

**THE UK'S NEW NATIONAL SECURITY AND INVESTMENT ACT 2021** (the "NSIA") came into force on **4 January, 2022**. Due to its retroactive effect, the NSIA permits the UK Government to now call in transactions closed after 11 November, 2020 for review. The NSIA forms a new screening regime for investments in the UK, separate from the existing competition regime.

The NSIA provides for a hybrid regime with (i) a mandatory notification requirement for the 17 most sensitive economic sectors; and (ii) a voluntary notification regime for other areas of the economy.

Below we provide answers to some of the most frequently asked questions, which are key for investors and businesses:

KEY QUESTIONS	ANSWERS
<b>Overview</b>	
<b>Is the NSIA in force?</b>	The NSIA came into effect on 4 January, 2022
<b>Can it apply to deals closed prior to 4 January, 2022?</b>	Yes, the NSIA has a retroactive effect and the UK Government may "call-in" certain deals closed after 11 November, 2020.
<b>Is a pre-closing filing mandatory and suspensory?</b>	Yes, if the deal falls within the defined remit of the 17 specified sectors of the NSIA. The mandatory regime is also suspensory (this means closing cannot occur until clearance is received).
<b>Are there penalties for completing without receiving clearance with regard to a mandatory notification?</b>	Yes, completing a notifiable deal without approval means the deal is void and the parties may be subject to civil and/or criminal penalties.
<b>Do deals require a UK nexus?</b>	To some extent. The regime captures international transactions where the target has activities in the UK, e.g., by having a regional office or research and development facility in the UK or by providing goods and/or services to customers in the UK. However, the company needs to be sufficiently involved in that supply, whether alone or with others.
<b>Has the Government published any Guidance for companies?</b>	Yes, relating to the defined sectors falling within the regime.
<b>Jurisdiction</b>	
<b>What are the trigger events?</b>	The NSIA contains a broad definition of "trigger events" (i.e., acquisitions of control of a "qualifying entity" or "qualifying asset"). Note that acquisitions of control over "qualifying assets" are not within scope of the mandatory notification regime, but only voluntary regime. Qualifying assets include a broad range of assets such as land, tangible moveable property and, with respect to IP, any idea, information, or technique with industrial, commercial or other economic value.

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<b>When is the mandatory regime triggered?</b>	Acquisition of more than 25%, 50% or 75% of votes or shares in the entity (or becoming able to block/pass a corporate resolution), active in at least one of the 17 sensitive sectors.
<b>Which sectors are considered “sensitive”?</b>	Advanced Materials; Advanced Robotics; Artificial Intelligence; Civil Nuclear; Communications; Computing Hardware; Critical Suppliers to Government; Cryptographic Authentication; Data Infrastructure; Defence; Energy; Military and Dual-Use; Quantum Technologies; Satellite and Space Technologies; Suppliers to the Emergency Services; Synthetic Biology; Transport.
<b>Who is responsible for notifying under the mandatory regime?</b>	The acquirer must notify the transaction.
<b>What is the voluntary regime?</b>	Acquisition of material influence, or shares/equity of more than 25%, 50% or 75% in an entity not falling within the 17 sensitive sectors or of a qualifying asset.
<b>Which sectors and assets are caught by the voluntary regime?</b>	The voluntary regime applies to all sectors of the economy not falling within the mandatory notification sectors. Parties are encouraged to notify, if they consider their transaction may be of interest from a national security perspective.
<b>Who may notify under the voluntary regime?</b>	Any party to the transaction.
<b>What happens if a transaction falling under the voluntary regime closes without being notified?</b>	The UK Government can “call-in” and review non-notified transactions, but only up to five years post-completion. The “call-in” period is reduced to six months once the Government has become aware of the transaction.
<b>Are there any safe harbours?</b>	There are no turnover, transaction value or market share safe harbours.
<b>Does the NSIA apply to UK investors?</b>	Yes, the NSIA’s mandatory regime does not distinguish between UK and overseas investors. However, this may be taken into account for the voluntary regime.

<b>Process</b>	
<b>Who is the decision maker?</b>	The Secretary of State for Business, Energy and Industrial Strategy is the decision maker (“BEIS”).
<b>Where to notify and how?</b>	Notifications can be submitted online. Before notifications are made, informal consultations with BEIS may be available to help.
<b>What are the timing implications?</b>	If a proactive notification is made (either mandatory or voluntary), the UK Government has 30 working days to issue a “call-in” notice. Where a “call-in” notice is issued (including for non-notified transactions), the Government determines whether to impose remedies or declare that no further action shall be taken within a 30-working day preliminary screening period (which can be extended by a further 45 working days).

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