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Corporate Commentary

Welcome to this monthly series for business owners, where myself and my team aim to demystify the corporate market and highlight trends in a non-technical manner.

For a further discussion on any of these topics, please contact me on:

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Relaxing controls on foreign investment into key UK infrastructure?

National Security Concerns

The National Security and Investment Act 2021 (the “Act”) introduced screening powers for the UK government to scrutinise and potentially block acquisitions of UK business, on grounds of national security (the “NSI Regime”). Because the Act was widely drawn, a lot of M&A deals have been self-reported for clearance, slowing completion of those deals by a couple of months.

The Act imposes an obligation to notify the government of any proposed acquisitions (of shares and voting rights) by any entity from any country (including the UK), if they carry out their activities in the UK and those activities fall within one of the 17 economic areas such as defence, energy,

communications, artificial intelligence (AI), and quantum technologies (among others).

Facts

According to the most recent Annual Report on the UK government website, 93% of notified acquisitions under the NSI regime have been cleared, with only 17 acquisitions subject to final orders.

Responsible Cabinet Office Minister, Oliver Dowden, has said he prefers a “*small garden, high fence*” approach, aimed at those transactions impacting national security.”.

Hopes for reduction of red tape

The Government announced the Consultation earlier this month, with a view to fixing a level of proportionality. The hope is that the currently very wide range of businesses caught, will be narrowed, so that instead of all deals relating to AI being reported, the focus will be on certain “high-end” AI which may present a high risk to national security.

Open consultation

Feedback on the Consultation can be provided by going to:

<https://www.smartsurvey.co.uk/s/NSIACallforEvidence>

We will report the outcome in due course.

If you would like to discuss any of these themes further, please get in touch with either:

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Contact us

To find out more about our Corporate team and how we can help you, please get in touch.

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