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TOPIC: **Law 5202/2025: Establishing a legal framework for Foreign Direct Investments in Greece**

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Introduction

Law 5202/2025 (Government Gazette A 84/23.05.2025), incorporating Regulation (EU) 2019/452, introduces a national mechanism for evaluating and controlling Foreign Direct Investments ("FDI") that take place within Greek territory or may have cross-border implications. The EU Regulation's primary goal was to establish the European legal framework relating to foreign direct investments where restrictive measures could be adopted on the grounds of security or public order subject to certain requirements that were left to be determined by the Member States. Given that foreign direct investment is welcomed as it contributes to the Union's growth by enhancing its competitiveness, creating jobs and economies of scale, bringing in capital, technologies, innovation, expertise, and by opening new markets for the Union's exports, this regulatory framework is only aimed at screening the investments that are likely to harm a country's public security and order. It is to that end that Law 5202/2025 enacting the provisions of the Regulation, establishes a screening mechanism for FDIs in the Greek territory in sectors deemed as sensitive or highly sensitive such as energy, transport, digital infrastructure, defense, cybersecurity, artificial intelligence, port and sub-sea and tourism infrastructure in border regions. Furthermore, it defines the criteria for subjecting investments to screening, outlines the procedures for application submission and evaluation, and designates the competent authorities responsible for the process in Greece.

Legal framework and mechanism

For purposes of the Regulation, a *foreign investor* is defined as a natural person or an undertaking of a third country intending to make or having made an FDI into a Greek company ("target company"), according to Article 2(1) of Regulation (EU) 2019/452 establishing a framework for the screening of FDIs into the Union. If an investor from an EU Member State is directly or indirectly controlled by a third country, that investment is also subject to screening, therefore also falls within the scope of the Regulation.

In determining whether an FDI shall be eligible for screening, two major factors are taken into consideration, namely the nature and the sector of the investment. More particularly, an FDI is undergoing screening if a) it is made by a third country foreign investor and relates to a target company active in sensitive or particularly sensitive sectors. The *sensitive sectors* include infrastructure, assets, goods, or services that are essential in the fields of energy, transport, health, information and communication technologies, or digital infrastructure, when the participation in the target company reaches at least 25%. The *particularly sensitive sectors* include defense and national security, cybersecurity, artificial intelligence, port infrastructure, critical underwater infrastructure, and tourism infrastructure in border areas, when the participation in the target undertaking reaches at least 10%; b) It is made by an EU-based investor who is controlled (directly or indirectly) by a third country entity (natural person, undertaking, or government) active in sensitive or particularly sensitive sectors (as defined above); (c) if made by an EU-based investor in which a third country entity holds at least 10% of the capital, and the investment concerns particularly sensitive sectors (defined in the Annex of L. 5202/2025).

In assessing the participation thresholds, account is taken not just to the amount of shares the foreign investor holds, but also the shares owned by the investor's group companies, family members, as well as any existing shareholder agreements.
The FDI screening mechanism is furthermore activated in case there is an increase of the participation interest in such businesses. More specifically, as regards investments in target companies operating in sensitive sectors, the relevant foreign direct investment is screened in case of an increase in participation in the target undertaking to thirty percent (30%), forty percent (40%), fifty percent (50%), and seventy-five percent (75%). As regards investments in target companies operating in particularly sensitive sectors, the relevant foreign investment is screened in the event of an increase in participation in the target undertaking to a percentage of twenty percent (20%), twenty-five percent (25%), thirty percent (30%), forty percent (40%), fifty

percent (50%), sixty percent (60%), seventy percent (70%), and seventy-five percent (75%).

Law 5202/2025 explicitly excludes however certain investments from the scope of the law, mainly portfolio investments like the acquisition of corporate securities intended solely for financial investments and not with a view to controlling such entity, intragroup restructurings on condition that they don't alter participation or grant any additional rights to the foreign investor, as well as investments related to tender procedures for which a binding offer has been submitted prior to the time of entry into force of the FDI Law. These transactions fall outside the scope of the FDI Law, irrespective of whether they involve an investment in a target company operating in a sensitive sector, and therefore are permitted without previous screening under the FDI Law, providing investors with freedom in executing such deals.

Screening and approval procedure

The competent authorities for the screening of the FDIs are established following the enactment of the FDI law, and these include the Interministerial Committee for the Screening of Foreign Direct Investments («ICFDI – Δ.Ε.Ε.Α.Ξ.Ε.») and the Minister of Foreign Affairs. The B1 Directorate of the Ministry of Foreign Affairs acts as the coordinator of the screening process and serves as an intermediate between the country of the target company and the investor.

The procedure for submitting an FDI for approval includes various stages as set out in Articles 7 and 8 of the Law. Initially, the foreign investor must submit an application accompanied by all required documentation to the B1 Directorate before completing the investment. Within five (5) days from receiving the application, the B1 Directorate confirms whether the investment falls under the law's scope and verifies whether the dossier submitted by the investor complies with the requirements. In the event of deficiencies or errors, the investor is requested to rectify or supplement the documentation accordingly. Within ten (10) days from the initial submission or the rectification of the dossier, the Directorate forwards the file to the ICFDI President and prepares the meeting. The ICFDI has, within thirty (30) days, to either exempt the investment from the screening procedure or initiate an in-depth review. If an in-depth review is launched, the Directorate notifies the European Commission and other Member States by providing the information of the investment, as per Regulation (EU) 2019/452. The ICFDI may request supplementary information or documents from the investor and summon him for a hearing, as well as seek additional information from third parties, without being subject to confidentiality restrictions, except for legal professional privilege. Within thirty (30) days from the commencement of the in-depth review, with the possibility of a thirty (30) day extension, the ICFDI submits to the Minister of Foreign Affairs a recommendation to allow, prohibit, or subject the foreign investment to conditions or mitigating measures. The Minister of Foreign

Affairs decides within thirty (30) days from the ICFDI's recommendation, resolving on the approval, prohibition, reversal of the investment, or the imposition of mitigating measures. If no decision is issued within sixty (60) days, the foreign investment is deemed approved.

In exceptional cases, the ICFDI may in its discretion recommend the imposition of mitigating measures or the prohibition of a foreign investment without conducting an in-depth review.

The ICFDI may also of its own motion initiate the screening procedure for an FDI that falls within the scope of the Law, if the investor fails to submit an application for its screening. In such cases, the provisions regarding the consequences of non-compliance and administrative sanctions apply.

The law also lays down special procedures for the authorities to monitor the implementation of imposed conditions or measures.

Penalties and Administrative Sanctions

If the Minister of Foreign Affairs issues a decision prohibiting or imposing conditions on an FDI, the relevant transactions are deemed automatically void. Reversal of the transaction, such as reversal of the shares purchase agreement or compliance within a specified deadline, may be imposed.

Failure to apply for the screening of a foreign direct investment may cause the imposition of measures to mitigate or reverse the investment, while omission to provide supporting documents, or submission of false information on the part of the investor, may lead to prohibition of the investment. In such cases, administrative sanctions may be additionally imposed, ranging from 5,000 to 100,000 Euros.

If the investment is implemented despite its prohibition, or in cases of non-compliance with mitigating measures or failure to reverse the investment, sanctions may amount to up to twice the value of the investment.

The FDI law provides that the procedure for the screening mechanism will be further clarified by virtue of a joint ministerial decision of the Minister of Foreign Affairs and Minister of Development and Investments.

Conclusion

As mentioned, pursuant to the enactment of this law, public security shall be maintained and preserved to a great extent. From the investors' point of view, it is likely that Investors will take into consideration the restrictions imposed by the FDI

Law prior to being involved in any transaction in Greece pertaining to infrastructure, strategic assets, or sectors classified as sensitive or highly sensitive. Some may be discouraged, while others shall endeavor to undergo the process, ensure compliance and finalize their investment. Overall, the law marks a new regulatory era by setting procedures in place to deter investors from circumventing rules and performing investments in sensitive sectors likely to endanger public security.

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