

NATIONAL SECURITY AND INVESTMENT ACT 2021 CHEAT SHEET

THE UK'S NEW NATIONAL SECURITY AND INVESTMENT ACT 2021 (the "NSIA") was introduced to the UK Parliament on 11 November 2020 and will come into force on 4 January 2022. However, the NSIA will have a retroactive effect such that any transaction closed after 11 November

2020 could be "called in" for review by the UK government once the NSIA takes effect. The NSIA forms a new screening regime for investments in the United Kingdom, separate from the existing competition regime.

The NSIA will provide for a hybrid

regime with (i) a mandatory regime for the 17 most sensitive economic sectors and (ii) a voluntary regime for other areas of the economy. In this document, we provide answers to some of the most frequently asked questions that are key for investors and businesses.

KEY QUESTIONS	ANSWERS
Overview	
When will the NSIA come into force?	4 January 2022
Can it apply to deals closed prior to 4 January 2022?	Yes. The NSIA will have a retroactive effect, and the UK government may "call in" certain deals closed after 11 November 2020.
Is a pre-closing filing mandatory and suspensory from 4 January 2022?	Yes, if the deal falls within the defined remit of the NSIA.
Are there penalties for completing without receiving clearance with regard to a mandatory notification?	Yes. Completing a notifiable deal without approval means the deal is void and the parties may be subject to civil and/or criminal penalties.
What does this mean for investors?	As of 4 January 2022, the UK government may call in deals that have signed but not yet completed. Parties active in sectors falling within the remit of the NSIA may want to consider the following: <ul style="list-style-type: none"> ■ Deal signed and expected to close prior to 4 January 2022: Consider reaching out to the relevant UK government unit to discuss whether a filing may be encouraged. ■ Deal signed and expected to close on or after 4 January 2022: Consider if mandatory notification is triggered and a filing has to be made pre-closing. Also consider if voluntary filing is advisable. ■ Deal not yet signed: Consider conditionality. If the NSIA is likely to apply (mandatory or voluntary), a CP may be required or advisable.
Do deals require a UK nexus?	To some extent. The regime captures foreign-to-foreign transactions where the target has activities in the United Kingdom, e.g., by providing goods and/or services to customers in the United Kingdom.
Has the government published any guidance for companies?	Yes, relating to the defined sectors falling within the regime. More guidance is also expected later this year.

KEY QUESTIONS	ANSWERS
Jurisdiction	
When is the mandatory regime triggered?	Acquisition of more than 25%, 50% or 75% of votes or shares or becoming able to block/pass a corporate resolution in an entity active in at least one of the 17 sensitive sectors. Each change in shareholding is reportable.
Which sectors are considered “sensitive”?	Advanced materials, advanced robotics, artificial intelligence, civil nuclear, communications, computing hardware, critical suppliers to government, cryptographic authentication, data infrastructure, defense, energy, military and dual-use, quantum technologies, satellite and space technologies, suppliers to the emergency services, synthetic biology, and transport.
Who is responsible for notifying under the mandatory regime?	The acquirer must notify the transaction.
What is the voluntary regime?	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. 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.
Which sectors and assets are caught by the voluntary regime?	The voluntary regime applies to all sectors of the economy not falling within the mandatory notification sectors. Parties would be encouraged to notify, if their deal could raise national security concerns.
Who may notify under the voluntary regime?	Any party to the transaction.
What happens if a transaction falling under the voluntary regime closes without being notified?	The UK government can “call in” and review non-notified transactions up to five years post-completion. The “call-in” period is reduced to six months once the government has become aware of the transaction.
Are there any safe harbours?	There are no turnover, transaction value, or market share safe harbours.
Does the NSIA apply to UK investors?	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.
Process	
Who is the decision maker?	The Secretary of State for Business, Energy and Industrial Strategy is the decision maker (“BEIS”).
Where to notify and how?	Notifications can be submitted online. Before notifications are made, informal consultations with BEIS may be available.
What are the timing implications?	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 further by 45 working days).

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