

The National Security and Investment Act 2021 in numbers

16 September 2024

On 10 September 2024, the government published its Annual Report for 2023-2024 (the **Report**) on the National Security and Investment Act 2021 (**NSIA**). The Report concerns the period from 1 April 2023 to 31 March 2024 and is a rare source of information about the operation of the NSIA. Businesses and their advisers can use the Report to help understand the potential impact of the NSIA on their intended transactions.

Key figures for 2023-2024

Notifications and final orders

- The government received 906 notifications (up from 865 in the previous year). Of these, 753 were mandatory notifications, 120 were voluntary notifications and 33 were retrospective validation applications for transactions that had been completed without NSIA approval. The most common sector involved was defence.
- The government reviewed 847 notifications. Of these, 37 (4.4%) were called in for review and 810 (95.6%) were notified that there would be no further action.
- Of the 37 call-ins, 22 related to a mandatory notification and 15 related to a voluntary notification. Four acquisitions which had not been notified were called in for review.
- The government issued 33 final notifications (i.e. "no further action" notices, effectively clearing the transaction) and five final orders (imposing conditions on a transaction to mitigate identified national security risks). It also varied two other final orders. This is in stark contrast to 2022-2023 when the government issued 57 final notifications and 15 final orders.
- Of the five final orders, three followed a mandatory notification, one followed a voluntary notification and one concerned a non-notified acquisition.

Sensitive sectors

- Of the 41 acquisitions which were called in, the highest proportion (34%) were associated with defence; 29% related to military and dual-use. Acquisitions in the areas of academic research and development in higher education, advanced materials, and/or communications together accounted for 24% of call-in notices.
- Call-in notices were issued in connection with acquisitions in 16 of the 17 sectors subject to mandatory notification (not the transport sector).

- Of the five final orders made by the government, four were associated with acquisitions in defence, two related to military and dual-use, and two related to communications (some of the transactions related to more than one sensitive sector).

Origin of investment

- Of the 41 acquisitions which were called in, 41% related to acquisitions involving acquirers associated with China, 39% with acquirers associated with the UK and 22% with the US. China also accounted for the highest proportion of call-in notices issued in 2022-2023.
- Of the five final orders issued, two were associated with the UK and two with the US. Acquirers associated with Canada, France and the United Arab Emirates accounted for one final order each.

Review period

- All accepted notifications were either called in for further review or cleared within the statutory time limit of 30 working days.
- On average, it took 34 statutory working days (or 53 calendar days) to issue a final order from the point an acquisition was called in. This is less than half the time it took in 2023-2024, although the government points out that, given the small number of final orders (five) issued in 2023-2024, no conclusions should be drawn about any trends in the time taken between calling in an acquisition and issuing a final order.

Penalties

- The government identified 34 offences of completing a notifiable acquisition without approval. No penalties were imposed in these cases, but parties were contacted to request that steps were taken to prevent any recurrence.

Possible trends

This is the third Annual Report on the operation of the NSIA. This latest Report and the previous NSIA Annual Report suggest the following possible trends:

- more transactions are being notified for approval under the NSIA;
- fewer transactions are being called in for an in-depth review;
- fewer final orders are being issued;
- the sectors most commonly called in or the subject of a final order are defence, and military and dual-use;
- Chinese acquirers continue to be the subject of in-depth review, although this does not necessarily translate into final orders; and
- UK acquirers are not immune from scrutiny.