



**NEW REGULATIONS
ON FOREIGN DIRECT
INVESTMENTS IN ESTONIA**



On 25th of January 2023, Estonian legislative body Riigikogu adopted the 'Foreign Investment Credibility Assessment Act' (the **Act**). The Act will enter into force on the 1st of September 2023. The Act will regulate the assessment of investments in companies operating in certain sectors or meeting certain criteria, with the aim of preventing negative effects on the security or public order of Estonia or another EU Member State.

The Act applies to investments made by **foreign investors**, which is defined in the Act as all legal persons who are incorporated under the law of a country that is not an EU Member State and all natural persons who are not citizens of EU.

Investment is defined as a transaction through which a foreign investor: 1) acquires, directly or indirectly, a qualifying holding (10% or more) in the target company; 2) acquires direct or indirect control of the target company; or 3) acquires a major part of target company (e.g ownership of essential assets).

The Act also defines **Target Companies**, the Act will only apply if the object of the investment is a Target Company. Target Companies are providers of vital services like suppliers of electricity, natural gas, petrol, phone service, data transmission, payment services, district heating, electronic identification and digital signature, water supply and sanitation, telecommunication and contractors who ensure the operability of national roads. Target companies also include certain media companies, certain infrastructure companies, companies who are manufacturing military goods or dual-use goods or providing technical assistance related to such goods and companies where the Republic of Estonia has a qualifying holding.

If all aforementioned prerequisites are met then the transaction will be defined as a 'Foreign Direct Investment' for all intents and purposes, and as a consequence of that, the investment is **subject to authorisation** by the Estonian Consumer Protection and Technical Regulatory Authority (**CPTRA**). It is forbidden to finalise the transaction prior to obtaining the authorisation form CPTRA. If unsure whether authorisation is needed, the parties may consult with the CPTRA beforehand who will advise parties in that regard.

It is important to note that the Act has no retroactive effect – so any Foreign Direct Investments finalized before 1st of September 2023 are not subject to authorisation.



The **term of the authorisation procedure** will vary, at minimum it will be conducted in 30 calendar days (from the day of applying). The CPTRA has various opportunities to extend this deadline, due to which the process may take up to 270 days in some very extreme cases. It is safe to assume, that in most cases it will be conducted in 30 days.

The authorisation **will be granted** if the investment does not pose a threat to the security and public order of Estonia or another EU Member State. The authorisation may also contain a secondary condition obliging the foreign investor to take measure to prevent threats to the security and public order, including the transfer of a certain shareholding in the target company or the continuation of existing contracts for the supply of goods or services.

If a foreign investment subject to authorisation has been made **without the authorisation**, the CPTRA may oblige any party to divest the holding or part of the target company; to rescind the transaction; or to take other steps necessary to restore the pre-investment situation. The CPTRA has the right to issue a precept in that regard and, if necessary, impose a fine on the offending party in the maximum amount of EUR 100,000. Please note that the fine is deemed as an administrative fine and it will not bring along criminal liability.