

COVID-19 and Foreign Investments in France: Strengthening of the Control

Muriel Goldberg-Darmon; Guillaume Guérin; Pierre Wolman

In the context of the COVID-19 crisis, the French government introduced some new rules to strengthen France's control over foreign investments:

- through a **Decree (*décret*)** and an **Order (*arrêté*)** dated **22 July 2020**, the scope of the control procedure was temporarily broadened: the voting rights threshold was lowered from 25% to 10% for "non-European" investments in French public companies listed on a regulated market and a specific authorization procedure was introduced for such investors; and
- through an **Order (*arrêté*)** dated **27 April 2020**, the biotechnology sector was permanently included in the protected activity of the foreign investments control procedure.

The temporary lowering to 10% of the voting rights threshold for French public companies listed on a regulated market

With regard to the current market volatility, the French government decided to adopt temporary specific foreign investments control measures for French public companies listed on Euronext Paris, the French regulated market:

- the temporary measures will apply from 7 August 2020 to 31 December 2020;
- the voting rights threshold is temporarily lowered from 25% to 10% for "non-European" investments in French public companies listed on a regulated market. The measure shall therefore not apply to (i) private companies, (ii) public companies listed on non-regulated markets such as Euronext Access or Euronext Growth, or (iii) "European" investors;
- a new lightened authorization procedure for such investors applies:
 - they shall only be required to give a prior notice to the Minister in charge of the Economy, and provided that the latter does not object to the application, the authorization is granted following a period of 10 working days¹. The planned operation must nonetheless be realized within 6 months following the notification;

¹ In the usual applicable procedure, a foreign "investor" whose operation is subject to authorization must submit an application to the Minister in charge of the Economy, who then has 30 days from the date of receipt to respond to this application. In the absence of a reply, the application shall be deemed to be rejected

- the information to be contained in the prior notice includes (i) the total number of voting rights that the investor owns prior to the investment, (ii) the total number, or an estimate where this number is not precisely predictable, of the voting rights that the investor will own after the investment, and (iii) the information contained in the declaration of threshold crossing and declaration of intent to be filed with the *Autorité des marchés financiers* (the French financial market authority) once the investment is realized;
- the prior notice must be written in French and, if necessary, a translation of the documents and information communicated in a foreign language might be required;
- in case an objection is made by the Minister in charge of the Economy, the non-European investors might submit an application for authorization in accordance with the usual 30 days authorization procedure.

The permanent inclusion of Biotechnology within the activities covered by the foreign investments control procedure

Through the Order dated 27 April 2020, biotechnology was added to the already exhaustive list of activities covered by the foreign investments control procedure.

For the record, the activities covered by the control procedure are wide and include, in particular, sectors related to energy, water, transportation services and networks, communication services and networks, spatial operations, public health protection, production, processing and distribution of agricultural products, editing, printing and distribution of political and general information press publications, security of information systems, cryptology resources and services, gambling, and research and development on critical technologies.

The Authors:



Muriel Goldberg-Darmon
Partner

+33 1 53 53 45 06
Email Muriel



Guillaume Guérin
Counsel

+33 1 53 53 44 97
Email Guillaume



Pierre Wolman
Associate

+33 1 53 53 44 73
Email Pierre

About Cohen & Gresser:

Cohen & Gresser is an international law firm with offices in New York, Seoul, Paris, Washington, DC, and London. We have an outstanding record of success in high-stakes and high-profile litigation, investigations, and transactional work for our clients, including major financial institutions and companies across the world. Our attorneys have superb credentials, and are committed to providing the efficiency and personal service of a boutique law firm along with the quality and attention to detail that are the hallmarks of the best firms in the world. The firm has been recognized in a wide range of publications, including *Chambers* and *The Legal 500*.

New York | Seoul | Paris | Washington DC | London

www.cohengresser.com
info@cohengresser.com
+33 1 53 53 45 00

 [View C&G's Profile](#)