



Restrictions on investments relating to strategic companies

KPMG Legal Tóásó Law Firm

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One of my company's activities is under TEÁOR code 66 (Other financial activity) within the financial sector. A company based in France would like to acquire a majority ownership in my company. Do I need to make a declaration?



Yes. The company is a strategic company, and majority ownership can not be acquired even by a company based in the EU without declaration.

No. The company is a strategic company, but the foreign owner is not an investor (by definition of the Decree) since its ownership was acquired earlier.



One of my company's activities (not as main activity) is under TEÁOR code 63 (Information services), and one of the owners having 90% of the shares is based in the USA. We would like to increase our capital. Do I need to make a declaration?



One of my company's activities is under TEÁOR code 21 (Pharmaceuticals) and a Hungarian company with a Singaporean majority owner would like to acquire the right of operation over one of our equipment defined as essential. Do I need to make a declaration?

Yes. The company is a strategic company, and the acquirer is a foreign investor because of its Singaporean influence.

And now the rules in detail



Government Decree 227/2020. (V.25.) published by the Hungarian Government on 25 May 2020, has made the validity of certain foreign investments related to strategic companies subject to a declaration and ministerial acknowledgement until the end of 2020.

Nationals of or legal persons who are established outside of the EU, the European Economic Area (EEA), or the Swiss Confederation; and all legal persons or entities established in the EU, the EEA, or in the Swiss Confederation where the majority owner is a national or legal person(s) established outside of the EU, the EEA, or the Swiss Confederation.

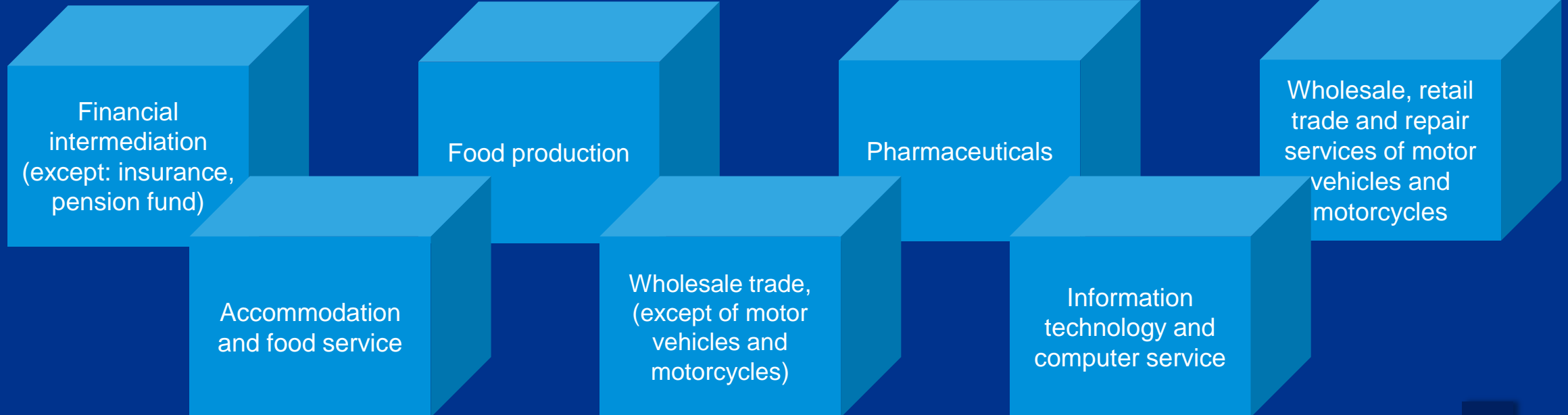
**Foreign
investor**

The concerned strategic companies



Strategic company

All limited, private limited, and publicly listed companies, whose main or other activities under the given TEÁOR code belong to the energy, transportation, communication or strategically important (including financial, credit and insurance sector as well) sector. Such sectors include, e.g.,:



Transactions subject to declaration and acknowledgment



A declaration and acknowledgment thereof is necessary for the following transactions of the strategic company:

- the **transfer of ownership** partially or wholly, on any legal basis – including in-kind contribution – for or without compensation;
- **capital increase**;
- **transformations, mergers, de-mergers**;
- the **issue of** convertible, transformable, or **bonds** providing subscription rights;
- **creation of usufruct right** over the stocks or shares.

If as a result of the transaction:

- a. the foreign investor or any legal person(s) or entity established in the EU, EEA or in the Swiss Confederation would have directly or indirectly **more than half of the votes or dominant influence** in the strategic company;
- b. the **foreign investor (non-EU, non-EEA and not from the Swiss Confederation)** would acquire directly or indirectly at least **10% of the shares**, and the **amount of the investment would reach or exceed 350 million forints**; or if
- c. the **foreign investor** would acquire **15%, 20% or 50% of the shares** in the strategic company, or if the amount of the **combined shares of foreign investors** would **exceed 25%**.

The declaration is also mandatory if the strategic company would transfer or give as security the right of ownership, use or operation (together: **right to operate**) of any of its infrastructure or equipment essential for the activity of a company belonging to one of the given sectors, to a foreign investor or to any legal person or entity in which a foreign investor has direct or indirect majority ownership.

Procedural rules



Upon failure of making a declaration, the Minister can **prohibit the transaction retrospectively and impose a fine.**

The declaration must be submitted **within 10 days** of the transaction.

Legal representation is mandatory in the declaration proceedings.

The declaration must be made by the **foreign investor.**

The declaration shall be submitted to the **Minister for Domestic Economy** (currently: the Minister for Innovation and Technology). The Minister has to make a decision and provide justification therefor within **45 days** (which date can be extended by 15 days in especially justified cases).

The restrictions issued by the Government Decree apply to all transactions concluded after **26 May 2020.**



The Government Decree shall be in force until **31 December 2020.**

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