Regulatory triple control – Merger Control, Foreign Investment Control, Foreign Subsidies Regulation

	Merger Control	Foreign Investment Control*	Foreign Subsidies Regulation
Who is responsible?	Federal Cartel Office or European Commission (and/or regulators in other jurisdictions)	Federal Ministry for Economic Affairs and Climate Action (and/or regulators in other jurisdictions)	European Commission
What is the purpose of the regime?	Control of transactions regarding negative effects on competition	Control of (mainly non-EU) investments regarding negative effects on public safety or order	Control of transactions regarding subsidies from third (non-EU) countries (also to EU companies) with possible distorting effects on the internal EU market
What kind of transactions are in the scope?	Mergers, acquisition of control or certain assets, creation of joint ventures, acquisition of 25% of shares or more, acquisitions of material competitive influence	Acquisition of shares (depending on the business activities of the target from as little as 10%), asset deals	Mergers, acquisition of control, asset deals, creation of joint ventures
When is a filing mandatory?	Dependent on the turnover of the companies involved (in Germany: combined worldwide turnover of more than EUR 500 million and German turnover of two parties of more than EUR 50 million and 17.5 million, respectively (or transaction value))	German target active in critical sectors (in particular defense industry, dual-use goods, cyber and security software, AI, robotics, certain medical devices, critical infrastructure)	Significant turnover and subsidies from third countries (EU turnover of EUR 500 million by one of the merging companies, target company or JV **and** target company, JV or one of the merging companies has received non-EU financial contributions of more than EUR 50 million in the last three years)

* The explanations refer to foreign investment control in Germany by way of example. The requirements and types of procedures in other countries are often similar, but of course differ in details.

	Merger Control	Foreign Investment Control*	Foreign Subsidies Regulation
How long does it take?	Phase 1: 1one month (FCO) or 25 working days (Commission, plus pre-notification with uncertain duration) Phase 2: up to five months (FCO) or 90 working days (Commission)	Phase 1: two months (normally starts with notification) Phase 2: four months after receipt of complete set of requested documents as, can be extended	Phase 1: 25 working days Phase 2: 90 working days (plus pre-notification with uncertain duration)
Consequences of filing requirement?	Suspension obligation	Suspension obligation	Suspension obligation
What else is there to consider?		Ministry has the power to start ex officio examination even below the thresholds Option to apply for a certificate of non-objection on a voluntary basis	Commission has the power to start ex officio examination even below the thresholds
What becomes public?	Proceedings / names of undertakings concerned	Theoretically nothing, but more and more press reports in difficult cases recently	Proceedings / names of undertakings concerned (details to be confirmed in practice)

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