertaking screening. Requests for information and replies provided by the Member States shall be forwarded to the Commission in parallel.*

[...]

7. *Comments pursuant to paragraph 2 or opinions pursuant to paragraph 3 shall be addressed to the Member State **undertaking the screening** [...] within a reasonable period of time, and in any case no later than 35 calendar [...] days following receipt of the information referred to in paragraph 1[...].*

*Notwithstanding the foregoing, if additional information was requested pursuant to paragraph 6, such comments or opinions shall be issued no later than 20 calendar days following receipt of the additional information or the notification pursuant to Article 9(5).*

*Notwithstanding paragraph 6, the Commission may issue an opinion following comments from other Member States where possible within the deadline of 35 calendar days, and in any case no later than 5 calendar days after this deadline expires.*

8. *In the exceptional case where the Member State undertaking screening considers that its security or public order requires immediate action, it shall notify other Member States and the Commission of its intention to issue a screening decision before the timeframes referred to in paragraph 7 and duly justify the need for immediate action. The other Member States and the Commission shall endeavour to provide comments or to issue an opinion expeditiously.*

[...]

9. *The Member State[...] **undertaking screening** [...] shall give due consideration to the comments of the other Member States referred to in paragraph 2 and to the opinion of the Commission referred to in paragraph 3 **without prejudice to the provisions of Article 8. The final screening decision shall be taken by the***

***Member State undertaking screening.***

[...]

10. Cooperation [...]pursuant to this Article shall take place through the contact points referred to in Article [...]11.

***Article 7******Cooperation mechanism in relation to foreign direct investments not undergoing screening***

1. Where a Member State considers that a foreign direct investment planned or completed in another Member State ***which is not undergoing screening in that Member State***, is likely to affect its security or public order, ***or has relevant information in relation to that foreign direct investment***, it may provide comments to the Member State where the foreign direct investment is planned or has been completed. The comments shall be forwarded to the Commission in parallel.

***The Commission shall notify other Member States that comments were provided or an opinion was issued.***

2. Where the Commission considers that a foreign direct investment ***planned or completed in a Member State which is not undergoing screening in that Member State***, is likely to affect security or public order in [...]more ***than one Member State*** [...], ***or has relevant information in relation to that foreign direct investment***, it may issue an opinion addressed to the Member State in which the foreign direct investment is planned or has been completed. The Commission may issue an opinion irrespective of whether other Member States have provided comments. ***The Commission may issue an opinion following comments from other Member States. The Commission shall issue such opinion where justified, after at least one third of Member States consider that a foreign direct investment is likely to affect their security or public order.***
3. ***A Member State which duly considers that a foreign direct investment in its territory is likely to affect its security or public order may request the Commission to issue an opinion, or other Member States to provide comments.***
4. ***The comments referred to in paragraph 1 and the opinions referred to in paragraph 2 shall be duly justified.***
5. ***Where [...]the Commission or a Member State [...]consider[...] that a foreign direct investment which is not undergoing screening is likely to affect [...]security or public order as referred to in paragraphs 1 and 2, it may request from the Member State where the foreign direct investment is planned or has been completed [...]the information referred to in Article 9.***

***Any request for information shall be duly justified, limited to information necessary to provide comments [...]pursuant to [...]paragraph 1[...], or to issue an opinion [...]pursuant to [...]paragraph 2[...], proportionate to the purpose of the request and not unduly burdensome for the Member State where the foreign direct investment is planned or has been completed.***

***Requests for information and replies provided by the Member States shall be forwarded to the Commission in parallel.***

6. Comments pursuant to paragraph 1[...] or opinions pursuant to paragraph 2[...] shall be addressed to the Member State where the foreign direct investment is planned or has been completed within a reasonable period of time, and in any case no later than **35 [...]calendar** days following receipt of the information referred to in paragraph[...] **5 or of the notification pursuant to Article 9(5)**. In cases where the opinion of the Commission follows comments from other Member States, the Commission shall have **15[...]** additional [...]calendar days for issuing [...]that opinion.
7. The Member State[...] where the foreign direct investment is planned or has been completed shall give due consideration to the comments of the other Member States [...]and to the opinion of the Commission ***without prejudice to the provisions of Article 8[...]***.
8. ***Member States may provide comments pursuant to paragraph 1 and the Commission may provide an opinion pursuant to paragraph 2 no later than 15 months after the foreign direct investment has been completed. This article shall not apply to foreign direct investments completed before the entry into force of this Regulation.***
9. Cooperation [...]pursuant to this Article shall take place through the contact points referred to in Article 11.

#### *Article [...]8*

***[...]Foreign direct investments likely to affect projects or programmes of Union interest***

1. Where the Commission considers that a foreign direct investment is likely to affect projects or programmes of Union interest on grounds of security or public order, the Commission may issue an opinion addressed to the Member State where the foreign direct investment is planned or has been completed.
2. ***The procedures set out in Articles 6 and 7 shall apply mutatis mutandis, subject to the following modifications:***

- (a) *as part of the notification referred to in Article 6(1) or the comments referred to in Articles 6(2) and 7(1), a Member State may indicate whether it considers that a foreign direct investment is likely to affect projects and programmes of Union interest;*

[...]

- (b) [...]the opinion of the Commission shall be communicated to the other Member States[...];

[...]

- (c) [...]the Member State[...] where the foreign direct investment is planned or has been completed shall take utmost account of the Commission's opinion and provide an explanation to the Commission in case its opinion is not followed.

[...]

3. *For the purpose of this Article, [...]*projects or programmes of Union interest shall include [...]those projects and programmes which involve a substantial amount or a significant share of EU funding, or which are covered by Union legislation regarding critical infrastructure, critical technologies or critical inputs ***which are essential for security or public order. The*** [...]list of projects or programmes of Union interest is included in ***the Annex***[...].

4. *The Commission shall adopt delegated acts in accordance with Article 16 to amend the list of projects and programmes of Union interest in the Annex.*

#### Article [...]9

#### Information requirements

1. Member States shall ensure that the information ***notified pursuant to Article 6(1) or*** requested by the Commission and other Member States pursuant to Articles ***6(6) and 7(5)*** [...]is made available to the Commission and the requesting Member States without undue delay.
2. The information referred to in paragraph 1 of this Article shall include[...]:
  - (a) [...]the ownership structure of the foreign investor and of the undertaking in which the foreign direct investment is planned or has been completed, including information on the ultimate ***investor and participation in the capital***[...];
  - (b) [...]the ***approximate*** value of the foreign direct investment;
  - (c) [...]the products, services and business operations of the foreign investor and of the undertaking in which the foreign direct investment is planned or has been completed;
  - (d) [...]the Member States in which the foreign investor and the undertaking in which the foreign direct investment is planned or has been completed conduct ***relevant*** business operations;
  - (e) [...]the funding of the investment ***and its source***, on the basis of ***the best*** information available to the Member State;
  - (f) ***the date when the foreign direct investment is planned to be completed or has been completed.***

3. *Member States shall endeavour to provide any information additional to that referred to in paragraphs 1 and 2, if available, to requesting Member States and to the Commission without undue delay.*
4. *The Member State where the foreign direct investment is planned or has been completed may request the foreign investor or the undertaking in which the foreign direct investment is planned or has been completed to provide the information referred to in paragraph 2. The foreign investor or the undertaking concerned shall provide the information requested without undue delay.*
5. *A Member State shall notify the Commission and the other Member States concerned without delay, if, in exceptional circumstances, it is unable, despite its best efforts, to obtain the information referred to in paragraph 1. The Member State shall duly justify the reasons for not providing such information and explain the best efforts undertaken to obtain the requested information, including a request pursuant to paragraph 4.*

*In such case, any comment issued by another Member State or any opinion issued by the Commission may be based on the information available to them.*

#### *Article [...]10*

#### **Confidentiality of information transmitted**

1. Information received as a result of the application of this Regulation shall be used only for the purpose for which it was requested.
2. Member States and the Commission shall ensure the protection of confidential information acquired in application of this Regulation *in accordance with Union law and their national law.*
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.*

#### *Article [...]11*

#### **Contact points**

1. Each Member State *and the Commission* shall appoint a[...] contact point [...]for the [...]implementation of this Regulation. The Commission and [...]Member States shall involve these [...]contact points on all issues related to *the* implementation of this Regulation.
2. *A secure and encrypted system shall be provided by the Commission to support direct cooperation and exchange of information between the contact points.*



## *Article 12*

### *Expert group on the screening of foreign direct investments*

1. *The Commission is provided advice and expertise by the expert group on the screening of foreign direct investments into the European Union<sup>10</sup>.*
2. *The group shall continue to discuss issues related to the screening of foreign direct investments, share best practices and lessons learned, exchange views on trends and issues of common concern related to foreign direct investments. The Commission shall also consider seeking advice of the group on systemic issues relating to the implementation of this Regulation.*
3. *The discussions in the group shall be kept confidential.*

## *Article 13*

### *International Cooperation*

*Member States and the Commission may cooperate with the responsible authorities of third countries on issues related to screening of foreign direct investment on grounds of security and public order.*

## *Article 14*

### *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 [revised Regulation (EC) No 45/2001] and only in so far as it is necessary for screening of foreign direct investment by the Member States and for ensuring the effectiveness of the cooperation provided for in this Regulation.*
2. *Personal data related to the implementation of this Regulation shall be kept only for the time necessary to achieve the purposes for which they were collected.*

## *Article [...]15*

### *Evaluation*

1. *By (INSERT A DATE: Three years of the start of application of this Regulation) and every five years thereafter, [...]the Commission shall evaluate the functioning and effectiveness of this Regulation and present a report to the European Parliament and the Council[...]. Member States shall be involved in this exercise and **if necessary** [...]provide the Commission with [...]additional information for the preparation of that report.*
2. *Where the report recommends modifying the provisions of the regulation, **it** [...]may be accompanied by an appropriate legislative proposal.*

---

<sup>10</sup> Commission Decision of 29.11.2017 setting up the group of experts on the screening of foreign direct investments into the European Union, C(2017) 7866 final.

**Article 16**  
**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 referred to in Article 8(4) shall be conferred on the Commission for an indeterminate period of time from [INSERT A DATE: date of entry into force of the basic legislative act].*
3. *The delegation of power referred to in Article 8(4) 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 on Better Law-Making of 13 April 2016.*
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 8(4) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of 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 two months at the initiative of the European Parliament or of the Council.*

**Article [...]17**  
**Entry into force**

1. *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 (INSERT A DATE: 18 months of entry into force).***
2. *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

**List of projects or programmes of Union interest referred to in Article 8(3) [...]**

1. European GNSS programmes (Galileo & EGNOS):  
Regulation (EU) No 1285/2013 of the European Parliament and of the Council of 11 December 2013 on the implementation and exploitation of the European satellite navigation systems and repealing the Council Regulation (EC) No 876/2002 and Regulation (EC) No 683/2008 of the European Parliament and of the Council.
2. Copernicus:  
Regulation (EU) No 377/2014 of the European Parliament and of the Council of 3 April 2014 establishing the Copernicus Programme: OJ L 122/44, 24.4.2014.
3. Horizon 2020:  
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 (2014-2020) and repealing Decision No 1982/2006/EC, including actions therein relating to Key Enabling Technologies such as artificial intelligence, robotics, semiconductors and cybersecurity.
4. 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; OJ L 348, 20.12.2013, p. 1–128.
5. 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.
6. Trans-European Networks for Telecommunications:  
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.
7. ***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.***
8. ***Permanent structured cooperation (PESCO):***  
***COUNCIL DECISION of 6 March 2018 establishing the list of projects to be developed under PESCO.***

### **Commission Statement**

Following the request of the European Parliament, the European Commission undertakes to:

- share with the European Parliament the standardised forms which the European Commission will prepare to facilitate compliance of Member States with the annual reporting obligations under Article 5 of the Regulation once they are finalised, and
  - share with the European Parliament such standardised forms each year, in parallel to presenting the annual report to the European Parliament and to the Council, in accordance with Article 5(3) of the Regulation.
-



Council of the European Union  
General Secretariat

**Brussels, 22 November 2018**

**WK 14350/2018 INIT**

**LIMITE**

**COMER  
FDI**

*This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.*

#### **MEETING DOCUMENT**

From:	Presidency
To:	Working Party on Trade Questions
Subject:	FDI Screening Regulation - Text following political agreement at the fifth trilogue meeting held on 20 November 2018

Delegations will kindly find attached the 4-column table, as well as a consolidated version of the text of the FDI Screening Regulation following the political agreement reached at the fifth trilogue meeting held on 20 November 2018.

**Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a framework for screening of foreign direct investments into the European Union**

(COM (2017) 487 final – 2017/0224 (COD))

**Trilogue Negotiations**

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	<b>TITLE</b>				
1	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a framework for screening of foreign direct investments into the European Union	No changes to COM proposal	No changes to COM proposal	<del><i><b>Proposal for a</b></i></del> REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a framework for screening of foreign direct investments into the European Union	
	<b>CITATIONS</b>				
2	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	No changes to COM proposal	No changes to COM proposal	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE	

<sup>1</sup> All modifications in respect of the Commission proposal are presented in ***italics and bold*** for additions, and in ~~***italics, bold and strikethrough***~~ for deletions.

<sup>2</sup> All modifications in respect of the Commission proposal are presented in **bold and underlined** for additions, and in ~~**bold and strikethrough**~~ for deletions.

<sup>3</sup> All modifications in respect of the Commission proposal are presented in ***italics, bold and underlined*** for additions, and in ~~***italics, bold, underlined and strikethrough***~~ for deletions.

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
				EUROPEAN UNION,	
3	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,	No changes to COM proposal	No changes to COM proposal	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,	
4	Having regard to the proposal from the European Commission,	No changes to COM proposal	No changes to COM proposal	Having regard to the proposal from the European Commission,	
5	After transmission of the draft legislative act to the national parliaments,	No changes to COM proposal	No changes to COM proposal	After transmission of the draft legislative act to the national parliaments,	
6	Acting in accordance with the ordinary legislative procedure,	No changes to COM proposal	No changes to COM proposal	Acting in accordance with the ordinary legislative procedure,	
7		<p>– <i>Having regard to the Opinion 2/2015 of the European Court of Justice of 16 May 2017</i> <sup>1a</sup>.</p> <p>-----</p> <p><sup>1a</sup> <i>Opinion 2/2015 of the Court of Justice of 16 May 2017 (OJ C 239, 24.7.2017, p. [AM 1])</i></p>			
	<b>RECITALS</b>				
8	Whereas:	No changes to COM proposal	No changes to COM proposal	Whereas:	
9	(1) Foreign direct investment contributes to the Union's growth, by enhancing its competitiveness, creating jobs and economies of scale, bringing in capital, technologies, innovation, expertise,	(1) Foreign direct investment contributes to the Union's growth, by enhancing its competitiveness, creating jobs and economies of scale, bringing in capital, technologies, innovation, expertise, and by opening	No changes to COM proposal	(1) Foreign direct investment contributes to the Union's growth, by enhancing its competitiveness, creating jobs and economies of scale, bringing in capital,	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	and by opening new markets for the Union's exports. It supports the objectives of the Commission's Investment Plan for Europe and contributes to other Union projects and programmes.	new markets for the Union's exports. It supports the objectives of the <del>Commission's</del> Investment Plan for Europe and contributes to other Union projects and programmes. <b>[AM 2]</b>		technologies, innovation, expertise, and by opening new markets for the Union's exports. It supports the objectives of the <del>Commission's</del> Investment Plan for Europe and contributes to other Union projects and programmes.	
10	(2) The Union and the 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 international commitments undertaken by the Union and its Member States with respect to foreign direct investment.	(2) The Union and the Member States have an open investment environment, which is enshrined in the Treaty on the Functioning of the European Union ('TFEU') and <b>in accordance with Article 3(5) of the Treaty on the European Union (TEU), and</b> embedded in the international commitments undertaken by the Union and its Member States with respect to foreign direct investment. <b>[AM 3]</b>	No changes to COM proposal	(2) <b><u>Article 3(5) of the Treaty on the European Union (TEU) specifies that the Union, in its relations with the wider world, shall uphold and promote its values and interests and contribute to the protection of its citizens. Moreover, t—</u></b> The Union and the 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 international commitments undertaken by the Union and its Member States with respect to foreign direct investment.	



Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
11	(3) Pursuant to the international commitments undertaken in the World Trade Organisation, the Organisation for Economic Cooperation and Development, and in the trade and investment agreements concluded with third countries, the Union and Members States may adopt restrictive measures relating to foreign direct investment on the grounds of security or public order, subject to certain requirements.	(3) Pursuant to the international commitments undertaken in the World Trade Organisation, the Organisation for Economic Cooperation and Development, and in the trade and investment agreements concluded with third countries, <i>it is possible for</i> the Union and Members States <del>to may</del> adopt <del>restrictive</del> measures <del>relating</del> <i>restricting market-access with respect</i> to foreign direct investment on the grounds of security or public order, subject to certain requirements. [AM 4]	(3) Pursuant to the international commitments undertaken in the World Trade Organisation, the Organisation for Economic Cooperation and Development, and in the trade and investment agreements concluded with third countries, the Union and Members States may adopt restrictive measures relating to foreign direct investment on the grounds of security or public order, subject to certain requirements. <u>The framework established by this Regulation relates to foreign direct investment into the European Union. Outward investment and market access to third countries are dealt with under other trade and investment policy instruments.</u>	(3) Pursuant to the international commitments undertaken in the World Trade Organisation, the Organisation for Economic Cooperation and Development, and in the trade and investment agreements concluded with third countries, <i>it is possible for</i> the Union and Members States <del>to may</del> adopt restrictive measures to foreign direct investment on the grounds of security or public order, subject to certain requirements. <u>The framework established by this Regulation relates to foreign direct investment into the European Union. Outward investment and market access to third countries are dealt with under other trade and investment policy instruments.</u>	
12	(4) Several Member States have put in place measures according to which they may restrict the movement of capital between Member States and between Member States and third countries	(4) Several Member States have put in place measures according to which <i>it is possible for them to they may</i> restrict the movement of capital between Member States and between Member States and third countries on	(4) <u>This Regulation is without prejudice to the right of Member States to derogate to the free movement of capital as laid down in Article 65(1)(b) TFEU.</u> Several Member States have put in place	(4) <u>This Regulation is without prejudice to the right of Member States to derogate to the free movement of capital as laid down in Article 65(1)(b) TFEU.</u> Several	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	on grounds of public policy or public security. Those measures reflect Member States' objectives and concerns with respect to foreign direct investment, and result in a number of different measures in terms of scope and procedure. Other Member States do not have such mechanisms.	grounds of public policy or public security. Those measures reflect <del>Member States' the</del> objectives and concerns <i>of Member States</i> with respect to foreign direct investment, and result in a number of different <i>and not coordinated</i> measures in terms of <i>their</i> scope and procedure. <del>Other</del> Member States <i>that</i> do not have such mechanisms <i>might establish their own based on the functioning, experience and best practices of national mechanisms already in place. [AM 5]</i>	measures according to which they may restrict <del>the those</del> movements <del>of capital between Member States and between Member States and third countries</del> on grounds of public policy or public security. Those measures reflect Member States' objectives and concerns with respect to foreign direct investment, and result in a number of different measures in terms of scope and procedure. Other Member States do not have such mechanisms.	Member States have put in place measures according to which they may restrict <del>the those</del> movements <del>of capital between Member States and between Member States and third countries</del> on grounds of public policy or public security. Those measures reflect <del>Member States' the</del> objectives and concerns <i>of Member States</i> with respect to foreign direct investment, and result in a number of different measures in terms of scope and procedure. Other Member States do not have such mechanisms. <i>Member States wanting to put in place such mechanisms in the future may take into account the functioning, experiences and best practices of mechanisms already in place.</i>	
13	(5) There is currently no comprehensive framework at EU-level for the screening of foreign direct investments on the grounds of security or public order.	(5) There is currently no comprehensive framework at <i>Union level</i> <del>EU-level</del> for the screening of foreign direct investments on the grounds of security or public order, <i>while the major trading partners of</i>	No changes to COM proposal	(5) There is currently no comprehensive framework at <i>Union level</i> <del>EU-level</del> for the screening of foreign direct investments on the grounds of security or public order, <i>while</i>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>the Union, including the G7 countries, have developed such frameworks using various kinds of screening mechanisms of varying levels of transparency, restrictiveness and predictability. [AM 6]</i>		<u><i>the major trading partners of the Union have already developed such frameworks.</i></u>	
14	(6) Foreign direct investment falls within the common commercial policy. In accordance with Article 3(1)(e) TFEU, the European Union has exclusive competence with respect to the common commercial policy.	No changes to COM proposal	No changes to COM proposal	(6) Foreign direct investment falls within the common commercial policy. In accordance with Article 3(1)(e) TFEU, the European Union has exclusive competence with respect to the common commercial policy.	
15	(7) It is important to provide legal certainty and to ensure EU wide coordination and cooperation by establishing a framework for the screening of foreign direct investment in the Union on grounds of security or public order. This is without prejudice to the sole responsibility of the Member States for the maintenance of national security.	(7) <del><i>It is important to</i></del> <b><i>This Regulation should</i></b> provide legal certainty <b><i>for Member States'</i></b> <del><i>screening mechanisms</i></del> and ensure EU wide coordination and cooperation by establishing a framework for the screening of foreign direct investment in the Union on grounds of security or public order. This is without prejudice to the sole responsibility of the Member States for the maintenance of national security. <b><i>The Commission's monitoring of screening systems in third countries</i></b>	(7) It is important to provide legal certainty <b><u>for Member States' screening mechanisms on the grounds of security and public order,</u></b> and to ensure EU wide coordination and cooperation <del><i>by establishing a framework for the screening on the screening</i></del> of foreign direct investment <del><i>in the Union on grounds of likely to affect</i></del> security or public order. This <b><u>common framework</u></b> is without prejudice to the sole responsibility of the Member States for the maintenance of national security, <b><u>as provided for in Article</u></b>	(7) It is important to provide legal certainty <b><u>for Member States' screening mechanisms on the grounds of security and public order,</u></b> and <del><i>to</i></del> ensure EU wide coordination and cooperation <del><i>by establishing a framework for on</i></del> the screening of foreign direct investment <del><i>in the Union on grounds of likely to affect</i></del> security or public order. This <b><u>common framework</u></b> is without prejudice to the sole responsibility of the Member	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>should also provide legal certainty. [AM 7]</i>	<u>4(2) TEU. It is also without prejudice to the protection of their essential security interests in accordance with Article 346 TFEU.</u>	States for <u>safeguarding their <del>the maintenance of</del></u> national security, <u>as provided for in Article 4(2) TEU. It is also without prejudice to the protection of their essential security interests in accordance with Article 346 TFEU.</u>	
16	(8) The framework for the screening of foreign direct investment should provide the Member States and the Commission with the means to address risks to security or public order in a comprehensive manner, and to adapt to changing circumstances, whilst maintaining the necessary flexibility for Member States to screen foreign direct investments on grounds of security and public order taking into account their individual situations and national circumstances.	(8) The framework for the screening of foreign direct investment should provide the Member States and the Commission with the <b>legal, human and financial resources necessary means</b> —to address risks to security or public order in a comprehensive manner, and to adapt to changing circumstances, whilst maintaining the necessary flexibility for Member States to screen foreign direct investments on grounds of security and public order taking into account their individual situations and national circumstances, <i>as well as “golden shares” and golden powers</i> ”. [AM 8]	(8) The framework for the screening of foreign direct investment <b>and cooperation</b> should provide the Member States and the Commission with the means to address risks to security or public order in a comprehensive manner, and to adapt to changing circumstances, whilst maintaining the necessary flexibility for Member States to screen foreign direct investments on grounds of security and public order taking into account their individual situations and national circumstances. <u>The decision whether to set up a screening mechanism, or to screen a particular foreign direct investment remains the sole responsibility of the Member State concerned.</u>	(8) The framework for the screening of foreign direct investment <b>and cooperation</b> should provide the Member States and the Commission with the means to address risks to security or public order in a comprehensive manner, and to adapt to changing circumstances, whilst maintaining the necessary flexibility for Member States to screen foreign direct investments on grounds of security and public order taking into account their individual situations and national circumstances. <u>The decision whether to set up a screening mechanism, or to screen a particular</u>	Resources issue: to be tackled in the

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
				<u>foreign direct investment remains the sole responsibility of the Member State concerned.</u>	respective communication on the Regulation
17	(9) A broad range of investments which establish or maintain lasting and direct links between investors from third countries and undertakings carrying out an economic activity in a Member State should be covered.	(9) <i>This Regulation should cover a broad range of investments, including foreign government-controlled direct investments, irrespective of their volumes or participation thresholds, which establish or maintain lasting direct or indirect links between investors from third countries a foreign investor, whether or not such investor is the ultimate investor, and undertakings carrying out an economic activity in the territory of a Member State, in its Economic Exclusive Zone declared pursuant to the United Nations Conventions on the Law of the Sea (UNCLOS), or continental shelf-should be covered. [AM 9]</i>	(9) A broad range of investments which establish or maintain lasting and direct links between investors from third countries and undertakings carrying out an economic activity in a Member State should be covered. <u>For greater certainty, this Regulation does not apply to portfolio investment.</u>	(9) A broad range of investments which establish or maintain lasting and direct links between investors from third countries <u>including State entities</u> , and undertakings carrying out an economic activity in a Member State should be covered. <u>For greater certainty, this Regulation does not apply to portfolio investment.</u>	
18	(10) Member States should be able to take the necessary measures, in compliance with Union law, to prevent circumvention of their screening mechanisms and decisions to protect security or public order. This should cover	(10) Member States should <del>be able to take the necessary measures</del> , in compliance with Union law <i>maintain, amend, reinforce or adopt measures necessary to identify and prevent circumvention of their screening mechanisms and decisions</i>	No changes to COM proposal	(10) Member States should be able to take the necessary measures, in compliance with Union law, to prevent circumvention of their screening mechanisms and decisions to protect security or	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	investments within the Union by means of artificial arrangements that do not reflect economic reality and circumvent the screening mechanisms and screening decisions, where the investor is ultimately owned or controlled by a natural person or an undertaking of a third country. This is without prejudice to the freedom of establishment and free movement of capital enshrined in the TFEU.	to protect security <i>and</i> public order. This should cover investments within the Union by means of artificial arrangements that do not reflect economic reality and circumvent the screening mechanisms and screening decisions, <del>where</del> <i>including cases when ownership structure or other key characteristics of the investor have significantly changed, when the investor is acting as an intermediary, or undertaking</i> ultimately owned or controlled by a natural person or an undertaking of a third country. <i>Member States should inform the Commission of any anti-circumvention measure taken by them.</i> This is without prejudice to the freedom of establishment and free movement of capital enshrined in the TFEU. [AM 10]		public order. This should cover investments within the Union by means of artificial arrangements that do not reflect economic reality and circumvent the screening mechanisms and screening decisions, where the investor is ultimately owned or controlled by a natural person or an undertaking of a third country. This is without prejudice to the freedom of establishment and free movement of capital enshrined in the TFEU.  <u>(10a11) Member States should be able to assess risks to security or public order arising from significant changes to the ownership structure or key characteristics of a foreign investor.</u>	
19		<i>(10a) In the framework of this Regulation, the Commission and Member States should promote cooperation and the commitment by third countries through trade and</i>		<del><i>(10b) Member States and the Commission should be encouraged to cooperate with the responsible authorities of like-minded third countries</i></del>	Placed after the recital 28 on the group (see line 38)

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>investment agreements and in the international fora on the application of screening procedures. [AM 11]</i>		<del><i>on issues related to screening of foreign direct investment likely to affect security or public order. Such administrative cooperation should aim at strengthening the effectiveness of the framework for screening of foreign direct investment by the Member States and for cooperation between Member States and the Commission pursuant to this Regulation. The Commission should also be able to monitor developments with regard to screening mechanisms in third countries.</i></del>	
20	(11) To guide Member States and the Commission in the application of the Regulation, it is appropriate to provide a list of factors that may be taken into consideration when screening foreign direct investment on the grounds of security or public order. This list will also improve transparency of the screening process for investors considering making or having made foreign direct investments in the Union.	(11) To guide Member States and the Commission in the application of the Regulation, it is appropriate to provide a list of factors that <del>may</del> <b>might</b> be taken into consideration when screening foreign direct <del>investment—investments</del> on the grounds of security or public order. This list <del>will—would</del> also improve transparency of the screening process for investors considering making or having made foreign direct	(11) To guide Member States and the Commission in the application of the Regulation, it is appropriate to provide a list of factors that may be taken into consideration when <del>screening</del> <b>determining whether a</b> foreign direct investment <del>on the grounds of is likely to affect</del> security or public order. This list will also improve transparency of <del>the screening process</del> <b>Member States' screening mechanisms</b> for investors considering making or	( <del>11</del> 2) To guide Member States and the Commission in the application of the Regulation, it is appropriate to provide a list of factors that may be taken into consideration when <del>screening</del> <b>determining whether a</b> foreign direct investment <del>on the grounds of is likely to affect</del> security or public order. This list will also improve	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	This list of factors that may affect security or public order should remain non-exhaustive.	investments in the Union. This list of factors that <del>may</del> <b>might</b> affect security or public order should remain non-exhaustive. <i>[AM 12]</i>	having made foreign direct investments in the Union. This list of factors that may affect security or public order should remain non-exhaustive.	transparency of <del>the screening process—Member States'</del> <b><u>screening mechanisms</u></b> for investors considering making or having made foreign direct investments in the Union. This list of factors that may affect security or public order should remain non-exhaustive.	
21	(12) In determining whether a foreign direct investment may affect security or public order, Member States and the Commission should be able to consider all relevant factors, including the effects on critical infrastructure, technologies, including key enabling technologies, and inputs which are essential for security or the maintenance of public order, and the disruption, loss or destruction of which would have a significant impact in a Member State or in the Union. In that regard, Member States and the Commission should also be able to take into account whether a foreign investor is controlled directly or indirectly (e.g. through significant funding, including subsidies) by the	(12) In determining whether a foreign <del>direct</del> -investment <del>may</del> <b>might</b> affect security or public order, Member States and the Commission should <del>be able to consider all relevant factors, including the effects on critical infrastructure, technologies, including key enabling technologies, and inputs which are essential for security or the maintenance of public order, and</del> <b>the take into account in particular whether a</b> disruption, <del>failure</del> , loss or destruction of <del>supply exists</del> , which <del>would have a significant could have an</del> impact in a Member State or in the Union. <del>In that regard, Member States and the Commission should also be able to take into account whether,</del> a foreign investor is controlled directly or indirectly <del>(e.g.</del>	No changes to COM proposal	<del>(1213)</del> In determining whether a foreign direct investment may affect security or public order, Member States and the Commission should be able to consider all relevant factors, including the effects on critical infrastructure, technologies, including key enabling technologies, and inputs which are essential for security or the maintenance of public order, and the disruption, <b><u>failure</u></b> , loss or destruction of which would have a significant impact in a Member State or in the Union. In that regard, Member States and the Commission should also be able to take into account <b><u>the</u></b>	



Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	government of a third country.	<p><del>through significant funding, including subsidies</del> by the government of a third country <del>or foreign government-controlled investment, the foreign investment is part of a state-led project, or a programme or part of an economic industrial or political strategy carried out by a third country with the aim of acquiring or transferring key enabling technologies or knowledge, or in support of strategic national interests. This should also apply in cases when the investor has already been involved in investment projects affecting security or public order of a Member State.</del></p> <p><i>Member States and the Commission might also be able to consider, on the grounds of security or public order, the potentials effects on, inter alia, critical and strategic infrastructure, critical and strategic technologies, the strategic autonomy of the Union, the access to sensitive information or to personal data of Union citizens, the plurality and independence of media and services of general interest and services of</i></p>		<p><u>context and circumstances of the foreign direct investment, in particular</u> whether a foreign investor is controlled directly or indirectly (e.g. through significant funding, including subsidies) by the government of a third country <u>or is pursuing State-led outward projects or programmes.</u></p>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>general economic interest. [AM 13]</i>			
22		<i>(12a) In determining whether a foreign investment might affect security or public order, Member States and the Commission might also have regard to the context and the circumstances under which the investment is or was made including whether, inter alia, the investment might lead to a monopolistic structure, and whether the market in the foreign investor's country of origin is open, restricted or closed, whether there is reciprocity and a level playing field and whether there is a risk of breach of international human rights instruments or core ILO standards. The examination should be conducted on the basis of the best information available, which should be accurate, comprehensive and reliable. [AM 14]</i>			
23		<i>(12b) Member States might allow economic operators, civil society organizations, or social partners such as trade unions to request Member States to consider the activation of the screening without</i>			

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>prejudice to different systems that allow for greater procedural involvement. [AM 15]</i>			
24		<i>(12c) Where economic operators, civil society organisations, or social partners such as trade unions, have relevant information or substantial and duly justified concerns on a foreign direct investment that is likely to affect projects or programs of union interest on the grounds of security and public order, it should be possible to provide the Commission with that information. The Commission might duly take that information into account when issuing an opinion. [AM 16]</i>		<i><u>(12a14) Member States or the Commission, as appropriate, might consider relevant information received from economic operators, civil society organisations, or social partners such as trade unions, in relation to a foreign direct investment likely to affect security or public order.</u></i>	
25	(13) It is appropriate to lay down the essential elements of the procedural framework for the screening of foreign direct investment by Member States to allow investors, the Commission and other Member States to understand how such investments are likely to be screened and to ensure that these investments are screened in a transparent manner and that they are non-discriminatory	(13) It is appropriate to lay down the essential elements of the procedural framework for the screening of foreign direct investment by Member States to allow investors, the Commission and other Member States to understand how such investments are likely to be screened <del>and to ensure that these investments are screened</del> in a transparent manner and that they are non-discriminatory between third	(13) It is appropriate to lay down the essential elements of the procedural framework for the screening of foreign direct investment by Member States to allow investors, the Commission and other Member States to understand how such investments are likely to be screened and to ensure that these investments are screened in a transparent manner and that <del>they are non-discriminatory</del> Member States' screening mechanisms do not	<del>(1315)</del> It is appropriate to lay down the essential elements of the procedural framework for the screening of foreign direct investment by Member States to allow investors, the Commission and other Member States to understand how such investments are likely to be screened. <del>and to ensure that these investments are</del>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	between third countries. Those elements should at least include the establishment of timeframes for the screening and the possibility for foreign investors to seek judicial redress of screening decisions.	countries. Those elements should at least include the establishment of timeframes for the screening and the possibility for foreign investors to seek judicial redress <i>of against</i> screening decisions <i>before Member States authorities and courts in accordance with Member States law.</i> [AM 17]	<b>discriminate</b> between third countries. Those elements should at least include <del>the establishment of</del> timeframes for the screening and the possibility for foreign investors to seek <b>judicial redress of recourse against</b> screening decisions.	<del>screened in a Rules and procedures related to screening mechanisms should be transparent manner and that they are non-discriminatory should not discriminate</del> between third countries. Those elements should at least include <del>the establishment of</del> timeframes for the screening and the possibility for foreign investors to seek <b>judicial redress of recourse against</b> screening decisions.	
26	(14) A mechanism which enables Member States to cooperate and assist each other where a foreign direct investment in one Member State may affect the security or public order of other Member States should be set up. Member States should be able to provide comments to a Member State in which the investment is planned or has been completed, irrespective of whether the Member States providing comments or the Member States in which the investment is planned or has been completed maintain a	(14) A mechanism which enables Member States to cooperate and assist each other where a foreign direct investment in one Member State <del>may could</del> affect the security or public order of other Member States should be set up. Member States should be able to provide comments to a Member State in which the investment is planned or <i>it</i> has been completed, irrespective of whether the Member States providing comments or the Member States in which the investment is planned or has been completed maintain a	(14) A mechanism which enables Member States to cooperate and assist each other where a foreign direct investment in one Member State may affect the security or public order of other Member States should be set up. Member States should be able to provide comments to a Member State in which the investment is planned or has been completed, irrespective of whether <b>this Member State maintains a screening mechanism, or such investment is undergoing screening the Member States providing comments or the Member</b>	<del>(1416)</del> A mechanism which enables Member States to cooperate and assist each other where a foreign direct investment in one Member State <del>may could</del> affect the security or public order of other Member States should be set up. Member States should be able to provide comments to a Member State in which the investment is planned or has been completed, irrespective of whether <b>this Member State</b>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	screening mechanism or are screening the investment. The comments of Member States should also be forwarded to the Commission. The Commission should also have the possibility, where appropriate, to issue an opinion to the Member State in which the investment is planned or has been completed, irrespective of whether this Member State maintains a screening mechanism or is screening the investment and irrespective of whether other Member States have provided comments.	<del>screening screen</del> mechanism or are screening the investment. <del>The Those</del> comments <del>of Member States</del> should also be forwarded <del>to the Commission simultaneously to all other Member States and</del> the Commission <del>which</del> should <del>also then</del> have the possibility <del>, where appropriate,</del> to issue an opinion to the Member State in which the investment is planned or has been completed, this Member State maintains a screening mechanism or is screening the investment. <i>This opinion should be forwarded simultaneously to all other Member States and it should not be made public. A Member State should have the possibility to ask the Commission for an opinion or irrespective of whether other Member States have provided for comments on a foreign direct investment taking place in its territory. [AM 18]</i>	<del>States in which the investment is planned or has been completed maintain a screening mechanism or are screening the investment.</del> The comments of Member States should also be forwarded to the Commission. The Commission should also have the possibility, where appropriate, to issue <del>ana</del> <u>a non-binding</u> opinion to the Member State in which the investment is planned or has been completed; <del>irrespective of whether this Member State maintains a screening mechanism or is screening the investment and irrespective of whether other Member States have provided comments. The Member State should give due consideration to the comments it receives from other Member States and to the opinion from the Commission through, where appropriate, measures available under its national legislation, or in its broader policy-making, in line with its duty of sincere cooperation under Article 4(3) TEU. The final decision in relation to any foreign direct investment undergoing screening or any measure taken in relation to a</del>	<u><del>maintains a screening mechanism, or such investment is undergoing screening. the Member States providing comments or the Member States in which the investment is planned or has been completed maintain a screening mechanism or are screening the investment.</del></u>  <u>The requests for information, replies and</u> comments of Member States should also be forwarded to the Commission. The Commission should <del>also</del> have the possibility, where appropriate, to issue an opinion <u>within the meaning of Article 288 TFEU</u> to the Member State in which the investment is planned or has been completed. <del>irrespective of whether this Member State maintains a screening mechanism or is screening the investment and irrespective of whether other Member States have provided comments.</del>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			<u>foreign direct investment not undergoing screening remains the sole responsibility of the Member State where the foreign direct investment is planned or completed.</u>	<p><i><u>A Member State should have the possibility to request the Commission to issue an opinion or other Member States to provide comments on a foreign direct investment taking place in its territory.</u></i></p> <p><i><u>(14a17) When a Member State receives comments from other Member States or an opinion from the Commission, it should give them due consideration through, where appropriate, measures available under their national legislation, or in their broader policy-making, in line with its duty of sincere cooperation under Article 4(3) TEU.</u></i></p> <p><i><u>The final decision in relation to any foreign direct investment undergoing screening or any measure taken in relation to a foreign direct investment not</u></i></p>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
				<u>undergoing screening remains the sole responsibility of the Member State where the foreign direct investment is planned or completed.</u>	
27			(15) <u>The cooperation mechanism should only be used for the purpose of protecting security or public order. For that reason, a Member State should duly justify any request for information as regards a specific foreign direct investment in another Member State, as well as any comment it may address to that Member State. The same requirements should apply when the Commission requests information on a particular foreign direct investment or issues an opinion to a Member State. Compliance with these requirements is also important in situations where an investor of a Member States competes with investors of third countries for acquiring assets or making an investment in another Member State.</u>	<del>(1518)</del> <u>The cooperation mechanism should only be used for the purpose of protecting security or public order. For that reason, Member States should duly justify any request for information as regards a specific foreign direct investment in another Member State, as well as any comment they may address to that Member State. The same requirements should apply when the Commission requests information on a particular foreign direct investment or issues an opinion to a Member State. Compliance with these requirements is also important in situations where an investor of a Member State competes with investors</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
				<u>of third countries for acquiring assets or making an investment in another Member State.</u>	
28	(15) Furthermore, the Commission should have the possibility to screen foreign direct investments likely to affect projects and programmes of Union interest on grounds of security or public order. This would give the Commission a tool to protect projects and programmes which serve the Union as whole and represent an important contribution to its economic growth, jobs and competitiveness. This should include in particular projects and programmes involving a substantial EU funding or established by Union legislation regarding critical infrastructure, critical technologies or critical inputs. For greater clarity, an indicative list of projects or programmes of Union interest in relation to which foreign direct investment can be subject to a screening by the Commission should be listed in an Annex.	(15) Furthermore, the Commission should <del>have the possibility to</del> screen foreign direct investments likely to affect projects and programmes of Union interest on grounds of security or public order. This would give the Commission a tool to protect projects and programmes which serve the Union as whole and represent an important contribution to its economic growth, jobs and competitiveness. This should include in particular projects and programmes involving a substantial EU funding or established by Union legislation regarding critical <b>and strategic</b> infrastructure, critical <b>and strategic</b> technologies, critical <b>and strategic</b> inputs. For greater clarity, <del>an indicative a non exhaustive</del> list of projects <del>or and</del> programmes of Union interest in relation to which foreign direct investment can be subject to <del>a</del> screening by the Commission should be listed in an Annex. <b>The Commission should be empowered</b>	<del>(1516)</del> Furthermore, the Commission should have the possibility to <del>screen</del> <b>provide a non-binding opinion with regard to</b> foreign direct investments likely to affect projects and programmes of Union interest on grounds of security or public order. This would give the Commission a tool to protect projects and programmes which serve the Union as <b>a</b> whole and represent an important contribution to its economic growth, jobs and competitiveness. This should include in particular projects and programmes involving a substantial EU funding or established by Union legislation regarding critical infrastructure, critical technologies or critical inputs. For greater clarity, <del>an indicative list of those</del> projects or programmes of Union interest <del>in relation to which foreign direct investment can be subject to a screening by the Commission</del> should be listed in an Annex. <b>The Member State should take utmost account of</b>	<del>(1619)</del> Furthermore, the Commission should have the possibility to <del>screen provide an non-binding opinion within the meaning of Article 288 TFEU with regard to</del> foreign direct investments likely to affect projects and programmes of Union interest on grounds of security or public order. This would give the Commission a tool to protect projects and programmes which serve the Union as <b>a</b> whole and represent an important contribution to its economic growth, jobs and competitiveness. This should include in particular projects and programmes involving a substantial EU funding or established by Union legislation regarding critical infrastructure, critical technologies or critical inputs.	



Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>to adopt delegated acts in order to update such a list. [AM 19]</i>	<u>the opinion received from the Commission through, where appropriate, measures available under its national legislation, or in its broader policy-making, and provide an explanation to the Commission if it does not follow this opinion, in line with its duty of sincere cooperation under Article 4(3) TEU. The final decision in relation to any foreign direct investment undergoing screening or any measure taken in relation to a foreign direct investment not undergoing screening remains the sole responsibility of the Member State where the foreign direct investment is planned or completed.</u>	For greater clarity, <del>an indicative list of those</del> projects or programmes of Union interest <del>in relation to which foreign direct investment can be subject to a screening by the Commission</del> should be listed in an Annex. <del>The opinion, which should not be made public, should be communicated in parallel forwarded simultaneously to the other Member States.</del> <u>The Member State should take utmost account of the opinion received from the Commission through, where appropriate, measures available under its national legislation, or in its broader policy-making, and provide an explanation to the Commission if it does not follow this opinion, in line with its duty of sincere cooperation under Article 4(3) TEU. The final decision in relation to any foreign direct investment undergoing screening or any measure</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
				<u>taken in relation to a foreign direct investment not undergoing screening remains the sole responsibility of the Member State where the foreign direct investment is planned or completed.</u>	
29		<i>(15a) In order to enhance dialogue between the institutions of the Union, it should be possible for the competent committee of the European Parliament to invite the Commission to issue an opinion on a foreign direct investment planned or completed in a Member State. The Commission should inform the European Parliament of its action following the receipt such request. [AM 20]</i>		<del>(16a) — The European Parliament should have the possibility to invite the Commission to an ad-hoc meeting of its responsible committee to present and explain systemic issues related to the implementation of this Regulation.</del>	Inserted closer to the recitals on annual reporting (line 41, after recital 32 on COM reporting)
30	(16) Where the Commission considers that a foreign direct investment is likely to affect projects or programmes of Union interest on grounds of security or public order, the Commission should have the possibility to address an opinion to the Member States in which such investment is planned or completed within a	(16) Where the Commission <del>considers or one or more Member States consider</del> that a foreign <del>direct</del> investment is likely to affect projects or programmes of Union interest on grounds of security or public order, the Commission should <del>have the possibility to</del> address an opinion to the Member States in which such investment is planned or completed	<del>(16) — Where the Commission considers that a foreign direct investment is likely to affect projects or programmes of Union interest on grounds of security or public order, the Commission should have the possibility to address an opinion to the Member States in which such investment is planned or completed within a reasonable timeframe. The</del>		

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	reasonable timeframe. The Member States should take utmost account of the opinion and provide an explanation to the Commission if they do not follow this opinion, in compliance with their duty of sincere cooperation under Article 4(3) TEU. The Commission should also have the possibility to request from those Member States the information necessary for its screening of such investment.	within a reasonable timeframe <i>and such Member States should have the possibility to provide comments to the Member States in which such investment is planned or completed. The opinion, which should not be made public, should be forwarded simultaneously to the other Member States. The</i> Member States should take <i>utmost</i> account of the opinion and provide <del>an</del> <i>a written</i> explanation to the Commission <i>and the relevant Member States</i> if they do not follow this opinion, in compliance with their duty of sincere cooperation under Article 4(3) TEU. The Commission should also have the possibility to request from those Member States the information necessary for its screening of such investment. <i>A Member State should have the possibility to ask the Commission for an opinion or other Member States for comments on a foreign direct investment taking place in its territory. [AM 21]</i>	<del>Member States should take utmost account of the opinion and provide an explanation to the Commission if they do not follow this opinion, in compliance with their duty of sincere cooperation under Article 4(3) TEU. The Commission should also have the possibility to request from those Member States the information necessary for its screening of such investment.</del>		
31		<i>(16a) Where at least one third of Member States consider that a foreign direct investment is likely to</i>			

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>affect their security or public order, or at least one third of Member States and the Commission consider that projects or programmes of Union interest are affected on grounds of security and public order, Member States should take outmost account of the opinion of the Commission and the comments of the other Member States and provide an written explanation to the Commission and the relevant Member States. Where those comments or opinions are not followed, the Commission should seek to foster dialogue between the Member States having issued comments and the Member State in which the foreign direct investment is planned or has been completed. [AM 22]</i>			
32			(17) <u>In order to ensure the proper functioning of the cooperation mechanism in relation to projects and programmes of Union interest, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated</u>	<del>(1720)</del> <u>In order to update the list of projects and programs of Union interest, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			<p><u>to the Commission to amend the list of projects and programmes of Union interest annexed to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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.</u></p>	<p><u><i>the Commission to amend the list of projects and programmes of Union interest annexed to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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.</i></u></p>	
33			(18) <u>In order to provide greater</u>	<del>(1821)</del> <u>In order to provide</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			<u>certainty for investors, Member States should have the possibility to make comments and the Commission should have the possibility to issue an opinion in relation to completed investments not undergoing screening for a limited period of 15 months after the completion of the foreign direct investment. The cooperation mechanism should apply only to foreign direct investments completed after the entry into force of this Regulation.</u>	<u>greater certainty for investors, Member States should have the possibility to make comments and the Commission should have the possibility to issue an opinion in relation to completed investments not undergoing screening for a limited period of 15 months after the completion of the foreign direct investment. The cooperation mechanism should apply only to foreign direct investments completed after the entry into force of this Regulation.</u>	
34	(17) In order to facilitate the cooperation with other Member States and the screening of foreign direct investment by the Commission, Member States should notify their screening mechanisms and any amendment thereto to the Commission, and should report on the application of their screening mechanisms on a regular basis. For the same reason, Member States that do not have a screening mechanism should also report on the foreign	(17) In order to facilitate the cooperation with other Member States and the screening of foreign direct investment by the Commission <i>and improve the reliability and comparability of data provided by Member States</i> , Member States should notify their screening mechanisms and any amendment thereto to the Commission, and should report on the application of their screening <i>mechanisms</i> <i>mechanism</i> on a regular basis. For	<del>(1719) In order to facilitate the cooperation with other Member States and the screening of foreign direct investment by the Commission,</del> Member States should notify their screening mechanisms and any amendment thereto to the Commission, and should report on the application of their screening mechanisms on a regular basis. <del>For the same reason, All Member States that do not have a screening mechanism</del> should also report on the	<del>(1922) In order to facilitate the cooperation with other Member States and the screening of foreign direct investment by the Commission,</del> Member States should notify their screening mechanisms and any amendment thereto to the Commission, and should report on the application of their screening mechanisms on an <u>annual regular</u> basis.	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	direct investments that took place in their territory, on the basis of the information available to them.	the same reason Member States that do not have a screening mechanism should also report on the foreign direct investments that took place in their territory, <i>their Exclusive Economic Zone or continental shelf</i> on the basis of the information available to them. <i>They should also provide information on the steps undertaken to obtain such information.</i> [AM 23]	foreign direct investments that took place in their territory, on the basis of the information available to them. <u>The Commission should facilitate compliance with the notification and reporting obligations by providing standardised forms considering, inter alia, relevant forms applied for the purpose of reporting to Eurostat when appropriate.</u>	<u>including as regards the decisions allowing, prohibiting or subjecting foreign direct investments to conditions or mitigating measures and the decisions regarding foreign direct investments likely to affect projects or programmes of Union interest. For the same reason, —All Member States that do not have a screening mechanism should also—</u> report on the foreign direct investments that took place in their territory, on the basis of the information available to them. <u>In order to improve the quality and comparability of information provided by Member States as well as to facilitate compliance with the notification and reporting obligations, the Commission should provide standardised forms considering, inter alia, relevant forms applied for the purpose of reporting to Eurostat when appropriate.</u>	
35	(18) To that end, it is also	(18) To that end, it is also important	<del>(1820) To that end, In order to</del>	<del>(2023) To that end, In order</del>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	important to ensure a minimum level of information and coordination with regard to foreign direct investments falling under the scope of this Regulation in all Member States. This information should be made available by the Member States in which the foreign direct investment is planned or has been completed upon request of the Member States or of the Commission. Relevant information includes aspects such as the ownership structure of the foreign investor and the financing of the planned or completed investment, including, when available, information about subsidies granted by third countries.	to ensure a minimum level of information and coordination with regard to foreign direct investments falling under the scope of this Regulation in all Member States. <del>This information should be made available by the Member States</del> in which the foreign direct investment is planned or has been completed upon request of a Member State or of the Commission. Relevant information includes aspects such as the ownership structure of the foreign investor and the financing of the planned or completed investment, including, when available, information about <i>subsidies</i> granted by third countries. <i>Such information should be provided subject to the rules set out in Article 346 TFEU. It should be accurate, comprehensive and reliable and seek to facilitate the comparability of data. [AM 24]</i>	<u>ensure the effectiveness of the cooperation mechanism.</u> it is also important to ensure a minimum level of information and coordination with regard to foreign direct investments falling under the scope of this Regulation in all Member States. This information should be made available by the Member States <u>for foreign direct investment undergoing screening as well as, upon request, for other foreign direct investment in which the foreign direct investment is planned or has been completed upon request of the Member States or of the Commission.</u> Relevant information includes aspects such as the ownership structure of the foreign investor and the financing of the planned or completed investment, including, when available, information about <u>funding of the investment, including</u> subsidies granted by third countries.	<u>to ensure the effectiveness of the cooperation mechanism,</u> it is also important to ensure a minimum level of information and coordination with regard to foreign direct investments falling under the scope of this Regulation in all Member States. This information should be made available by the Member States <u>for foreign direct investment undergoing screening as well as, upon request, for other foreign direct investment in which the foreign direct investment is planned or has been completed upon request of the Member States or of the Commission.</u> Relevant information includes aspects such as the ownership structure of the foreign investor and the financing of the planned or completed investment, including, when available, information about <u>funding of the investment, including</u> subsidies granted by third countries. <u>Member</u>	



Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
36			<p><u>(21) Upon request by a Member State where the foreign investment is planned or has been completed, the foreign investor or the undertaking concerned should provide the information requested. In exceptional circumstances, when, despite its best efforts, a Member State is unable, to provide such information, it should notify the Member States concerned or the Commission without delay. In such case any comment issued by another Member State or any opinion issued by the Commission in the framework of the cooperation mechanism may be made on the basis of the information available to them.</u></p>	<p><u><del>(2124)</del> Upon request by a Member State where the foreign investment is planned or has been completed, the foreign investor or the undertaking concerned should provide the information requested. In exceptional circumstances, when, despite its best efforts, a Member State is unable, to obtain such information, it should notify the Member States concerned or the Commission without delay. In such case any comment issued by another Member State or any opinion issued by the Commission in the framework of the cooperation mechanism may be made on the basis of the information available to them.</u></p>	
37			<p><u>(22) When making available the information requested, Member States shall comply with Union law and national legislation that</u></p>	<p><u><del>(2225)</del> When making available the information requested, Member States shall comply with Union law</u></p>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			<u>complies with Union law. In accordance with Article 346 TFEU, no Member State is obliged to supply information the disclosure of which it considers contrary to the essential interests of its security.</u>	<u>and national legislation that complies with Union law.</u>	
38	(19) The communication and cooperation at Member State and Union level should be enhanced through the establishment of contact points for the screening of foreign direct investments in each Member State.	(19) The communication and cooperation at Member State and Union level should be enhanced through the establishment of <i>institution-based</i> contact points for the screening of foreign direct <del>investments</del> <i>investment</i> in each Member State <i>and a dedicated Investment Screening Coordination Group. [AM 25]</i>	<del>(1923)</del> The communication and cooperation at Member State and Union level should be enhanced through the establishment of <u>a</u> contact points for the <del>screening of foreign direct investments</del> <b>implementation of the Regulation</b> in each Member State.	<del>(2326)</del> The communication and cooperation at Member State and Union level should be enhanced through the establishment of <u>a</u> contact points for the <del>screening of foreign direct investments</del> <b>implementation of the Regulation</b> in each Member State <i>and the Commission.</i>  <i><u>(23a27) The contact points appointed by the Member States and the Commission should be appropriately placed within the administration, qualified to perform their functions under the coordination mechanism and to ensure a proper handling of confidential information.</u></i>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
				<u>(28) The development and implementation of comprehensive and effective policies should be supported by the Commission expert group on the screening of foreign direct investments into the European Union composed of representatives of the Member States. This group should discuss, in particular, issues related to the screening of foreign direct investments, share best practices and lessons learned, exchange views on trends and issues of common concern related to foreign direct investments and consider systemic issues relating to the implementation of this Regulation. The Commission should consult the expert group on draft delegated acts in accordance with the principles laid down in the Inter-institutional Agreement</u>	Recital on the Group

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
				<p><u>of 13 April 2016 on Better Law-Making<sup>4</sup>.</u></p> <p><u>(10b29) Member States and the Commission should be encouraged to cooperate with the responsible authorities of like-minded third countries on issues related to screening of foreign direct investment likely to affect security or public order. Such administrative cooperation should aim at strengthening the effectiveness of the framework for screening of foreign direct investment by the Member States and for cooperation between Member States and the Commission pursuant to this Regulation. The Commission should also be able to monitor developments with regard to screening mechanisms in third countries.</u></p>	Moved from line 19 in line with COM comment.
39	(20) Member States and the	(20) Member States and the	<del>(2024)</del> Member States and the	<del>(2430)</del> Member States and the	

<sup>4</sup> OJ L123, 12.5.2016, p. 1.

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	Commission should take all necessary measures to ensure the protection of confidential and other sensitive information.	Commission should <del>take all necessary measures to ensure the</del> <b>guarantee the highest level of</b> protection <del>of for all confidential and other sensitive</del> information, <del>made available by foreign investors and the undertaking of the Union concerned.</del> [AM 26]	Commission should take all necessary measures to ensure the protection of confidential and other sensitive information <u>in compliance with in particular the Commission Decision (EU, Euratom) 2015/443<sup>5</sup> of 13 March 2015, on security in the Commission, Commission Decision (EU, Euratom) 2015/444<sup>6</sup> of 13 March 2015, on the security rules for protecting EU classified information and 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 European Union<sup>7</sup>. Any information which is by nature sensitive (but not classified) or which is provided on a confidential basis shall be treated as such by the authorities.</u>	Commission should take all necessary measures to ensure the protection of confidential and other sensitive information <u>in compliance with in particular the Commission Decision (EU, Euratom) 2015/443<sup>8</sup> of 13 March 2015, on security in the Commission, Commission Decision (EU, Euratom) 2015/444<sup>9</sup> of 13 March 2015, on the security rules for protecting EU classified information and 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 European Union<sup>10</sup>.</u>	

<sup>5</sup> OJ L 72, 17.3.2015, p. 41.  
<sup>6</sup> OJ L 72, 17.3.2015, p. 53.  
<sup>7</sup> OJ C 202, 7.7.2011, p. 13.  
<sup>8</sup> OJ L 72, 17.3.2015, p. 41.  
<sup>9</sup> OJ L 72, 17.3.2015, p. 53.  
<sup>10</sup> OJ C 202, 7.7.2011, p. 13.

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
				<u><i>This includes notably the obligation not to downgrade or declassify classified information without the prior written consent of the originator<sup>11</sup>.</i></u> <u><i>Any information which is by nature sensitive (but not classified) or which is provided on a confidential basis should be handled as such by the authorities.</i></u>	
40			[(25) Placeholder: Recital on personal data protection]	<u><i>(2531) 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 the Member States should be carried out in accordance with Regulation (EU) No 2016/679 of the European Parliament and of the Council of 27 April 2016 on</i></u>	Placement of recital to reflect placement of article

<sup>11</sup> *Article 4(1)(a) of 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 European Union and Article 4(2) of Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information.*

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
				<u>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)</u> <sup>12</sup> . <u>Processing of personal data by the Commission should be carried out in accordance with [revised Regulation (EC) No 45/2001<sup>13</sup>].</u>	
41		<i>(20a) Member States should provide the Commission with an annual report covering foreign direct investments which took place in their territory, their Exclusive Economic Zone or continental shelf on the basis of the best information available. They should also provide information on the steps undertaken to obtain such information. On the basis of these annual reports, the Commission should draw up an annual report outlining the overall</i>		<i>(25a32) On the basis of, inter alia, the annual reports submitted by all the Member States, and with due respect to the confidential nature of certain information included in those reports, the Commission should draw up an annual report on the implementation of this Regulation and submit it to the European Parliament and the Council. For greater</i>	

<sup>12</sup> Ref to be inserted

<sup>13</sup> Ref to be inserted

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>investment situation in the Union including the implementation of this Regulation and should submit it to the European Parliament. That report should be made public. [AM 27]</i>		<u>transparency, the report should be made public.</u>  <u>(16a33) The European Parliament should have the possibility to invite the Commission to an ad-hoc meeting of its responsible committee to present and explain systemic issues related to the implementation of this Regulation.</u>	Moved from line 29 in line with COM comment.
42	(21) No later than three years after the entry into force of this Regulation, the Commission should present to the European Parliament and the Council a report on the application of this Regulation. Where the report proposes modifying the provisions of this Regulation, it may be accompanied, where appropriate, by a legislative proposal.	(21) No later than three years after the entry into force of this Regulation <i>and every three years thereafter</i> , the Commission should present to the European Parliament and to the Council a report <del>on the application of assessing the functioning and effectiveness of this Regulation. The assessment should also include the long term economic control capabilities, other than foreign direct investment, which result in the acquisition by means of a public contract of lasting and direct influence capabilities permitting the management or control of projects or programmes of Union interest as defined in this Regulation.</del> Where the	<del>(2126) No later than three years after the entry into force of this Regulation, By (INSERT A DATE: 3 years of the start of application of this Regulation) the Commission should present to the European Parliament and the Council a report on the application of this Regulation. Where the report proposes modifying the provisions of this Regulation, it may be accompanied, where appropriate, by a legislative proposal.</del>	<del>(2634) No later than three years after the entry into force of this Regulation, By (INSERT A DATE: 3 years of the start of application of this Regulation) and every five years thereafter, the Commission should present to the European Parliament and the Council a report on the application of this Regulation. evaluate the functioning and effectiveness of this Regulation and present a report to the European Parliament and the Council. The report should include an assessment of</del>	



Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		report proposes modifying the provisions of this Regulation, it may be accompanied, where appropriate, by a legislative proposal, <i>and in all other cases should inform the European Parliament and the Council. [AM 28]</i>		<u><i>whether or not the Regulation requires a modification.</i></u> Where the report proposes modifying the provisions of this Regulation, it may be accompanied, where appropriate, by a legislative proposal.	
43		<i>(21a) In order to update that list of projects and programs of Union interest, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of amending the Annex to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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</i>			

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. [AM 29]</i>			
44	(22) The implementation of this Regulation by the Union and the Member States should comply with the relevant requirements for the imposition of restrictive measures based on grounds of security or public order stipulated in EU law, in the Agreement on the European Economic Area (EEA Agreement), in the WTO Agreement (including in particular Article XIV(a) and Article XIV bis of the GATS) and in other trade and investment agreements or arrangements to which the Union or Member States are parties.	No changes to COM proposal	<del>(2227)</del> The implementation of this Regulation by the Union and the Member States should comply with the relevant requirements for the imposition of restrictive measures on grounds of security and public order <del>stipulated in EU law, in the Agreement on the European Economic Area (EEA Agreement)</del> and, in the WTO Agreement (including in particular Article XIV (a) and Article XIV bis of the GATS) <del>and in. It should also comply with EU law and be consistent with commitments made under</del> other trade and investment agreements <del>or and</del> arrangements to which the Union or Member States are <u>adherents or</u> parties.	<del>(2735)</del> The implementation of this Regulation by the Union and the Member States should comply with the relevant requirements for the imposition of restrictive measures on grounds of security and public order <del>stipulated in EU law, in the Agreement on the European Economic Area (EEA Agreement)</del> and, in the WTO Agreements (including in particular Article XIV (a) and Article XIV bis of the GATS) <del>and in. It should also comply with EU law and be consistent with commitments made under</del> other trade and investment agreements <del>or and</del> arrangements to which the Union or Member States are <u>adherents or</u> parties.	
45	(23) When a foreign direct investment constitutes a concentration falling within the	No changes to COM proposal	<del>(2328)</del> When a foreign direct investment constitutes a concentration falling within the scope of Council	<del>(2836)</del> When a foreign direct investment constitutes a concentration falling within	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	<p>scope of Council Regulation (EC) No 139/2004<sup>14</sup>, the implementation 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 in a consistent manner. To the extent that the respective scope of application of the two regulations overlap, the grounds for screening set out in Article 1 of this Regulation and the notion of legitimate interests within the meaning of Article 21(4), third paragraph, of Regulation (EC) No 139/2004 should be interpreted in a coherent manner, without prejudice to the assessment of the compatibility of the national measures aimed at protecting these interests with the general principles and other provisions of Union law.</p>		<p>Regulation (EC) No 139/2004<sup>15</sup>, the implementation 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 in a consistent manner. To the extent that the respective scope of application of the two regulations overlap, the grounds for screening set out in Article 1 of this Regulation and the notion of legitimate interests within the meaning of Article 21(4), third paragraph, of Regulation (EC) No 139/2004 should be interpreted in a coherent manner, without prejudice to the assessment of the compatibility of the national measures aimed at protecting these interests with the general principles and other provisions of Union law.</p> <p>No changes to COM proposal</p>	<p>the scope of Council Regulation (EC) No 139/2004<sup>16</sup>, the implementation 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 in a consistent manner. To the extent that the respective scope of application of the two regulations overlap, the grounds for screening set out in Article 1 of this Regulation and the notion of legitimate interests within the meaning of Article 21(4), third paragraph, of Regulation (EC) No 139/2004 should be interpreted in a coherent manner, without prejudice to the assessment of the compatibility of the national</p>	

<sup>14</sup> 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).

<sup>15</sup> 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).

<sup>16</sup> 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).

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
				measures aimed at protecting these interests with the general principles and other provisions of Union law.	
46			<b><u>(29) This Regulation does not affect EU rules for the prudential assessment of acquisitions of qualifying holdings in the financial sector, which is a distinct procedure with a specific objective.</u></b>	<b><u>(37) This Regulation does not affect EU rules for the prudential assessment of acquisitions of qualifying holdings in the financial sector, which is a distinct procedure with a specific objective<sup>17</sup>.</u></b>	
47	(24) This Regulation is consistent with and without prejudice to other notification and screening procedures set out in sectoral Union law,	No changes to COM proposal	<b><u>(2430)</u></b> This Regulation is consistent with and without prejudice to other notification and screening procedures set out in sectoral Union law,  No changes to COM proposal	<b><u>(3038)</u></b> This Regulation is consistent with and without prejudice to other notification and screening procedures set out in sectoral Union law,	
48	HAVE ADOPTED THIS REGULATION:	No changes to COM proposal	No changes to COM proposal	HAVE ADOPTED THIS REGULATION:	
<b>ARTICLES</b>					
49	<i>Article 1</i>	<i>Article 1</i>	<i>Article 1</i>	<i>Article 1</i>	

<sup>17</sup> Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector, OJ L 247, 21.9.2007, p. 1; 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; 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; 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.

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	<i>Subject matter and scope</i>	<i>Subject matter and scope</i>	<i>Subject matter and scope</i>	<i>Subject matter and scope</i>	
50	This Regulation establishes a framework for the screening by the Member States and the Commission of foreign direct investments in the Union on the grounds of security or public order.	No changes to COM proposal	<p><u>1. This Regulation establishes a framework for the screening by the Member States <del>and the Commission</del> of foreign direct investments into the Union on the grounds of security or public order <u>by setting certain procedural requirements, and for a cooperation mechanism between Member States and between them and the Commission with regard to foreign direct investments likely to affect security or public order.</u></u></p> <p><u>2. This Regulation is without prejudice to the sole responsibility of the Member States for the maintenance of national security, as provided for in Article 4(2) TEU, and to the right of the Member States to protect their essential security interests in accordance with Article 346 TFEU.</u></p> <p><u>3. Nothing in this Regulation shall limit the right of each Member State to decide whether or not to screen a particular foreign direct investment within the framework of this</u></p>	<p><u>1. This Regulation establishes a framework for the screening by the Member States <del>and the Commission</del> of foreign direct investments into the Union on the grounds of security or public order <u>by setting certain procedural requirements, and for a cooperation mechanism between Member States and between them and the Commission with regard to foreign direct investments likely to affect security or public order, including the Commission's possibility to issue opinions on such investments.</u></u></p> <p><u>2. This Regulation is without prejudice to the sole responsibility of the Member States for the maintenance of national security, as provided for in Article 4(2) TEU, and to the right of the Member States to protect their essential security interests in accordance with Article 346</u></p>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			<u>Regulation.</u>	<u>TFEU.</u>  <u>3. Nothing in this Regulation shall limit the right of each Member State to decide whether or not to screen a particular foreign direct investment within the framework of this Regulation.</u>	
51					
52	Article 2 Definition	Article 2 Definition	Article 2 Definitions	Article 2 Definitions	
53	For the purposes of this Regulation, the following definitions apply:	No changes to COM proposal	No changes to COM proposal	For the purposes of this Regulation, the following definitions apply:	
54	1. 'foreign direct investment' means investments of any kind by a foreign investor aiming to establish or to maintain lasting and direct links between the foreign investor and the entrepreneur to whom or the undertaking to which the capital is made available in order to carry on an economic activity in a Member State, including investments which enable effective participation in the management or control of a company carrying out an economic activity;	(1) 'foreign direct investment' means <del>investments</del> <b>an investment</b> of any kind, <b>irrespective of its volume or participation threshold</b> by a foreign investor <b>whether or not such investor is the ultimate investor</b> , aiming to establish or to maintain lasting <del>and</del> <b>direct or indirect</b> links between the foreign investor and the entrepreneur to whom or the undertaking to which the capital is made available in order to carry on an economic activity in <b>the territory of</b> a Member State, <b>in its Exclusive</b>	No changes to COM proposal	1. 'foreign direct investment' means investments of any kind by a foreign investor aiming to establish or to maintain lasting and direct links between the foreign investor and the entrepreneur to whom or the undertaking to which the capital is made available in order to carry on an economic activity in a Member State, including investments which enable effective participation	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>Economic Zone declared pursuant to the United Nations Convention on the Law of the Sea (UNCLOS), or continental shelf, including investments which enable effective participation in the management or <b>direct or indirect</b> control of a company carrying out an economic activity; [AM 30]</i>		in the management or control of a company carrying out an economic activity;	
55		<i>(1a) 'foreign government-controlled direct investment' means any foreign direct investment that could result in the control of any legal person established in the Union by a foreign government or an entity controlled by, acting on behalf of, or under instructions of, a foreign government; [AM 31]</i>			
56	2. 'foreign investor' means a natural person of a third country or an undertaking of a third country intending to make or having made a foreign direct investment;	(2) 'foreign investor' means a natural person <b>or legal person</b> or an undertaking of a third country, or <b>a national, or state institution,</b> intending to make or having <b>already</b> made a foreign direct investment, <b>whether they are the ultimate investor or an intermediary representing that investor of a third country;</b> [AM 32]	2. 'foreign investor' means a natural person <del>of a third country</del> or an undertaking of a third country intending to make or having made a foreign direct investment;	2. 'foreign investor' means a natural person <del>of a third country</del> or an undertaking of a third country, intending to make or having made a foreign direct investment;	
57	3. 'screening' means a procedure	(3) 'screening' means a procedure	<del>3. 'screening' means a procedure</del>	3. 'screening' means a	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	allowing to assess, investigate, authorise, condition, prohibit or unwind foreign direct investments;	allowing to assess, investigate, authorise, condition, prohibit or unwind foreign direct investments, <i>the period for the completion of which starts once all the information required to launch a screening has been received by the relevant authorities; [AM 33]</i>	<del>allowing to assess, investigate, authorise, condition, prohibit or unwind foreign direct investments;</del>	procedure allowing to assess, investigate, authorise, condition, prohibit or unwind foreign direct investments;	
58	4. 'screening mechanism' means an instrument of general application, such as a law or regulation, and accompanying administrative requirements, implementing rules or guidelines, setting out the terms, conditions and procedures for the screening of foreign direct investments on grounds of security or public order;	No changes to COM proposal	43. 'screening mechanism' means an instrument of general application, such as a law or regulation, and accompanying administrative requirements, implementing rules or guidelines, setting out the terms, conditions and procedures <del>for the screening of</del> <u>to assess, investigate, authorise, condition, prohibit or unwind</u> foreign direct investments on grounds of security or public order;	4. 'screening mechanism' means an instrument of general application, such as a law or regulation, and accompanying administrative requirements, implementing rules or guidelines, setting out the terms, conditions and procedures <u>to assess, investigate, authorise, condition, prohibit or unwind</u> foreign direct investments on grounds of security or public order;	
59			<u>4. 'foreign direct investment undergoing screening' means a foreign direct investment undergoing a formal assessment or investigation pursuant to a screening mechanism;</u>	<u>5. 'foreign direct investment undergoing screening' means a foreign direct investment undergoing a formal assessment or investigation pursuant to a screening mechanism;</u>	



Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
60	5. 'screening decision' means a measure adopted in application of a screening mechanism;	No changes to COM proposal	No changes to COM proposal	<u>6.</u> 'screening decision' means a measure adopted in application of a screening mechanism;	
61	6. 'undertaking of a third country' means an undertaking constituted or otherwise organised under the laws of a third country.	No changes to COM proposal	No changes to COM proposal	<u>7.</u> 'undertaking of a third country' means an undertaking constituted or otherwise organised under the laws of a third country.	
62					
63	Article 3 Screening of foreign direct investments	Article 3 Screening of foreign direct investments	Article 3 Screening <u>mechanisms of Member States of foreign direct investments</u>	Article 3 Screening <u>mechanisms of Member States of foreign direct investments</u>	
64	1. Member States may maintain, amend or adopt mechanisms to screen foreign direct investments on the grounds of security or public order, under the conditions and in accordance with the terms set out in this Regulation.	1. <b><i>In accordance with the provisions of this Regulation,</i></b> Member States may maintain, amend, <b><i>reinforce</i></b> or adopt mechanisms to screen foreign direct investments on the grounds of security or public order, <del><i>under the conditions and in accordance with the terms set out in this Regulation.</i></del> [AM 34]	1. Member States may maintain, amend or adopt mechanisms to screen foreign direct investments <b><u>in their territory</u></b> on the grounds of security or public order, under the conditions and in accordance with the terms set out in this <b><u>Article Regulation</u></b> .	1. <b><u>In accordance with the provisions of this Regulation,</u></b> Member States may maintain, amend or adopt mechanisms to screen foreign direct investments <b><u>in their territory</u></b> on the grounds of security or public order, <del><u>under the conditions and in accordance with the terms set out in this Regulation.</u></del>	
65	2. The Commission may screen foreign direct investments that are likely to affect projects or programmes of Union interest on the	2. The Commission <del>may</del> <b><i>shall</i></b> screen foreign direct investments that are likely to affect projects or programmes of Union interest on the	<del>2. The Commission may screen foreign direct investments that are likely to affect projects or programmes of Union interest on the</del>	<del>2. The Commission may screen foreign direct investments that are likely to affect projects or programmes of Union interest on the</del>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	the grounds of security or public order.	grounds of security or public order. [AM 35]	<del>grounds of security or public order.</del>	<del>of Union interest on the grounds of security or public order.</del>	
66	3. Projects or programmes of Union interest shall include in particular those projects and programmes which involve a substantial amount or a significant share of EU funding, or which are covered by Union legislation regarding critical infrastructure, critical technologies or critical inputs. An indicative list of projects or programmes of Union interest is included in Annex 1.	3. Projects or programmes of Union interest shall include in particular those projects and programmes which involve <del>a substantial amount or a significant share of</del> EU funding, or which are covered by Union legislation regarding critical infrastructure, <del>critical technologies,</del> <b>including key enabling</b> technologies, <del>or and</del> critical inputs <b>which are essential for security or the maintenance of public order. An indicative A non-exhaustive</b> list of projects or programmes of Union interest is included in <b>the Annex 1 to this Regulation. The Commission shall be empowered to adopt delegated acts in accordance with Article 13a to amend this Regulation by updating the list set out in the Annex.</b> [AM 36]	<del>3. Projects or programmes of Union interest shall include in particular those projects and programmes which involve a substantial amount or a significant share of EU funding, or which are covered by Union legislation regarding critical infrastructure, critical technologies or critical inputs. An indicative list of projects or programmes of Union interest is included in Annex 1.</del>	<del>3. Projects or programmes of Union interest shall include in particular those projects and programmes which involve a substantial amount or a significant share of EU funding, or which are covered by Union legislation regarding critical infrastructure, critical technologies or critical inputs. An indicative list of projects or programmes of Union interest is included in Annex 1.</del>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
67	<i>Moved from Article 6 of COM:</i> 1. Member States' screening mechanisms shall be transparent and not discriminate between third countries. In particular, Member States shall set out the circumstances triggering the screening, the grounds for screening and the applicable detailed procedural rules.	No changes to the COM proposal (► see Line 90)	<b>2. Rules and procedures related to Member States'</b> screening mechanisms shall be transparent and not <b>be applied in a</b> discriminatory manner between third countries. In particular, Member States shall set out the circumstances triggering the screening, the grounds for screening and the applicable detailed procedural rules.	<b>2. Rules and procedures related to Member States'</b> screening mechanisms, <b>including relevant timeframes,</b> shall be transparent and not discriminate between third countries. In particular, Member States shall set out the circumstances triggering the screening, the grounds for screening and the applicable detailed procedural rules.	
68	<i>Moved from Article 6 of COM:</i>  2. Member States shall establish timeframes for issuing screening decisions. Such timeframes shall allow them to take into account the comments of Member States referred to in Article 8 and the opinion of the Commission referred to in Articles 8 and 9.	EP amendments ► see Line 91  2. Member States shall establish timeframes for issuing screening decisions <b>and make such timeframes publicly available.</b> Such timeframes shall allow them to take into account the comments of Member States referred to in Article 8 and the opinion of the Commission referred to in Articles 8 and 9. <b>[AM 48]</b>	<b>3. Member States shall establish apply</b> timeframes <b>for issuing under their screening decisions mechanisms.</b> Such <del>timeframes mechanisms</del> shall allow them to take into account the comments of Member States referred to in Article <del>6, and 7</del> 8 and the opinion of the Commission referred to in Articles <b>6 and 8 and 9.</b>	<b>3. Member States shall establish apply</b> timeframes <b>for issuing under their screening decisions mechanisms. Such timeframes The screening mechanisms</b> shall allow <del>them</del> <b>Member States</b> to take into account the comments of <b>other</b> Member States referred to in Article <b>6 and 7 8</b> and the opinion of the Commission referred to in Articles <b>6, 7 and 8 and 9.</b>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
69		EP amendments ► see Line 93	<u>4.</u> Confidential information, including commercially-sensitive information, made available <u>to the Member State undertaking screening by foreign investors and undertaking concerned</u> shall be protected.	<u>4.</u> Confidential information, including commercially-sensitive information, made available <u>to the Member State undertaking screening by foreign investors and undertaking concerned</u> shall be protected.	
70		EP amendments ► see Line 94: 4. Foreign investors and <i>the</i> undertakings <i>of the Union</i> concerned shall have the possibility to seek <del>judicial</del> redress <i>before Member States authorities and jurisdictions</i> against screening decisions <i>of the national authorities, in accordance with national law. [AM 51]</i>	<u>5.</u> Foreign investors and undertakings concerned shall have the possibility to seek <del>judicial redress</del> <u>recourse</u> against screening decisions of the national authorities.	<u>5.</u> Foreign investors and undertakings concerned shall have the possibility to seek <del>judicial redress</del> <u>recourse</u> against screening decisions of the national authorities.	
71		EP amendments ► see Line 87:  Member States <del>may</del> <i>shall</i> maintain, amend, <i>reinforce</i> , or adopt measures necessary to <i>identify and</i> prevent circumvention of the screening mechanisms and screening decisions <i>including in cases when ownership structure or other key characteristics of the investor have significantly changed. Member States shall</i>	<u>6.</u> Member States may maintain, amend or adopt measures necessary to prevent circumvention of the screening mechanisms and screening decisions.	<u>6.</u> Member States <i>with a screening mechanism may</i> <u>shall</u> maintain, amend or adopt measures necessary to <i>identify and</i> prevent circumvention of the screening mechanisms and screening decisions.	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>inform the Commission of any anti-circumvention measure taken by them. [AM 47]</i>			
72			7. Member States shall notify to the Commission their existing screening mechanisms by [...] (INSERT DATE: 30 days of the entry into force of this Regulation) at the latest. Member States shall notify to the Commission any amendment to an existing screening mechanism or any newly adopted screening mechanism within 30 days of entry into force of the screening mechanism <b><u>or its amendments</u></b> at the latest.	7. Member States shall notify to the Commission their existing screening mechanisms by [...] (INSERT DATE: 30 days of the entry into force of this Regulation) at the latest. Member States shall notify to the Commission any amendment to an existing screening mechanism or any newly adopted screening mechanism within 30 days of entry into force of the screening mechanism <b><u>or its amendments</u></b> at the latest.	
73			<b><u>8. Every 12 months the Commission shall publish in the Official Journal of the European Union a list of the Member States' screening mechanisms notified pursuant to paragraph 7. The first publication of the list shall take place no later than three months after the deadline for notifications made pursuant to paragraph 7.</u></b>	<b><u>8. No later than three months after notifications referred to in paragraph 7, the Commission shall make publicly available a list of Member States' screening mechanisms. The Commission shall keep the list up to date.</u></b>	
74					

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
75	Article 4 <i>Factors that may be taken into consideration in the screening</i>	Article 4 <i>Factors <del>that may be</del> taken into consideration in the screening [AM 37]</i>	Article 4 <i>Factors that may be taken into consideration <u>by the Member States or the Commission in the screening</u></i>	Article 4 <i>Factors that may be taken into consideration <u>by the Member States or the Commission in the screening</u></i>	
76	In screening a foreign direct investment on the grounds of security or public order, Member States and the Commission may consider the potential effects on, inter alia:	<i>1. In screening a foreign direct investment on the grounds of security or public order, Member States and the Commission may consider the potential effects on, inter alia: [AM 38]</i>	In <del>screening</del> <u>determining whether</u> a foreign direct investment <u>is likely to affect on the grounds of</u> security or public order, Member States and the Commission may consider <del>the</del> <u>its</u> potential effects on, inter alia:	<i>1. In <del>screening</del> <u>determining whether</u> a foreign direct investment <u>is likely to affect on the grounds of</u> security or public order, Member States and the Commission may consider <del>the</del> <u>its</u> potential effects on, inter alia:</i>	
77	– critical infrastructure, including energy, transport, communications, data storage, space or financial infrastructure, as well as sensitive facilities;	<i>(a) critical <b>and strategic</b> infrastructure, <b>whether physical or virtual</b>, including <i>inter alia</i> energy <b>and water distribution</b>, transport <b>networks, ports, rails, airports and shipyards</b>, transport services, communications, <del>data storage</del>, <b>and media, aerospace and space</b> <del>or financial</del> infrastructure, <b>data storage facilities, large-scale data analysis, election-infrastructure</b>, <b>financial services infrastructure</b> as well as sensitive facilities; [AM 39]</i>	– critical infrastructure, including energy, transport, communications, <u>media</u> , data storage, <u>aerospace</u> , <u>defence</u> , financial infrastructure, <del>as well as</del> sensitive facilities <u>and investments in land and real estate, crucial for the use of such infrastructure;</u>	<i>(a) critical infrastructure, <b>whether physical or virtual</b>, including energy, transport, <u>water</u>, <u>health</u>, communications, <u>media</u>, data <u>processing</u> or storage, <u>aerospace</u>, <u>defence</u>, <u>electoral</u> or financial infrastructure, as well as sensitive facilities <u>and investments in land and real estate, crucial for the use of such infrastructure;</u></i>	
78	– critical technologies, including artificial intelligence, robotics, semiconductors,	<i>(b) critical <b>and strategic</b> technologies, including, <i>inter alia</i>, artificial intelligence, robotics,</i>	– critical technologies <u>and dual use items, as defined in Article 2.1 of Regulation (EC) No 428/2009,</u>	<i>(b) critical technologies <u>and dual use items as defined in Article 2.1 of Regulation</u></i>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	technologies with potential dual use applications, cybersecurity, space or nuclear technology;	<i>quantum technology, nano-, bio- and medical technologies, information and communication technologies (ICTs), electronic chips, semiconductors, energy storage, technologies with potential dual use applications items, defence, cybersecurity, space and cyber technologies, the automotive sector, rail, aerospace or nuclear technology technologies, research and development facilities; [AM 40]</i>	including artificial intelligence, robotics, semiconductors, <del>technologies with potential dual use applications,</del> cyber security, <u>aerospace, defence, nanotechnologies, biotechnologies</u> or nuclear technologies;	<u>(EC) No 428/2009</u> , including artificial intelligence, robotics, semiconductors, <del>technologies with potential dual use applications,</del> cybersecurity, <u>quantum, aerospace, defence, energy storage,</u> nuclear technologies, <u>nanotechnologies and biotechnologies;</u>	
79	– the security of supply of critical inputs; or	<i>(c) the strategic autonomy of the Union, the security and continuity of supply of critical inputs, including, inter alia, commodities, raw materials, rare earths, agricultural assets, farmland, and agrifood production; or [AM 41]</i>	– the security of supply of critical inputs, <del>or including energy, raw materials, components and semi-finished products;</del>	<u>(c) supply of critical inputs, <del>or including energy or raw materials, as well as food security;</del></u>	
80	– access to sensitive information or the ability to control sensitive information.	<i>(d) access to sensitive information or to the personal data of Union citizens, including, inter alia, personal data concerning health, and the ability to control large-scale data or sensitive information, [AM 42]</i>	– access to sensitive information or the ability to control <del>sensitive such</del> information; or	<u>(d) access to sensitive information, including personal data,</u> or the ability to control <del>sensitive such</del> information; or	
81		<i>(da) the plurality and independence of media, services of general interest and services of</i>	– the plurality of the media.	<u>(e) the freedom and pluralism of the media.</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>general economic interest, cultural services, including audio-visual services, as well as sports-facilities and betting services, and cultural heritage. [AM 43]</i>			
82	In determining whether a foreign direct investment is likely to affect security or public order, Member States and the Commission may take into account whether the foreign investor is controlled by the government of a third country, including through significant funding.	<p>2. In determining whether a foreign direct investment is likely to affect security or public order, Member States and the Commission <del>may</del> <b>shall</b> take into account, <b><i>in particular</i></b>, whether:</p> <p>(a) <i>there is a risk of a disruption, failure, loss or destruction of supply exists, that would have an impact in a Member State or in the Union;</i></p> <p>(b) the foreign investor is <b><i>directly or indirectly</i></b> controlled by the government, <b><i>state bodies or armed forces</i></b> of a third country <b><i>and/or pursuing state-led outward projects or programmes and foreign government-controlled direct investments for strategic industrial goals, acquiring or transferring key enabling technologies or knowledge, supporting strategic national interests, including through</i></b></p>	In determining whether a foreign direct investment is likely to affect security or public order, Member States and the Commission may <u>also</u> take into account whether the foreign investor is <b><u>directly or indirectly</u></b> controlled by the government of a third country, including through significant funding.	<p><b><u>2.</u></b> In determining whether a foreign direct investment is likely to affect security or public order, Member States and the Commission may <u>also</u> take into account, <b><i>in particular</i></b>, whether:</p> <p><b><u>(a)</u></b> the foreign investor is <b><u>directly or indirectly</u></b> controlled by the government, <b><u>including state bodies or armed forces</u></b> of a third country, including through <b><u>ownership structure or</u></b> significant funding;</p> <p><b><u>(b)</u></b> <b><u>the foreign investor has already been involved in activities affecting security or public order of a Member State; or</u></b></p>	



Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<p><i>ownership structure or significant funding which may take the form of subsidies, extended credit and lending by the government of a third country or a state-owned financial institution and/or has a political presence in its decision-making centres;</i></p> <p><i>(c) the investor has already been involved in investment projects threatening the security or the public order of a Member State. [AM 44]</i></p>			
83		<p><i>2a. For the purposes of paragraph 2, Member States and the Commission may also have regard to inter alia:</i></p> <p><i>(a) the context and the circumstances under which the investment is or was made, including if the sector is regarded as a strategic sector by the investors country of origin;</i></p> <p><i>(b) whether there is a serious and legitimate risk that the foreign investor engages in illegal or criminal activities, such as money-laundering, diversion of funds,</i></p>		<p><i><u>(c) whether there is a serious risk that the foreign investor engages in illegal or criminal activities.</u></i></p>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<p><i>corruption, financing of terrorism, organised-crime or infringements of intellectual property rights or breaches international human rights instruments and core ILO labour standards;</i></p> <p><i>(c) whether the statutes of the undertaking to which the investment is made include change of ownership clauses;</i></p> <p><i>(d) whether the investment can reinforce or lead to a monopolistic structure or the control of a value chain, for example through the communication of the list of all the mergers analysed by the Commission involving the undertaking of a third country as well as the communication of the list of all the mergers analysed by the national competition authorities involving the same undertaking;</i></p> <p><i>(e) whether market in the foreign investor's country of origin is open, restricted or closed and whether there is reciprocity and a level playing field;</i></p> <p><i>(f) the previous relations between</i></p>			

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>the Commission or the Member States with the foreign investor; [AM 45]</i>			
84		<i>2b. The examination shall be conducted on the basis of the best information available, which shall be accurate, comprehensive and reliable. [AM 46]</i>			
85					
86	Article 5 Anti-circumvention	Article 5 Anti-circumvention	<del>Article 5</del> <del>Anti-circumvention</del>	<u>Article 5</u> <u>Anti-circumvention</u>	
87	Member States may maintain, amend or adopt measures necessary to prevent circumvention of the screening mechanisms and screening decisions.	Member States <del>may</del> <b>shall</b> maintain, amend, <b>reinforce</b> , or adopt measures necessary to <b>identify and</b> prevent circumvention of the screening mechanisms and screening decisions <b>including in cases when ownership structure or other key characteristics of the investor have significantly changed. Member States shall inform the Commission of any anti-circumvention measure taken by them. [AM 47]</b>	Member States may maintain, amend or adopt measures necessary to prevent circumvention of the screening mechanisms and screening decisions.	<del>Member States may maintain, amend or adopt measures necessary to prevent circumvention of the screening mechanisms and screening decisions.</del>	
88					
89	Article 6 Framework for Member States' screening	Article 6 Framework for Member States' screening	<del>Article 6</del> <del>Framework for Member States' screening</del>	<u>Article 6</u> <u>Framework for Member States' screening</u>	
90	1. Member States' screening mechanisms shall be transparent and	No changes to COM proposal	<del>1. Member States' screening mechanisms shall be transparent and</del>	<u>1. Member States' screening mechanisms shall</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	not discriminate between third countries. In particular, Member States shall set out the circumstances triggering the screening, the grounds for screening and the applicable detailed procedural rules.		<del>not discriminate between third countries. In particular, Member States shall set out the circumstances triggering the screening, the grounds for screening and the applicable detailed procedural rules.</del>	<del><u>be transparent and not discriminate between third countries. In particular, Member States shall set out the circumstances triggering the screening, the grounds for screening and the applicable detailed procedural rules.</u></del>	
91	2. Member States shall establish timeframes for issuing screening decisions. Such timeframes shall allow them to take into account the comments of Member States referred to in Article 8 and the opinion of the Commission referred to in Articles 8 and 9.	2. Member States shall establish timeframes for issuing screening decisions <b><i>and make such timeframes publicly available.</i></b> Such timeframes shall allow them to take into account the comments of Member States referred to in Article 8 and the opinion of the Commission referred to in Articles 8 and 9. <i>[AM 48]</i>	<del>2. Member States shall establish timeframes for issuing screening decisions. Such timeframes shall allow them to take into account the comments of Member States referred to in Article 8 and the opinion of the Commission referred to in Articles 8 and 9.</del>	<del><u>2. Member States shall establish timeframes for issuing screening decisions. Such timeframes shall allow them to take into account the comments of Member States referred to in Article 8 and the opinion of the Commission referred to in Articles 8 and 9.</u></del>	
92		<b><i>2a. Member States may allow, economic operators, civil society organisations, or social partners such as trade unions, to request Member States authorities to consider the activation of screening without prejudice to Member State systems that allow for greater procedural involvement. [AM 49]</i></b>			
93	3. Confidential information, including commercially-sensitive	3. <b><i>Member States and the Commission shall guarantee the</i></b>	<del>3. Confidential information, including commercially-sensitive</del>	<del><u>3. Confidential information, including</u></del>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	information, made available by foreign investors and undertaking concerned shall be protected.	<i>highest level of protection for all confidential information, <del>including commercially sensitive information</del>, made available by a foreign investors investor or undertaking of the Union concerned shall be protected. when carrying out screening procedures pursuant to Commission Decisions (EU, Euratom) 2015/443 and (EU/Euratom) 2015/444. [AM 50]</i>	information, made available by foreign investors and undertaking concerned shall be protected.	<del>commercially sensitive information, made available by foreign investors and undertaking concerned shall be protected.</del>	
94	4. Foreign investors and undertakings concerned shall have the possibility to seek judicial redress against screening decisions of the national authorities.	4. Foreign investors and the undertakings <i>of the Union</i> concerned shall have the possibility to seek <del>judicial</del> redress <i>before Member States authorities and jurisdictions</i> against screening decisions <i>of the national authorities, in accordance with national law. [AM 51]</i>	4. Foreign investors and undertakings concerned shall have the possibility to seek judicial redress against screening decisions of the national authorities.	<del>4. Foreign investors and undertakings concerned shall have the possibility to seek judicial redress against screening decisions of the national authorities.</del>	
95					
96	Article 7 Notification by Member States of screening mechanisms and annual reporting	Article 7 Notification by Member States of screening mechanisms and annual reporting	Article 7 <del>5</del> <del>Notification by Member States of screening mechanisms and Annual</del> reporting	Article 7 <del>5</del> <del>Notification by Member States of screening mechanisms and Annual</del> reporting	
97	1. Member States shall notify to the Commission their existing screening mechanisms by [...] (30 days of the entry into force of this Regulation) at the latest. Member	No changes to COM proposal	<del>1. Member States shall notify to the Commission their existing screening mechanisms by [...] (INSERT DATE: 30 days of the entry into force of this Regulation) at the</del>	<del>1. Member States shall notify to the Commission their existing screening mechanisms by [...] (30 days of the entry into force of this</del>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	States shall notify to the Commission any amendment to an existing screening mechanism or any newly adopted screening mechanism within 30 days of entry into force of the screening mechanism at the latest.		<del>latest. Member States shall notify to the Commission any amendment to an existing screening mechanism or any newly adopted screening mechanism within 30 days of entry into force of the screening mechanism at the latest.</del>	<del>Regulation) at the latest. Member States shall notify to the Commission any amendment to an existing screening mechanism or any newly adopted screening mechanism within 30 days of entry into force of the screening mechanism at the latest.</del>	
98			1. Member States <del>that do not maintain screening mechanisms</del> shall provide the Commission with an annual report covering <u>aggregated information on</u> foreign direct investments that took place in their territory, on the basis of information available to them, <u>and aggregated information on the requests received from other Member States pursuant to Articles 6(6) and 7(5).</u>	1. <u>By 31 March of each year,</u> Member States <del>that do not maintain screening mechanisms</del> shall provide the Commission with an annual report covering <u>the preceding calendar year and including aggregated information on</u> foreign direct investments that took place in their territory, on the basis of information available to them, <u>and aggregated information on the requests received from other Member States pursuant to Articles 6(6) and 7(5).</u>	
99	2. Member States that maintain screening mechanisms shall provide the Commission with an annual	3. <i>For each reporting period,</i> Member States that maintain screening mechanisms shall provide	2. Member States that maintain screening mechanisms shall provide <u>in addition</u> <del>the Commission with an</del>	2. <i>For each reporting period,</i> Member States that maintain screening mechanisms shall	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	report on the application of their screening mechanisms. For each reporting period, the report shall include in particular information on:	the Commission with <del>an annual report additional information</del> on the application of their screening mechanisms, <del>For each reporting period, the report shall include</del> in particular information on: [AM 52]	<del>annual report on the application of their screening mechanisms aggregated information on the application of their screening mechanisms</del> For each reporting period, the report shall include in particular information on:	provide <u>in addition the Commission with an annual report on the application of their screening mechanisms aggregated information</u> on the application of their screening mechanisms. <del>For each reporting period, the report shall include in particular information on:</del>	
100	(a) foreign direct investments screened and undergoing screening;	No changes to COM proposal	<del>(a) foreign direct investments screened and undergoing screening;</del>	<del>(a) foreign direct investments screened and undergoing screening;</del>	
101	(b) screening decisions prohibiting foreign direct investments;	No changes to COM proposal	<del>(b) screening decisions prohibiting foreign direct investments;</del>	<del>(b) screening decisions prohibiting foreign direct investments;</del>	
102	(c) screening decisions subjecting foreign direct investments to conditions or mitigating measures;	No changes to COM proposal	<del>(c) screening decisions subjecting foreign direct investments to conditions or mitigating measures;</del>	<del>(c) screening decisions subjecting foreign direct investments to conditions or mitigating measures;</del>	
103	(d) the sectors, origin, and value of foreign direct investment screened and undergoing screening.	No changes to COM proposal	<del>(d) the sectors, origin, and value of foreign direct investment screened and undergoing screening.</del>	<del>(d) the sectors, origin, and value of foreign direct investment screened and undergoing screening.</del>	
104		<i>(da) screening decisions regarding projects or programmes of Union interest. [AM 52]</i>			
105	3. Member States that do not maintain screening mechanisms	2. Member States <del>that do not maintain screening mechanisms</del>	3. Member States that do not maintain screening mechanisms shall	<del>3. Member States that do not maintain screening</del>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	shall provide the Commission with an annual report covering foreign directs investments that took place in their territory, on the basis of information available to them.	shall provide the Commission with an annual report covering foreign <del>directs</del> <b>direct</b> investments that took place in their territory, <b>their Exclusive Economic Zone or continental shelf</b> , on the basis of <del>the best</del> information available <del>to them</del> and information <b>on the steps undertaken to obtain such information.</b> [AM 53]	<del>provide the Commission with an annual report covering foreign directs investments that took place in their territory, on the basis of information available to them.</del>	<del><b><u>mechanisms shall provide the Commission with an annual report covering foreign directs investments that took place in their territory, on the basis of information available to them.</u></b></del>	
106		<b>3a. On the basis of, inter alia, the annual reports submitted by all the Member States, and with due respect to the confidential nature of certain information included in those reports, the Commission shall draw up an annual report outlining the overall investment situation in the Union including the implementation of this Regulation and submit it to the European Parliament. That report shall be made public.</b> [AM 54]		<b><u>3. The Commission shall provide an annual report on the implementation of this Regulation to the European Parliament and the Council. That report shall be made public.</u></b>  <b><u>4. The European Parliament may invite the Commission to an ad-hoc meeting of its responsible committee to present and explain systemic issues related to the implementation of this Regulation.</u></b>	
107					
108	Article 8 Cooperation mechanism	Article 8 Cooperation mechanism	Article <del>8</del> <b>6</b> Cooperation mechanism <b><u>in relation to foreign direct investments undergoing</u></b>	Article <del>6</del> Cooperation mechanism <b><u>in relation to foreign direct</u></b>	



Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			<u>screening</u>	<u>investments undergoing screening</u>	
109	1. Member States shall inform the Commission and the other Member States of any foreign direct investments that are undergoing screening within the framework of their screening mechanisms, within 5 working days from the start of the screening. As part of the information, and when applicable, the screening Member States shall endeavour to indicate whether it considers that the foreign direct investment undergoing screening is likely to fall within the scope of Regulation (EC) No 139/2004.	1. Member States shall inform the Commission and the <del>other</del> Member States of any foreign direct investments that are undergoing screening within the framework of their screening <del>mechanisms, within 5</del> <i>mechanism, at the latest five</i> working days <del>from after</del> the start of the screening. As part of the information, and when applicable, the screening Member <del>States</del> <i>State</i> shall endeavour to indicate whether it considers that the foreign direct investment <i>which is</i> undergoing screening is likely to fall within the scope of Regulation (EC) No 139/2004. <i>[AM 55]</i>	1. <del>A</del> Member States shall <del>notify inform</del> the Commission and the other Member States of any foreign direct investments <u>in its territory</u> that <del>is are</del> undergoing screening <del>within the framework of their screening mechanisms. by providing the information referred to in Article 9(2) as soon as possible, within 5 working days from the start of the screening. As part of the information, and when applicable, the screening Member State shall endeavour to indicate whether it considers that the foreign direct investment undergoing screening is likely to fall within the scope of Regulation (EC) No 139/2004. This notification may include a list of Member States whose security or public order is deemed likely to be affected.</del>	1. Member States shall <del>notify inform</del> the Commission and the other Member States of any foreign direct investments <u>in their territory</u> that <del>is are</del> undergoing screening <del>within the framework of their screening mechanisms. by providing the information referred to in Article 9(2) as soon as possible, within 5 working days from the start of the screening. The notification may include a list of Member States whose security or public order is deemed likely to be affected.</del> As part of the <u>information notification</u> , and when applicable, the screening Member States shall endeavour to indicate whether it considers that the foreign direct investment <i>which is</i> undergoing screening is likely to fall within the scope of Regulation (EC) No 139/2004.	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
110		<i>1a. A Member State may ask the Commission for an opinion or other Member States for comments on a foreign direct investment taking place in its territory. [AM 56]</i>			
111	2. Where a Member State considers that a foreign direct investment planned or completed in another Member State is likely to affect its security or public order, it may provide comments to the Member State where the foreign direct investment is planned or has been completed. The comments shall be forwarded to the Commission in parallel.	2. Where a Member State considers that a foreign direct investment, planned or completed in another Member State, is likely to affect its security or public order, it may provide comments to the Member State where the foreign direct investment is planned or has been completed. The <i>Member State's</i> comments shall be forwarded <i>simultaneously</i> to the Commission <del>in parallel as well as to all other Member States.</del> [AM 57]	2. Where a Member State considers that a foreign direct investment <del>planned or completed</del> <u>undergoing screening</u> in another Member State is likely to affect its security or public order, <u>or has information relevant for such screening</u> , it may provide comments to the Member State <u>undertaking the screening</u> <del>where the foreign direct investment is planned or has been completed</del> . The comments shall be forwarded to the Commission in parallel.	2. Where a Member State considers that a foreign direct investment <del>planned or completed</del> <u>undergoing screening</u> in another Member State is likely to affect its security or public order, <u>or has information relevant for such screening</u> , it may provide comments to the Member State <u>undertaking the screening</u> <del>where the foreign direct investment is planned or has been completed</del> . <u>Those</u> <del>The</del> comments shall be forwarded to the Commission in parallel.  <u>The Commission shall notify other Member States that comments were provided or an opinion was issued.</u>	
112	3. Where the Commission considers that a foreign direct	3. Where the Commission considers that a foreign direct	3. Where the Commission considers that a foreign direct	3. Where the Commission considers that a foreign direct	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	investment is likely to affect security or public order in one or more Member States, it may issue an opinion addressed to the Member State in which the foreign direct investment is planned or has been completed. The Commission may issue an opinion irrespective of whether other Member States have provided comments.	investment is likely to affect security or public order in one or more Member States it may issue an opinion addressed to the Member State in which the foreign direct investment is planned or has been completed. The Commission may issue an opinion irrespective of whether other Member States have provided comments. <i>The Commission's opinion shall be forwarded simultaneously to all other Member States. [AM 58]</i>	investment <u>undergoing screening</u> is likely to affect security or public order in <del>one or more than one</del> Member States, <u>or has relevant information in relation to that foreign direct investment</u> , it may issue an opinion addressed to the Member State <u>undertaking the screening in which the foreign direct investment is planned or has been completed</u> . The Commission may issue an opinion irrespective of whether other Member States have provided comments.	investment <u>undergoing screening</u> is likely to affect security or public order in <del>one or more than one</del> Member State, <u>or has relevant information in relation to that foreign direct investment</u> , it may issue an opinion addressed to the Member State <u>undertaking the screening in which the foreign direct investment is planned or has been completed</u> . The Commission may issue an opinion irrespective of whether other Member States have provided comments. <i>The Commission may issue an opinion following comments from other Member States. The Commission shall issue such opinion where justified, after at least one third of Member States consider that a foreign direct investment is likely to affect their security or public order.</i>	
113			<u>4. A Member State which duly considers that a foreign direct</u>	<u>4. A Member State which duly considers that a foreign</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			<u>investment on its territory is likely to affect its security or public order may request the Commission to issue an opinion.</u>	<u>direct investment on its territory is likely to affect its security or public order may request the Commission to issue an opinion or other Member States to provide comments.</u>	
114			<u>5. The comments referred to in paragraph (2) and the opinions referred to in paragraph (3) shall be duly justified.</u>	<u>5. The comments referred to in paragraph 2 and the opinions referred to in paragraph 3 shall be duly justified.</u>	
115			<u>6. No later than 15 calendar days following the receipt of the information referred to in paragraph 1, other Members States and the Commission shall notify the Member State undertaking screening of their intention to provide comments pursuant to paragraph 2 or an opinion pursuant to paragraph 3. The notification may include a request for additional information to the information referred to in paragraph 1.</u> <u>Any request for additional information shall be duly justified, limited to information necessary to</u>	<u>6. No later than 15 calendar days following the receipt of the information referred to in paragraph 1, other Member States and the Commission shall notify the Member State undertaking screening of their intention to provide comments pursuant to paragraph 2 or an opinion pursuant to paragraph 3. The notification may include a request for additional information to the information referred to in paragraph 1.</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			<u>provide comments pursuant to paragraph 2 or to issue an opinion pursuant to paragraph 3, proportionate to the purpose of the request and not unduly burdensome for the Member State undertaking screening.</u>	<u>Any request for additional information shall be duly justified, limited to information necessary to provide comments pursuant to paragraph 2 or to issue an opinion pursuant to paragraph 3, proportionate to the purpose of the request and not unduly burdensome for the Member State undertaking screening. Requests for information and replies provided by the Member States shall be forwarded to the Commission in parallel.</u>	
116	4. The Commission or a Member State which duly considers that a foreign direct investment is likely to affect its security or public order may request from the Member State where the foreign direct investment is planned or has been completed, any information necessary to provide comments referred to in paragraph 2, or to issue the opinion referred to in paragraph 3.	4. <del>The Commission or a</del> Member State which <del>duly considers</del> <i>has justified reasons to consider</i> that a foreign direct investment is likely to affect its security or public order may <i>address a substantiated</i> request to <i>the Commission asking to receive</i> from the Member State where the foreign direct investment is planned or has been completed, any information necessary to provide <i>the</i> comments referred to in paragraph 2; <del>or. The Commission shall collect all</del>	4. <del>The Commission or a Member State which duly considers that a foreign direct investment is likely to affect its security or public order may request from the Member State where the foreign direct investment is planned or has been completed, any information necessary to provide comments referred to in paragraph 2, or to issue the opinion referred to in paragraph 3.</del>	<del>4. <u>The Commission or a Member State which duly considers that a foreign direct investment is likely to affect its security or public order may request from the Member State where the foreign direct investment is planned or has been completed, any information necessary to provide comments referred to in paragraph 2, or to issue the</u></del>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>requests for information received and forward them without delay to the Member State where the foreign direct investment is planned or has been completed. Where justified, the Commission may also request, on its own initiative, any information necessary to issue the opinion referred to in paragraph 3. [AM 59]</i>		<del><i>opinion referred to in paragraph 3.</i></del>	
117	5. Comments pursuant to paragraphs 2 or opinions pursuant to paragraph 3 shall be addressed to the Member State where the foreign direct investment is planned or has been completed within a reasonable period of time, and in any case no later than 25 working days following receipt of the information referred to in paragraphs 1 or 4. In cases where the opinion of the Commission follows comments from other Member States, the Commission shall have 25 additional working days for issuing the opinion.	5. Comments pursuant to <del>paragraphs 2 or paragraph 2</del> shall be addressed to the Commission and the Member States and opinions pursuant to paragraph 3 <del>shall be addressed</del> to the Member State where the foreign direct investment is planned or has been completed within a reasonable period of time, and in any case no later than 25 working days following receipt of the information <del>referred to in paragraphs 1 or 4.</del> In cases where the opinion of the Commission follows comments from other Member States, <del>the Commission</del> it shall have 25 additional working days for issuing the opinion. [AM 60]	<del>57.</del> Comments pursuant to paragraphs 2 or opinions pursuant to paragraph 3 shall be addressed to the Member State <u>undertaking the screening where the foreign direct investment is planned or has been completed</u> within a reasonable period of time, and in any case no later than <u>35 calendar 25 working</u> days following receipt of the information referred to in paragraphs 1. <del>or 4. In cases where the opinion of the Commission follows comments from other Member States, the Commission shall have 25 additional working days for issuing the opinion.</del>	<del>7.</del> Comments pursuant to paragraph 2 or opinions pursuant to paragraph 3 shall be addressed to the Member State <u>undertaking the screening where the foreign direct investment is planned or has been completed</u> within a reasonable period of time, and in any case no later than <u>35 calendar 25 working</u> days following receipt of the information referred to in paragraph 1 <del>or 4. In cases where the opinion of the Commission follows comments from other Member States, the Commission shall have 25 additional working days for issuing the opinion.</del>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			<p><u>If additional information was requested pursuant to paragraph 6, such comments or opinions shall be issued no later than 20 calendar days following receipt of the additional information or the notification pursuant to Article 9(5).</u></p> <p><u>Notwithstanding paragraph 6, the Commission may issue an opinion following comments from other Member States within the deadlines of this paragraph.</u></p>	<p><u>Notwithstanding the foregoing, if additional information was requested pursuant to paragraph 6, such comments or opinions shall be issued no later than 20 calendar days following receipt of the additional information or the notification pursuant to Article 9(5).</u></p> <p><u>Notwithstanding paragraph 6, the Commission may issue an opinion following comments from other Member States where possible within the deadline of 35 calendar days, and in any case no later than 5 calendar days after this deadline expires.</u></p>	
118			<p><u>8. In the exceptional case where the Member State undertaking screening considers that its security or public order requires immediate action, it shall notify other Member</u></p>	<p><u>8. In the exceptional case where the Member State undertaking screening considers that its security or public order requires</u></p>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			<u>States and the Commission of its intention to issue a screening decision before the timeframes referred to in paragraph 7. The other Member States and the Commission shall endeavour to provide comments or to issue an opinion expeditiously.</u>	<u>immediate action, it shall notify other Member States and the Commission of its intention to issue a screening decision before the timeframes referred to in paragraph 7 and duly justify the need for immediate action. The other Member States and the Commission shall endeavour to provide comments or to issue an opinion expeditiously.</u>	
119	6. The Member States where the foreign direct investment is planned or has been completed shall give due consideration to the comments of the other Member States referred to in paragraph 2 and to the opinion of the Commission referred to in paragraph 3.	6. The Member States where the foreign direct investment is planned or has been completed shall give due consideration to the comments of the other Member States referred to in paragraph 2 and to the opinion of the Commission referred to in paragraph 3, <i>as well as to views expressed within the framework of the Investment Screening Coordination Group set up in accordance with Article 12a. [AM 61]</i>	<u>96. The Member State <del>undertaking screening where the foreign direct investment is planned or has been completed</del> shall give due consideration to the comments of the other Member States referred to in paragraph 2 and to the opinion of the Commission referred to in paragraph 3 <u>without prejudice to the provisions of Article 8. The final screening decision shall be taken by the Member State undertaking screening.</u></u>	<u>9. The Member State <del>undertaking screening where the foreign direct investment is planned or has been completed</del> shall give due consideration to the comments of the other Member States referred to in paragraph 2 and to the opinion of the Commission referred to in paragraph 3 <u>without prejudice to the provisions of Article 8. The final screening decision shall be taken by the Member State undertaking screening.</u></u>	
120		<i>6a. If at least one third of Member States consider that a</i>			



Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<p><i>foreign direct investment is likely to affect their security or public order, the Member State where the foreign direct investment is planned or has been completed shall take utmost account of their comments and the opinion of the Commission and provide a written explanation.</i></p> <p><i>Where those comments or opinions are not followed, the Commission shall foster dialogue between the Member States having issued comments and the Member State in which the foreign direct investment is planned or has been completed.</i></p> <p><i>[AM 62]</i></p>			
121	7. Cooperation between Member States pursuant to this Article shall take place through the contact points referred to in Article 12.	7. Cooperation between Member States pursuant to this Article shall take place through <del>the institution-based foreign direct investment screening</del> contact points <del>referred to in Article 12</del> ('institution-based FDI screening contact point') and the Investment Screening Coordination Group set up in accordance with Article 12a. [AM 63]	<del>10.7.</del> Cooperation between Member States pursuant to this Article shall take place through the contact points referred to in Article <del>1211</del> .	<del>10.</del> Cooperation <del>between Member States</del> pursuant to this Article shall take place through the contact points referred to in Article <del>1211</del> .	
122					
123			<u>Article 7</u>	<u>Article 7</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			Cooperation mechanism <u>in relation to foreign direct investments not undergoing screening</u>	Cooperation mechanism <u>in relation to foreign direct investments not undergoing screening</u>	
124		[AM 57] [line 111]	<u>1.</u> Where a Member State considers that a foreign direct investment planned or completed in another Member State <u>which is not undergoing screening in that Member State</u> , is likely to affect its security or public order, <u>or has relevant information in relation to that foreign direct investment</u> , it may provide comments to the Member State where the foreign direct investment is planned or has been completed. The comments shall be forwarded to the Commission in parallel.	<u>1.</u> Where a Member State considers that a foreign direct investment planned or completed in another Member State <u>which is not undergoing screening in that Member State</u> , is likely to affect its security or public order, <u>or has relevant information in relation to that foreign direct investment</u> , it may provide comments to the Member State where the foreign direct investment is planned or has been completed. The comments shall be forwarded to the Commission in parallel.  <u>The Commission shall notify other Member States that comments were provided or an opinion was issued.</u>	
125		[AM 58] [line 112]	<u>2.</u> Where the Commission considers that a foreign direct	<u>2.</u> Where the Commission considers that a foreign direct	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			investment <u>planned or completed in a Member State which is not undergoing screening in that Member State</u> , is likely to affect security or public order in <del>one or</del> more <u>than one Member States, or has relevant information in relation to that foreign direct investment</u> , it may issue an opinion addressed to the Member State in which the foreign direct investment is planned or has been completed. The Commission may issue an opinion irrespective of whether other Member States have provided comments.	investment <u>planned or completed in a Member State which is not undergoing screening in that Member State</u> , is likely to affect security or public order in <del>one or</del> more <u>than one Member States, or has relevant information in relation to that foreign direct investment</u> , it may issue an opinion addressed to the Member State in which the foreign direct investment is planned or has been completed. The Commission may issue an opinion irrespective of whether other Member States have provided comments. <u>The Commission may issue an opinion following comments from other Member States. The Commission shall issue such opinion where justified, after at least one third of Member States consider that a foreign direct investment is likely to affect their security or public order.</u>	
126		[AM 56] [line 110]	<u>3. A Member State which duly</u>	<u>3. A Member State which</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			<u>considers that a foreign direct investment in its territory is likely to affect its security or public order may request the Commission to issue an opinion.</u>	<u>duly considers that a foreign direct investment in its territory is likely to affect its security or public order may request the Commission to issue an opinion, or other Member States to provide comments.</u>	
127			<u>4. The comments referred to in paragraph 1 and the opinions referred to in paragraph 2 shall be duly justified.</u>	<u>4. The comments referred to in paragraph 1 and the opinions referred to in paragraph 2 shall be duly justified.</u>	
128		<i>[AM 59] [line 116]</i>	<u>5. Where <del>the</del> the Commission or a Member State <del>duly considers</del> that a foreign direct investment <u>which is not undergoing screening</u> is likely to affect <del>its</del> security or public order <u>as referred to in paragraphs 1 and 2, it</u> may request from the Member State where the foreign direct investment is planned or has been completed <u>any the information referred to in Article 9.</u></u>  <u>Any request for information shall be</u>	<u>5. Where <del>the</del> the Commission or a Member State <del>duly considers</del> that a foreign direct investment <u>which is not undergoing screening</u> is likely to affect <del>its</del> security or public order <u>as referred to in paragraphs 1 and 2, it</u> may request from the Member State where the foreign direct investment is planned or has been completed <u>any the information referred to in Article 9.</u></u>  <u>Any request for information</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			<u>duly justified, limited to information necessary to provide comments referred pursuant to in paragraph 1 2, or to issue an opinion referred pursuant to in paragraph 2 3, proportionate to the purpose of the request and not unduly burdensome for the Member State where the foreign direct investment is planned or has been completed.</u>	<u>shall be duly justified, limited to information necessary to provide comments referred pursuant to in paragraph 1 2, or to issue an opinion referred pursuant to in paragraph 2 3, proportionate to the purpose of the request and not unduly burdensome for the Member State where the foreign direct investment is planned or has been completed.</u>  <u>Requests for information and replies provided by the Member States shall be forwarded to the Commission in parallel.</u>	
129		<i>[AM 60] [line 117]</i>	<u>6. Comments pursuant to paragraph 1 2 or opinions pursuant to paragraph 2 3 shall be addressed to the Member State where the foreign direct investment is planned or has been completed within a reasonable period of time, and in any case no later than 35 25 working calendar days following receipt of the information referred to in paragraphs 1 or 4 5 or of the notification pursuant to Article 9(5). In cases where the opinion of the</u>	<u>6. Comments pursuant to paragraph 1 2 or opinions pursuant to paragraph 2 3 shall be addressed to the Member State where the foreign direct investment is planned or has been completed within a reasonable period of time, and in any case no later than 35 25 working calendar days following receipt of the information referred to in</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			Commission follows comments from other Member States, the Commission shall have <u>10 25</u> additional <del>working</del> <u>calendar</u> days for issuing the opinion.	paragraphs <del>1or 4 5 or of the</del> <u>notification pursuant to Article 9(5)</u> . In cases where the opinion of the Commission follows comments from other Member States, the Commission shall have <u>15-25</u> additional <del>working calendar</del> days for issuing <del>the—that</del> opinion.	
130		[AM 61] [line 119]	7. The Member State where the foreign direct investment is planned or has been completed shall give due consideration to the comments of the other Member States <u>referred to in paragraph 2</u> and to the opinion of the Commission <u>without prejudice to the provisions of Article 8 referred to in paragraph 3.</u>	7. The Member State where the foreign direct investment is planned or has been completed shall give due consideration to the comments of the other Member States <u>referred to in paragraph 2</u> and to the opinion of the Commission <u>without prejudice to the provisions of Article 8—referred to in paragraph 3.</u>	
131		[AM 62] [line 120]			
132			8. <u>Member States may provide comments pursuant to paragraph 1 and the Commission may provide an opinion pursuant to paragraph 2 no later than 15 months after the foreign direct investment has been</u>	8. <u>Member States may provide comments pursuant to paragraph 1 and the Commission may provide an opinion pursuant to paragraph 2 no later than 15</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			<u>completed. This article shall not apply to foreign direct investments completed before the entry into force of this Regulation.</u>	<u>months after the foreign direct investment has been completed. This article shall not apply to foreign direct investments completed before the entry into force of this Regulation.</u>	
133		[AM 63][line 121]	9. Cooperation between Member States pursuant to this Article shall take place through the contact points referred to in Article 11 <del>12</del> .	9. Cooperation <del>between Member States</del> pursuant to this Article shall take place through the contact points referred to in Article <u>11</u> .	
134					
135	Article 9 Framework for Commission screening	Article 9 Framework for Commission screening	Article <del>9</del> <del>Framework for Commission screening</del> <u>Foreign direct investments likely to affect projects or programmes of Union interest</u>	Article <del>9</del> <del>Framework for Commission screening</del> <u>Foreign direct investments likely to affect projects or programmes of Union interest</u>	
136	1. Where the Commission considers that a foreign direct investment is likely to affect projects or programmes of Union interest on grounds of security or public order, the Commission may issue an opinion addressed to the Member State where the foreign direct investment is planned or has been completed.	1. Where the Commission <del>considers or one or more Member States consider</del> that a foreign direct investment is likely to affect projects or programmes of Union interest on grounds of security or public order, the Commission <del>may</del> <u>shall</u> issue an opinion addressed to the Member State where the foreign direct investment is planned or has been	1. Where the Commission considers that a foreign direct investment is likely to affect projects or programmes of Union interest on grounds of security or public order, the Commission may issue an opinion addressed to the Member State where the foreign direct investment is planned or has been completed. <u>The procedures set out in Articles 6 and</u>	1. Where the Commission considers that a foreign direct investment is likely to affect projects or programmes of Union interest on grounds of security or public order, the Commission may issue an opinion addressed to the Member State where the foreign direct investment is	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		completed. <i>The opinion of the Commission shall simultaneously be forwarded to the other Member States. That opinion shall not be made public. [AM 64]</i>	<u>7 shall apply accordingly</u>	planned or has been completed.  <u>2. The procedures set out in Articles 6 and 7 shall apply mutatis mutandis, subject to the following modifications:</u>  <u>(a) as part of the notification referred to in Article 6(1) or the comments referred to in Articles 6(2) and 7(1), a Member State may indicate whether it considers that a foreign direct investment is likely to affect projects and programmes of Union interest;</u>	
137		<i>1a. A Member State may ask the Commission for an opinion or other Member States for comments on a foreign direct investment taking place in its territory. [AM 65]</i>			
138		<i>1b. Where a Member State considers that a foreign direct</i>			



Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>investment planned or completed in another Member State is likely to affect its security or public order in the context of the Union's projects or programmes, or the interests of the Union, it may provide comments to the Member State where the foreign direct investment is planned or has been completed. Those comments shall be forwarded simultaneously to the Commission.</i> [AM 66]			
139	2. The Commission may request from the Member State where the foreign direct investment is planned or has been completed any information necessary to issue the opinion referred to in paragraph 1.	2. The Commission may request from the Member State where the foreign direct investment is planned or has been completed any information necessary to issue the opinion referred to in paragraph 1. <i>In handling of such information the Commission shall pay utmost attention to its potential sensitivity. The Member State, the foreign investor and the entrepreneur to whom or the undertaking to which the investment is made may submit to the Commission any relevant information it deems necessary to issue an opinion. Such information shall be accurate, comprehensive and reliable and shall seek to</i>	<del>2. The Commission may request from the Member State where the foreign direct investment is planned or has been completed any information necessary to issue the opinion referred to in paragraph 1.</del>	<del>2. The Commission may request from the Member State where the foreign direct investment is planned or has been completed any information necessary to issue the opinion referred to in paragraph 1.</del>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>facilitate the comparability of data.</i> <i>[AM 67]</i>			
140	3. The Commission shall address its opinion to the Member State concerned within a reasonable period of time, and in any case no later than 25 working days following receipt of the information requested by the Commission pursuant to paragraph 2. Where a Member State has a screening mechanism in place as referred to in Article 3(1) and the information on foreign direct investment undergoing screening has been received by the Commission pursuant to Article 8(1), the opinion shall be delivered no later than 25 working days following receipt of such information. Where additional information is needed to issue an opinion, the 25-day period shall run from the date of receipt of the additional information.	3. The Commission shall <del>address</del> <i>issue</i> its opinion to the Member State concerned within a reasonable period of time, <i>in order not to cause prejudice through unreasonable delays, either to the foreign direct investment or the Member State's screening</i> , and in any case no later than 25 working days following receipt of the information requested by the Commission pursuant to paragraph 2. <i>Where a Member State has a screening mechanism in place as referred to in Article 3(1) and the information on foreign direct investment undergoing screening has been received by the Commission pursuant to Article 8(1), the opinion shall be delivered no later than 25 working days following receipt of such information. Where additional information is needed to issue an opinion, the 25-day period shall run from the date of receipt of the additional information.</i> [AM 68]	<del>3. The Commission shall address its opinion to the Member State concerned within a reasonable period of time, and in any case no later than 25 working days following receipt of the information requested by the Commission pursuant to paragraph 2. Where a Member State has a screening mechanism in place as referred to in Article 3(1) and the information on foreign direct investment undergoing screening has been received by the Commission pursuant to Article 8(1), the opinion shall be delivered no later than 25 working days following receipt of such information. Where additional information is needed to issue an opinion, the 25-day period shall run from the date of receipt of the additional information.</del>	<del>3. The Commission shall address its opinion to the Member State concerned within a reasonable period of time, and in any case no later than 25 working days following receipt of the information requested by the Commission pursuant to paragraph 2. Where a Member State has a screening mechanism in place as referred to in Article 3(1) and the information on foreign direct investment undergoing screening has been received by the Commission pursuant to Article 8(1), the opinion shall be delivered no later than 25 working days following receipt of such information. Where additional information is needed to issue an opinion, the 25-day period shall run from the date of receipt of the additional information.</del>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
141	4. The opinion of the Commission shall be communicated to the other Member States.	4. The opinion of the Commission shall be communicated to the other Member States <i>and to the European Parliament. [AM 69]</i>	<u>24.</u> The opinion of the Commission shall be communicated to the other Member States.	<del>4. (b)</del> <u>The</u> opinion of the Commission shall be communicated to the other Member States.	
142	5. The Member States where the foreign direct investment is planned or has been completed shall take utmost account of the Commission's opinion and provide an explanation to the Commission in case its opinion is not followed.	5. The Member States where the foreign direct investment is planned or has been completed shall take utmost account of the Commission's opinion <i>referred to in paragraph 1 or the Member States comments referred to in paragraph 1b (new)</i> and provide <del>an</del> <i>a written</i> explanation to the Commission <i>and the relevant Member States</i> in case <del>its</del> <i>the Commission's</i> opinion <del>is</del> <i>or the Member States comments are</i> not followed. <i>[AM 70]</i>	<del>35.</del> The Member States where the foreign direct investment is planned or has been completed shall take utmost account of the Commission's opinion and provide an explanation to the Commission in case its opinion is not followed.	<del>5. (c)</del> <u>The</u> Member States where the foreign direct investment is planned or has been completed shall take utmost account of the Commission's opinion and provide an explanation to the Commission in case its opinion is not followed.	
143		<i>[AM 36] [line 66]</i>	<u>4.</u> <u>For the purpose of this Article,</u> projects or programmes of Union interest shall include <del>in particular</del> those projects and programmes which involve a substantial amount or a significant share of EU funding, or which are covered by Union legislation regarding critical infrastructure, critical technologies or critical inputs. <del>The An indicative</del> list of projects or programmes of Union interest is included in Annex 1.	<u>3.</u> <u>For the purpose of this Article,</u> <del>P</del> —projects or programmes of Union interest shall include <del>in particular</del> those projects and programmes which involve a substantial amount or a significant share of EU funding, or which are covered by Union legislation regarding critical infrastructure, critical technologies or critical inputs <u>which are essential for</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
				<del>security or public order. The</del> <del>An indicative</del> list of projects or programmes of Union interest is included in <u>the</u> Annex <del>1</del> .	
144		[AM 36 (last sentence)] [line 66]	<u>5. The Commission shall adopt delegated acts in accordance with Article 14 to amend the list of projects and programmes of Union interest in Annex I.</u>	<u>4. The Commission shall adopt delegated acts in accordance with Article 16 to amend the list of projects and programmes of Union interest in the Annex.</u>	
145		<i>5a. Where economic operators, civil society organisations, or social partners such as trade unions, have relevant information and substantial and duly justified concerns on a foreign direct investment that is likely to affect projects or programs of Union interest on the grounds of security and public order, they may provide the Commission with that information. The Commission may duly take that information into account when issuing an opinion.</i> [AM 71]			
146		<i>5b. If at least one third of Member States and the Commission consider that a foreign direct investment is likely to affect their security or public order, the Member</i>			

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<p><i>State where the foreign direct investment is planned or has been completed shall take utmost account of the comments of the other Member States and the opinion of the Commission and provide a written explanation.</i></p> <p><i>Where those comments or opinions are not followed, the Commission shall foster dialogue between the Member States having issued comments and the Member State in which the foreign direct investment is planned or has been completed.</i> [AM 72]</p>			
147		<p><i>5c. In order to enhance dialogue between Union institutions and to ensure greater transparency and accountability, the competent committee of the European Parliament may invite the Commission to issue an opinion on a foreign direct investment planned or completed in a Member State and to appear before the committee to discuss all issues relating to the application of this Regulation and in particular the application of provisions on the screening of</i></p>			

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>investments that are likely to affect projects or programmes of Union interest pursuant to this Regulation. The Commission shall inform the European Parliament of its action following such requests. [AM 73]</i>			
148					
149	Article 10 Information requirements	Article 10 Information requirements	Article <del>10</del> Information requirements	Article <u>9</u> Information requirements	
150	1. Member States shall ensure that the information requested by the Commission and other Member States pursuant to Articles 8(4) and 9(2) is made available to the Commission and the requesting Member States without undue delay.	1. Member States shall ensure that the information requested by the Commission and other Member States pursuant to Articles 8(4) and 9(2) is made available to the Commission and the requesting Member States without undue delay, <b>subject to the rules set out in Article 346 TFEU. Such information shall be accurate, comprehensive and reliable and shall seek to facilitate the comparability of data. [AM 74]</b>	1. Member States shall ensure that the information <b><u>notified pursuant to Article 6(1) or</u></b> requested by the Commission and other Member States pursuant to Articles <b><u>6(6) and 7(5) 8(4)</u></b> <del>and 9(2)</del> is made available to the Commission and the requesting Member States without undue delay.	1. Member States shall ensure that the information <b><u>notified pursuant to Article 6(1) or</u></b> requested by the Commission and other Member States pursuant to Articles <b><u>6(6) and 7(5) 8(4)</u></b> <del>and 9(2)</del> is made available to the Commission and the requesting Member States without undue delay.	
151	2. The information referred to in paragraph 1 of this Article shall include in particular:	No changes to COM proposal	2. The information referred to in paragraph 1 of this Article shall include <del>in particular</del> :	2. The information referred to in paragraph 1 of this Article shall include <del>in particular</del> :	
152	(a) The ownership structure of the foreign investor and of the undertaking in which the foreign	(a) The ownership structure, <b>the participation in the capital, the nature</b> of the <b>direct</b> foreign investor	No changes to COM proposal	(a) <del>The</del> ownership structure of the foreign investor and of the	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	direct investment is planned or has been completed, including information on the ultimate controlling shareholder or shareholders;	<i>and of the ultimate</i> investor and of the undertaking in which the foreign direct investment is planned or has been completed, including information on the ultimate controlling shareholder or shareholders; <i>[AM 75]</i>		undertaking in which the foreign direct investment is planned or has been completed, including information on the ultimate <i>investor and participation in the capital—controlling shareholder or shareholders;</i>	
153	(b) The value of the foreign direct investment;	No changes to COM proposal	(b) The <u>approximate</u> value of the foreign direct investment;	(b) <del>The</del> <u>approximate</u> value of the foreign direct investment;	
154	(c) The products, services and business operations of the foreign investor and of the undertaking in which the foreign direct investment is planned or has been completed ;	No changes to COM proposal	No changes to COM proposal	(c) <del>The</del> products, services and business operations of the foreign investor and of the undertaking in which the foreign direct investment is planned or has been completed;	
155	(d) The Member States in which the foreign investor and the undertaking in which the foreign direct investment is planned or has been completed conduct business operations;	No changes to COM proposal	(d) The Member States in which the foreign investor and the undertaking in which the foreign direct investment is planned or has been completed conduct <u>relevant</u> business operations;	(d) <del>The</del> Member States in which the foreign investor and the undertaking in which the foreign direct investment is planned or has been completed conduct <u>relevant</u> business operations;	
156	(e) The funding of the investment, on the basis of information available to the Member State.	(e) The funding of the investment <i>and its source, including proof of its lawfulness</i> , on the basis of <i>the best</i> information available to the Member State. <i>[AM 76]</i>	No changes to COM proposal	(e) <del>The</del> funding of the investment <i>and its source</i> , on the basis of <i>the best</i> information available to the Member State;	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
				<i>(f) the date when the foreign direct investment is planned to be completed or has been completed.</i>	
157			<u>3. Member States shall endeavour to provide any information additional to that referred to in paragraphs 1 and 2, if available, to requesting Member States and to the Commission without undue delay.</u>	<u>3. Member States shall endeavour to provide any information additional to that referred to in paragraphs 1 and 2, if available, to requesting Member States and to the Commission without undue delay.</u>	
158			<u>4. The Member State where the foreign direct investment is planned or has been completed may request the foreign investor or the undertaking in which the foreign direct investment is planned or has been completed to provide the information referred to in paragraph 2. The foreign investor or the undertaking concerned shall provide the information requested without undue delay.</u>	<u>4. The Member State where the foreign direct investment is planned or has been completed may request the foreign investor or the undertaking in which the foreign direct investment is planned or has been completed to provide the information referred to in paragraph 2. The foreign investor or the undertaking concerned shall provide the information requested without undue delay.</u>	
159			<u>5. A Member State shall notify</u>	<u>5. A Member State shall</u>	



Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
			<p><u>the Commission and the other Member States concerned without delay, if, in exceptional circumstances, it is unable, despite its best efforts, to provide the information referred to in paragraph 1. The Member State shall duly justify the reasons for not providing such information and explain the best efforts undertaken to obtain the requested information, including a request pursuant to paragraph 4.</u></p> <p><u>In such case, any comment issued by another Member State or any opinion issued by the Commission may be based on the information available to them.</u></p>	<p><u>notify the Commission and the other Member States concerned without delay, if, in exceptional circumstances, it is unable, despite its best efforts, to obtain the information referred to in paragraph 1. The Member State shall duly justify the reasons for not providing such information and explain the best efforts undertaken to obtain the requested information, including a request pursuant to paragraph 4.</u></p> <p><u>In such case, any comment issued by another Member State or any opinion issued by the Commission may be based on the information available to them.</u></p>	
160					
161	Article 11 Confidentiality	Article 11 Confidentiality	Article <del>11</del> 10 Confidentiality <u>of information transmitted</u>	Article <del>11</del> 10 Confidentiality <u>of information transmitted</u>	
162	1. Information received as a result of the application of this	No changes to COM proposal	No changes to COM proposal	1. Information received as a result of the application of	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	Regulation shall be used only for the purpose for which it was requested.			this Regulation shall be used only for the purpose for which it was requested.	
163	2. Member States and the Commission shall ensure the protection of confidential information acquired in application of this Regulation.	2. Member States and the Commission shall <del>ensure—the</del> <b><i>guarantee the highest levels and standards of</i></b> protection of confidential information acquired in application of this Regulation, <b><i>with due regard to sensitive information and in compliance with Commission Decisions (EU, Euratom) 2015/443 and (EU, Euratom) 2015/444. [AM 77]</i></b>	2. Member States and the Commission shall ensure the protection of confidential information acquired in application of this Regulation <b><u>in accordance with Union law and their national legislation.</u></b>	2. Member States and the Commission shall ensure the protection of confidential information acquired in application of this Regulation <b><u>in accordance with Union law and their national law legislation.</u></b>	
164			<b><u>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.</u></b>	<b><u>3. Member States and the Commission shall that ensure classified information provided or exchanged under this Regulation is not downgraded or declassified without the prior written consent of the originator.</u></b>	
165					
166	Article 12 Contact points	Article 12 <b><i>Institution-based FDI screening contact points [AM 78]</i></b>	Article <del>12</del> <b>11</b> Contact points	Article <del>12</del> <b>11</b> Contact points	
167	Each Member State shall appoint a foreign direct investment screening contact point ('FDI screening	1. Each Member State shall appoint <b><i>an institution-based</i></b> FDI screening contact point for the	1. Each Member State shall appoint a <del>foreign direct investment screening</del> contact point ( <del>'FDI screening contact</del>	<b><u>1.</u></b> Each Member State <b><u>and the Commission</u></b> shall appoint a <del>foreign direct investment</del>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	contact point') for the screening of foreign direct investment. The Commission and other Member States shall involve these FDI screening contact points on all issues related to implementation of this Regulation.	screening of foreign direct investment. The Commission and other Member States shall involve these <i>institution-based</i> FDI screening contact points <i>responsible for foreign direct investment screening and ensure close cooperation between them</i> on all issues related to the implementation of this Regulation, <i>notably within the Investment Screening Coordination Group</i> . [AM 79]	<del>point')</del> for the <del>screening of foreign direct investment implementation of this Regulation</del> . The Commission and other Member States shall involve these <del>FDI-screening</del> contact points on all issues related to implementation of this Regulation.	<del>screening</del> -contact point ( <del>'FDI screening contact point'</del> ) for the <del>screening of foreign direct investment implementation of this Regulation</del> . The Commission and <del>other</del> Member States shall involve these <del>FDI screening</del> contact points on all issues related to <del>the</del> implementation of this Regulation.	
168			<u>2. A secure and encrypted system shall be provided by the Commission to support direct cooperation and exchange of information between the contact points and between them and the Commission.</u>	<u>2. A secure and encrypted system shall be provided by the Commission to support direct cooperation and exchange of information between the contact points.</u>	
169		<i>(1a) The institution-based FDI screening contact points should be able to maintain a link with other contact points set up by Union or national legislation with the same objectives, in order to promote networked development. [AM 80]</i>			
170		<i>(1b) The institution-based FDI screening contact points must meet requirements of the same level as national investment screening systems, for example with regard to</i>			

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>access to the required information, the coordinating role and maintenance of the highest standard of protection of confidential and sensitive information. [AM 81]</i>			
171			<u>[Placeholder: new Article 12 Processing of personal data]</u>	<p><u>Article 14</u> <u>Processing of personal data</u></p> <p><u>1. Any processing of personal data pursuant to this Regulation shall be carried out in accordance with Regulation (EU) 2016/679 and [revised Regulation (EC) No 45/2001] and only in so far as it is necessary for screening of foreign direct investment by the Member States and for ensuring the effectiveness of the cooperation provided for in this Regulation.</u></p> <p><u>2. Personal data related to the implementation of this Regulation shall be kept only for the time necessary to achieve the purposes for which they were collected.</u></p>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
172		<i>Article 12a Investment Screening Coordination Group [AM 82]</i>		<u>Article 12 Expert group on the screening of foreign direct investments</u>	
173		<i>1. An Investment Screening Coordination Group chaired by a representative of the Commission shall be set up. Each Member State shall appoint a representative to that Group. [AM 82]</i>		<u>1. The Commission is provided advice and expertise by the expert group on the screening of foreign direct investments into the European Union<sup>18</sup>.</u>	
174		<i>2. The Investment Screening Coordination Group shall bring together representatives and experts from the Member States and the Commission to, inter alia, share best practices, to address the concerns of Member States regarding the functioning of their screening systems and to discuss any issue falling within the scope of this Regulation; [AM 82]</i>		<u>2. The group shall continue to discuss issues related to the screening of foreign direct investments, share best practices and lessons learned, exchange views on trends and issues of common concern related to foreign direct investments. The Commission shall also consider seeking advice of the group on systemic issues relating to the implementation of this Regulation.</u>	
175		<i>3. Local authorities, economic</i>		<u>3. The discussions in the</u>	

<sup>18</sup> Commission Decision of 29.11.2017 setting up the group of experts on the screening of foreign direct investments into the European Union, C(2017) 7866 final.

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>operators, institutional and political stakeholders and authorities, civil society organisations, social partners – such as trade unions – Union agencies and agencies responsible for promoting particular regions, or experts in economic information, as well as representatives of their screening systems of third countries may also be invited regularly to communicate their experience. [AM 82]</i>		<u>group shall be kept confidential.</u>	
176		<i>4. The Commission shall facilitate the participation of the European Parliament as observer in all relevant meetings. [AM 82]</i>			
177					
178		<i>Article 12b International Cooperation [AM 83]</i>		<u>Article 13 International Cooperation</u>	
179		<i>Member States and the Commission shall promote cooperation, in trade and investment agreements with third countries and in international fora on the application of screening procedures. [AM 83]</i>		<u>Member States and the Commission may cooperate with the responsible authorities of third countries on issues related to screening of foreign direct investment on grounds of security and public order.</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
180	<i>Article 13 Evaluation</i>	<i>Article 13 Evaluation</i>	<i>Article 13 Evaluation</i>	<i>Article 15 Evaluation</i>	
181	1. The Commission shall evaluate and present to the European Parliament and the Council a report on the application of this Regulation no later than 3 years after its entry into force. Member States shall be involved in this exercise and shall provide the Commission with necessary information for the preparation of that report.	1. <b><i>By ... [three years after the entry into force of this Regulation], and every three years thereafter,</i></b> the Commission shall <del>evaluate—and</del> present to the European Parliament and the Council a report <del>on the application—</del> <b><i>assessing the functioning and effectiveness</i></b> of this Regulation <del>no later than 3 years after its entry into force</del> . Member States shall be <i>closely</i> involved in <b><i>that</i></b> exercise and shall provide the Commission with necessary information for the preparation of that report. <b><i>[AM 84]</i></b>	1. <b><i>By (INSERT A DATE: 3 years of the start of application of this Regulation)</i></b> <del>the</del> Commission shall evaluate and present to the European Parliament and the Council a report on the application of this Regulation <del>no later than 3 years after its entry into force</del> . Member States shall be involved in this exercise and <b><i>if necessary</i></b> shall provide the Commission with <del>necessary</del> <b><i>additional</i></b> information for the preparation of that report.	1. <b><i>By (INSERT A DATE: Three years of the start of application of this Regulation) and every five years thereafter,</i></b> <del>the</del> Commission shall evaluate <b><i>the functioning and effectiveness of this Regulation</i></b> and present <b><i>a report</i></b> to the European Parliament and the Council <del>a report on the application of this Regulation no later than 3 years after its entry into force</del> . Member States shall be involved in this exercise and <b><i>if necessary</i></b> <del>shall</del> provide the Commission with <del>necessary</del> <b><i>additional</i></b> information for the preparation of that report.	
182	2. Where the report recommends modifying the provisions of the Regulation, the report may be accompanied by an appropriate legislative proposal.	2. Where the report recommends modifying the provisions of <del>the</del> <b><i>this</i></b> Regulation, the report may be accompanied by an appropriate legislative proposal. <b><i>If the Commission considers that such modification is not required, it shall</i></b>	2. Where the report recommends modifying the provisions of the Regulation, the report may be accompanied by an appropriate legislative proposal.	2. Where the report recommends modifying the provisions of the regulation, <del>if the report</del> may be accompanied by an appropriate legislative proposal.	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>give the European Parliament and the Council reasons thereof. [AM 85]</i>			
183					
184		<i>Article 13a [AM 86]</i>	<i>Article 14 <u>Exercise of the delegation</u></i>	<i>Article 16 <u>Exercise of the delegation</u></i>	
185		<i>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article. [AM 86]</i>	<i><u>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</u></i>	<i><u>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</u></i>	
186		<i>2. The power to adopt delegated acts referred to in Article 3(3) shall be conferred on the Commission for a period of three years from ... [date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the three-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period. [AM 86]</i>	<i><u>2. The power to adopt delegated acts referred to in Article 8(5) shall be conferred on the Commission for an indeterminate period of time from [date of entry into force of the basic legislative act].</u></i>	<i><u>2. The power to adopt delegated acts referred to in Article 8(4) shall be conferred on the Commission for an indeterminate period of time from [INSERT A DATE: date of entry into force of the basic legislative act].</u></i>	
187		<i>3. The delegation of power referred to in Article 3(3) may be</i>	<i><u>3. The delegation of power referred to in Article 8(5) may be</u></i>	<i><u>3. The delegation of power referred to in Article</u></i>	



Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>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. [AM 86]</i>	<u>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.</u>	<u>8(4) 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.</u>	
188		<i>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. [AM 86]</i>	<u>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 on Better Law-Making of 13 April 2016.</u>	<u>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 on Better Law-Making of 13 April 2016.</u>	
189		<i>5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council. [AM 86]</i>	<u>5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</u>	<u>5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
190		<i>6. A delegated act adopted pursuant to Article 3(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of 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 two months at the initiative of the European Parliament or of the Council. [AM 86]</i>	<u>6. A delegated act adopted pursuant to Article 8(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of 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 two months at the initiative of the European Parliament or of the Council.</u>	<u>6. A delegated act adopted pursuant to Article 8(4) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of 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 two months at the initiative of the European Parliament or of the Council.</u>	
191					
192	<i>Article 14 Entry into force</i>	<i>Article 14 Entry into force</i>	<i>Article <del>14</del>15 Entry into force</i>	<i>Article <del>14</del>17 Entry into force</i>	
193	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	No changes to COM proposal	<u>1.</u> This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> . <u>It shall apply from (INSERT A DATE: 18 months of entry into force).</u>	<u>1.</u> This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> . <u>It shall apply from (INSERT A DATE: 18</u>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
				<b><u>months of entry into force).</u></b>	
194	This Regulation shall be binding in its entirety and directly applicable in all Member States.	No changes to COM proposal	<b><u>2.</u></b> This Regulation shall be binding in its entirety and directly applicable in all Member States.	<b><u>2.</u></b> This Regulation shall be binding in its entirety and directly applicable in all Member States.	
195					

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
196	Done at Brussels,  <i>For the European Parliament</i>  <i>The President</i>	No changes to COM proposal	No changes to COM proposal	Done at Brussels,  <i>For the European Parliament</i>  <i>The President</i>	
197					
<b>ANNEX</b>					
198					
199	<b>List of projects or programmes of Union interest referred to in Article 3(3)</b>			List of projects or programmes of Union interest referred to in Article <del>8(3)</del> <del>3(3)</del>	
200	– European GNSS programmes (Galileo & EGNOS):  Regulation (EU) No 1285/2013 of the European Parliament and of the Council of 11 December 2013 on the implementation and exploitation of the European satellite navigation systems and repealing the Council Regulation (EC) No 876/2002 and Regulation (EC) No683/2008 of the European Parliament and of the Council			<u>1.</u> European GNSS programmes (Galileo & EGNOS): Regulation (EU) No 1285/2013 of the European Parliament and of the Council of 11 December 2013 on the implementation and exploitation of the European satellite navigation systems and repealing the Council Regulation (EC) No 876/2002 and Regulation (EC) No683/2008 of the European Parliament and of the Council.	
201	– Copernicus:			<u>2.</u> Copernicus: Regulation (EU) No 377/2014	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	Regulation (EU) No 377/2014 of the European Parliament and of the Council of 3 April 2014 establishing the Copernicus Programme: OJ L 122/44, 24.4.2014			of the European Parliament and of the Council of 3 April 2014 establishing the Copernicus Programme: OJ L 122/44, 24.4.2014.	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
202	<p>– Horizon 2020:</p> <p>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 (2014-2020) and repealing Decision No 1982/2006/EC, including actions therein relating to Key Enabling Technologies such as artificial intelligence, robotics, semiconductors and cybersecurity.</p>			<p><u>3.</u> Horizon 2020: 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 (2014-2020) and repealing Decision No 1982/2006/EC, including actions therein relating to Key Enabling Technologies such as artificial intelligence, robotics, semiconductors and cybersecurity.</p>	
203	<p>– Trans-European Networks for Transport (TEN-T):</p> <p>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; OJ L 348, 20.12.2013, p. 1–128.</p>			<p><u>4.</u> 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; OJ L 348, 20.12.2013, p. 1–128.</p>	
204	– Trans-European Networks for			<u>5.</u> Trans-European Networks	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
	<p>Energy (TEN-E):</p> <p>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</p>			<p>for Energy (TEN-E):</p> <p>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</p>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
205	<p>– Trans-European Networks for Telecommunications:</p> <p>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.</p>			<p><u>6.</u> Trans-European Networks for Telecommunications: 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.</p>	
206		<p>– <i>EFSI</i></p> <p><i>Regulation (EU) No 2015/1017 of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and Regulations amending Regulations (EU) No 1291/2013, (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub. [AM 87]</i></p>			



Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
207		– <i>SESAR - Single European Sky: Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation). [AM 88]</i>			
208		– <i>Joint technology initiatives of the Union including: Fuel Cells and Hydrogen, Aeronautics and Hydrogen, Innovative medicines Initiative, Electronic components and systems for European Leadership, Bio-based industries, Shift2Rail. [AM 88]</i>			
209		– <i>Connecting Europe Facility: Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010. [AM 88]</i>			
210		– <i>Action Plan for 5G in Europe. [AM 88]</i>			

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
211		<p>– <i>European Defence Fund:</i></p> <p><i>Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Launching the European Defence Fund' (COM(2017)0295). [AM 88]</i></p>			
212		<p>– <i>European Defence Industrial Development Programme:</i></p> <p><i>Regulation of the European Parliament and of the Council of ... establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovative capacity of the EU defence industry, and European Defence Fund-European Commission Decision on the Financing of the Preparatory Defence Research (PADR). [AM 88]</i></p>		<p><u>7. <i>European Defence Industrial Development Programme:</i></u></p> <p><u>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.</u></p>	
213		<p>– <i>Permanent structured cooperation (PESCO):</i></p> <p><i>Council Decision (CFSP) 2017/2315 of 11 December 2017 establishing permanent structured cooperation</i></p>		<p><u>8. <i>Permanent structured cooperation (PESCO):</i></u></p> <p><u>COUNCIL DECISION of 6 March 2018 establishing the list of projects to be developed</u></p>	

Line	Commission proposal (COM (2017) 487 final)	European Parliament report A8-0198/2018 of 13 June 2018 <sup>1</sup>	Final Council Presidency compromise proposal of 13 June 2018 <sup>2</sup>	Draft Compromise Text updated 22 November following 5th trilogue and subsequent technical meeting <sup>3</sup>	Comments
		<i>(PESCO) and determining the list of participating Member States. [AM 88]</i>		<u><i>under PESCO.</i></u>	
214		<i>– Research Fund for Coal and Steel: Council Decision (EU) 2017/955 of 29 May 2017 amending Decision 2008/376/EC on the adoption of the Research Programme of the Research Fund for Coal and Steel and on the multiannual technical guidelines for this programme. [AM 88]</i>			

### **Commission Statement**

Following the request of the European Parliament, the European Commission undertakes to:

- share with the European Parliament the standardised forms which the European Commission will prepare to facilitate compliance of Member States with the annual reporting obligations under Article 5 of the Regulation once they are finalised, and
- share with the European Parliament such standardised forms each year, in parallel to presenting the annual report to the European Parliament and to the Council, in accordance with Article 5(3) of the Regulation.