

Money Falling From the Sky? M&A Reviews Under the EU's Foreign Subsidies Regulation

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THE EU'S INTERNAL MARKET IS BASED on a simple principle: a strong, open, and competitive environment that allows both European and foreign enterprises to compete for success based solely on merit. However, in recent years, the European Commission (EC) realized that the internal market faces challenges, particularly from non-EU subsidies that could skew the playing field, obscure transparency, and create imbalances that the EU's regulatory framework was unequipped to address. The EC introduced the Foreign Subsidies Regulation (FSR)¹ to fill this legislative vacuum by targeting and mitigating the distortive effects of such subsidies.

The FSR's inception can be traced back to 2019, when the European Council tasked the EC with devising new instruments to tackle the disruptive influence of foreign subsidies on the internal market. After a white paper on the subject and consultation with numerous stakeholders in 2020, the EC put forward a proposal for a regulation in May 2021, which the European Parliament and the European Council adopted in November 2022. The FSR took effect on January 12, 2023, with the last layer of the regulation (concerning the merger control tool) coming into force on October 12, 2023.²

The FSR puts three key tools at the EC's disposal:

1. Merger control. This tool allows the EC to scrutinize mergers involving companies that receive foreign subsidies by introducing a notification obligation for mergers and acquisitions (M&A) meeting certain thresholds.

2. Public procurement assessment. Companies are now required to notify the EC of any public procurement bids

where (i) the contract value exceeds €250 million and (ii) the bidder has received foreign financial contributions of at least €4 million per non-EU country.

3. Ex officio investigation. The EC has the authority to independently initiate investigations into companies' activities within the EU, if the EC suspects that foreign subsidies may influence commercial conduct and distort the internal market.

The EC has demonstrated its willingness to actively enforce the FSR on several occasions:

- On February 16, 2024,³ the EC embarked on its first in-depth investigation under the new framework in relation to a public procurement procedure involving a subsidiary of the Chinese state-owned train manufacturer, CRRC Corp., and Bulgaria's Ministry of Transport and Communications. This led to a significant development: CRRC Corp.'s subsidiary withdrew its offer upon learning of the investigation,⁴ signalling the immediate impact of the FSR on corporate decision-making.
- On April 3, 2024,⁵ the EC announced the opening of investigations of two bids submitted in a public procurement procedure launched for the design, construction, and operation of a photovoltaic park in Romania. The bidders were (i) a consortium consisting of a Romanian engineering company and the German subsidiary of LONGi, a Chinese photovoltaic company and (ii) two entities belonging to the Shanghai Electric group. As a result of the opening of the investigations, these companies withdrew their bids and the EC announced on April 13, 2024 that it would close the case.⁶
- On April 9, 2024,⁷ the EC's Executive Vice-President, Margrethe Vestager, announced a new FSR inquiry targeting Chinese suppliers of wind turbines active in several EU countries, including Spain, Greece, France, Romania, and Bulgaria.
- On April 23, 2024,⁸ the EC conducted dawn raids in the Netherlands and Poland at the premises of Nuctech, a Chinese company that produces and sells security equipment within the EU. These raids were part of an *ex officio* investigation launched after the EC received indications that Nuctech may have received foreign subsidies that could potentially distort the internal market.
- On June 10, 2024,⁹ the EC opened its first in-depth investigation in relation to the proposed acquisition of PPF Telecom Group, a telecom business operating in several EU countries, by UAE-based Emirates Telecommunications Group Company.

The merger control tool may be the most intricate aspect of the FSR for dealmakers as it has the potential to significantly influence M&A transactions. This article focuses on this tool and its implications.

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“Foreign subsidies” and “financial contributions”: distinct yet interrelated concepts

The FSR targets foreign subsidies that could distort the EU’s internal market and defines a foreign subsidy as a financial contribution, direct or indirect, granted by a non-EU country, limited to specific companies or industries, which confers an advantage or benefit, to a company or companies active in the internal market.

These cumulative criteria mirror the qualification of “State aid.” Under Article 107 of the Treaty on the Functioning of the European Union, State aid refers to any direct or indirect measure taken by any EU Member State which grants an economic advantage on a selective basis to certain undertakings or to the production of certain goods, distorts or threatens to distort competition on the internal market and affects trade between Member States. Such State aid is considered incompatible with the internal market unless it meets certain exemption criteria. State aid rules are also enforced by the EC.

The concept of foreign subsidies is narrower than, and should not be confused with, the concept of foreign financial contributions, which is used to determine whether the FSR filing thresholds are met. Foreign subsidies are a subset of foreign financial contributions. The definition of a financial contribution is crafted to encapsulate a wide range of financial interventions, without pre-judging their distortive nature and their qualification as foreign subsidies.

A financial contribution can take various forms, including:

- a direct transfer of funds or liabilities, such as grants, loans, equity infusions, and loan guarantees;
- the foregoing of revenue that is otherwise due, which can manifest as tax credits or exclusive rights;
- the provision or purchase of goods or services.

Similarly to State aid, foreign financial contributions can be granted by (i) a central government and government authorities, (ii) foreign public entities whose actions can be attributed to the third country, or (iii) any private entity whose actions can be attributed to the third country concerned.

The complexity of identifying and assessing what constitutes a financial contribution within the context of merger control is significant. It requires a nuanced understanding of the financial relationships between companies and public authorities, as well as sophisticated internal reporting tools. The practical application of these principles in the context of merger control is an evolving process.

Determining whether a filing is required

M&A transactions are notifiable under the FSR when they constitute ‘concentrations’ and meet a two-fold threshold test.

Concentrations. As with the EU Merger Regulation (EUMR), a concentration arises where a change of control on a lasting basis results from the merger of two or more previously independent undertakings or parts of undertakings; or the acquisition of direct or indirect control of the whole or parts of one or more other undertakings.

The concept of ‘control’ mirrors that in the EUMR. Control means the possibility of exercising decisive influence over an undertaking on the basis of rights, contracts, or other means. It is typically acquired when shares with a majority of the voting rights in an undertaking are acquired, but, depending on the circumstances, control can also be acquired through minority investments (in particular, when the acquirer has specific veto rights) or on a factual basis.

In addition, as is the case under the EUMR, the creation of a full-function joint venture (i.e., a joint venture performing all the functions of an autonomous economic entity on a lasting basis) also constitutes a concentration under the FSR. Yet, the creation of a greenfield joint venture is not notifiable because it does not have any turnover of its own.¹⁰ The situation is different when the joint venture results from the change from sole to joint control of a pre-existing business and in which the joint venture is most likely to have a turnover of its own. Generally, it is only the acquired parts’ turnover that is considered for FSR purposes.

Thresholds. The FSR threshold is two-fold, consisting of a “turnover threshold” and a “third country financial contribution threshold.”

A concentration will be caught by the notification requirement under the FSR if:

- at least one of the merging undertakings, the acquired undertaking, or the joint venture is established in the EU and generates an aggregate turnover in the EU of at least €500 million; and
- the following undertakings were granted *combined aggregate* financial contributions of more than €50 million from any non-EU countries in the three years preceding the transaction:
 - (i) in the case of an acquisition, the acquirer or acquirers and the acquired undertaking;
 - (ii) in the case of a merger, the merging undertakings;
 - (iii) in the case of a joint venture, the joint venture and its controlling parents.

A wide-cast net

The notification thresholds turn out to be very low in practice, in particular the threshold for foreign financial contributions. The notification thresholds are indeed based on the amount of foreign financial contributions received by the companies involved in a concentration; assessing whether these foreign financial contributions qualify as foreign subsidies is not relevant to determine whether a notification is required. Further to this, foreign financial contributions do not need to be linked in any way to the intended transaction to trigger a notification. They cover a broad spectrum of interactions in the ordinary course of business with a foreign public authority, including commercial transactions with State-owned companies.

Practice shows that the vast majority of (if not all) large international groups operating on a global scale, including private groups and regardless of the location of their

headquarters, benefit each year from foreign financial contributions as defined in the FSR. For instance, any bill from a State-owned utility company (irrespective of its amount) qualifies as a foreign financial contribution. Collecting the necessary information at group level and verifying its accuracy can prove extremely difficult in complex, often decentralized groups—and even more so in the case of investment funds. In addition, by adding up the foreign financial contributions received by all the groups party to a transaction (and not just by the acquirer) during the last three years, the notification threshold is easily met. EU companies are not spared: it is common for transactions between EU companies to be subject to an FSR filing simply because these companies benefit from foreign financial contributions in connection with their activities in the normal course of business outside the EU.

Combined with a broad notion of concentration, these low thresholds have resulted in a much higher number of notifications than the EC had initially anticipated. In the absence of a public record of FSR filings comparable to the information published in the merger registry under the EUMR, obtaining precise statistics is impossible. However, EC officials regularly publicly report on the number of files submitted for examination. At the beginning of May 2024 (i.e., seven months after the implementation of the notification mechanism), more than 80 filings had already been submitted, either in the form of a draft or as a formal notification to the EC—more than the EC expected annually. Although the EC has been able to cope with this influx of notifications, the fact remains that the thresholds designed in the FSR require mobilization of considerable resources both for the EC and for the companies concerned.

For the vast majority of transactions subject to an FSR filing, other notification processes are required in parallel. According to information communicated by the EC, in more than 80% of the FSR cases that it has reviewed, the parties also had to submit an EUMR filing. And even if an EUMR filing was not required, national merger control rules may be applicable. Furthermore, according to the EC, around half of the transactions subject to an FSR filing also had been submitted to the FDI authorities of one or more EU Member States.

Mandatory and suspensory notification

The notification to the EC's Directorate-General for Competition of concentrations meeting the FSR thresholds is mandatory. There is no deadline to submit an FSR notification. In line with the approach under the EUMR, concentrations caught under the FSR must be notified to the EC prior to their implementation and following the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest. A notification may also be made where the parties demonstrate a good faith intention to conclude an agreement or, in the case of a public bid, where they have publicly announced an intention to make such a bid.

Non-compliance with the FSR obligations can have severe consequences. The EC may impose fines of up to ten percent of the worldwide turnover of the infringer for:

- intentionally or negligently failing to notify a notifiable concentration prior to its implementation (unless the EC expressly authorized such non-compliance);
- implementing a notified concentration before clearance is received;
- implementing a notified concentration blocked by the EC; or
- otherwise circumventing the notification requirements under the FSR.

Importantly (and contrary to the EUMR), the EC may also request prior notification under the FSR of any transaction at any time prior to its implementation where the EC suspects that foreign subsidies may have been granted to the undertakings concerned in the three years prior to the transaction—even if the filing thresholds are not met.

Notification under the FSR has a suspensory effect: a notifiable transaction cannot be implemented until clearance by the EC. However, public takeover bids are exempted from the suspension obligation provided that the concentration is notified to the EC without delay and that the acquirer does not exercise the voting rights attached to the securities in question or does so only to maintain the full value of its investments based on a derogation granted by the EC. By way of exception, the EC may, upon reasoned request of the parties, grant a derogation from the suspension obligation. The EC's decision will consider the effects of the suspension on the parties or on third parties and the risk of distortions in the internal market posed by the concentration.

The importance of pre-notification

Although not mandatory, notifying parties are strongly encouraged to hold pre-notification discussions with the EC, preferably on the basis of a draft notification. As is the case for notifications under the EUMR, the pre-notification phase is very valuable to both the EC and the parties; it plays a crucial role in ensuring that the review is conducted smoothly and efficiently. It provides an opportunity for the parties to engage with the EC, address potential issues early on, and prepare a well-structured formal notification. The parties can also discuss with the EC the precise amount of information required and ensure that the notification is complete. This is particularly important for reportable foreign financial contributions since this concept is both new and very broad, and collecting the relevant information can be extremely burdensome.

The parties may also request waivers to submit certain information listed in the FSR form template (Form FS-CO). Albeit only granted in exceptional cases, the EC considers waiver requests, provided that they are made in writing and that one of the following conditions is fulfilled:

- the parties provide adequate reasons why the relevant information is not reasonably available. The parties should provide best estimates for the missing data or

indicate where any of the requested information that is unavailable could be obtained by the EC; or

- the parties provide adequate reasons why the relevant information is not necessary for the examination of the case.

The EC is actively engaged in pre-notification discussions with the parties and has proven very responsive since the FSR came into force, despite the significant influx of cases. In particular, the EC has stuck to short deadlines when reverting to the parties with comments and questions, thereby facilitating the preparation of formal notifications and in general, limiting the duration of the pre-notification phase to a few weeks. In fact, the EC appears to be very open to a dialogue with the parties in cases where there are genuine questions on the notion of foreign financial contributions or the parties face difficulties in compiling all the required information.

However, the burden of completing a Form FS-CO should not be underestimated: whilst the EC is keen to take a pragmatic approach, the parties still need to provide a fair amount of information to convince the EC that a filing is complete. And a point of utmost importance to the EC is explaining how the transaction is financed.

One way to reduce constraints both for the EC and for the companies concerned—and without a legislative modification to the FSR itself being necessary—would be to create a simplified filing procedure comparable to that which exists under the EUMR. The EC is considering this but, according to declarations from EC officials, it is still too early to do so as the EC is still in a ‘learning mode’ on how to operate the FSR. One would hope that such a simplified procedure could be put in place within the next five years (and in any case within much less time—15 years—than it took to create the simplified EUMR procedure).

The formal review process

The EC has 25 working days after receipt of a complete notification to close the preliminary review or initiate an in-depth investigation.

There is no possibility to accelerate the preliminary review process, even in cases where a filing is technically required because the foreign financial contribution threshold is met but there is evidently no foreign subsidy involved. In such cases, the EC merely issues a letter at the end of the 25-working day period stating that it has closed its preliminary review. Contrary to EUMR decisions, FSR closing letters are not published.

Should the EC initiate an in-depth investigation, it must adopt its final decision within 90 working days of the date on which the in-depth proceedings were initiated. This period may be extended to 105 working days if the parties offer commitments within 65 working days after the opening of the in-depth investigation.

The days of the in-depth investigation may also be extended (i) once upon request of the parties formulated within 15 working days of in-depth investigation’s initiation or (ii) by the

EC, with the consent of the parties. In both cases, the extension cannot cumulatively exceed 20 working days. Where the time limit for the adoption of a decision is extended, the time limit of 65 working days for the submission of commitments is automatically extended by the same number of working days that the in-depth investigation was extended by.

After the in-depth investigation, the EC adopts one of the following decisions:

- a no objection decision (if the EC’s preliminary assessment is not confirmed or a distortion is considered outweighed by positive effects on the basis of a balancing test);
- a decision with commitments, if offered by the parties; or
- a decision prohibiting a concentration (if the EC finds that a foreign subsidy distorts the internal market).

A notable difference with the EUMR is that FSR commitments may only be offered in the in-depth investigation phase, whereas in merger control proceedings, commitments may already be offered in Phase 1.

At the time of writing, only one in-depth investigation has reportedly been opened by the EC for transactions filed under the FSR and the review is still ongoing. It remains to be seen what the EC’s practice will be in terms of both timing and substance.

On the lookout for distortive foreign subsidies

Following a formal notification, the EC will start a preliminary review to determine whether the transaction involves foreign financial contributions that qualify as foreign subsidies that distort the internal market. A distortion in the internal market is deemed to exist where a foreign subsidy is liable to improve the competitive position of an undertaking in the internal market and where, in doing so, that foreign subsidy actually or potentially negatively affects competition in the internal market.

The EC may use a non-exhaustive set of indicators to determine whether the foreign subsidy has distortive effects. The FSR expressly refers to:

- the amount of the foreign subsidy (in absolute terms, in relation to the size of the market or the value of the investment);
- the nature of the foreign subsidy;
- the situation of the undertaking, including its size and the markets or sectors concerned;
- the level and evolution of economic activity of the undertaking on the internal market; and
- the purpose and conditions attached to the foreign subsidy as well as its use on the internal market.

In addition, the EC will also look at the characteristics of the market, and particularly the competitive conditions on the market, such as barriers to entry.

The FSR also provides guidance on certain categories of foreign subsidies considered ‘most likely’ to distort the internal market. This is the case for:

- A foreign subsidy granted to an ailing undertaking, namely an undertaking that will most likely go out of business in the short or medium term in the absence of any subsidy, unless there is a restructuring plan that is capable of leading to the long-term viability of that undertaking and that plan includes a significant own contribution by the undertaking;
- A foreign subsidy in the form of an unlimited guarantee for the debts or liabilities of the undertaking;
- An export financing measure that is not in line with the OECD Arrangement on officially supported export credits; and
- A foreign subsidy directly facilitating a concentration.

However, a foreign subsidy falling within any of these categories is not necessarily distortive. Parties may provide information to the EC explaining why the foreign subsidy does not distort the internal market in the specific circumstances of the case.

Moreover, if the EC considers that a foreign subsidy has distortive effects, it will carry out a balancing test, weighing the negative internal market distortion effects of a foreign subsidy against the positive effects on the development of the relevant subsidised economic activity on the internal market. The EC will also consider other positive effects of the foreign subsidy, for instance in relation to the relevant policy objectives, particularly those of the EU. These objectives can include a high level of environmental protection and social standards, and the promotion of research and development.

In the case of categories of foreign subsidies that are deemed ‘most likely’ to distort the internal market, positive effects are less likely to outweigh negative effects. If the negative effects prevail, the balancing test can help to determine the appropriate nature and level of the commitments (or redressive measures in *ex officio* reviews).

Finally, the FSR also provides guidance on the categories of *de minimis* foreign subsidies considered unlikely to distort the internal market, namely where:

- the foreign subsidies do not exceed €4 million over a consecutive period of three years; and
- the foreign subsidies granted to a single undertaking do not exceed €200,000 per third country over a consecutive period of three years.

At this stage, with no decision following an in-depth investigation published to date, it is unfortunately too early to precisely describe how the EC will review problematic cases, and in particular, how it will assess the distortive character of foreign subsidies. Interestingly, however, the FSR provides that the EC must publish guidelines on the application of the FSR by January 2026. The FSR guidelines should provide details on the criteria applied by the EC for determining the existence of a distortion, the application of the balancing test, and the application of its power to request a notification in otherwise non-notifiable deals.

Implications for investment funds

Roughly one-third of all notified transactions under the FSR have involved investment funds as a notifying party.¹¹ This does not come as a surprise as investment funds and private equity companies are inherently more likely to trigger an FSR notification obligation. They typically hold a broad portfolio of companies through funds, allowing multiple investors to pool considerable resources and limit their risk exposure by diversifying their investments. Similar to the EUMR, any foreign financial contributions received by the investment company itself, the funds it manages, as well as the portfolio companies controlled by these funds, are attributed to the relevant undertaking,¹² and frequently surpass the foreign financial contribution threshold.

More specifically, financial contributions granted by non-EU sovereign wealth funds or public pension funds to investment funds will often have to be reported under Article 5(1), point (d) of Regulation (EU) 2022/2560 (“*directly facilitating the acquisition*”). As the FSR does not require that an investment aims at a specific transaction, a grant, loan, or guarantee which is used for a given transaction may also be considered as directly facilitating it. The FSR does not distinguish between different levels of control transferred in return for an investment either, thus also encompassing financial contributions in the form of limited partner investments. As regards the determination of whether financial contributions to investment funds or private equity companies can be attributed to a non-EU country, all relevant circumstances will be considered.

For foreign financial contributions amounting to or exceeding €1 million, investment funds or private equity companies will thus have to provide information on whether the investments were made on market-terms, i.e., on similar terms as for private investors, or under certain conditions, or whether they conferred any rights to the investing entity in the fund(s).¹³

Yet, the EC acknowledges that the reporting obligations arising for investment funds and private equity companies might be particularly burdensome. Point 7 of Table 1: “Instructions to provide information concerning foreign financial contributions that do not fall into any of the categories of Article 5(1), points (a) to (e) (Section 5.3)” of Form FS-CO relating to the notification of a concentration pursuant to Regulation (EU) 2022/2560 (Instructions)¹⁴ relieves investment funds (or legal entities controlled by or via an investment fund) acquiring control or creating a joint venture from the obligation to report foreign financial contributions granted to other investment funds provided that certain conditions are cumulatively met:

- **Structural condition.** The investor base of the acquiring fund must be materially different from the investor base of other funds managed by the same investment company. That difference is measured based on the various investors’ entitlement to profit of the respective funds. The rationale of this condition is that in

situations where there is no or limited commonality of interests between funds, the incentives for cross-subsidisation are expected to be more limited.

In practice, notifying parties will have to demonstrate that the totality of the acquiring fund's limited partners does not amount to a majority of the limited partners in any of the non-acquiring funds.

- **Regulatory condition.** The fund that controls the acquiring entity must be subject to Directive 2011/61/EU¹⁵ or to an equivalent third country legislation in terms of prudential, organizational and conduct rules, including requirements aimed to protect investors.

In practice, companies will have to provide evidence that relevant laws include, in particular, assurances concerning an adequate monitoring of cash flows and adequate internal control mechanisms, appropriate procedures for safe keeping and independent valuation of the funds' assets, transparency requirements vis-à-vis competent authorities and investors, measures to prevent or minimise conflicts of interest, an adequate risk management system, rules ensuring fair treatment of investors, and provisions ensuring the active supervision of those funds by competent authorities. The notifying party is responsible for justifying its compliance with the legislation of a third country and must explain how this legislation meets the criteria outlined in point 7(a) of the Instructions.

- **Economic and commercial condition.** The economic and commercial transactions between the fund that controls the acquiring entity and other investment funds (and the companies controlled by these funds) managed by the same investment company are non-existent or limited.

Notifying parties are obliged to provide evidence of such transactions in the last three years prior to the conclusion of the agreement, the announcement of the public bid, or the acquisition of a controlling interest. Economic and commercial transactions include but are not limited to the sale of assets (including ownership in companies), loans, credit lines, or guarantees.

Despite the EC's aim to alleviate the administrative burden on private equity companies and investment funds, the threshold for justifying the applicability of the exception remains high. More so now, as the EC may always request a more detailed substantiation of why an exception applies or the disclosure of the foreign financial contributions, if deemed necessary for the assessment of a transaction.

Generally, the EC reserves the right to request additional information or documentation, even where exceptions set out in the FSR's Implementing Regulation may apply. The EC emphasizes that exceptions are to be interpreted narrowly and waivers to information requirements will only be granted under exceptional circumstances.

Conclusion

The FSR has introduced an additional layer of regulatory complexity for companies engaging in M&A transactions. Transactions that meet the turnover threshold—namely, acquisitions where the revenue of the target or the joint venture exceeded €500 million—will most likely also fall under the FSR's notification requirement. This is mainly due to the broad definition of a foreign financial contribution, as opposed to the more narrowly defined foreign subsidy, which is only pertinent during the substantive assessment.

Moreover, there remains a considerable amount of legal uncertainty, particularly concerning the substantive assessment. The absence of precedents makes it challenging to forecast which transactions and subsidies will be deemed problematic. The fact that the EC already opened several in-depth investigations in relation to Chinese companies provides a useful indication on the EC's enforcement priorities—but it would be an obvious mistake to believe that investors from other countries will not be targeted too, as evidenced by the in-depth investigation of an M&A transaction involving a UAE investor opened on June 10, 2024.

On a positive note, the EC has been proactive in clarifying aspects of the FSR throughout its application, and it regularly updates a Questions & Answers document¹⁶ published on its website. In response to feedback from the market, it limited the scope of reportable information, and it accepted a number of exceptions to ease reporting obligations on the consultation process on the Implementing Regulation.

In practice, to date, FSR proceedings have typically been conducted in parallel with merger control procedures, and in most cases, have not delayed M&A processes. In our experience the EC has generally adopted a pragmatic approach, expeditiously clearing the majority of (unproblematic) FSR notifications, though never in less than 25 working days.

Yet proper planning remains key to ensure a smooth filing process and reassure sellers. Collecting the relevant information can be a daunting and time-consuming task. It is critical for multinational companies and private equity firms to implement a robust information-gathering system—well in advance of any transaction and on a continuous basis. As deal execution risks are increasingly high on the sellers' agenda, acquirers who have such a system in place will have an obvious advantage at the negotiating table. ■

¹ Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market (**Regulation (EU) 2022/2560**).

² The EC also published an Implementing Regulation (EU) 2023/1441 of 10 July 2023 on detailed arrangements for the conduct of proceedings by the EC pursuant to Regulation (EU) 2022/2560.

³ See Press Release, Eur. Comm'n, Commission opens first in-depth investigation under the Foreign Subsidies Regulation (16 Feb. 2024) (IP/24/887), https://ec.europa.eu/commission/presscorner/detail/en/ip_24_887.

⁴ See Press Release, Eur. Comm'n, Statement by Commissioner Breton on withdrawal by CRRC Qingdao Sifang Locomotive Co., Ltd. from

public procurement following the Commission's opening of an investigation under the Foreign Subsidies Regulation (26 Mar. 2024) (Statement/24/1729), https://ec.europa.eu/commission/presscorner/detail/en/statement_24_1729.

⁵ See Press Release, Eur. Comm'n, Commission opens two in-depth investigations under the Foreign Subsidies Regulation in the solar photovoltaic sector (3 Apr. 2024) (IP 24/1803), https://ec.europa.eu/commission/presscorner/detail/en/ip_24_1803.

⁶ See See Press Release, Eur. Comm'n, Statement by Commissioner Breton on withdrawal of LONGi Solar Technologie GmbH and Shanghai Electric from public procurement following the Commission's opening of an investigation under the Foreign Subsidies Regulation (May 13, 2024) (Statement/24/2570), https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_24_2570.

⁷ See Press Release, Eur. Comm'n, Speech by Executive Vice President Vestager on technology and politics at the Institute for Advanced Study (Apr. 9, 2024) (Speech/24/1927), https://ec.europa.eu/commission/presscorner/detail/en/speech_24_1927.

⁸ See Press Release, Eur. Comm'n, Commission carries out unannounced foreign subsidies inspections in the security equipment sector (Apr. 23, 2024) (MEX/24/2247), https://ec.europa.eu/commission/presscorner/detail/en/mex_24_2247.

⁹ See Press Release, Eur. Comm'n, Commission opens in-depth foreign subsidies investigation into e&'s acquisition of parts of PPF Telecom, (June 10, 2024) (IP/24/3166)), https://ec.europa.eu/commission/presscorner/detail/en/ip_24_3166.

¹⁰ The rules on the concept and calculation of turnover are the same as those under the EUMR. Turnover is the amount derived from the sale of products or the provision of services falling within the undertaking's ordinary activities in the preceding financial year.

¹¹ Luis Moscoso & Iveta Stoyanova, Competition FSR Brief, "The Foreign Subsidies Regulation—100 days since the start of the notification obligation for concentrations", Issue 1, February 2024, p. 2, https://competition-policy.ec.europa.eu/document/download/22197012-2036-4b1e-8b02-0eb8b2d6e666_en?filename=kdar24001enn_competition_FSR_brief_1_2024_100-days-of-FSR-notification-obligation.pdf.

¹² See Articles 23 and 22 (4) of Regulation (EU) 2022/2560.

¹³ Section 5.1 and 5.2 of Form FS-CO relating to the notification of a concentration pursuant to Regulation (EU) 2022/2560.

¹⁴ See Eur. Comm'n, Notification Form FS-CO relating to the notification of a concentration pursuant to Regulation (EU) 2022/2560, p. 22, https://competition-policy.ec.europa.eu/document/download/d1749baa-a336-4f64-8733-192dabe00af4_en?filename=FSR_notification_form_template.docx.

¹⁵ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers.

¹⁶ See Eur. Comm'n, Questions and Answers (last updated on April 9, 2024), https://competition-policy.ec.europa.eu/foreign-subsidies-regulation/questions-and-answers_en.