

KEEPING CURRENT

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Investment Canada Act voluntary notification comes into force on August 2, 2022

By Eliane Leal da Silva and Siraat Mustafa

Founded in the 1920s, Gardiner Roberts LLP has grown to become a strategically placed mid-sized business law firm with a diverse client base which includes several of Canada's largest banks, public companies including mining, high tech and software companies, real estate enterprises, lenders and investors.

Eliane Leal da Silva
Associate
416.865.3257
elealdasilva@grllp.com

Siraat Mustafa
Student-At-Law
416.865.4015
smustafa@grllp.com

As of August 2, 2022, foreign investors are able to file a voluntary notice where they otherwise would not be subject to mandatory notification or net benefit review. This applies to non-controlling or minority investments made by foreign investors that do not constitute an acquisition of control or the establishment of a Canadian business under the Investment Canada Act ("**ICA**").

The main objectives of the Regulations amending the National Security Review of Investments Regulations (the "**Amendments**") are to provide an option for foreign investors to obtain pre-implementation regulatory certainty regarding a national security review of investments that do not require filing under the ICA, and to enhance the review process by increasing the initial review period for which a filing is not mandatory.

The Amendments modify paragraph 2(c) and subparagraph 4(b)(iii) of the National Security Review of Investments Regulations for the category of

investments that do not require filing as defined by paragraph 25.1(c) of the ICA, such that:

(a) if the foreign investor files a voluntary notification, the government has up to forty-five (45) calendar days to take the first step in the initial review process, either issuing a notice under subsection 25.2(1) of the ICA or make an order for national security review under subsection 25.3(1) of the ICA, or

(b) if the foreign investor does not file a voluntary notification, the government has up to five (5) years after the date of implementation of an investment to issue a notice under subsection 25.2(1) of the Act or make an order for national security review under subsection 25.3(1) of the Act.

The ICA has made effective on August 2, 2022 a new form to notify the acquisition of an entity(ies) or the establishment of a new business referred to in paragraph 25.1(c) of the ICA. Please click [here](#) to access the new form.

If you are unsure about the likelihood of your investments being subject to such a review, you should seek legal advice to ascertain these issues early on. Gardiner Roberts LLP's team of dedicated lawyers is competently positioned to provide counsel to and assist with such a review and the successful completion of any transaction if needed.

Should you have any questions regarding this article or require further information, please do not hesitate to contact the authors of this article.

Contact us

If you have a corporate law matter and are in need of legal advice, please do not hesitate to contact **Eliane Leal da Silva**, at 416.865.3257, elealdasilva@grllp.com or **Siraat Mustafa**, at 416.865.4015, smustafa@grllp.com.

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