



Blakes



Foreign Investment in Canada: Recent Trends and Future Outlook

July 2025

Blakes Means Business

About Blakes

As one of Canada's top business law firms, Blake, Cassels & Graydon LLP (Blakes) provides exceptional legal services to leading businesses in Canada and around the world. We focus on building long-term relationships with clients. We do this by providing unparalleled client service and the highest standard of legal advice, always informed by the business context.

Overview of the Investment Canada Act

The *Investment Canada Act* (ICA) applies to all investments in Canada by non-Canadians. The purpose of the ICA is “to provide for the review of significant investments in Canada by non-Canadians in a manner that encourages investment, economic growth and employment opportunities in Canada and to provide for the review of investments in Canada by non-Canadians that could be injurious to national security.”

The administration and enforcement of the ICA by the Government of Canada is closely intertwined with domestic and international political considerations and concerns about Canada's economic security. With Canada facing unprecedented trade and tariff tensions, the ICA is an important component of the government's toolkit in fostering investment in Canada while simultaneously safeguarding Canadian interests, with important implications for Canadian businesses and foreign investors seeking to invest in Canada.

A foreign investor acquiring control of a Canadian business or establishing a new Canadian business is required to submit a filing. For most investments, the non-Canadian investor is only required to submit a simple notification form. The notification must be submitted to the Director of Investments under the ICA, either before or up to 30 days after the investment has been implemented.

Where the relevant financial threshold is met, an investment is subject to a suspensory pre-closing review to determine whether it is likely to be of “net benefit” to Canada.

For 2025, the relevant thresholds for a pre-closing review of a direct acquisition of control of a Canadian business are as follows:

- **Trade Agreement Investors:** A C\$2.079-billion enterprise value of the Canadian business for investments by investors from the following countries with which Canada has a free trade agreement: United States, United Kingdom, European Union member countries, Australia, Brunei, Chile, Colombia, Honduras, Japan, Malaysia, Mexico, New Zealand, Panama, Peru, Singapore, South Korea and Vietnam
- **World Trade Organization (WTO) Investors:** A C\$1.386-billion enterprise value of the Canadian business for investments by investors from WTO member countries
- **State-Owned Enterprises:** A C\$551-million asset value of the Canadian business for investments by state-owned enterprises from WTO member countries

In addition, the ICA includes special rules and significantly lower thresholds of C\$5-million or C\$50-million in asset value for investments in cultural businesses (for example, video game developers, bookstores or book publishers, and film or movie production companies).





National Security Review Under the ICA

In addition to the mandatory filing obligation for certain foreign investments, all investments in a Canadian business by non-Canadians may be subject to a national security review.

Recently, the focus of the ICA has been evolving, shifting from the pre-closing review of investments to determine whether they are of net benefit to Canada, to the review of investments for their potential to be injurious to Canada's national security. While fewer than 10 investments have been subject to a net benefit review in each of the past five years, the number of investments subject to extended national security screening and review has continued to increase from 10 investments in the government's 2019–2020 fiscal year to more than 20 in each of the past five fiscal years, with a high of 32 in 2022–2023.

Alongside this shift to a national security focus, several recent changes significantly alter the national security review regime under the ICA by broadening the filing regime, introducing new factors to be considered in a national security review, and updating the process for administration and enforcement of the ICA's national security provisions.

Broadening the Filing Regime

Two important developments have broadened the filing regime under the ICA.

First, in 2022, a voluntary filing regime was introduced, enabling investors to notify the Canadian government of minority investments or investments in entities with assets in Canada that are not subject to a mandatory filing obligation. If a voluntary filing is not submitted, the government has five years from the date the investment is implemented to commence a national security review, instead of 45 days when a filing is made.

Second, recent amendments to the ICA will introduce a new mandatory pre-closing filing requirement for investments in sensitive sectors. These amendments received royal assent on March 22, 2024. Once in force, there will be a mandatory and suspensory pre-closing filing obligation for all investments in certain prescribed sectors, including minority investments, where certain other criteria are met (for example, where the investor could have access to or direct the use of material

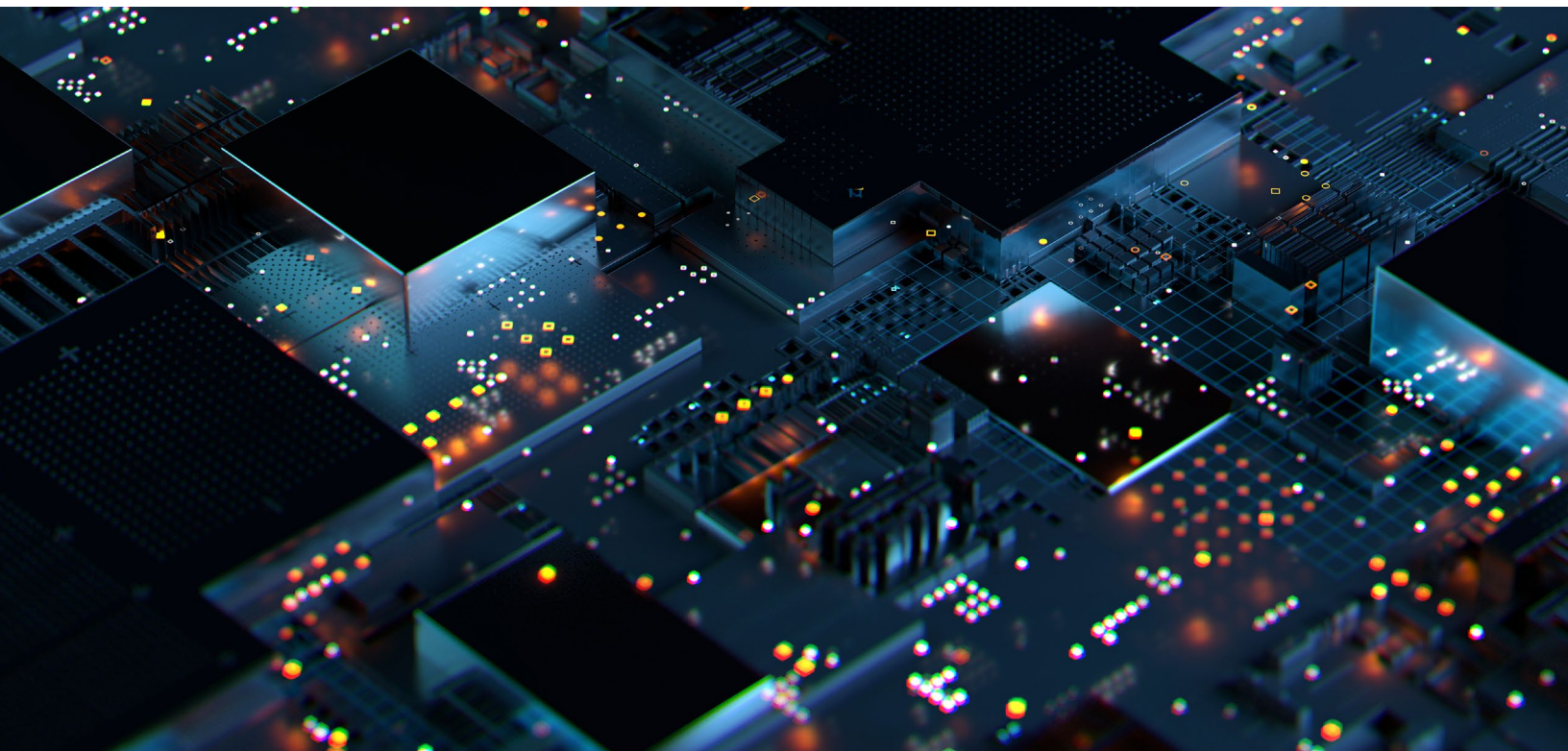
non-public technical information and have the power to appoint or nominate a member of the board or senior management). Investments subject to this new mandatory filing requirement will be subject to a minimum 45-day waiting period. The prescribed business sectors have not yet been defined but are likely to include the sectors identified in the [*Guidelines on the National Security Review of Investments*](#) (Guidelines).

Once implemented, this new filing regime will have important implications for deal timing, regulatory risk allocation and strategy for investments by non-Canadian investors in these sectors, regardless of nationality and whether the investment is an acquisition of control or a minority investment. Transactions not completed before the amendments come into force and not already notified under the ICA will be subject to the new filing obligations. This new pre-closing filing obligation is expected to come into effect in 2026, as the government first needs to introduce enabling regulations identifying the prescribed business sectors to which it will apply.

Revised National Security Review Guidelines

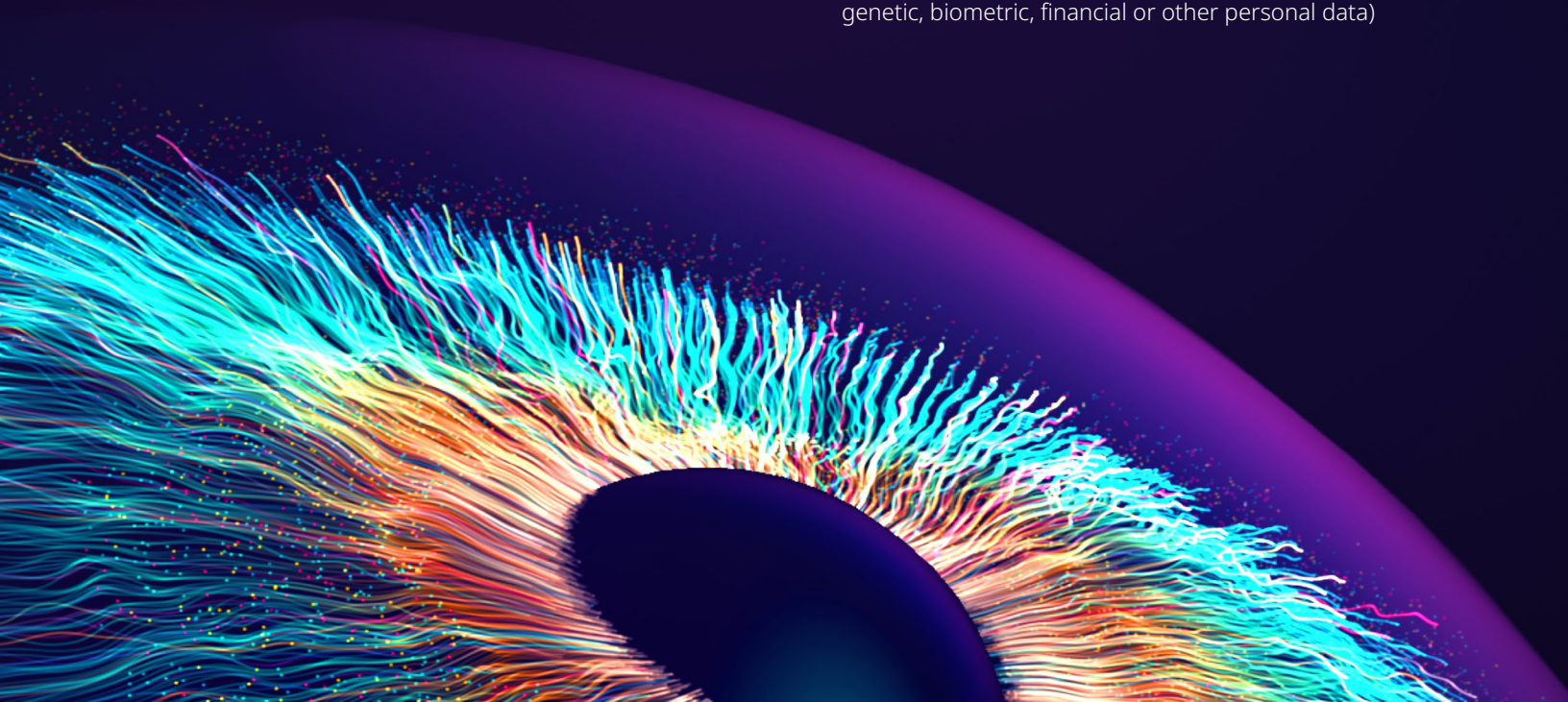
As discussed in our March 6, 2025, [*Blakes Bulletin: Canada Revises its National Security Review Guidelines for Investments*](#), the Canadian government has recently revised the Guidelines, which inform investors of the procedures that will be followed by the government in administering the national security review process under the ICA. The revised Guidelines reflect two critical changes to the government's approach to national security reviews:

- **New National Security Review Factor:** A new “economic security” factor has been introduced, allowing the Minister of Industry (Minister) to consider “the potential of the investment to undermine Canada’s economic security through the enhanced integration of the Canadian business with the economy, or any sector of it, of a foreign state.” The government’s [announcement](#) introducing the new Guidelines indicates that “the size of the Canadian business, its place in the innovation ecosystem, and the impact on Canadian supply chains” will be considered in assessing this factor. This new “economic security” factor expands the scope of national security reviews to capture economic factors that have more typically been considered under the ICA’s “net benefit” review process for larger transactions exceeding certain monetary thresholds.
 - **Sensitive Technology List:** On February 6, 2025, the Canadian government published its [Sensitive Technology List](#), which identifies 11 technology areas that are considered to be sensitive and that are considered key areas with national security implications. The revised Guidelines incorporate the Sensitive Technology List, which replaces Annex A, which had previously set forth a non-exhaustive list of technology areas that may be considered sensitive for the purposes of a national security review.
- In addition to sensitive technologies, the Guidelines identify numerous factors that may be taken into account in assessing the national security implications of foreign investments, including impacts on the supply of critical goods and services to Canadians or the supply of goods and services to the Government of Canada, and identify numerous sectors where national security concerns may be heightened, including critical minerals, critical infrastructure, defence and personal data. A list of sectors identified in the Guidelines is set out on the next page.



Sectors Identified in the Guidelines on the National Security Review of Investments

- Sensitive technologies, in the 11 technology areas identified in Canada's [Sensitive Technology List](#):
 - Advanced Digital Infrastructure Technology
 - Advanced Energy Technology
 - Advanced Materials and Manufacturing
 - Advanced Sensing and Surveillance
 - Advanced Weapons
 - Aerospace, Space and Satellite Technology
 - Artificial Intelligence and Big Data Technology
 - Human-Machine Integration
 - Life Science Technology
 - Quantum Science and Technology
 - Robotics and Autonomous Systems
- Critical infrastructure, in the 10 critical infrastructure sectors identified in the [National Strategy for Critical Infrastructure](#):
 - Energy and utilities
 - Finance
 - Food
 - Transportation
 - Government
 - Information and communication technology
 - Health
 - Water
 - Safety
 - Manufacturing
- Critical minerals (see the government's [Critical Minerals List](#))
- Defence
- Personal data (including personally identifiable health, genetic, biometric, financial or other personal data)



Modernizing the Administration and Enforcement of the ICA

In September 2024, amendments to the ICA's national security provisions came into effect, ushering in a new era for national security reviews under the ICA, including by providing the Minister with more control and autonomy over the process and enhancing the Minister's information-sharing rights and obligations. Key amendments that are now in effect include:

Expanded Ministerial Powers

- **Minister may order a national security review:** A national security review no longer requires an order from the federal Cabinet; instead, the Minister may issue such an order after consulting with the Public Safety Minister.
- **Interim conditions:** The Minister now has the authority (after consulting with the Public Safety Minister) to impose interim conditions deemed necessary to prevent injury to national security that could arise during a national security review.
 - On September 3, 2024, the government issued an [Administrative Note on Interim Conditions](#) outlining how interim conditions will be administered, noting that interim conditions will be "determined on a case-by-case basis in light of the specific facts and risks associated with an investment." Along with a ministerial order imposing interim conditions, the investor will receive a summary of national security concerns, including those that support interim conditions being imposed. Any interim conditions imposed "will be tailored to the potential national security injury presented by the investment" and, among other things, may include measures addressing governance, operational or monitoring issues. The administrative note will be regularly reviewed and will be updated if necessary to "reflect developed practice...regarding the administration and enforcement of interim conditions."

Categories of Potential Interim Conditions

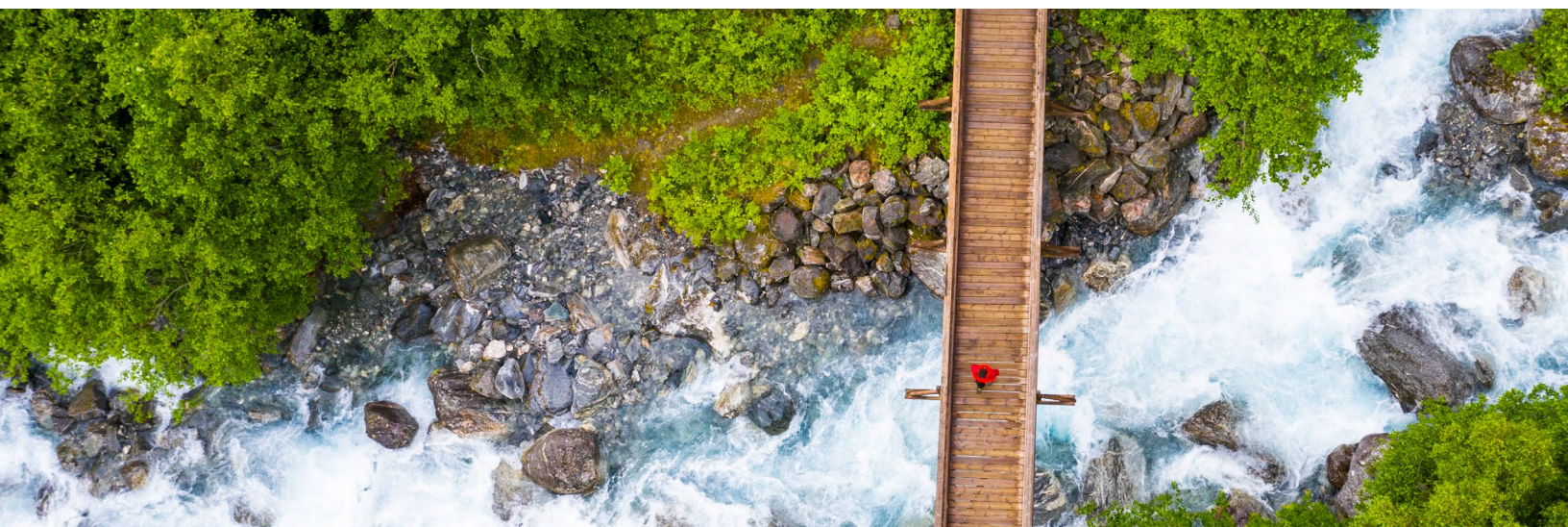
- **Governance:**
 - Restricting the investor's rights to appoint board members and senior management
 - Temporarily suspending the investor's voting rights
- **Operations:**
 - Restricting information sharing between the Canadian business and the investor
 - Separation of communications systems, access controls, etc.
 - Restricting workforce integration
 - Restricting physical access to sensitive locations
 - Prohibiting or suspending contracts with the investor
 - Requiring continued supply of critical goods or services to the Government or other party
- **Monitoring:**
 - Reporting obligations
 - Requiring inspections

- **Representations and undertakings:** Investors now have the right to make representations and submit written undertakings to the Minister in connection with a national security review.
 - On September 3, 2024, the government issued an [Administrative Note on National Security Undertakings](#), outlining how national security undertakings will be administered, noting that “whether to accept undertakings will be made on a case-by-case basis, in light of the specific facts and risks associated with the investment.” Notably, the decision of whether to accept undertakings lies with the Minister, with the concurrence of the Minister of Public Safety; if the Minister is satisfied that the investment will not be injurious to national security because of the undertakings, the investor will receive a notice that the review is complete.
 - Undertakings should be clear, actionable, monitorable and enforceable and must include the term for which they will be in effect, which may be indefinite, subject to the ability to amend or remove undertakings on application by the affected party.
 - The Administrative Note also sets out timing guidance for the undertakings process and provides examples of categories of undertakings that may be provided. Any agreement on undertakings will also set out monitoring terms, which may include periodic reporting requirements, site visits, the engagement of third-party monitors or other terms. The administrative note will be regularly reviewed and will be updated if necessary to “reflect developed practice...regarding the administration and enforcement of the Act, specifically with regard to national security undertakings.”

Timing Guidance for the Undertakings Process

The Administrative Note on National Security Undertakings sets out timing guidance to “meet the statutory deadlines” set out in the ICA and notes that where the timelines “are not consistently adhered to, extensions to the deadline would likely be necessary.”

- **Meeting to provide representations:** Where feasible, a meeting to provide representations will be scheduled no later than 10 business days following receipt of a notice of the right to make representations and submit undertakings.
- **Review and comment on undertakings:** The government will endeavour to provide comments within five business days of receiving proposed undertakings, and the investor is similarly expected to respond, in writing, to the government’s comments within five business days.
- **Response to information request:** Relevant parties (i.e., the investor, Canadian business and/or vendor) are expected to respond to an information request from the government within five business days.



Categories of Potential Undertakings

Structural:

- Amending the transaction to exclude sensitive business lines or activities
- Amending the corporate structure and reporting lines

Governance:

- Placing limitations on the investor's ability to appoint board members and senior management
- Requiring the appointment of independent directors and/or Canadian directors
- Requiring membership of such directors and/or Canadians on specific board committees

Operations:

- Restricting information sharing between the Canadian business and the investor
- Separation of communications systems, access controls, etc.
- Restricting workforce integration
- Engaging Canadian citizens with government-issued security clearance in specific roles
- Restricting physical access to sensitive locations
- Restricting contracts with parties related to the investor
- Requiring continued supply of critical goods or services to the Government or other parties

Monitoring and Enforcement:

- Appointing a security officer with government-issued security clearance
- Imposing periodic reporting obligations
- Granting right of access to premises/systems for monitoring purposes
- Consenting to the Minister appointing a third-party monitor at the expense of the party giving the undertaking

Information Sharing and Reporting

- **Reporting obligation:** The Minister must notify the National Security and Intelligence Committee of Parliamentarians and the National Security and Intelligence Review Agency regarding (i) any investment allowed to proceed based on undertakings, including the identity of the investor and the business subject to the investment; or (ii) any investment subject to an order by the federal Cabinet taking measures to protect national security, including the identity of the investor and the business subject to the investment, and what the order entailed.
- **New information-sharing powers:** The Minister may share any information obtained during the administration or enforcement of the ICA with foreign governments or agencies for the purposes of national security reviews of foreign investments.
- **Expanded public disclosure:** The Minister may disclose the investor's identity and the business subject to the investment when disclosing that the federal Cabinet has issued an order taking measures to protect national security regarding an investment. In addition, the ICA annual report will now include information on the exercise of ministerial duties and powers under the national security provisions.
 - In May 2024, the government [announced](#) that it had ordered the dissolution of Bluevec Technologies Inc. and Pegauni Technology Inc. and for the companies to cease all operations in Canada. In November 2024, the government [announced](#) that it had ordered the wind-up of the Canadian business carried on by TikTok Technology Canada, Inc.

Enhanced Financial Penalties

The maximum penalty for failing to comply with the Minister's demand to comply with the ICA, including interim conditions or national security undertakings, has been increased to C\$25,000 per day of contravention. Additional amendments expected to come into force along with the new mandatory pre-closing filing obligation will introduce penalties of the greater of C\$500,000 and any prescribed amount for a failure to submit the required filing.

Key Takeaways

- Businesses should be aware of the increasing breadth of obligations under the ICA, as they can have important implications for transaction planning discussions, including ensuring appropriate contractual mechanisms are negotiated to provide sufficient time and flexibility to satisfy the new filing requirements and the increase in pre-closing reviews.
- Foreign investors considering investments in the prescribed business sectors should be aware of the heightened scrutiny their investments may face and consider the economic and political climate when undertaking an investment.
- The updated Guidelines, in particular the new "economic security" factor, are likely to expand the national security net to capture a broader range of investments in sectors and of foreign investors investing in Canada that previously may not have been a national security focus.



National Security Review Trends

The initial purpose of the ICA was to allow for the review of significant investments in Canada by non-Canadians to ensure that such investments would contribute to the country's economic growth and employment opportunities and be of net benefit to Canada. However, in recent years, the focus of the ICA has been evolving to focus on whether the investment would be injurious to Canada's national security. These changes, coupled with a broadening political skepticism of foreign investments, are changing how businesses must assess the ICA.

Statistics on Extended and Full National Security Reviews

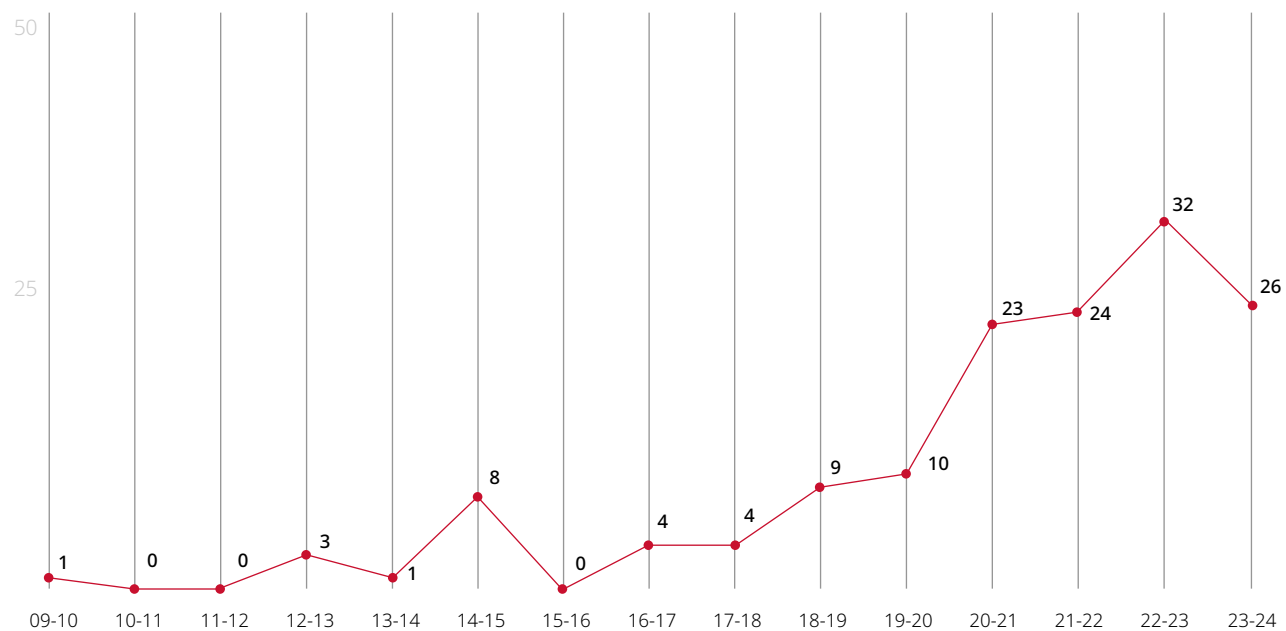
The statistics provided in the government's most recent Annual Report summarizing the administration of the ICA for the 2023–2024 fiscal year highlight the ICA's continuing evolution from a regime focused on Canada's economy to one focused on national security.

- There were 1,201 investment filings, a 19% increase from 2022–2023 and only slightly below the record-breaking 1,255 filings in 2021–2022.
- Only six applications for net benefit review were submitted, continuing a trend of single-digit applications for review each year since 2016–2017.
 - The remaining 1,195 filings were notifications, 898 of which were for investments in existing Canadian businesses and 297 for the establishment of a new Canadian business, both of which were an increase from 2022–2023 (762 and 243, respectively).
- The number of extended national security reviews (26) in 2023–2024 declined from the record number of extended reviews in 2022–2023 (32), while the number of full national security reviews (15) similarly declined from the record number (22) in 2022–2023.
 - The number of extended national security reviews and full national security reviews in 2023–2024 were both the second highest in history and continue a trend of double-digit reviews since the beginning of this decade (a threshold not exceeded prior to 2019–2020 when there were 10 extended national security reviews).
- No transactions were blocked in 2023–2024, but two investments were subject to divestiture orders, and six investments were withdrawn after a full national security review was ordered.

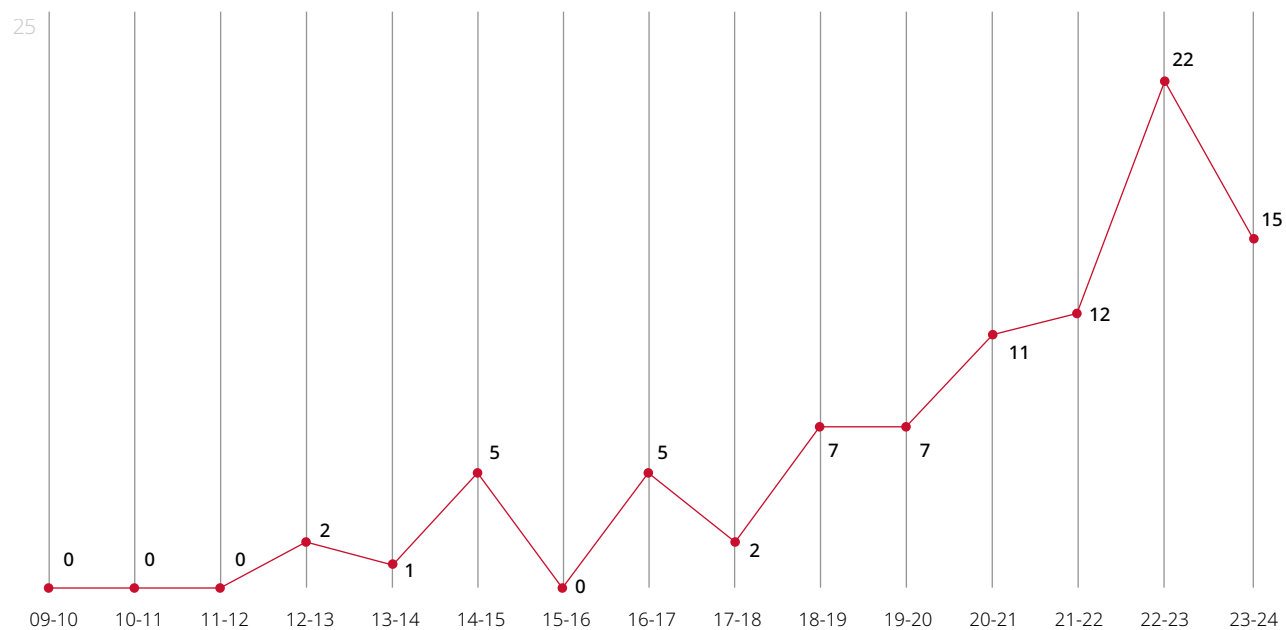


Since the national security review regime was enacted in 2009, 145 investments have been subject to an extended national security review, and 89 investments have been subject to a full national security review. The substantial majority of extended national security reviews (115 of 145; 79%) and full national security reviews (67 of 89; 75%) have occurred in the past five years

Section 25.2 – Extended National Security Reviews (2009–2024)

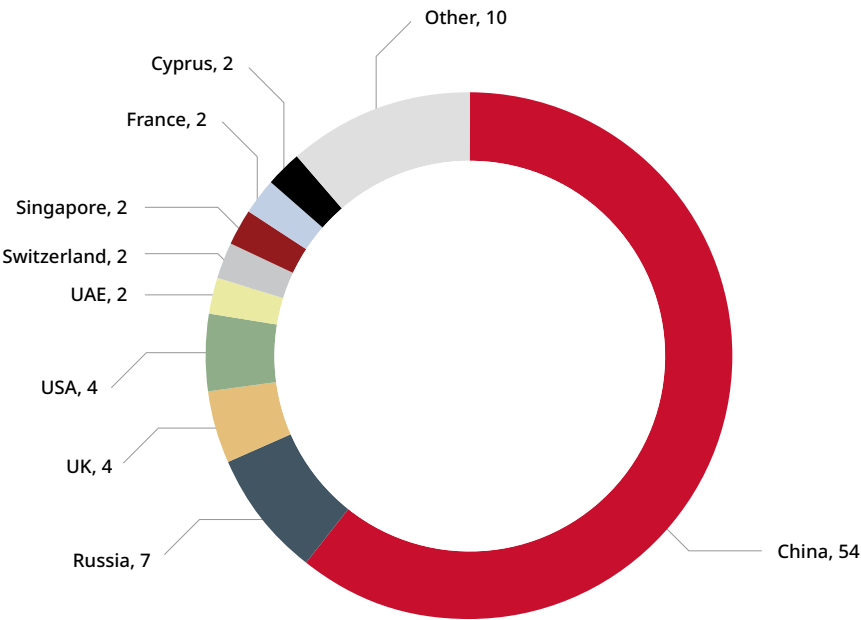


Section 25.3 – Full National Security Reviews (2009–2024)

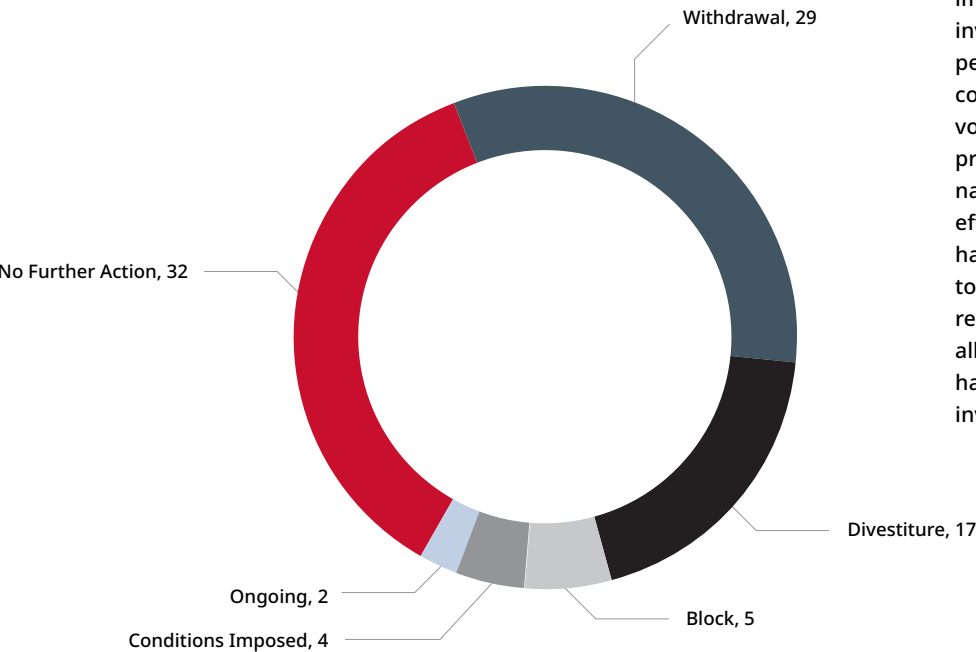


Full National Security Reviews by Country of Investor Control (2009–2024)

Investments by Chinese investors have been a significant focus of the national security review process under the ICA. They account for the majority of full national security reviews in 2023–2024 (8 of 15; 53%) and since the national security regime was first introduced in 2009 (54 of 89; 60%):



Outcome of National Security Reviews (2009–2024)



The ICA provides a range of remedies to address national security concerns, including blocking an investment that has not been implemented, requiring a divestiture if the investment has been implemented or permitting the investment to proceed with conditions. Furthermore, the investor may voluntarily withdraw their filing and not proceed with the investment. Since the national security review regime came into effect in 2009, the majority of investments have either been withdrawn (29) or allowed to proceed with no further action (32). Of the remaining 26 investments, four have been allowed to proceed subject to conditions, five have been blocked and 17 have required the investor to divest the business:

Notably, this enhanced scrutiny on national security grounds applies not to only investments in existing Canadian businesses but also to the establishment of a new Canadian business. Indeed, eight of the 15 full national security reviews in 2023–2024 related to the establishment of a new Canadian business: three were permitted to proceed with no further action, three were withdrawn by the investor and in two instances, the investor was required to divest the newly established business.

Statistics on Minority Investments

Minority investments have also attracted scrutiny. In 2023–2024, two minority investments were subject to a full national security review with the investors withdrawing their filings and not completing the investments. In 2022–2023, four minority investments were subject to a full national security review; the investors were required to divest their investments in three of those four matters, and in the other, the investor withdrew their filing and did not proceed with the investment.

Key Takeaways

- Foreign investors and Canadian businesses going through a sales process should be aware of the increased national security scrutiny of all foreign investments.
- Recent reviews for U.S.-based investors have shown that foreign investors from all countries should consider the political realities of investing in a Canadian business and prepare for the timing and flexibility required by a potential national security review.
- Foreign investors should proactively engage the Canadian government for investments that could raise national security risks.





Recent Policy Statements on Foreign Investments

The government's release of numerous policies specifically targeted at areas of potential national security concerns demonstrates the continuing shift towards a national security focus for investment reviews under the ICA. Policy statements regarding foreign investments by Russian investors, in critical minerals and in the interactive digital media (IDM) sector evidence a heightened focus on national security generally and in certain industrial sectors.

Net Benefit Review of Investments in Critical Minerals

On July 4, 2024, the Minister of Innovation released a statement regarding the government's approach to the net benefit review of investments in important Canadian mining companies engaged in critical minerals operations. The statement, reflecting the strategic importance of Canada's critical minerals sector, notes that investments in large Canadian-headquartered firms engaged in critical minerals operations will be found to be of net benefit to Canada only in the most exceptional circumstances.

State-Owned Enterprises and Critical Minerals

The Minister advised in October 2022 that investments in critical minerals by foreign state-owned enterprises will be found to be of net benefit only on an exceptional basis. Such investments will also support a finding that there are reasonable grounds to believe the investment could be injurious to national security.

Shortly after releasing this policy, on November 2, 2022, the government ordered three divestitures of Chinese investments in the lithium sector:

- Sinomine (Hong Kong) Rare Metals Resources Co., Limited was required to divest itself of its investment in Power Metals Corp.
- Chengze Lithium International Limited was required to divest itself of its investment in Lithium Chile Inc.
- Zangge Mining Investment (Chengdu) Co., Ltd. was required to divest itself of its investment in Ultra Lithium Inc.

Interactive Digital Media Sector

On March 1, 2024, the Minister of Industry and the Minister of Canadian Heritage issued two policies with respect to foreign investment in the IDM sector. The policies indicate that foreign investments in IDM will face heightened scrutiny based on their potential to propagate disinformation and manipulate information. Foreign investments in IDM may be subject to national security reviews, discretionary net benefit reviews and extended undertakings.

The Minister of Industry's policy lists the following considerations when assessing if a transaction in the IDM sector could be injurious to national security:

- The reach and audience of the product's content
- Online elements, such as in-game chat logs, purchases or microphone/camera access
- The investor's ties to a foreign government
- The potential to use the Canadian business to propagate disinformation or censor information
- The board of directors of the business
- The degree of influence over the Canadian business and its content

In the context of a net benefit review for cultural businesses in IDM, the Minister of Canadian Heritage's policy indicates that a large number of discretionary reviews may be initiated. The policy outlines the following considerations when conducting a net benefit review of investments in the IDM sector:

- The degree of influence in the operational and strategic control of the business
- Whether the business owns or creates intellectual property
- Competition in the sector and the effect of concentration of foreign ownership
- Corporate governance and reporting practices
- Whether the business will continue to operate on a commercial basis

The policy also provides that investments in the IDM sector will require stringent undertakings to address creative independence of the business, corporate governance and transparency, and ongoing reporting, auditing and inspection rights.

Ukraine Crisis

Due to the elevated national security and economic risks to Canada resulting from the conflict in Ukraine, the Minister of Innovation announced in March 2022 that, until further notice, direct and indirect acquisitions of control of Canadian businesses by Russian investors will be found to be of net benefit to Canada only on an exceptional basis. Further, an investment with direct or indirect ties to the Russian state will support a finding that there are reasonable grounds to believe that the investment could be injurious to Canada's national security.

Key Takeaways

- Foreign investors from certain countries should consider the political climate when making investment decisions and prepare for prolonged national security reviews.
- Foreign investors should be prepared to provide long-term commitments related to maintaining Canadian intellectual property in Canada and ongoing reporting and compliance obligations when investing in the IDM sector.
- Foreign investors should proactively engage with the Canadian government on foreign investments in the IDM or critical minerals sectors.

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