*Filtrage des investissements étrangers directs au Luxembourg*

**Formulaire de notification**

Les investissements directs étrangers tels que définis à l’article 1, paragraphe 6, de la *loi du 14 juillet 2023 portant mise en place d’un mécanisme de filtrage des investissements directs étrangers susceptibles de porter atteinte à la sécurité ou à l’ordre public* sont soumis à une obligation de notification auprès du ministre de l’Economie.

Dans le cadre de la notification, l’investisseur étranger ou son représentant légal communique au ministre les informations suivantes :

* Le présent formulaire de notification dûment rempli.
* Annexe 1 : Récapitulatif succinct reprenant les motifs pour lesquels l’investisseur étranger estime que la transaction notifiée tombe dans le champ d’application tel que décrit à l’article 2 de la loi susmentionnée ;
* Annexe 2 : Organigramme de la structure de propriété de l’investisseur étranger en mentionnant le numéro d’enregistrement et la nationalité de l’entité décrite, ainsi que le nom, prénom et la nationalité de la ou des personnes physiques qui participent seul, de concert ou par interposition au contrôle de l’entité, y compris des bénéficiaires effectifs, tel que défini à l’article 1er, paragraphe 7, de la loi modifiée du 12 novembre 2004 relative à la lutte contre le blanchiment et contre le financement du terrorisme ;
* Annexe 3 : Organigramme de l’entité de droit luxembourgeois visée par l’investissement en mentionnant la ou les entités de droit luxembourgeois par une couleur précise et préciser le(s) numéro(s) RCS et adresses du siège social et les informations sur le bénéficiaire effectif, tel que défini à l’article 1er, paragraphe 7, de la loi modifiée du 12 novembre 2004 relative à la lutte contre le blanchiment et contre le financement du terrorisme ;
* Annexe 4 (non nécessaire pour investissements de création dits « greenfield investments ») : Descriptif des modalités et du montage de l’opération, au besoin en fournissant des schémas ou organigrammes de l’opération, permettant d’identifier la prise de contrôle avant et après la réalisation de l’opération d’investissement. Veuillez également indiquer, le cas échéant, l’option éventuelle sur le solde du capital ;
* Annexe 5 (si l’investisseur final est une personne morale) : tableau listant les membres de ses organes d’administration, de surveillance ou de tout autre organe remplissant des fonctions équivalentes, ainsi que leur nationalité ;
* Annexe 6 (si l’investisseur final est une personne morale) : tableau mentionnant l’identité, la quotité du capital social et la fraction des droits de vote détenus par chaque actionnaire ou associé ;
* Annexe 7 : Liste exhaustive des produits, prestations et/ou services offerts par l’entité de droit luxembourgeois ;
* Annexe 8 : Liste exhaustive des éléments de propriété intellectuelle (brevets, marques, licences) détenus ou exploités par l’entité de droit luxembourgeois visée. Cette liste précisera leurs natures et durées ;
* Annexe 9 (uniquement à fournir si la demande est introduite par un représentant légal de l’investisseur étranger) : Tout document attestant du pouvoir ou mandat de représentation du représentant de l’investisseur étranger.

*Remarques :*

* *Lorsqu'il est fait référence à des annexes dans le présent formulaire de notification, celles-ci doivent être obligatoirement envoyées en annexe, sous le titre "Annexe [numéro de l'annexe]", par exemple "Annexe 4".*
* *Si la notification est introduite par courrier, prière de joindre* ***une copie de l’ensemble des documents du dossier sur support informatique ou de l’envoyer par courriel.***

**Sécurité et ordre public**

* L'investisseur a-t-il déjà fait l'objet d'une décision négative, d’une autorisation soumise à conditions ou de mesures administratives suite à un non-respect des conditions auxquelles une autorisation a été soumise, dans le cadre de l'examen des IDE dans un autre État membre de l'Union européenne?

Oui  Non

Si oui, veuillez décrire le contexte et la motivation de la décision négative, d’une autorisation soumise à conditions ou de la décision de mesures correctives.

* Existe-t-il un lien capitalistique ou appui financier significatif (contrats, subventions, aides de toute nature etc.) entre un État ou un organisme public tiers à l’Union européenne et l’investisseur ?

Oui  Non

Si oui, veuillez indiquer de quel État ou organisme public il s’agit et quelle est la nature du lien capitalistique ou financier.

**Données de contact**

Prière d’indiquer les données de contact de la personne à laquelle toute correspondance ou demande en lien avec le mécanisme de filtrage des investissements étrangers directs pourra être adressée :

|  |  |
| --- | --- |
| **Nom et prénom de la personne de contact** |  |
| **Nom de la société *(si applicable)*** |  |
| **Adresse** | Rue :  Numéro :  Code postal :  Ville : |
| **Adresse email** |  |
| **Numéro de téléphone** |  |

**Protection des données personnelles**

Les informations qui vous concernent recueillies par le biais de ce formulaire font l’objet d’un traitement par l’administration concernée afin de mener à bien votre demande.

Ces informations sont conservées pour la durée nécessaire par l’administration à la réalisation de la finalité du traitement.

Les destinataires de vos données sont les administrations compétentes dans le cadre du traitement de votre demande. Veuillez-vous adresser à l’administration concernée par votre demande pour connaître les destinataires des données figurant sur ce formulaire. Conformément au règlement (UE) 2016/679 relatif à la protection des personnes physiques à l'égard du traitement des données à caractère personnel et à la libre circulation de ces données, vous bénéficiez d’un droit d’accès, de rectification et le cas échéant d’effacement des informations vous concernant. Vous disposez également du droit de retirer votre consentement à tout moment.

En outre et excepté le cas où le traitement de vos données présente un caractère obligatoire, vous pouvez, pour des motifs légitimes, vous y opposer.

Si vous souhaitez exercer ces droits et/ou obtenir communication de vos informations, veuillez-vous adresser à l’administration concernée suivant les coordonnées indiquées dans le formulaire. Vous avez également la possibilité d’introduire une réclamation auprès de la Commission nationale pour la protection des données ayant son siège à 15, boulevard du Jazz L-4370 Belvaux.

En poursuivant votre démarche, vous acceptez que vos données personnelles soient traitées dans le cadre de votre demande.

**Déclaration sur l’honneur**

Le(s) soussigné(s) déclare(nt) sur l’honneur que toutes les informations fournies dans le formulaire de notification et les annexes afférentes sont complètes et exactes, conformes à la réalité et établies de bonne foi.

Lieu et date :

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature(s)

**Part B**

**Request for information from the investor**

|  |  |
| --- | --- |
| **Name of the investor(s):** |  |
| **Name of the target undertaking** *(the entrepreneur to whom or the undertaking to which the capital is made available in order to carry on an economic activity in a Member State):* |  |

**Please complete the following information (\* = where available):**

1. **Information about the investment**

|  |  |
| --- | --- |
| **Description of the investment** *(please explain how the change in ownership or control of the target company is executed and how the new assets will fit into the company structure of the investor)* |  |
| **Approximate value of the investment[[1]](#footnote-2)** (in €) |  |
| **Planned date for completing the transaction** *(either as a specific date/period or in function of the completion of ongoing authorisation processes)* |  |
| **Funding of the investment and its source[[2]](#footnote-3)** (*on the basis of the best information available) Please explain the origin of the funds and the degree to which they come from external sources.* |  |
| **What is the investor’s business strategy behind this acquisition? [[3]](#footnote-4)** |  |
| **Does the investor appear financially able to ensure the continuity and proper operation of the target undertaking after the acquisition?\*** |  |
| **Does the investment enable or result in the investor’s effective participation in the management of the undertaking subject to screening?** | No  Yes, please explain how: |
| **Participation of the direct investor and its global ultimate owner in the capital of the undertaking subject to screening before the transaction (if applicable) and as a result of the transaction** (*please specify the votes conferred by the shares purchased as a percentage of the total number of votes, whether there are any specific voting rights arrangements, regime concerning effective participation in the management, etc. )* | Before:  As a result of the transaction: |
| **If the ownership is less than 100%, please explain how the ownership shares translate to your control or participation in the effective management. Please describe the modalities of “joint” exercise of control or participation in the effective management.** |  |
| **Is the investment – in your assessment - likely to affect projects or programmes of Union interest?** | No  Yes, please explain which project or programme and how it may be affected: |

**Has the transaction been announced to the public? If available, please provide a link or attach the text of the announcement.**

Yes

Link(s) to the source:

No

1. **Information concerning (A) the undertaking in which the investment is planned or has been completed (“target undertaking”) or (B) a greenfield investment**

Please indicate, whether the investment concerns a greenfield investment[[4]](#footnote-5):

No

Yes

If the answer is “yes”, please provide the information in Table B. If the answer is “no”, please provide the information in Table A

(\* = where available)

*Guidelines:*

*Please complete the table below with information about the beneficiarie(s) of the investment* ***established in the Member State undertaking the screening procedure*** *and, if applicable, the ultimate controlling entity (most relevant entity within the ownership structure). If required,* ***you may add duplicates*** *of the table to capture details for each level of ownership for which information is available.*

*In case the beneficiary is part of a larger corporate group not headquartered in the* ***Me****mber State undertaking the screening procedure, please provide the information for the other legal entities of the same corporate group situated in other EU Member States****, if available****, in the column on the right side.*

*If the ownership structure of the target is complex, please provide details on the direct beneficiary, its ultimate owner and any significant intermediate entities to the extent available.*

*If available, please provide an organigram to explain the horizontal and vertical relationship between the companies referred and the overall structure of the company group before and after the transaction.*

**Table A**

|  |  |  |
| --- | --- | --- |
|  | **Company(-ies) subject to the screening procedure** | **Other legal entities of the same corporate group situated in other EU Member States (if applicable)\*** |
| **Role of the company in the transaction** | *For example:*   * *direct recipient of the investment (target)* * *significant intermediate entity* * *global ultimate owner* * *company group*   *…* |  |
| **Does this company carry on an economic activity in the Member State where the investment is undergoing screening?[[5]](#footnote-6)** |  |  |
| **Name of the company** |  |  |
| **Address/domicile/registered office of the company** |  |  |
| **Company’s national registration number** |  |  |
| **Intra-community VAT number** |  |  |
| **Branch of industry/economic activities carried out**  *Please provide a brief description of the activities being carried out and include the relevant NACE sub-category to the greatest possible granularity (4-digits).* | *Description of Activity 1*  NACE code\* | *Description of Activity 1*  NACE code\* |
| *Description of Activity 2*  NACE code\* | *Description of Activity 2*  NACE code\* |
| *Description of Activity 2*  NACE code\* | *Description of Activity 2*  NACE code\* |
| **Please explain the products, services and business operations of the company before the transaction[[6]](#footnote-7)** |  |  |
| **Please explain the products, services and business operations of the company after the transaction is completed.\* *This is applicable to FDI resulting in a change of operations in the target undertaking*** |  |  |
| **Are - to your knowledge - substitute products available on the market?\*** |  |  |
| **Please provide information about the main competitors (national, European, global)\*** |  |  |
| **Does the company own any patents or other intellectual property rights relevant for a security or public order analysis?\*** *Please list them if available.* |  |  |
| **EU Member States in which the company conducts substantive business operations (e.g. through subsidiaries, branches and please provide the name(s) of those undertaking(s)** |  |  |
| **Annual turnover\*** (*in €, over last fiscal year*)**[[7]](#footnote-8)** |  |  |
| **Total number of employees\*** |  |  |
| **Is the company subject to EU financial restrictive measures (sanctions)?[[8]](#footnote-9)** |  |  |
| **Is the company subject to restrictive measures by third countries?\* [[9]](#footnote-10)** |  |  |
| **Has the company received funding from projects or programmes of Union interest or participates directly or indirectly in the implementation of such projects or programmes?[[10]](#footnote-11)** | No  Yes, please specify amount and relevant EU project or programme: | No  Yes, please specify amount and relevant EU project or programme: |
| **Does the target undertaking maintain business relations with a project or programme of Union interest?** *(e.g. does the undertaking supply goods, technology, etc. to the project or programme?)* | No  Yes, please specify the project, the relevant EU programme and the type of business relation: | No  Yes, please specify the project, the relevant EU programme and the type of business relation: |
| **Listings on stock exchanges\*** | **Trading code, Ticker or stock symbol** | |
| 1. *Country 1* |  |  |
| 1. *Country 2* |  |  |
| **Website of the target company/-ies\*** |  | |

|  |  |
| --- | --- |
| **Ownership structure of the target undertaking – information on the ultimate owner and participation in the capital before the notified transaction** | * *If the ownership structure is complex, please provide details on the ultimate owner and any significant intermediate entities.* * *When available, the information can also be presented in the form of a chart (as an Annex)* |

**Table B: Greenfield investment**

|  |  |  |
| --- | --- | --- |
| **Name** |  | |
| **Location/Address of the new undertaking** |  | |
| **Country where the new undertaking is headquartered** |  | |
| **Company’s national registration number\*** |  | |
| **Intra-community VAT number\*** |  | |
| **Date of incorporation\*** |  | |
| **Branch of industry/economic activities carried out**  *Please provide a brief description of the activities being carried out and include the relevant NACE sub-category to the greatest possible granularity (4-digits).* | | **NACE codes\*** |
| *Description of Activity 1* | |  |
| *Description of Activity 2* | |  |
| *Description of Activity X* | |  |
| **Please explain the products, services and business operations of the undertaking after the transaction is completed.** |  | |
| **Please provide information about the main competitors (national, European, global)\*** |  | |
| **Estimated total number of employees\*** |  | |
| **Website of the company\*** |  | |

|  |  |
| --- | --- |
| **Ownership structure of the new undertaking – information on the ultimate owner and participation in the capital after the notified transaction** | * *If the ownership structure is complex, please provide details on the ultimate owner and any significant intermediate entities.* * *When available, the information can also be presented in the form of a chart* |

1. **Investor**

*Guidelines:*

*Please complete the table below with information about the direct investor and, if applicable, the ultimate controlling entity (most relevant entity within the ownership structure). If required, you may add duplicates of the table to capture details for each level of ownership for which information is available (i.e. direct, intermediary, and ultimate investor(s). If the ownership structure is complex, please provide details on the direct acquirer, and where available, the ultimate owner and any significant intermediate entities. If available, please provide an organigram to explain the horizontal and vertical relationship between the companies referred.*

*In case the investment is made by multiple investors, please provide the information above for each investor*

*separately by multiplying the table hereunder. If available, please provide an organigram to explain the horizontal and vertical relationship between the companies referred.*

*In case the investor is part of a larger corporate group, please provide the information on “annual turnover of the investor” and “total number of employees” for the entire corporate group as well, if available.*

(\* = where available)

|  |  |  |
| --- | --- | --- |
| **Role of the company in the transaction** | *For example:*   * *direct investor* * *holding company created for the purpose of executing the investment* * *100% owner of a holding company without any other significant business activity* * *significant intermediate entity* * *global ultimate owner*   *…* | |
| **Name** |  | |
| **Address/domicile/registered office** |  | |
| **Country under whose laws the company is duly constituted or otherwise organised**  ***If the entity is a natural person, please indicate the nationality/ies of this natural person.*** |  | |
| **Company’s national registration number** |  | |
| **Date of incorporation** |  | |
| **Branch of industry/economic activities carried out**  *Please provide a brief description of the activities being carried out and include the relevant NACE sub-category to the greatest possible granularity (4-digits).* | | **NACE code\*[[11]](#footnote-12)** |
| *Description of Activity 1* | |  |
| *Description of Activity 2* | |  |
| *Description of Activity X* | |  |
| **Please explain the products, services and business operations of the company.** *If available, please explain if the investment is likely to result in a significant change in the profile or main activities of the investor.* |  | |
| **Please provide information about the main competitors (national, European, global)\*** |  | |
| **EU Member States in which the company conducts substantive business operations** (*e.g. through subsidiaries or branches and please provide the name(s) of those undertaking(s*) | 1. *Member State / name of undertaking* 2. *Member State / name of undertaking* 3. *Member State / name of undertaking* | |
| **Annual turnover** (*in €, over last fiscal year*)**[[12]](#footnote-13)**\* |  | |
| **Total number of employees\*** |  | |
| **Is the company subject to EU financial restrictive measures (sanctions)?[[13]](#footnote-14)** |  | |
| **Is the company subject to restrictive measures by third countries?\*[[14]](#footnote-15)** |  | |
| **Listings on stock exchanges\*** | **Trading code, Ticker or Stock symbol** | |
| 1. *Country 1* | *xxx* | |
| 1. *Country x* | *Xxx* | |
| **Website of the company\*** |  | |

|  |  |
| --- | --- |
| **Ownership structure of the investor, including information on its ultimate owner(s) and participation in the capital** | * *If the ownership structure is complex, please provide details on the direct acquirer, the ultimate owner and any significant intermediate entities.* * *When available, the information can also be presented in the form of a chart (as an Annex)* |

1. **Is/was the investment undergoing screening subject to assessment, authorisation, monitoring or other scrutiny pursuant to EU or national rules?**

**Is (or will) the transaction (be) subject to merger review under the EC Merger Regulation[[15]](#footnote-16)?**

Yes – case number[[16]](#footnote-17):

Yes but the case has not been filed for Merger Review yet. Planned date or timeframe of filing: Click or tap to enter a date.

No

**Is the investment subject to another assessment, authorisation or monitoring in the Member State undertaking the screening, in another Member State or in a third country (*e.g. domestic competition control, prudential supervision, sectoral authorisation or certification)*? \***

No

Yes, please specify type of scrutiny and country undertaking the scrutiny:

1. **Any additional information that you wish to disclose for the assessment**

1. If the investment subject to this notification is part of a broader transaction, please disclose the total value and the investment provided to the undertaking(s) the territory of the Member State undertaking the screening separately. [↑](#footnote-ref-2)
2. If the investment subject to this notification is part of a broader transaction, please specify the funding of the investment into the companies established in the territory of the Member State undertaking the screening, as well as sources of funding for the transaction as a whole. [↑](#footnote-ref-3)
3. Please explain why the investor is interested in making the investment and the circumstances of the investment by the target [↑](#footnote-ref-4)
4. International greenfield investment typically involves the creation of a new company or establishment or facilities abroad, whereas an international merger or acquisition amounts to transferring the ownership of existing assets to an owner abroad. [↑](#footnote-ref-5)
5. Art. 2.1: ‘foreign direct investment’ means an investment of any kind by a foreign investor aiming to establish or to maintain lasting and direct links between the foreign investor and the entrepreneur to whom or the undertaking to which the capital is made available in order to carry on an economic activity in a Member State, including investments which enable effective participation in the management or control of a company **carrying out an economic activity**. [↑](#footnote-ref-6)
6. Art. 2.1: ‘foreign direct investment’ means an investment of any kind by a foreign investor aiming to establish or to maintain lasting and direct links between the foreign investor and the entrepreneur to whom or the undertaking to which the capital is made available **in order to carry on an economic activity** in a Member State, including investments which enable effective participation in the management or control of a company carrying out an economic activity. [↑](#footnote-ref-7)
7. Please indicate if fiscal year does not correspond to calendar year. [↑](#footnote-ref-8)
8. The consolidated list of persons, groups and entities subject to EU financial sanctions can be downloaded from [Financial Sanctions Database - FSF platform](https://webgate.ec.europa.eu/europeaid/fsd/fsf)accessible via the following address: <https://webgate.ec.europa.eu/europeaid/fsd/fsf> . In order to access this platform you need to have an "EU Login" account. For further background on ownership and control in the context of EU sanction, please consult the [EU Best Practices for the effective implementation of restrictive measures](https://data.consilium.europa.eu/doc/document/ST-8519-2018-INIT/en/pdf) and [Commission Opinion of 19.6.2020 on Article 2 of Council Regulation (EU) No 269/2014](https://ec.europa.eu/info/sites/info/files/200619-opinion-financial-sanctions_en.pdf). Please note that additional sectorial sanctions (not included in the FSF platform) could apply to the proposed transaction. Please visit [www.sanctionsmap.eu](http://www.sanctionsmap.eu) for a full list of EU sanctions. [↑](#footnote-ref-9)
9. Possible source of information for U.S sanctions: <https://sanctionssearch.ofac.treas.gov/> [↑](#footnote-ref-10)
10. The Financial Transparency System (FTS) (<https://ec.europa.eu/budget/fts/index_en.htm>) allows to search the beneficiaries of funding from the EU budget implemented directly the Commission (at Headquarters or in EU delegations to non-EU countries) and other EU bodies such as executive agencies ('direct management'), and beneficiaries of the European Development Fund. Please note that the FTS does not provide information on funding from the EU budget implemented by both the Commission and Member States ('shared management'), or implemented indirectly by other international organisations or non-EU countries ('indirect management'). [↑](#footnote-ref-11)
11. NACE is the European standard classification of productive economic activities. NACE presents economic activities partitioned in such a way that a NACE code can be associated with a statistical unit carrying them out. The NACE codes can be found in [RAMON, the Eurostat database for NACE codes](https://ec.europa.eu/eurostat/ramon/nomenclatures/index.cfm?TargetUrl=LST_NOM_DTL&StrNom=NACE_REV2&StrLanguageCode=EN&IntPcKey=&StrLayoutCode=HIERARCHIC). [↑](#footnote-ref-12)
12. Please indicate if fiscal year does not correspond to calendar year. [↑](#footnote-ref-13)
13. The consolidated list of persons, groups and entities subject to EU financial sanctions can be downloaded from [Financial Sanctions Database - FSF platform](https://webgate.ec.europa.eu/europeaid/fsd/fsf)accessible via the following address: <https://webgate.ec.europa.eu/europeaid/fsd/fsf> . In order to access this platform you need to have an "EU Login" account. For further background on ownership and control in the context of EU sanction, please consult the [EU Best Practices for the effective implementation of restrictive measures](https://data.consilium.europa.eu/doc/document/ST-8519-2018-INIT/en/pdf) and [Commission Opinion of 19.6.2020 on Article 2 of Council Regulation (EU) No 269/2014](https://ec.europa.eu/info/sites/info/files/200619-opinion-financial-sanctions_en.pdf). Please note that additional sectorial sanctions (not included in the FSF platform) could apply to the proposed transaction. Please visit [www.sanctionsmap.eu](http://www.sanctionsmap.eu) for a full list of EU sanctions. [↑](#footnote-ref-14)
14. Possible source of information for U.S sanctions: <https://sanctionssearch.ofac.treas.gov/> [↑](#footnote-ref-15)
15. Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings. [↑](#footnote-ref-16)
16. Please refer to the database of Merger Cases: <https://ec.europa.eu/competition/elojade/isef/index.cfm?clear=1&policy_area_id=2> [↑](#footnote-ref-17)