Three questions assessing the latest amendment to France’s foreign investment regime
24 July 2020

On 22 July 2020, the French Government published a decree temporarily lowering the threshold at which the foreign investment screening regime is triggered, from 25% to 10% of voting rights for non-EU investors acquiring shares in listed companies.

On 25 March 2020, the European Commission issued guidance calling on Member States to increase scrutiny of foreign investments in the context of the coronavirus crisis. Following this guidance, the lowering of the threshold measure was announced on April 29 by the French Minister for the Economy to protect French companies given the volatility of financial markets and the risk of decrease in valuations of French listed companies. The Government explained that listed companies “sometimes have dispersed ownership and for which minority shareholding can be destabilizing if unfriendly”. The notification procedure has been simplified in order to not affect the ability of listed companies to finance themselves on the market.

The ownership threshold that triggers an approval requirement for non-EU/EEA investors had already been lowered from 33.33% to 25% on 1 April 2020.

1 What are the key features of this new rule?

> This lowered threshold only applies to investments in listed companies.
> This measure only applies to investors from third countries (European Union and European Economic Area investors are exempted).
> This measure only applies to investments made from 6 August 2020.
> This measure is temporary and will remain in force until 31 December 2020.

2 What is the timeline?

A foreign investor who crosses the 10% threshold must notify the French Treasury. The Minister for the Economy has 10 business days from receipt of the notification to decide whether the transaction is deemed authorised or whether it should be subject to further review (in which case the investor has to make a complete foreign investment filing).

In the event that the Minister does not raise an objection or remains silent for 10 business days, the investment is deemed authorised but has to be completed within six months.

3 What information is required?

The notification will need to provide several elements, notably:

> voting rights held by the investor pre and post transaction;
> details on how the investment will be financed;
> whether the investor is acting alone or in concert;
> whether the investor intends to discontinue or continue its purchases and whether or not it intends to acquire control over the company;
> the strategy the investor contemplates vis-à-vis the company; and
> whether the investor intends to request its appointment or the appointment of one or more persons as director, member of the management board or supervisory board.