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JONES
DAY

ALERT
MAY 2020

France Ramps up Foreign Investment Regulation in COVID-19 Era

The COVID-19 crisis continues to widely impact Foreign Direct Investment ("FDI") regulations.

The European Commission recently issued COVID-19-related guidance (see [Jones Day Alert, March 2020](#)), ahead of the entry into force of the new EU FDI screening mechanism in October 2020. Several member states have been tightening their national FDI regimes as well.

On April 27, 2020, France added the following new measures to further strengthen its FDI rules, which were amended on April 1, 2020 (see [Jones Day Commentary, January 2020](#)):

- **Biotechnology-related R&D activities now subject to authorization.** The scope of "sensitive" businesses subject to authorization were extended to include biotechnology-related R&D. While France's FDI rules already covered activities essential to protecting public health, the French Government explained that "*with regard to biotechnologies, the challenge of protecting public health is sometimes more distant and prospective.*"
- **Temporary lowering of threshold triggering FDI screening mechanism.** France's FDI screening mechanism ordinarily applies to non-EU investors in relation to any transaction giving the investor 25% threshold or more of the voting rights in an entity governed by French law. *This 25% threshold will be temporarily lowered to 10% for listed companies.* The Government explained that listed companies sometimes reflect "dispersed ownership," and "minority shareholdings can be destabilizing if unfriendly." Furthermore, transactions falling over this lowered threshold will be subject to an accelerated review procedure in which the Minister of Economy will have 10 days after notification to decide whether the transaction should be subject to further review. These exceptional measures should come into effect in the coming days/weeks since the decree will be published and end on December 31, 2020.

Reflecting heightened scrutiny over foreign acquisitions, France's first publicly announced refusal of FDI authorization recently occurred. The Minister of Economy blocked the acquisition of French company Photonis (defense-related technology) by U.S.-based Teledyne.



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