

## The UK national security and investment regime – a review of the first year

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In the 12 months since the UK NSIA regime became fully operational, it has demonstrated its ability to disrupt cross-border deals and, in over a dozen cases to date, prohibit or condition approval on far-reaching remedies. The regime remains challenging to navigate and the UK Government's intervention rate is expected to increase in the year ahead. This briefing highlights key enforcement trends and process issues that dealmakers should consider early in deal planning.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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<sup>1</sup> Namely: Advanced Materials, Advanced Robotics, Artificial Intelligence, Civil Nuclear, Communications, Computing Hardware, Critical Suppliers to Government, Cryptographic Authentication, Data Infrastructure, Defence, Energy, Military and Dual-Use, Quantum Technologies, Satellite and Space Technologies, Suppliers to the Emergency Services, Synthetic Biology and Transport.

## An active regulator

### Filing requirements not limited to traditional M&A

- **Minority share acquisitions** of more than 25% are notifiable and further filings may also be triggered by subsequent acquisitions that cross the 50% or 75% ownership thresholds. The ISU also has the discretion to call in acquisitions of less than 25% if they confer “material influence” over a target’s commercial strategy.
- **Internal reorganisations** where there are changes in the corporate ownership of an entity active within one of the 17 sensitive sectors, but ultimate beneficial ownership remains the same. If the internal reorganisation is part of a restructuring which also leads ultimately to a change of control of the target, two (or more) separate filings may be required.
- **Grant of a licence agreement** (e.g., the first prohibition case, involving an intellectual property licence agreement between the University of Manchester and Beijing Vision Technology Company Limited).
- **Lending transactions** that involve the transfer of legal title or control.
- **Appointment of a liquidator or receiver** where the liquidator or receiver gains voting rights over a solvent subsidiary of the liquidated entity.

### Timelines can be lengthy

### Range of sectors and acquirer types in focus

### UK industrial policy and the substantive risk assessment

## Use of interim order powers

## A preference for behavioural remedies

## Unilateral remedy design

## Judicial review?

## Confidentiality considerations

## Looking ahead

<sup>2</sup> UK Government Notice, National Security and Investment Act 2021: Statement for the purposes of section 3 (published 2 November 2021), available [here](#).

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