

CLIENT ALERT

UK National Security and Investment Act: Upcoming Changes

April 25, 2024

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The UK Government has published its [response](#) to its [call for evidence](#) on various aspects of the scope and operation of the UK's National Security and Investment Act 2021 (**NSIA**), with a view to striking a better balance between minimising impediments to investment, and protecting the UK's national security.

1. Updated statement about the exercise of the Government's call-in powers, but no fast-track procedure for low-risk investors.

The Government will publish an updated statement on how it exercises its call-in powers in May 2024. The statement will provide insight into when the Government is likely to intervene in a transaction, eg sectors the Government is seeking to protect, and factors that will be taken into account when calling in a transaction. However, the Government has already made clear that it will not introduce a fast-track process for low-risk investors, such as "repeat customers" that are known to the Government and have previously received national security clearance.

2. New mandatory filing sectors for semiconductors, critical minerals and potentially water, and clarifications to existing sector definitions.

The Government will publish further market guidance notes in May 2024 to complement existing guidance and provide ongoing advice on the operation of the NSIA. The guidance is likely to provide further practical information on the scope of mandatory sectors, the application of the NSIA to academia and research areas, when outward direct investment could be caught by the NSIA, and automatic enforcement provisions in debt instruments.

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The Government also intends to formally consult on new and updated mandatory filing sectors in the summer of 2024. The Government is expected to introduce:

- New standalone mandatory sectors, including **Semiconductors**, **Critical Minerals** and potentially **Water**. These sectors are already commonly regulated in other national FDI regimes. Indeed, three of the five prohibition decisions under the NSIA to date related to Chinese investment in the semiconductors sector. The introduction of a Critical Minerals sector would ensure the NSIA is aligned with the Government's critical minerals resilience strategy.
- Updated definitions for **Artificial Intelligence**, **Advanced Materials**, **Defence** and **Critical Suppliers to Government** to provide greater clarity as to which activities are caught by these broad categories.

3. **New exemptions from notification to be introduced in autumn of 2024: exemption for liquidator appointments confirmed, but targeted exemptions for internal reorganisations require further work.**

The Government received feedback calling for exemptions for cases that are currently technically caught by the NSIA but tend to confer only minimal or no additional control, or otherwise carry lower national security risk.

The Government agreed to adopt secondary legislation to exempt the appointment of liquidators, official receivers and special administrators from the mandatory notification regime.

Targeted exemptions for internal reorganisations are being considered, but it is uncertain at this stage whether such exemptions will be introduced in the autumn of this year. While the Government appreciates that the requirement to pre-notify internal reorganisations can impact investment and restructuring timelines, it considers that further work is required on the design of any exemptions for internal reorganisations before they may be introduced.

Finally, the Government confirmed that it is working on improvements to the electronic NSIA filing portal and the Investment Security Unit's operational procedures, such as the possibility of further transparency for the filing parties and the option of some limited direct engagement with the review team and other relevant contacts during the review period. That said, no further details have been provided to date.

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