

# EU URGES INTENSIFIED SCREENING OF FOREIGN INVESTMENTS

## BACKGROUND

25 March 2020, the EU Commission issued additional guidelines on Regulation (EU) 2019/452 as a direct consequence of the current public health crisis and related economic vulnerability, with the purpose of protecting critical European infrastructure assets, systemic important companies and technology in the current COVID-19 crisis. Among other things, the guidelines urged member states with existing screening mechanisms to use all tools available to them in order to prevent capital flows from non-EU countries that could undermine Europe's security order. In our [previous newsletter](#), we have described these guidelines in more detail.

## COMMENTS FROM EU'S COMPETITION COMMISSIONER AND TRADE COMMISSIONER

Since the issue of the guidelines, both the EU Commissioner for Competition and the EU Commissioner for Trade have expressed the need for member states to protect companies from foreign takeovers.

Margrethe Vestager, the EU Commissioner for Competition, has urged member states to buy shares in companies to prevent the threat of takeovers from non-EU countries<sup>1</sup>. Furthermore, Phil Hogan, the EU Commissioner for Trade, has urged member states to do more rigorous screening of the foreign takeover bids, and warned that "economic vulnerability could result in a sell-off of critical infrastructure or technologies."<sup>2</sup>

## OUR COMMENTS

These recent statements from the EU officials underline the political pressure towards shielding certain strategic European companies from foreign capital flows. It still remains to be seen to which extent the guidelines issued by the European Commission and the current EU Directive Regulation (EU) 2019/452 on investment screenings will lead to a change in the duty of notification in relation to foreign investors' acquisitions in Denmark. As mentioned in our [previous newsletter](#), the potential extended procedure for notification or approval may be more complicated and time consuming than merger control procedures, as there would be a risk that member states would be reluctant in accepting specific foreign investments if the member state later risks receiving criticism by the other member state. The EU Competition Commissioner's the Trade Commissioner's statements only corroborate this theory.

<sup>1</sup> <https://www.ft.com/content/e14f24c7-e47a-4c22-8cf3-f629da62bo7>

<sup>2</sup> <https://www.ft.com/content/bf83fa94-1bcf-4532-a75a-50f41351cod4>

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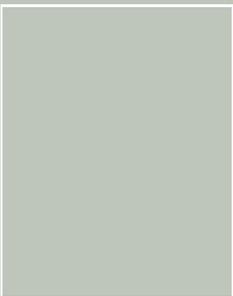
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