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Client Alert
Commentary

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UK NSIA — Key Takeaways From the Annual Report

The report provides insights into the performance of the National Security and Investment Act.

The UK's Cabinet Office has published its third annual report on the functioning of the National Security and Investment Act 2021 (NSIA), covering the period from 1 April 2023 to 31 March 2024.

This Client Alert summarises 10 takeaways regarding deal viability, timing, and certainty.

Notification Practice

1. **Mandatory notifications up; voluntary down.** The total number of notifications increased from 865 in the previous reporting period to 906 in the current period. Of these notifications, 753 were mandatory (an increase from 671 in the previous reporting period). The number of transactions notified on a voluntary basis fell from 180 to 120. This change may reflect parties becoming more familiar with the regime.

Areas of Strategic Interest

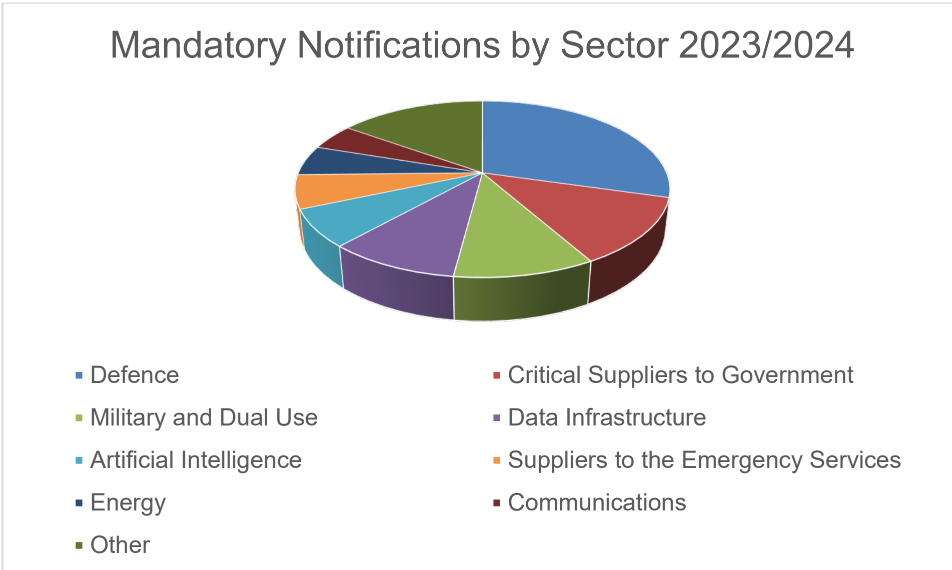
2. **Chinese investors remain a key focus.** While investors from China constituted less than 4% of the total notifications made under the NSIA, they made up 41% of transactions subject to a call-in (previous reporting period: 42%). Chinese investors are clearly taking note of this data, as the majority of notifications from China were made on a voluntary basis and the number of their withdrawals significantly increased (to 80% of total withdrawn notifications).

3. **Zero final orders were made for Chinese investors.** Despite the large proportion of notifications relating to Chinese investors being called-in for a more in-depth national security investigation, none of these transaction was prohibited or cleared subject to conditions. Notifications with Chinese investors were the most likely to be withdrawn (eight in total), which may suggest that Chinese acquirers are choosing to withdraw notifications prior to receiving a final order.

4. **Fewer final orders.** Only five final orders (which either prohibit transactions or allow them to proceed with conditions imposed) were issued in this reporting period, compared to 15 in the previous period.

5. **Zero prohibitions.** No transactions were prohibited in this reporting period. By contrast, in the last reporting period, five transactions were blocked.

6. **Government and defence remain a priority.** The highest number of notifications related to defence (48%, and almost unchanged from the previous reporting period), critical suppliers to government (19%), and military and dual use (17%). Equally, of the transactions that were called-in, 34% related to defence and 29% to military and dual use. In the previous reporting period, military and dual use was the most frequently called-in sector (37%).



Source: Investment Security Unit Data, NSIA Annual Report

Timing

7. **Incomplete or incorrect notifications create disproportionate delay.** The Secretary of State took, on average, seven business days to declare a mandatory notification complete and start the clock on the 30 business-day initial screening period. However, rejecting a mandatory notification took, on average, 18 business days. Notifications can be rejected if they are submitted in the wrong stream (mandatory or voluntary), or if insufficient information is provided. A rejected filing can therefore add over three weeks to the decision timeline.

8. **Almost all of the initial review period is used, regardless of substantive risk.** After accepting a notification, the Secretary of State has 30 business days to decide whether to call-in a transaction for a more in-depth national security review. In this reporting period, he took an average of 28 business days to take this decision.

9. **Call-in reviews have accelerated.** Of the 41 transactions called-in during the reporting period, 29 were cleared in the initial period of 30 business days after call-in, while only 12 were subject to the "additional period" (down from 29 in the previous reporting period). As a result, the timeline from call-in to unconditional clearance (final notification) fell from 31 to 28 business days, and the timeline to a conditional clearance or prohibition (final order) fell from 77 to 56 business days.

10. **The number of retrospective validation notifications increased from 14 to 33.** The Secretary of State has yet to issue any civil or criminal penalties for failure to obtain a mandatory clearance pre-closing, but a significant increase in the number of retrospective validations perhaps indicates greater

familiarity with the regime and the identification of transactions that should previously have been notified (e.g., as a result of investors exiting investments).

Summary

The data presented in this annual report confirms that the regime is clearing non-problematic transactions within the expected timelines and filtering for a small number of transactions that require a more in-depth investigation. Investors must ensure that filings contain complete information and are submitted to the right track (mandatory vs. voluntary) in order to benefit from a fast and efficient process.

While the substantive focus clearly remains on Chinese investors, the data shows that even transactions subject to a national security review with Chinese buyers are not destined to receive a final order. Obtaining a case-by-case analysis from practitioners experienced in making filings for global investors is essential to ensure transactions remain on track.

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