

**NEW MODIFICATIONS TO THE REGIME OF SUSPENSION
OF FOREIGN INVESTMENTS IN SPAIN**

The Royal Decree-Law 11/2020, of 31 November, on urgent measures to support business solvency and the energy sector, and on tax matters:

After several months of application of the new regime approved in March for the suspension of the liberalization of certain foreign direct investments in Spain, by which a new Article 7bis to **Law 19/2003, of 4 July**, was added, last November, the Spanish Government decided to approve a reform of this law with the approval of Royal Decree-Law 11/2020 of 31 November -which, during the month of December, was submitted for debate and a vote on its totality by the Congress of Deputies and it was agreed to validate it and process it as a Draft Law-.

- (i) On the one hand, the **Single Transitional Provision** of this new Royal Decree-Law extends, on a temporary basis until 30 June 2021, the regime of suspension of foreign investments in Spain to all investments in listed companies in Spain; or in unlisted companies, if the value of the investment exceeds 500 million euros, when these are carried out by residents of countries within the European Union and the European Free Trade Association other than Spain; or by residents in Spain whose beneficial owner is a resident of another country of the European Union and the European Free Trade Association.
- (ii) On the other hand, the **Fourth Final Provision** again modifies the existing regime to date and establishes that in order to determine the existence of control in a company for the purposes of determining whether it is a foreign direct investment subject to this regime, the criteria established in Article 7.2 of the Law on the Defense of Competition must be applied; it modifies the wording of some of the sectors and categories affected by the suspension; and it empowers the Government so that regulations may develop the cases in which a foreign direct investment operation may be exempt from being subject to the prior authorization regime due to its null or scarce repercussions.

The Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union:

Furthermore, on 11 October 2020, Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March on the control of foreign direct investment in the EU came into force, which opens the door for Member States, at their own discretion, to maintain, modify or adopt control mechanisms in their territory for foreign direct investments from outside the European Union that are likely to affect security or public order; and introduces a series of coordination and cooperation mechanisms between Member States, as well as the possibility of intervention by the European Commission in the analysis of direct investments.