

Department of Contracts
Notre Dame Ravelin
FLORIANA

To Permanent Secretaries
Directors General
Directors
Heads of Public Sector Organisations

08 May 2026

FOREIGN DIRECT INVESTMENTS THROUGH PUBLIC CONTRACTS

The National Foreign Direct Investment Screening Office Act (Chapter 620 of the Laws of Malta)¹ applies to Foreign Direct Investment (FDI)² in Malta and to all stakeholders involved in such investments including Foreign Investors³ carrying out an Economic Activity in Malta. Any investments made pursuant to Public Procurement/Concession Procedures shall also adhere to the provisions of Chapter 620.

To this end, the Department of Contracts, in liaison with the National Foreign Direct Investment Screening (NFDIS) Office is hereby notifying Contracting Authorities/Entities⁴ and Economic Operators of the obligations under Chapter 620, namely that a Mandatory Notification must be submitted to the NFDIS Office in relation to any FDI made or intended to be made by a Third-Country Investor, where the investment involves Critical Activities.

Definition – Third-Country Investor

A Third-Country Investor refers to:

1. A natural person who is a National of a Third-Country⁵ (i.e. a Non-EU Country) and who intends to make, or has made, a Foreign Direct Investment in Malta; *or*
2. An undertaking of a Third-Country, meaning an undertaking constituted or otherwise organised under the laws of a Third-Country (i.e. under the laws of a jurisdiction outside EU); *or*
3. Any undertaking, irrespective of where it is established, in which a Third-Country Natural Person and/or a Third-Country undertaking holds, directly or indirectly, ten per cent (10%)

¹ <https://legislation.mt/eli/cap/620/eng>

² Regulation 2 of CAP 620 defines a Foreign Direct Investment' as 'an investment of any kind by a foreign investor aiming to establish or to maintain lasting and direct links in order to carry on an economic activity in Malta, including investments which enable effective participation in the management or control of a company carrying out an economic activity and any investments made pursuant to a public procurement process'.

³ Regulation 2 of CAP 620 defines a Foreign investor as a 'natural person or an undertaking of a third country intending to make or having made a foreign direct investment in Malta'.

⁴ Contracting Authorities in S.L. 601.03, S.L. 601.05 and in S.L. 601.12 is defined as the 'State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law'. Contracting Authorities in S.L. 601.09 is defined as per S.L. 601.03 with the additional inclusion of ... 'other than those authorities, bodies or associations which pursue one of the activities referred to in Schedule 4 and award a concession for the pursuit of one of those activities'. Contracting Authority in S.L. 601.08 is defined as 'one of the government entities specified in the Schedule' ie Central Procurement Supplies Unit and the Civil Protection Department. Contracting Entities in S.L. 601.05 are entities which: (a) are contracting authorities or public undertakings and which pursue one of the activities referred to in regulations 8 to 14; (b) when they are not contracting authorities or public undertakings, have as one of their activities any of the activities referred to in regulations 7 to 13, or any combination thereof and operate on the basis of special or exclusive rights granted by a competent authority.

⁵ A Third-Country is any Country that is not a Member State of the European Union.

or more of the shareholding, voting rights, or other ownership interests, and which intends to make, or has made, a Foreign Direct Investment in Malta.

For the avoidance of doubt, the determining factor for natural persons is **Nationality** and **not Residency**. A non-EU National residing in an EU Member State remains a Third Country Investor. Conversely, a non-EU National who has acquired citizenship of an EU Member State is no longer subject to the requirements of Chapter 620, irrespective of their place of residence.

Therefore, within this context, and for the purpose of Public Contracts, Third-Country Investors shall relate to Economic Operators in their capacity as Public Contract Awardees including any Third-Country Ultimate Beneficial Owners and/or Sub-Contractors and/or Entities upon whom the Awardee relied on for their capacities in meeting the Selection Criteria vis-à-vis the Economic and Financial Standing and/or Professional Ability. Accordingly, in instances where an Awardee is Maltese/EU-Based but has a Third-Country Ultimate Beneficial Owner, Subcontractor or Reliance Entity, the Mandatory Notification obligation, in relation to any FDI made or intended to be made, remains applicable, where the investment involves Critical Activities.

Critical Activities

Pursuant to the Schedule of Chapter 620, the relevant Critical Activities are:

- *Critical Infrastructure*, whether physical or virtual, including energy, transport, water, health, communications, media, data processing or storage, defence, financial infrastructure, and land or real estate essential for these infrastructures.
- *Critical Technologies and Dual-Use Items*, including artificial intelligence, robotics, semiconductors, cybersecurity, aerospace, defence, energy storage, quantum and nuclear technologies, nanotechnologies, and biotechnologies.
- *Supply of Critical Inputs*, including energy, raw materials, and food security-related inputs.
- *Access to Sensitive Information*, including personal data, or the ability to control such information.
- *Freedom and pluralism* of the media.

Obligations of the NFDIS Office Act: Procurement/Concession Documents

Contracting Authorities/Entities are being notified that the obligations arising from the National Foreign Direct Investment Screening Office Act apply across all the Public Administration (i.e. all Schedules⁶ listing the Contracting Authorities/Entities) for any Public Contract (Locally and EU-Funded), across all procedures and Thresholds (Call for Quotations and Call for Tenders), within the scope of the Public Procurement Regulations S.L. 601.03, the Utilities⁷ Procurement Regulations S.L. 601.05, the Procurement of Property Regulations S.L. 601.12, the Concession Contracts Regulations S.L. 601.09 and the Emergency Procurement Regulations S.L. 601.08.

⁶ S.L. 601.03 and S.L. 601.09 include a List of Contracting Authorities which is denoted as Schedule 1. In addition, SL 601.03 has other Schedules that classify Contracting Authorities, namely Schedules 2, 3 and 16. S.L. 601.05 does not have a List of Contracting Entities, however, it is applicable to Contracting Entities pursuing activities in line with S.L. 601.05. On the other hand, S.L. 601.12 refer to The Schedule i.e Schedule 1 (List of Contracting Authorities) which is annexed to SL 601.03 and S.L. 601.08 refer to a Schedule.

⁷ Utilities Public Procurement refers to Public Procurement of Entities operating in the Water, Energy, Transport and Postal Services Sectors Regulations.

Accordingly, Contracting Authorities/Entities shall include a reference to the mentioned obligations in the Procurement/Concession Documents specifically when the Procurement/Concession Procedure involves procurement of tasks or activities within the scope of the Critical Activities as listed in the Schedule of Chapter 620. Such reference shall indicate that any Third-Country Investor shall invariably and mandatorily be obliged, prior to carrying out the FDI through the Public Contract, to notify the NFDIS Office about the investment and provide all the information which may be necessary for the proper observance of Chapter 620.

Contracting Authorities/Entities are responsible for identifying whether a Procurement/Concession Call is wholly, partially or indirectly related to Critical Activities. Where the Public Contract supports, maintains, interfaces with, or enables any listed Critical Activity — including through subcontracted or ancillary elements — Chapter 620 obligations must be applied. In cases of uncertainty, a precautionary approach should be adopted, and Chapter 620 requirements shall be included. Clarification may be sought from NFDIS prior to publication.

Procurement Documentation Templates

To assist Contracting Authorities/Entities to fully adhere to the obligations of Chapter 620, the Department of Contracts shall reflect the new requirements in the applicable Procurement Documentation Templates. Nonetheless, Contracting Authorities/Entities are to adhere to these obligations with immediate effect, in line with the Commencement Date hereunder. Furthermore, the obligations applicable to Third-Country Investors and Economic Operators qualifying as Third-Country Investors shall apply **by operation of law**, irrespective of whether such obligations are expressly referenced in the Procurement or Concession Documentation.

Obligations under Chapter 620: Awardees of Public Contracts

Pursuant to Regulation 11 of Chapter 620, once the Appeals Period lapses and prior to Contract Signing, any Third-Country Investor/Economic Operator involved in relevant Awarded Public Contracts, the Procurement/Concession Call of which was published as of Monday, 08 June 2026, must notify the NFDIS Office. For the avoidance of doubt, this obligation shall continue to apply by operation of law to all such contracts, including those already published prior to the Date of this Notice, and irrespective of whether it is expressly referenced in the Procurement or Concession Documentation.

Further to relevant reviewing (and any potential screening) to be undertaken by the NFDIS Office⁸, an official letter from NFDIS to proceed with the Foreign Direct Investment shall be provided to all Third-Country Investors/Economic Operators involved in the pertinent Public Contract. Such a letter shall signify that the FDI is legitimate and thus, the signing of the Public Contract may take place. A copy of the NFDIS's letter/s shall be submitted to the Contracting Authority/Entity as well as to the Department of Contracts (in instances where the Director of Contracts shall be the signatory on behalf of the Contracting Authority/Entity), in tandem with Contract Signing. For

⁸ Regulation 9 of CAP 620 details the functions of the NFDIS Office.

avoidance of doubt, it is emphasised that the Contract Agreement shall not be signed until endorsement to proceed is given by NFDIS.

Failure to notify the NFDIS Office may result in regulatory consequences including, but not limited to, the imposition of Administrative Penalties, in line with Part VI of Chapter 620.

Notification Form

All applicable Third-Country Investors/Economic Operators involved in relevant Awarded Public Contracts shall submit the mandatory Online Notification Form⁹ accessible from <https://nfdis.mt/notification-form/>. The NFDIS Office reserves the right to request any additional information necessary in adherence to the obligations of the National Foreign Direct Investment Screening Office Act.

The Form consists of:

- Basic Entity Information
- General Information
- Investment Information
- Target Undertaking Information
- Other Legal Entities of the Target Corporate Group in EU Member States Information (if applicable)
- Greenfield Investment Information (if applicable)
- Investor Information
- Other Scrutiny Proceedings
- Additional Information
- Declarations

Additional Information

For further guidance, Contracting Authorities/Entities may visit www.nfdis.mt. Additionally, the ‘General Guidelines for Completing the Notification Form’ are accessible from <https://nfdis.mt/notification-form/>.

Contact

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⁹ The services of the European Commission, at the initiative of the Directorate-General for Trade, have developed the Notification Form. It aims to improve the functioning of the EU cooperation mechanism set up by Regulation (EU) 2019/452. Its main purpose is to ensure that Member States and the European Commission, when receiving and examining a notification from another Member State pursuant to said cooperation mechanism, have the minimum information required to assess the impact of a given transaction on their security and public order as well as on programmes and projects of European Union interest.