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Global Merger Regulation in 2025/26

Turbulence and Transformation

January 2026

Key Themes in 2025 and Predictions for 2026

2025 was a year of turbulence and transformation for global merger regulation. Here are the key themes from the past twelve months and our thoughts on what 2026 might hold.

1: Agency Turbulence as Antitrust Leadership is Reshaped

The expected changing of the guard in global antitrust enforcement has been marked by unprecedented upheaval. In the United States, the dismissal of FTC Commissioners Slaughter and Bedoya triggered legal battles over agency independence, while former Deputy Assistant Attorney General Roger Alford was also reportedly dismissed over the DOJ's allegedly politicized *Hewlett-Packard Enterprise/Juniper* settlement. Meanwhile, the UK's Labour Government replaced the Chairman of the Competition and Markets Authority, signalling a pro-growth and more investment-friendly approach. In Brussels, the transition to new leadership did not bring about any dramatic course correction, and European Commission Executive Vice President Teresa Ribera assumed leadership of the Commission's Directorate General for Competition with a wider portfolio that also includes a "clean and just transition".

2: The Politicization of Antitrust: When Politics Meet Merger Control

Antitrust enforcement has grown increasingly politicized on both sides of the Atlantic, with debates intensifying over shifting priorities. In the U.S., we have observed a retreat to more traditional antitrust enforcement, tempering the rhetoric against deal making and consolidation. President Trump has been vocal about his role in antitrust decision-making. Certain FTC and DOJ decisions, such as the extraordinary grant of early termination to Google for its $32 billion acquisition of Wiz, as well as Pfizer in its bidding war with Novo Nordisk, to acquire Metsera—both issued during a standstill imposed by the government shutdown—carry political overtones.

Meanwhile, the UK Government has steered the CMA away from its aspirations to be the global antitrust enforcer of last resort and towards a more traditional focus on domestic mergers. Proposed institutional reforms to remove the independent CMA Panel may also increase the scope of political intervention. While the politicization trend is less prevalent in the EU, the Commission is ostensibly adjusting competition enforcement to align with broader economic policies from the Draghi Report and consulting on whether to reform its Merger Guidelines by, amongst other things, giving greater weight to hot-button topics such as the importance of ensuring resilient supply chains and innovation in Europe.

3: Merger Control Under Trump 2.0: The Return of Settlements

Under the current Trump Administration, merger enforcement has declined significantly, with only 15 enforcement decisions in 2025 (including abandonments), compared to over 20 per year under Biden and the first Trump Administration. The FTC and DOJ have reversed the Biden Administration's tough stance on remedies, with settlements outnumbering challenges for the first time since 2021. This shift also incorporates a more flexible approach to merger enforcement, including "mix and match" remedies combining elements from both merging businesses, though structural remedies are still generally preferred.

4: No Case Blocked in Europe, but Overall Intervention Rate in Line with 2024

The Commission did not block any transactions in 2025. There was only a marginal increase in the number of Phase II investigations launched from three in 2024 to four in 2025 and two unconditional clearances in Phase II. In an unprecedented move, no Commission Phase II decision resulted in remedies. However, the overall rate of intervention with remedies across both Phases I and II remains in line with 2024 with nine decisions cleared subject to remedies, all at Phase I (an increase from five at Phase I and three at Phase II in 2024). *MMG/Anglo American's Brazilian Nickel Business* is undergoing Phase II review by the Commission and is the case to watch in 2026 with geopolitical considerations relating to incentives to supply under new Chinese ownership intertwined with the antitrust analysis.

5: The UK CMA's Business-Friendly Turn

The UK Government's steer towards a pro-growth agenda had an immediate impact on all facets of the CMA's merger regulation activities in 2025. Strikingly, the agency issued 36 decisions without blocking any transactions, unprecedented since 2017. The number of cases resulting in intervention by remedies or prohibition (including abandonments) has shrunk to six in 2025, from a peak of 27 in 2022. In 2025, only five Phase I decisions involved remedies (14% of all cases), and only one conditional Phase II decision was issued (alongside two unconditional decisions). On the institutional front, the CMA has prioritized the "4Ps" (pace, predictability, proportionality, and process), weaving them through its internal policy reforms. These notably include updated remedies guidance, allowing for greater consideration of behavioral remedies in Phase I and clarifying the framework for accepting relevant customer benefits and considering efficiencies.

6: Antitrust Remedies – Behavioral Solutions: From Rhetoric to Reality?

While global antitrust authorities increasingly discuss behavioral remedies, these rarely translate into actual decisions, with agencies still defaulting to structural fixes. However, there is increased willingness to craft hybrid remedies, particularly in vertical transactions and cases involving minority shareholdings. In the EU, the Commission did not adopt any purely behavioral remedy decisions in 2025. All Phase I decisions imposing remedies were structural other than the Commission's decision imposing hybrid remedies in the *Naspers/Just Eat Takeaway* decision. The CMA also accepted a single Phase I hybrid remedy package in *Schlumberger/ChampionX*. In the U.S., the *Boeing/Spirit AeroSystems* approval included behavioral remedies to resolve certain vertical concerns, and there was a single purely behavioral remedy in *Omnicom/Interpublic* addressing advertising practices and confidential information. We are also seeing signs of more proportional and enforceable remedies, which reduce the risk of binary outcomes in marginal cases.

7: From CFIUS to State Capitols: The Multiprong Defense of U.S. Investment Security

U.S. foreign investment oversight intensified in 2024–2025 across federal and state levels. CFIUS reviewed 325 transactions, imposed mitigation measures and conditions in approximately 12% of notices filed in 2024, and levied its largest-ever penalty ($60 million against T-Mobile). The February 2025 America First Investment Policy and new Outbound Investment Security Program established comprehensive frameworks restricting investments involving China in critical sectors including semiconductors, quantum computing, and artificial intelligence. Meanwhile, U.S. states, including Texas, are advancing FDI policies at the state-level, creating an increasingly complex landscape for cross-border transactions.

8: UK FDI: Investment Screening in Full Force

The UK's FDI screening mechanism is hitting its stride. Since becoming fully operational in January 2022, the 2024–2025 reporting period (April 2024 to March 2025) saw a 26% surge in notifications against the previous annual reporting period, and no penalties have been issued. The regime maintained a targeted approach, calling in only 56 notifications (5% of all notifications) for detailed review. The main sectors subject to scrutiny were Defense (over half), Critical Suppliers to Government (21%), and Military/Dual Use (19%). UK acquirers represented almost half of called-in transactions, while Chinese investors accounted for 32%. During this period, 17 approvals were subject to conditions and one required divestment. Notably, the Government used retrospective powers to order divestment of FTDI Holdings by a Chinese acquirer. In July 2025, the High Court backed the ISU, rejecting FTDI's challenge to the divestment order.

9: EU Foreign Subsidies Regulation: Enforcement Takes Shape Alongside EU Member State FDI

The EU's Foreign Subsidies Regulation shows measured enforcement in its second year. DG COMP has now processed over 200 notifications, launching just one Phase II review annually. Both decisions involved Emirati state-backed acquisitions requiring commitments to remove unlimited state guarantees. On the FDI front, EU Member State screening leaped by 73% to 3,136 requests in 2024, with 86% of notifications approved unconditionally and only 1% blocked, with 4% of filings withdrawn by the notifying parties. 9% of decisions were approved with conditions or mitigating measures. Implementation of the EU's FDI screening regulation is almost complete, with several Member States introducing legislation in 2025, with the EU already taking steps to ensure greater harmonization across the EU through proposals to align minimum sectors for Member State FDI review, including dual-use items and military equipment.

10: Global Merger Control & FDI Landscape

The global merger control and FDI screening landscape is rapidly expanding. Australia implemented a mandatory merger control regime effective January 1, 2026. Southeast Asian jurisdictions including Vietnam and Indonesia are strengthening their frameworks, while Argentina's new Competition Authority will also implement pre-closing merger reviews by the end of 2026. Africa's East African Community launched a one-stop shop merger regime in November 2025. On FDI, Canada is expanding the scope of sectors requiring pre-closing filings, and New Zealand has signaled streamlining of its FDI legislation. Further global developments are expected in 2026.

1: Agency Turbulence as Antitrust Leadership is Reshaped

The anticipated changing of the guard in global antitrust enforcement has been marked by turbulence and some drama.

In the U.S., President Trump appointed new Antitrust Division head Abigail Slater at the Department of Justice, promoted Commissioner Andrew Ferguson to Chair at the Federal Trade Commission, and terminated FTC Commissioners Rebecca Slaughter and Alvaro Bedoya without cause in March 2025 (currently under review by the Supreme Court).

Changes in agency leadership continued throughout 2025, with the abrupt departures of two recently hired DOJ Deputy Assistant Attorney Generals, Roger Alford and William Rinner, reportedly because of tensions between the Antitrust Division and the White House resulting from alleged political involvement in the DOJ's settlement in, and conditional approval of, the *Hewlett-Packard Enterprise/Juniper Networks* merger. Alford has since publicly accused DOJ officials outside the Antitrust Division of instructing the Division to resolve the case "*based on political connections*" rather than "*legal merits*". The proposed settlement will be scrutinized closely in 2026 by U.S. courts and even Congress.

Across the Atlantic, the UK CMA has weathered storms of its own. Pursuing its growth agenda, the new Labour Government sent a message by inducing CMA Chairman Marcus Bokkerink to resign in January 2025. His replacement, interim chair Doug Gurr (whose credentials include a leadership position at Amazon UK), was tasked with leading a more responsive, business-friendly organization with an enforcement mindset more aligned with government priorities.

In the EU, the transfer of power to Executive Vice President Teresa Ribera as head of the European Commission's DG COMP has been characteristically less dramatic but still marks a notable change in leadership at a crucial juncture. Ribera's remit covers not only competition but also a wider portfolio that includes a "clean and just transition" to ensure Europe follows the roadmap set out in the European Green Deal. While this portfolio reshuffling may represent a shift in high-level priorities, the Commission's institutional framework ensures continuity. The division responsible for competition enforcement, DG COMP, is staffed by a permanent civil service that ensures policy and procedural consistency. DG COMP also saw the retirement of Olivier Guersent, the long-standing and experienced Director-General, with Deputy Director-General Linsey McCallum taking the reins on an interim basis.

Particularly in the U.S. and the UK, these leadership changes are telltale signs of a wider correction in both substance and procedure towards a new norm that gives greater weight to wider context and political considerations.

2: The Politicization of Antitrust: When Politics Meet Merger Control

Over the last year, debates over antitrust enforcement's scope and direction have grown increasingly politicized on both sides of the Atlantic, raising broader questions about the role of government and antitrust enforcement.

From a policy perspective, in recent years there has been vibrant debate about the nature and objective of competition enforcement, and the leaderships of both the FTC and DOJ have been at the forefront of this debate. This translated into tangible enforcement action in individual cases, particularly (but not exclusively) in the tech sector, and with the adoption of new Merger Guidelines. Under the Trump Administration, while the new Guidelines remain in force, we have already witnessed a return to more traditional theories of harm. M&A activities by Big Tech have resumed and have not been met with the vigorous opposition experienced during the Biden years. For instance, in March 2025, Google announced a $32 billion acquisition of Wiz, a cloud security platform, and the transaction was cleared by the DOJ with early termination in November 2025 and no significant review in the UK.

There has also been speculation about political involvement in merger reviews under President Trump, fueled in part by the firings of Slaughter and Bedoya and supercharged by the *Hewlett-Packard Enterprise* settlement and surrounding reporting. Political involvement has manifested in other ways in the U.S. as well, such as the approval through "early termination" of U.S. company Pfizer's proposed acquisition of Metsera during its bidding war with Danish company Novo Nordisk, one of only two early terminations granted during the moratorium imposed throughout the government shutdown (the other being *Google/Wiz*), which helped tip the balance in Pfizer's favor. Looking ahead to 2026, the question of political involvement looks set to intensify. The proposed acquisition of Warner Bros. Discovery will no doubt be a case to watch going into 2026. President Trump made clear shortly after the announcement of Netflix's proposed $72 billion acquisition that he will be "*involved in the decision too*." These comments, as well as President Trump's take on Union Pacific's proposed $85 billion tie up with Norfolk Southern—"*sounds good*"—are a significant departure from historical precedent.

In the UK, the Government told the CMA in no uncertain terms that it should focus primarily on mergers that affect the UK and relinquish the role of global competition enforcer that it had adopted, particularly, but not exclusively, in the technology sector, as exemplified in cases such as *Facebook/Giphy* or *Sabre/Farelogix*. An early indication of the change of course came during the first half of 2025, in relation to Amex GBT's acquisition of CWT. The CMA initially found a substantial lessening of competition in the global market for the supply of business travel agency services to large corporate clients. However, in an unusual reversal, the CMA issued a supplementary interim report in which it stated that further review of evidence showed that CWT was "*a materially weaker competitor*" and revised its assessment of the strength of other competitors. The CMA cleared the acquisition without remedies in March 2025, underscoring perceptions of a new, more pragmatic, business-friendly approach. As indicated under Theme 3 below, this trend is reflected in the CMA's decisions.

Institutional reform is on the cards with recent proposals to remove the independent inquiry panel (the CMA Panel), which currently acts as a fresh decision-maker in Phase II merger reviews and provides a further layer of institutional independence in decision-making. Under the new proposals, these decisions would be taken by a CMA board sub-committee comprised of board non-executives, senior executives, and expert panel members. The CMA has framed this reform as improving decision-making efficiency and accountability, but there is little question that it will also increase institutional accountability for the CMA and therefore the potential for greater political intervention.

Within the EU, the process remains less overtly politicized, but politics still matter. DG COMP continues to operate with a degree of independence, though the Commissioner is a political appointee. Independence at the European level was initially designed to shield enforcement from Member States' influence. The ongoing review of Europe's growth and productivity agenda, including the Draghi Report, may yet feed into competition reforms, although no clear consensus has emerged. The institution is grappling with how to adjust competition enforcement in order to align itself with broader economic policies. In the merger control arena, the Commission's Merger Guidelines are under review, and a draft will be published by spring 2026, with the Commission consulting on whether to give greater weight to hot-button topics such as the importance of ensuring resilient supply chains in Europe, the role of innovation, and assessment of efficiencies.

The Commission has also shown some readiness to be flexible in relation to mergers in the defense sector, as outlined in its Defense Readiness Omnibus, published in June 2025. In one of the current Phase II investigations—*MMG/Anglo American Brazilian Nickel Business*—the Commission is probing concerns regarding the potential degradation of supply of ferronickel to European customers as a result of the acquisition by a company majority owned by a Chinese State-owned enterprise. Given the intertwining of geopolitical considerations around the security of supply of the key European steel industry with antitrust, this case is another one to watch in 2026.

3: Merger Control Under Trump 2.0: The Return of Settlements

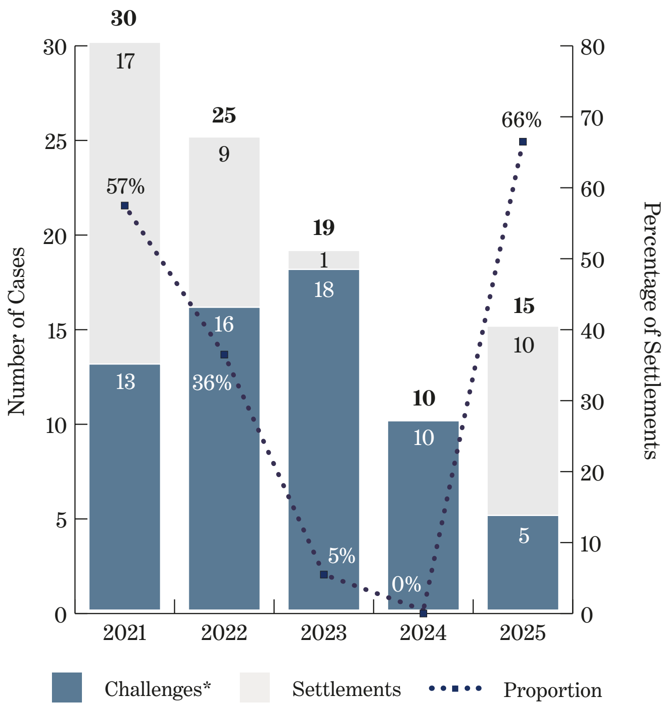
Under this Trump Administration, merger enforcement has slowed dramatically, with a total of only 15 enforcement decisions (including challenges and settlements, as well as one abandoned case) taken in 2025. By contrast, the agencies were averaging well over 20 enforcement actions per year under both the Biden and first Trump Administrations.

Notably, the FTC and DOJ have also implemented a remarkable reversal of the Biden Administration's stance against remedies, settling ten cases while taking only two to trial (and abandoning another litigation). In 2025, merger settlements outnumbered litigated merger challenges (ten to five, including one case abandoned pre-complaint) for the first time since 2021, and cases settled at the greatest rate since at least 2021, as seen in **Figure 1** below.

Settled cases also reflected a more flexible approach to resolving the agencies' concerns, including through "mix and match" remedies including elements from both merging businesses, and even implementing behavioral remedies to resolve vertical concerns in *Boeing/Spirit AeroSystems*—though that flexibility did have limits, discussed further below in the context of behavioral remedies.

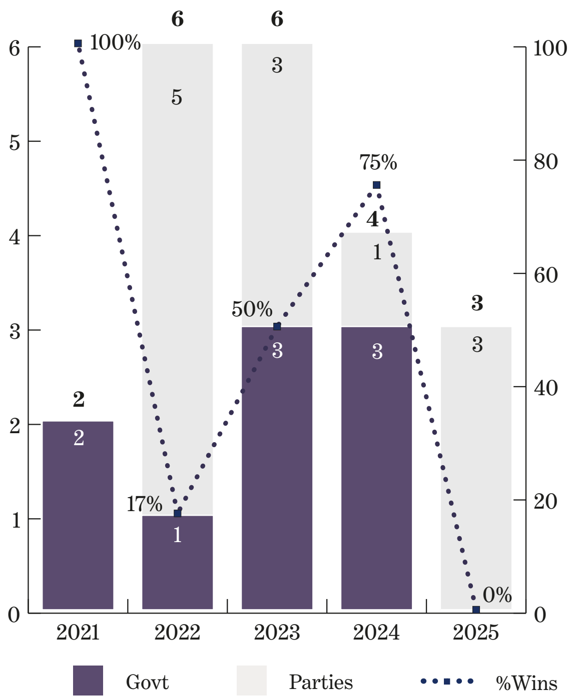
We may expect the trend towards settlements to continue in 2026—particularly considering the Government's weak track record in litigated mergers in 2025, fueled in part by parties' successes with "litigating the fix" in recent cases. With no wins and three losses in 2025 merger trial outcomes (*Tempur Sealy/ Mattress Firm*, *GTCR/Surmodics*, and the post-closing challenge of *Meta/Instagram*), 2025 reflects a lower "win-rate" than any year of the Biden Administration, as set out in **Figure 2** below.

Figure 1: Trump 2.0: Increased Use of Settlements Over Challenges



**Includes cases abandoned pre-complaint*

Figure 2: U.S. Merger Case Outcomes



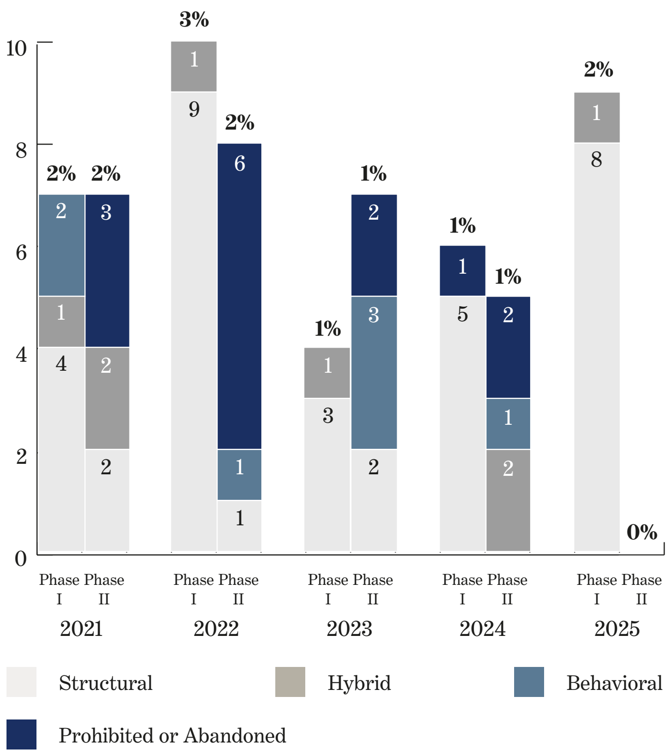
4: No Case Blocked in Europe, but Overall Intervention Rate in Line with 2024

The global slowdown in M&A deals can be seen in case numbers. In the EU, 2025 saw a slight decline in the number of mergers, with a total of 370 decisions, representing a 7% drop in total decisions issued by the Commission compared to 2024's total of 398.

In good news for companies, the EU's simplified procedure, i.e., a more straightforward notification process reducing the administrative burden on notifying parties, continues to account for 88% of all Commission decisions, on par with 2024. But cases initially notified under the simplified procedure may still undergo in-depth scrutiny: *MMG/Anglo American's Brazilian Nickel Business*, which was withdrawn and refiled by the parties, is one such case.

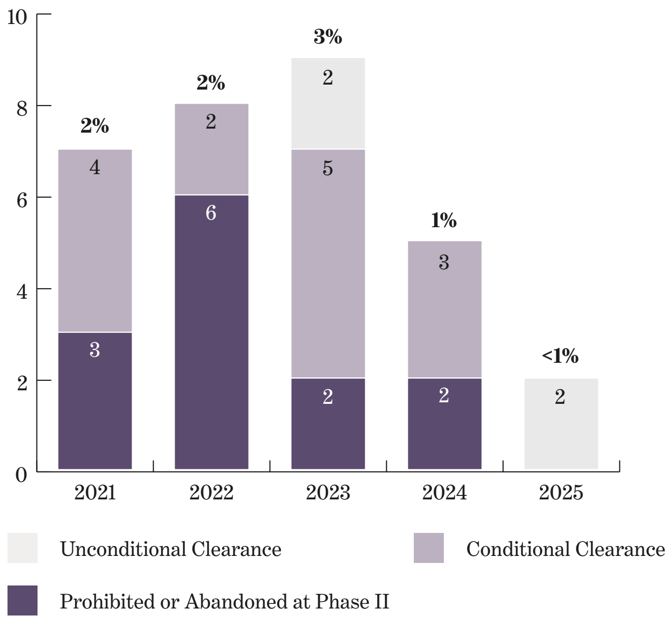
The overall rate of intervention by means of remedies (across both Phases I and II) remains broadly in line with 2024, but it seems to have pivoted more to Phase I in 2025. Nine decisions were cleared subject to remedies at Phase I, an increase from five at Phase I in 2024. One of these decisions *(Naspers/Just Eat Takeaway)* involved a hybrid of structural and behavioral commitments (discussed further below), shown in proportion to total decisions in **Figure 3**.

Figure 3: EU Phase I and II Overall Interventions (by Remedy or Prohibition/Abandonment)



The number of cases sent to Phase II also increased from three in 2024 to four in 2025, but unlike 2024, the Commission did not block any transactions in 2025, directly or indirectly (i.e., due to abandonment as a result of opposition), see **Figure 4**.

Figure 4: EU Phase II Outcomes



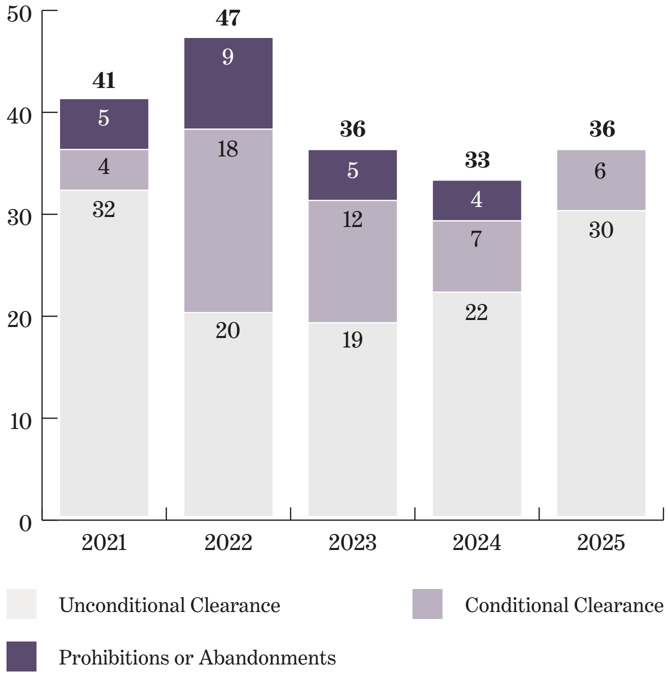
In an unprecedented move, the Commission issued two unconditional Phase II decisions, and no Commission Phase II decision resulted in remedies. In *Mars/Kellanova*, the Commission focused on a conglomerate theory of harm, considering the overall bargaining power of the combined entity *vis-à-vis* retailers, but ultimately found that that the products were "*impulsive and infrequent purchases*" and cleared the transaction without conditions. This did not appear to be an obvious candidate for Phase II review, given the conglomerate theory, and may signal a return to more rigorous scrutiny of such theories in similar future cases.

An additional three Phase II investigations remain ongoing—*MMG/Anglo American Brazilian Nickel Business*, *UMG/Downtown*, and *TIL/Hutchinson Ports/TERCAT*. In its proposed acquisition, MMG submitted commitments immediately before the submission deadline which were rejected by the Commission as they were purely behavioral in nature and did not provide for any structural changes that would allay the Commission's concerns. As mentioned above, it will remain a case to watch in 2026. *UMG/Downtown* is an example of a case that started at the national level and was referred up to the Commission through the Article 22 mechanism by the Dutch and Austrian national competition authorities following complaints.

5: The UK CMA's Business-Friendly Turn

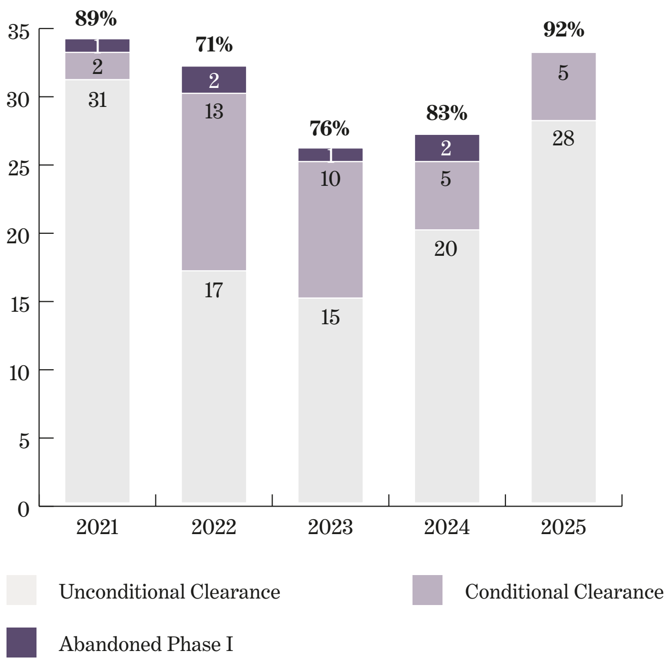
The UK Government's pro-growth agenda is reflected in the CMA's 2025 activities: the agency decided a total of 36 cases (Phase I and Phase II) in 2025 (up from 33 in 2024, including abandonments) without blocking a single transaction for the first time since 2017. This is in contrast with a total of 47 cases in 2022 and 36 in 2023 (including abandonments). The number of cases resulting in intervention by remedies or prohibition has shrunk to six in 2025 from a 2022 peak of 27—see **Figure 5** below.

Figure 5: Resolved CMA Cases by Outcome



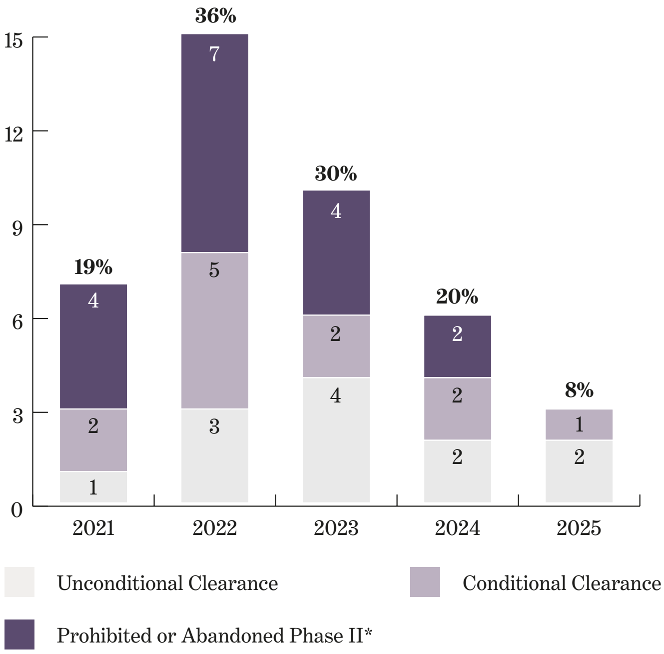
At Phase I, the CMA adopted only five Phase I decisions with remedies in 2025. Generally, the proportion of decisions involving remedies at Phase I has been on the decline from 16% in 2024 to 14% in 2025, as illustrated in **Figure 6** below.

Figure 6: UK Phase I Outcomes



The CMA initiated only three new Phase II investigations in 2025, with remedies adopted only in one of the three Phase II decisions issued to date (*GXO Logistics/Wincanton Plc.*). The proportion of Phase II decisions as a total of CMA decisions has decreased since 2024 (down from 16% in 2024 to 8% in 2025). Phase II decisions went from a 2022 peak of 36% to 8% in 2025, with a year-on-year reduction of approximately 50% between 2024 and 2025. The CMA did not block any transactions in 2025, while in 2024, it did block one merger and another was abandoned by the parties at Phase II, see **Figure 7** below.

Figure 7: UK Phase II Outcomes



On the policy front, the CMA has placed the "4Ps" (pace, predictability, proportionality, and process) front and center of its operations, – they were designated as a priority in its 2026–2029 Strategy and have been reflected through the CMA's 2025 procedural reforms.

In addition to potential reforms of the panel system mentioned above, the CMA has now also proposed changes to its merger remedies guidance. The CMA previously indicated it would only use behavioral remedies as a primary source of remedial action where: (i) structural remedies are not feasible; (ii) the significant lessening of competition is expected to have a short duration; or (iii) at Phase II, behavioral measures will preserve substantial relevant customer benefits that would be largely removed by structural measures. Crucially, the CMA has proposed removing the presumption against behavioral remedies being accepted at Phase I and noted that while it continues to prefer structural remedies, it will consider a behavioral remedy if sufficiently clear-cut to resolve competition concerns. Importantly, the new guidance opens the door for greater consideration of relevant customer benefits and efficiencies in the assessment of remedies, particularly when they can be monitored in conjunction with a sectoral regulator (as was the case in the *Vodafone/Three* mobile merger).

6: Antitrust Remedies – Behavioral Solutions: From Rhetoric to Reality?

While global antitrust authorities increasingly discuss behavioral remedies, these discussions rarely translate into actual decisions. Behavioral remedies continue to be used sparingly as they are harder to police and agencies still default to more straightforward structural fixes, notwithstanding some outlier cases, such as the *Omnicom/IPG* merger settlement in the U.S., involving a commitment not to discriminate against certain customer segments. Agencies are showing an increased willingness to craft hybrid remedies, particularly where minority shareholdings are the primary concern, and in certain cases presenting vertical overlaps, rather than horizontal ones.

In the EU, the Commission did not adopt any purely behavioral remedy decisions in 2025. All nine remedy decisions were at Phase I, with eight structural remedies and a single decision with hybrid remedies (the Commission rejected MMG's behavioral remedy proposal, as discussed in Theme 4 above).

The Commission's sole hybrid remedy decision was in *Naspers/Just Eat Takeaway*, in an unusual case. In order to address Naspers' 27% stake in Just Eat Takeaway's rival Delivery Hero, the Commission cleared the transaction subject to remedies aimed at reducing the risk of tacit coordination between the competitors. Naspers offered to significantly reduce its shareholding in Delivery Hero—a targeted "sell down" plus conduct package, which also included behavioral commitments related to voting rights.

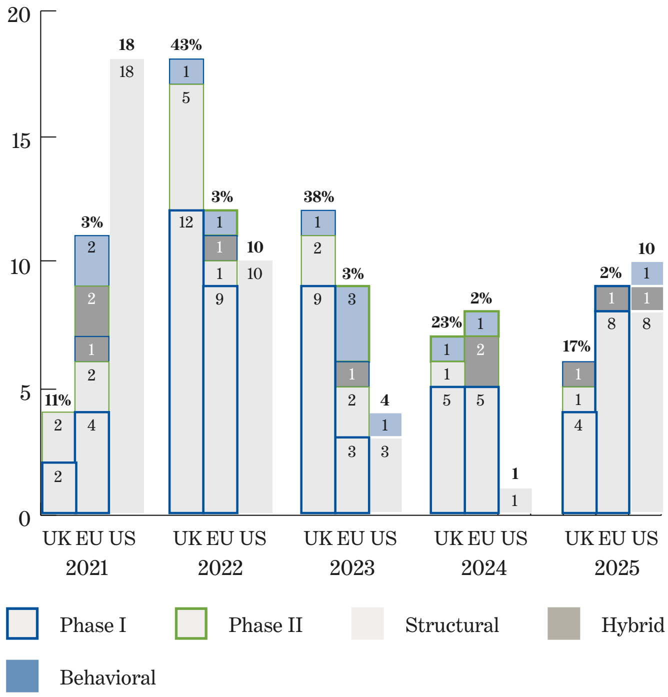
In the UK, following the adoption of the investment behavioral remedy in 2024's high-profile *Vodafone/Three* mobile merger, the CMA did not accept any purely behavioral remedies in 2025.

The only conditional CMA Phase II decision in 2025 involved a structural remedy (*GXO/Wincanton*), and structural remedies were also imposed in four out of the five conditional Phase I decisions. The CMA did accept the hybrid remedy package offered by the parties in *Schlumberger/ChampionX*, with behavioral commitments relating to supply agreements and licensing at Phase I. Notwithstanding the change in its guidance (and the removal of the presumption against behavioral remedies in Phase I), the CMA still prefers clear-cut structural remedies—it will be interesting to see if 2026 will bring a greater use of behavioral remedies in Phase I.

In the U.S., the agencies continue to prioritize structural remedies in 2025 but also approved *Boeing/Spirit AeroSystems* on the basis of hybrid commitments and *Omnicom/Interpublic* on the basis of purely behavioral commitments. In *Omnicom/Interpublic*, Omnicom's commitments included its agreement not to engage in collusion or coordination to direct advertising away from media publishers based on political or ideological viewpoints. In *Boeing/Spirit AeroSystems*, the FTC accepted the same structural commitments as those offered by Boeing to the European Commission but with additional behavioral add-ons concerning Spirit's customer contracts and safeguarding confidential information, which addressed vertical concerns.

Figure 8 illustrates the split in remedies by jurisdiction by Phase (other than in the U.S., for which totals are provided). The UK's peak intervention of 2022 (43% of cases), contrasts sharply with its contraction in 2025 to an intervention rate of just 17%. The EU's number of cases subject to remedy has been broadly similar in 2024 and 2025, and the overall intervention rate has remained relatively static, from 3% of decisions across 2021–2023 dropping to 2% of cases in 2024 and 2025. The lower percentages in intervention rates in the EU vs. the UK are due to the mandatory nature of the EU's merger control regime, which results in a much greater number of decisions.

Figure 8: UK/EU/U.S. Remedy Outcomes: Phase I and Phase II*



**Phase I and Phase II for EU and UK only, U.S. numbers represent total remedies settled with US agencies*

7: From CFIUS to State Capitols: The Multiprong Defense of U.S. Investment Security

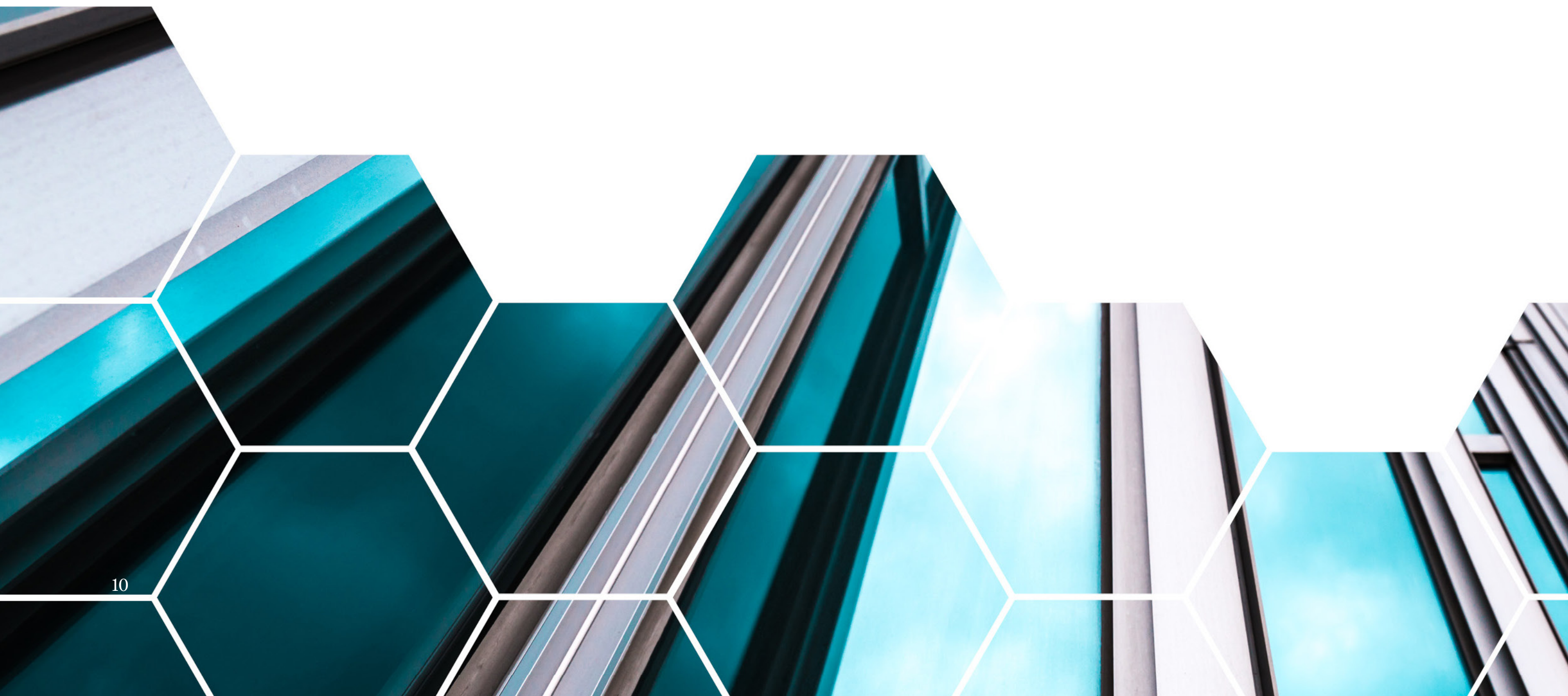
U.S. foreign investment oversight intensified in 2024–2025 across federal and state levels. In August 2025, CFIUS published its Annual Report to Congress, revealing that the Committee's 2024 caseload declined slightly to 325 covered transactions in 2024 (from 342 in 2023 and 440 in 2022) and activity levels remain substantially elevated compared to the pre-FIRRMA era. The Foreign Investment Risk Review Modernization Act of 2018 ("FIRRMA") fundamentally expanded the Committee's reach and refined its analytical toolkit.

The highest number of notices filed in 2024 were from investors located in China, France, Japan, the United Arab Emirates, and Singapore. Most significantly, CFIUS imposed mitigation conditions and measures in connection with 25 notices filed (approximately 12% of all notices filed), underscoring the Committee's hands-on approach. The Committee's 2024 enforcement activities included: (i) increasing maximum civil monetary penalties for violations of the CFIUS statute and regulations; (ii) announcing the Committee's largest penalty issued to date ($60 million, imposed on T-Mobile for violations of its National Security Agreement); and (iii) expanding CFIUS jurisdiction over certain real estate transactions.

In February 2025, the White House unveiled the America First Investment Policy, aiming at striking a balance between creating an open investment environment and protecting the United States from evolving national security threats through foreign investment. The policy focuses on countries of concern, including China, which may "*systematically direct and facilitate investment in the United States companies and assets*" to access advanced technologies and influence strategic industries. The policy includes: (i) restricting investments in U.S. businesses involved in critical infrastructure, critical technologies, and the processing of personal data; (ii) preventing U.S. investors from investing in certain industries; (iii) using legal instruments such as CFIUS review to restrict PRC-related persons from investing in sensitive U.S. sectors; and (iv) encouraging passive investments (e.g., non-controlling stakes) from all foreign persons.

In addition, the U.S. has also taken steps to restrict certain outbound investment. In October 2024, the U.S. Treasury issued the final regulations establishing the U.S. Outbound Investment Security Program (the "OIR"). Effective January 2, 2025, the OIR represents the first comprehensive regulatory framework governing U.S. outbound investment by U.S. investors into "covered foreign persons," or persons with a sufficient nexus to China (including Hong Kong and Macau) that engage in certain semiconductors, microelectronics, quantum computing, and artificial intelligence activities. The regulations create a tiered system: certain transactions are prohibited outright, while others trigger notification requirements, depending on the nature of the technology.

A parallel movement has emerged to introduce FDI controls at the state level, primarily to restrict foreign ownership of real property, particularly by China. Notable examples include Florida and Texas. In Texas, Texas House Bill 5007 ("HB5007") was introduced to establish the Texas Committee on Foreign Investment, a state-level legislative body empowered to review transactions involving foreign entities (which can include foreign governments, business entities, and persons who are not citizens, nationals, or lawful permanent residents of the United States), with the power to impose civil penalties up to $50,000 per violation. Though HB5007 remains pending, its introduction signals a broader trend: we expect the rise of similar state-level legislation scrutinizing foreign investments in the coming years.



8: UK FDI: Investment Screening in Full Force

The UK's foreign direct investment screening regime under the National Security and Investment Act 2021 has been fully operational since January 2022. The FDI regime saw significant growth in the volume of notifications in 2024/2025, as detailed in the fourth Annual Report, published in July 2025. The Investment Security Unit processed a record 1,143 notifications from April 2024 to March 2025—a 26% jump from the previous year. Of these, 954 were mandatory notifications, 134 were voluntary notifications, and 55 were retrospective validation applications. No penalties were issued for breaching the NSI Act.

The ISU is maintaining its increasingly targeted approach, calling in only 56 acquisitions for detailed review (around 5% of all notifications, and including seven non-notified transactions). While this represents an increase from 37 in the previous period, the proportion remained stable at around 5% of all notifications.

Defense deals dominate the sectors notified (over half of all notifications), alongside Critical Suppliers to Government, and Military/Dual Use, each at approximately 20% of all notifications. UK acquirers represented 48% of called-in transactions, while Chinese investors face the sharpest lens as the highest proportion of third-party investors reviewed, representing 32% of all call ins, but only a minor percentage of notifications (less than 5%), as shown in **Figures 9** and **10**.

Figure 9: Notifications Accepted, by Origin of Investment

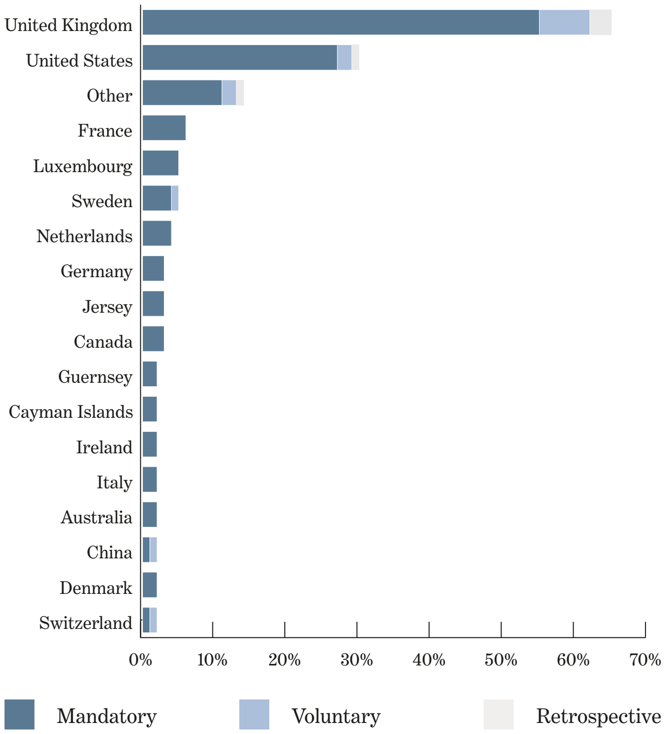
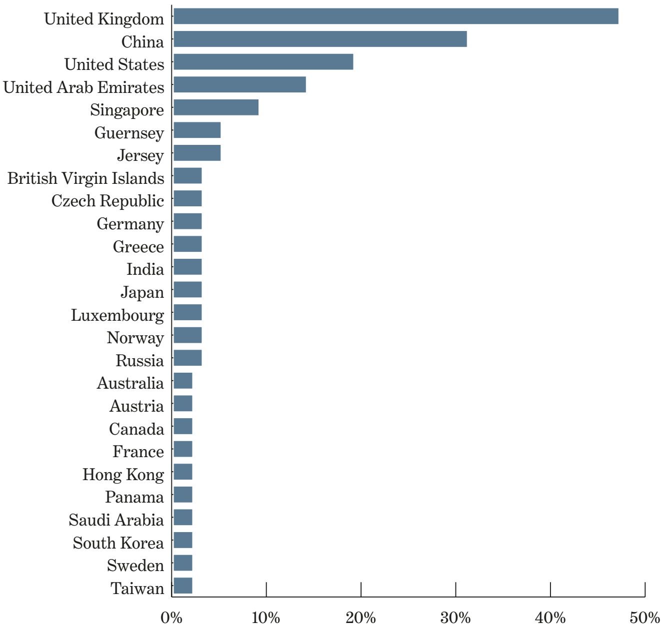


Figure 10: Call-in Notices Issued, by Origin of Investment



All accepted notifications were either called in or cleared within the statutory 30 business day review period. However, transactions subject to commitments took an average of 70 business days from the call in to reach a conclusion. This represents a significant increase from the previous 12-month period, when the ISU took an average of 34 additional business days to approve a transaction subject to commitments.

During the period, 16 approvals were issued with final orders imposing conditions and one was subject to an order to unwind. The order to unwind concerned an investment in FTDI, a UK-based semiconductor technology company, that occurred in December 2021, just before the NSIA came into force.

However, using its retrospective call-in powers, the Government called in the transaction and issued an order requiring the Chinese-linked acquirer to divest its controlling stake. FTDI Holdings then mounted the second ever judicial challenge to an NSIA decision. In July 2025, the High Court rejected FTDI Holdings' challenge to the divestment order concerning its 80.2% stake in a Scottish semiconductor company. While the Court acknowledged that the final order lacked adequate reasoning, it held this was insufficient to invalidate the order, demonstrating that even significant procedural flaws may not overcome judicial deference to the ISU.

Meanwhile, the UK Government also ran a consultation this year proposing to streamline the process and reduce administrative burdens on businesses by exempting certain internal restructurings from notification, as well as amending sector definitions. The proposed changes would potentially include the creation of standalone sectors, such as semiconductors, and include water within the NSIA's scope.

9: EU Foreign Subsidies Regulation: Enforcement Takes Shape Alongside EU Member State FDI

The EU Foreign Subsidies Regulation is gaining traction in only its second year of operation. The Commission has not blocked any deals outright under the FSR, but two UAE-backed transactions involving UAE entities were cleared only after commitments were imposed.

As of December 2025, DG COMP has received over 200 FSR notifications, with private equity sponsors again accounting for roughly one-third of filings. Despite high notification volumes, the Commission's enforcement has been selective, launching only one Phase II review in each of 2024 and 2025. Both transactions involved acquisitions of European companies by Emirati entities backed by unlimited state guarantees.

In 2024, the Commission accepted commitments from *e&/PPF Telecom* following a Phase II investigation. This year's *ADNOC/Covestro* decision established a pattern: the commitments included undertakings regarding the acquirers' articles of association to remove unlimited state guarantees by the UAEs (both cases), restrictions on EU financing, obligations to inform the Commission of future acquisitions (*e&/PPF Telecom*), and sharing of sustainability patents (*ADNOC/Covestro*).

In addition, in December 2025, the Commission announced its first in depth ex officio investigation under the FSR into Nuctech, a Chinese company active in threat detection systems (including security and inspection scanners used at ports and airports). The Commission previously conducted inspections at Nuctech's European premises in April 2024 (the legality of which were unsuccessfully challenged by Nuctech before the EU's General Court). The Commission has stated that its concerns surround potential foreign subsidies in the form of grants, preferential tax measures, and preferential financing in the form of loans which may have improved Nuctech's competitive position in the internal market and affected competition. Also in December 2025, the Commission reportedly carried out unannounced inspections at Temu's European headquarters in Dublin.

On the policy front, the Commission has also launched a public consultation on FSR implementation, with final guidelines expected in January 2026. Overall, the Commission appears to be cautious in the application of the FSR in an attempt to balance a desire to remain open to foreign investment with concerns about distortion of competition.

Alongside the FSR, the EU FDI screening regime continues its rollout across Member States. The Commission's Fifth Annual Report on FDI in the EU covered 2024 investment activities and updates across the region. In 2024, Member States handled 3,136 requests for authorization, a 73% surge from 1,808 in 2023. Of these, 41% were formally screened, while approximately 59% were deemed ineligible or did not require formal screening. Among formally screened notifications, 86% were authorized without conditions, just 9% received conditional approval, only 1% were blocked, and 4% were withdrawn before formal decisions.

The Report confirms that U.S.-originating investment remained the main source of EU investment in 2024 (40%), followed by the UK (11%). Notifications from Chinese investors represented 9% in 2024.

Implementation of the EU FDI Screening Regulation is almost complete, as Member States continue to bring regimes online. The most recent FDI legislation was introduced by Bulgaria, Ireland, Greece, and Cyprus (effective as of April 2026). Croatia was the last EU Member State to introduce FDI legislation this year, with its legislation entering into force in November 2025.

10: Global Merger Control & FDI Landscape

Further afield, Australia has implemented a mandatory and suspensory merger control regime, effective January 1, 2026, replacing its long-established voluntary review process. The new thresholds apply to transactions where the parties have a combined Australian revenue of at least AUD 200 million and either (i) a target revenue of AUD 50 million or (ii) a global transaction value of AUD 250 million. Several Southeast Asian jurisdictions, including Vietnam and Indonesia, are developing and strengthening their merger control frameworks, with new legislation and threshold changes expected in 2026. Argentina has also recently created its new Competition Authority, the ANC, and will implement a pre-closing merger regime by the end of November 2026.

In November 2025, a new African competition regime entered into force. Burundi, the Democratic Republic of Congo, Kenya, Rwanda, Somalia, South Sudan, Tanzania, and Uganda (the eight states comprising the East African Community) now have a one-stop-shop for merger notifications meeting its thresholds, although it remains to be seen how these notifications will operate alongside COMESA, which operates its own regime.

On the FDI front, Canada has amended its Investment Canada Act to introduce mandatory pre-closing filings for investments of any size in certain sensitive sectors, which is due to come into force in 2026.

Japan has also increased its scrutiny of inbound foreign investment, particularly in sensitive sectors, and has expanded the scope of sectors triggering prior notification, including fertilizers, machine tools, storage batteries, and semiconductor manufacturing. Japan has also limited the scope of transactions that may benefit from exemptions from prior notification. New Zealand has also signaled its intentions to streamline its Overseas Investment Act in 2025, including a fast-track process for significant business assets and some sensitive land.

While the EU and U.S. remain the most prolific in their FDI expansion plans, we expect further global developments in 2026.

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