

MEMO# 33174

March 9, 2021

UK Government Publishes Response to NSI Bill Consultation on Mandatory Sectors

[33174]

March 9, 2021 TO: ICI Members

ICI Global Members SUBJECTS: International/Global RE: UK Government Publishes Response to NSI Bill Consultation on Mandatory Sectors

As we previously informed you, on November 11, 2020, the UK Government introduced the National Security and Investment Bill (NSI Bill) to modernize and strengthen the United Kingdom's powers to investigate and intervene in investor activity that could impact the United Kingdom's national security.[\[1\]](#) The NSI Bill comprehensively reforms the UK's foreign investment rules, introducing a hybrid system of mandatory and voluntary notifications on the grounds of "national security" similar to that in the United States and Germany. The draft legislation, if adopted, will have wide-ranging impact by introducing criminal and civil sanctions for failing to pre-notify sensitive deals, and allowing for transactions to be "called in" retrospectively for review up to five years post-closing. The NSI Bill is expected to be adopted in autumn 2021.

The draft NSI Bill and proposed secondary legislation raise some concerns for regulated funds and their asset managers. In early January, we submitted a response to the UK Government's consultation on which sectors/sub-sectors should be captured by the NSI Bill's provisions (mandatory sectors), setting out the UK Government's proposed definitions for the types of entity within each sector that could come under the NSI Bill's mandatory regime. Specifically, we requested that the UK Government (1) consider whether and how to narrow the sectors so that there is more clarity regarding the entities that are within scope, or alternatively provide a list of entities that are within scope, (2) include an exemption or safe harbour based on investor's profile, or alternatively introduce a pre-approval regime, and (3) include a de minimis threshold for entities that are pulled into scope due to sales into the United Kingdom.

On March 2, the UK Government published its response to the consultation on the mandatory sectors under the NSI Bill (links below). In response to industry feedback, the UK Government has materially narrowed the definitions of many of the seventeen sectors that are subject to mandatory notification. It has not, however, made any broader changes, such as exempting certain acquirers from the scope of the notification obligation.

- Government response: National Security and Investment - Sectors in Scope of the Mandatory Regime:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/965784/nsi-scope-of-mandatory-regime-gov-response.pdf
- Press release: Government narrows definitions of sectors in scope of new national security regime:
<https://www.gov.uk/government/news/government-narrows-definitions-of-sectors-in-scope-of-new-national-security-regime>
- Webpage:
<https://www.gov.uk/government/consultations/national-security-and-investment-mandatory-notification-sectors>

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endnotes

[1] See Memorandum No. 33029, issued January 7, 2021, *available at* <https://www.iciglobal.org/portal/site/ICI/menuitem.9ad35c6866c5fcca09ce3110b52001ca/?vgnextoid=af9a77f089ed6710VgnVCM100000650210acRCRD&vgnextchannel=36566702fa782310VgnVCM1000005b0210acRCRD&vgnextfmt=global>. Information about the NSI Bill is *available at* <https://services.parliament.uk/bills/2019-21/nationalsecurityandinvestment.html>.

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