Text consolidated by Valsts valodas centrs (State Language Centre) with amending regulations of:

6 October 2020 [shall come into force from 11 October 2020];

4 February 2021 [shall come into force from 10 February 2021].

If a whole or part of a paragraph has been amended, the date of the amending regulation appears in square brackets at the end of the paragraph. If a whole paragraph or sub-paragraph has been deleted, the date of the deletion appears in square brackets beside the deleted paragraph or sub-paragraph.

Republic of Latvia

Cabinet

Regulation No. 606

Adopted 3 October 2017

**Regulations Regarding the Information to be Submitted to the Authority Determined in the National Security Law and the Handling of Information on Foreign Direct Investments**

[*6 October 2020*]

*Issued pursuant to*

*Section 39, Paragraph four, Section 44, Paragraphs eight and nine of*

*the National Security Law*

[*4 February 2021*]

1. This Regulation prescribes:

1.1. the authority:

1.1.1. to which information regarding shareholders and stockholders of a commercial company of significance to national security, and persons who exercise indirect holding (right to vote) therein, or members thereof, and also the beneficial owners – natural persons who have direct or indirect qualifying holding in this commercial company;

1.1.2. to which application for the receipt of the Cabinet permit (hereinafter – the application) shall be submitted:

1.1.2.1. for the transfer of the ownership or possession of such especially important critical infrastructure of State level (Category A critical infrastructure) the destruction or reduction of operational capabilities of which significantly threatens State administration and national security to another person;

1.1.2.2. for the transfer of the possession or ownership of such important critical infrastructure of State level (Category B critical infrastructure) the destruction or reduction of operational capabilities of which complicates State administration and threatens public and national security to another person;

1.1.2.3. for the transfer of the possession of ownership of a European critical infrastructure to another person;

1.1.2.4. before a person or several persons who act in a coordinated manner obtain qualifying holding or decisive influence in a commercial company of significance to national security or become a member of such commercial company, or also obtain influence in a capital company registered in the Republic of Latvia which is a member of a commercial company of significance to national security;

1.1.2.5. to retain holding or to remain a member in the commercial company of significance to national security if its beneficial owner changes. The relevant application shall be submitted by a shareholder, a stockholder of a commercial company of significance to national security, a person who exercises indirect holding (right to vote) or a member;

1.1.2.6. for the transfer of an undertaking as a result of which another person obtains the undertaking in its ownership from a capital company of significance to national security, and this company has assets that are used for carrying out the activity which forms the basis for the recognition of a commercial company as a commercial company of significance to national security;

1.1.3. which implements the cooperation mechanism between European Union Member States (hereinafter – the Member States) and between the European Commission and the Member States specified in Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (hereinafter – Regulation No 2019/452);

1.2. the amount of information to be provided by a commercial company of significance to national security and also procedures for the submission and screening of such information;

1.3. the procedures for taking the decision to issue or refuse to issue a permit and the decision by which an obligation is imposed upon a shareholder, a stockholder of a commercial company, a person who exercises indirect holding (right to vote) or a member to alienate shares or stocks of the equity capital, or to terminate the indirect holding (right to vote), or to leave the commercial company within the set period of time, and also the procedures for notification of the said decisions and the information to be included in the notification;

1.4. the procedures for handling information and information requests received in accordance with Regulation No 2019/452.

[*6 October 2020*]

2. A commercial company of significance to national security shall submit the following information to the Ministry of Economics in accordance with Section 39, Paragraph one, Clause 4 of the National Security Law:

2.1. all commercial companies:

2.1.1. firm name, registration number and legal address;

2.1.2. information regarding conformity to the conditions referred to in Section 37 of the National Security Law;

2.1.3. list of beneficial owners in accordance with Section 39, Paragraph one, Clause 4 of the National Security Law. If any of the conditions referred to in Section 39, Paragraph three of the National Security Law occur, the information regarding the beneficial owner can be indicated according to the relevant Paragraph;

2.1.4. information regarding the concluded group of companies contracts;

2.1.5. any other information relevant to activity of this company as a commercial company of significance to national security and not required as mandatory information;

2.2. a joint stock company:

2.2.1. information regarding its equity capital, the total number of stocks and nominal value thereof, class of stocks and stocks with voting rights;

2.2.2. information regarding stockholders:

2.2.2.1. the stockholders with registered stocks registered with the Register of Stockholders;

2.2.2.2. the list of stockholders with bearer stocks received from the Latvian Central Depository at the last meeting of stockholders, and also the information regarding notifications submitted by stockholders after the last meeting of stockholders in accordance with Section 61, Paragraph one of the Financial Instrument Market Law;

2.2.2.3. from the central securities depositories of such other countries in which the stocks are quoted on the stock exchange (indicating the stock number);

2.2.3. information regarding persons who exercise indirect holding (right to vote);

2.2.4. information regarding an agreement concluded between stockholders on exercising stockholders’ rights in the administration of the company;

2.3. a limited liability company:

2.3.1. information regarding equity capital, the total number of capital shares and nominal value thereof, and also right to vote;

2.3.2. information regarding the Register of Shareholders;

2.3.3. information regarding an agreement concluded between shareholders on exercising shareholders’ rights in the administration of the company;

2.3.4. information regarding persons who exercise indirect holding (right to vote);

2.4. a partnership:

2.4.1. the list of members by indicating their rights and obligations;

2.4.2. a partnership contract if such has been concluded.

[*6 October 2020*]

3. Upon providing the information referred to in Paragraph 2 of this Regulation, the following shall be indicated: for a legal person – name, registration number and legal address or country of residence if the legal address is unknown, for a natural person – given name, surname, personal identification number or other personal data, address or country of residence if the address is unknown, and citizenship if it is known.

4. If the application is submitted for the receipt of the permit referred to in Section 22.2, Paragraph seven or Section 40, Paragraph one of the National Security Law, an acquirer shall:

4.1. provide the information indicated in Paragraph 3 of this Regulation if they are a natural person;

4.2. provide the information indicated in Paragraphs 2 and 3 of this Regulation if they are a legal person.

5. If the application is submitted for the receipt of the permit referred to in Section 41, Paragraph one of the National Security Law, the information referred to in Paragraph 3 of this Regulation shall be indicated in the application with regard to the beneficial owner. If any of the conditions referred to in Section 39, Paragraph three of the National Security Law occur, the information regarding the beneficial owner may be indicated according to the relevant Clause.

6. If the application is submitted for the receipt of the permit referred to in Section 42, Paragraph one of the National Security Law, a commercial company of significance to national security shall submit the information indicated in Paragraphs 2 and 3 of this Regulation with regard to an acquirer of the undertaking.

6.1If the application is submitted for the receipt of the permit referred to in Section 22.2, Paragraph seven, Section 40, Paragraph one, and Section 42, Paragraph one of the National Security Law regarding a foreign direct investment, the following information shall be provided in addition to the information referred to in Paragraphs 4 and 6 of this Regulation:

6.11. regarding the foreign investor:

6.11.1. the type of primary economic activity in accordance with the statistical classification NACE code;

6.11.2. the Member States in which it performs economic activity through the intermediation of a subsidiary or a branch;

6.11.3. the annual turnover for the previous fiscal year (EUR);

6.11.4. the source of the financing of the transaction;

6.11.5. the impact of the transaction on the projects or programmes of European Union interest in accordance with the Annex to Regulation No 2019/452;

6.11.6. whether the transaction has been screened, whether it is subject to screening or another inspection in accordance with the legal acts of other Member States;

6.11.7. whether Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) is applicable to the transaction;

6.12. regarding the commercial company:

6.12.1. the type of primary economic activity in accordance with the statistical classification NACE code;

6.12.2. the Member States in which it performs economic activity through the intermediation of a subsidiary or a branch;

6.12.3. the annual turnover for the previous fiscal year (EUR);

6.12.4. the number of employees in accordance with the statement on the last year;

6.12.5. the funding received from the projects or programmes of European Union interest, and also information regarding business relations in the projects or programmes of European Union interest in accordance with the Annex to Regulation No 2019/452.

[*6 October 2020*]

7. If a person is not able to submit the information referred to in Paragraph 2, 3, 4, 5 or 6 of this Regulation, this person shall indicate the grounds for the failure to submit the said information to the Ministry of Economics. The person shall be obliged to provide the information according to this Regulation as soon as possible.

8. The Ministry of Economics and the State security institutions may request such additional information and documents from the applicant and the acquirer who is a foreign direct investor which are necessary for the evaluation of the application and provision of information to the European Commission and the Member States in accordance with Articles 1 and 6 of Regulation No 2019/452, and also an explanation if the information at the disposal of the Ministry of Economics does not meet the requirements laid down in this Regulation or the National Security Law.

[*6 October 2020*]

9. The Ministry of Economics shall immediately send the received application:

9.1. to the State security institutions for the provision of an opinion. The State security institutions shall indicate in the opinion whether the issuing of the permit threatens the national security interests;

9.2. to the European Commission and the Member States for the provision of an opinion and comments;

9.3. to the Ministry of Foreign Affairs for information.

[*6 October 2020*]

9.1Information regarding the intention of the European Commission and the Member States to provide an opinion and comments, and also the opinion and comments received shall be sent by the Ministry of Economics to the State security institutions for the provision of the opinion referred to in Sub-paragraph 9.1 of this Regulation and to the Ministry of Foreign Affairs for information.

[*6 October 2020*]

10. The draft decision to issue or refuse to issue the permit, and also the draft decision on an obligation of the person who has not received the permit to retain holding or remain a member in a commercial company, alienate his or her equity capital shares or stocks, or terminate the indirect holding (right to vote), or to leave the commercial company shall be prepared by the Ministry of Economics, and the Minister for Economics shall submit it to the Cabinet for examination as a matter of urgency.

11. The Cabinet shall take the decision to refuse to issue the permit if:

11.1. the issuing of the permit threatens the national security interests;

11.2. the person who has submitted the application has failed to submit additional information or documents necessary for the preparation of opinion of the State security institutions within the period of time set by the Ministry of Economics and the State security institutions;

11.3. the Ministry of Economics or the State security institutions establish that they have been provided with false information.

12. The Ministry of Economics shall notify the Cabinet decision in accordance with the Law on Notification. If the Cabinet decision contains an official secret, the Ministry of Economics shall notify of the decision in a form of extract by including the parts of the decision in the extract which do not contain the official secret.

13. If information regarding the foreign direct investment which is screened in another Member State is received:

13.1. the Ministry of Economics shall send the received information to the State security institutions, and also to the Ministry of Foreign Affairs for information. The State security institutions shall, within seven working days, evaluate whether the foreign direct investment threatens the national security and shall inform the Ministry of Economics of the intention to provide an opinion on the foreign direct investment in another Member State if it threatens the national security interests. The State security institutions shall provide an opinion on the foreign direct investment to the Ministry of Economics not later than within 15 working days after receipt of information;

13.2. the Ministry of Economics shall, immediately after receipt of the opinion referred to in Sub-paragraph 13.1 of this Regulation, prepare and send comments to the Member State which is screening the foreign direct investment, to the European Commission, and also to the Ministry of Foreign Affairs for information.

[*6 October 2020*]

14. If an information request has been received from the European Commission or the Member State on such foreign direct investment which is not screened in accordance with the provisions of Chapter VI of the National Security Law, the Ministry of Economics shall, if the requested information is not at its disposal, immediately send an information request to the commercial company in which the foreign direct investment has been made and to the relevant foreign investor. The abovementioned persons shall submit the requested information to the Ministry of Economics within 10 working days after receipt of the request.

[*6 October 2020*]

15. The opinion or comments received from the European Commission or the Member State on such foreign direct investment which is not screened in accordance with the provisions of Chapter VI of the National Security Law shall be immediately sent by the Ministry of Economics to the State security institutions, and also to the Ministry of Foreign Affairs for information. The State security institutions shall, within a month after receipt of a request, submit to the Ministry of Economics and, as required, to the relevant authorities that provide opinions on the policy-making an opinion on whether the foreign direct investment threatens the national security interests.

[*6 October 2020*]

16. If the European Commission has provided an opinion in the case referred to in Paragraph 15 of this Regulation on such foreign direct investment which is not screened in accordance with the provisions of Chapter VI of the National Security Law but which could impact the projects or programmes of European Union interest in accordance with the Annex to Regulation No 2019/452, the State security institutions shall, within 15 working days after receipt of the request, provide an opinion to the Ministry of Economics and to the Ministry of Foreign Affairs as to whether the abovementioned transaction threatens the national security interests and shall, as required and within the competence, inform the relevant authorities providing opinions on policy-making thereof.

[*6 October 2020*]

17. If information has been received from another authority regarding such foreign direct investment which is not screened in another Member State and it contains basis for a potential threat to interests of the national security, the Ministry of Economics shall:

17.1. immediately send it to the State security institutions for the provision of an opinion, and also to the Ministry of Foreign Affairs for information. The State security institutions shall indicate in the opinion whether the foreign direct investment threatens the national security interests;

17.2. within a month after receipt of the opinion referred to in Sub-paragraph 17.1 of this Regulation, prepare and send comments to the Member State which is not screening the foreign direct investment, to the European Commission, and also to the Ministry of Foreign Affairs for information, if the opinion states that the foreign direct investment threatens the national security interests;

17.3. immediately after receipt of the opinion referred to in Sub-paragraph 17.1 of this Regulation or after sending the comments referred to in Sub-paragraph 17.2 of this Regulation, inform the relevant authority whether the comments have been provided in accordance with Regulation No 2019/452.

[*6 October 2020*]

Prime Minister Māris Kučinskis

Deputy Prime Minister, Minister for Economics Arvils Ašeradens