

Instruction booklet

on FDI screening Excel form and Excel templates

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I. Filling in the three „Excel templates“

In addition to the investment screening Excel form, the three fully completed "Excel templates" has to be attached to each application or notification. These are available on the [website](#) of the Federal Ministry for Economic Affairs and Climate Action. The Excel templates are to be sent together with the completed investment screening Excel form **as an Excel file (.xlsx)** by e-mail to investitionspruefung@bmwk.bund.de (see also II.8 Submitting the report/application). Like all exhibits, the Excel templates have to be provided with a consecutive number and a meaningful designation in order to ensure an assignment to the specific screening case. The best way to do this is to indicate the name of the target company.

Example of the acquisition of the German company „Müller GmbH“:

- „Exhibit 3 Excel-Template_Target company_Müller GmbH“
- „Exhibit 7 Excel-Template_Acquirer_Müller GmbH“
- „Exhibit 13 Excel-Template_Seller_Müller GmbH“

1. „Excel-Template_Target company“

In this template, information on the domestic company has to be provided (requirement according to No. I.2a), c); II.2a), c); III.2a), c) and IV.2a), c) of the general decree BAnz AT 11.06.2021 B2). This Excel template consists of **three** worksheets:

- **„A. Domestic target company“**: All domestic target companies affected by the transaction have to be listed and the requested information has to be provided for each of them.
- **„B. Management“**: All members of the management and other authorized representatives of the domestic target company have to be included and the requested information has to be provided for each of them.
- **„C. Shareholder“**: All direct and indirect shareholders who hold a share of voting rights in the domestic company according to Sec. 56 or Sec. 60a of the Foreign Trade and Payments Ordinance have to be listed, stating the respective share of voting rights.

2. „Excel-Template_Acquirer“

In this template, information on the direct acquirer and the indirect acquirers has to be provided (requirement according to No. I.4a), II.4a), III.4a) and IV.4a), c) of the general decree BAnz AT 11.06.2021 B2). This template also consists of **three** worksheets:

- **„A. Legal entities“**: As far as the direct acquirer and the indirect acquirers are legal entities or business partnerships, the necessary information has to be provided in this worksheet. An authorized recipient in Germany only needs to be indicated if the direct acquirer is a foreigner or, in the case of an application for a certificate of non-objection, an indirect foreign acquirer submits the respective application. The information highlighted in **orange** on the right-hand side of the worksheet is

only to be provided in the event of the opening of the in-depth examination procedure (so-called phase 2).

- **„B. Natural people“:** As far as the direct acquirer and the indirect acquirers are natural people, the necessary information has to be provided in this worksheet. An authorised recipient in Germany only needs to be indicated if the direct acquirer is a foreigner. The information highlighted in orange on the right-hand side of the worksheet is only to be provided in the event of the opening of the in-depth examination procedure (so-called phase 2).
- **„C. Authorised representatives “:** Information on the authorized representatives of the direct acquirer and the indirect acquirers has to be provided in the worksheet. The information highlighted in orange must only be provided in the event of the opening of the in-depth examination procedure (so-called phase 2).

3. „Excel-Template_Seller“

In this template, information on the direct seller has to be provided (requirement according to No. I.5, II.5, III.5 and IV.5 of the general decree BAnz AT 11.06.2021 B2). This template consists only of one worksheet in which both legal and natural people can be specified. Provided the address given by the direct seller is not an address capable of service in Germany, an authorised recipient in Germany has to be appointed and the information highlighted in orange has to be completed.

II. General information about using the Excel form

1. Purpose of the Excel form

The investment screening Excel form serves to collect relevant data to the investment screening process. It permits a uniform approach to data collection and automated readability. For this reason, the fields for answers require certain input formats which have to be complied with.

In some cases, the possible answers are predefined via dropdown menus. Not all the relevant information can be provided via the structured form, and in some cases more details will be required. You are therefore asked to provide the relevant additional information in an accompanying **written statement** (Schriftsatz) and the related exhibits.

2. In which cases do I have to complete the Excel form several times?

It is usually sufficient to complete the Excel form **once**. In particular, it is sufficient to complete the form once in the case of the acquisition of several associated German target companies (e.g. parent company with a large number of subsidiaries) and to add up the figures (e.g. for turnover, staff, etc.) (cf. also notes in section II. **Detailed explanatory notes on the individual data fields**). Similarly, where there are a large number of indirect acquirers, it is sufficient to complete the form once and to include a list of indirect acquirers as an exhibit.

However, where there are **several direct acquirers**, there are **several acquisition processes**. This results in each case in formally separate screening procedures, each with its own file number. In this case, therefore, it is necessary to complete the form once for each acquisition process. Nevertheless, in the interest of efficiency and clarity, it is possible to submit just one written statement covering the entire transaction and to attach the necessary number of completed Excel forms.

3. Obligatory information

The data fields for which a statement is obligatory are marked with the addition **obligatory**. Two types of obligatory information can be distinguished:

- Those for which a statement has to be given in all cases:

a) What would you like to do? (obligatory)	
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- Those for which, depending on the specific constellation, in particular depending on a specific data entry in one of the previous data fields, a statement is obligatory:


Obligatory , in case under b) "Currently unclear" was selected: Reference to the page of the statement where this is explained in detail.	
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4. Use of the dropdown menus

Click on the data field to be processed. An arrow will then appear in the lower right-hand corner of the field.

When you click on the arrow, the options in the dropdown menu will appear. You can then select the relevant option by clicking on it.

1. Basic information	
a) What would you like to do? (obligatory)	



5. Compliance with the instructions for completing the form

Click on the data field you wish to process. A **brief** note will pop up explaining how this data field is to be completed. These notes have to be complied with. A more detailed explanation of how to fill out the form correctly can be found below in section II **Detailed explanation on the individual data fields**.

1. Basic information	
a) What would you like to do? (obligatory)	
b) Please state the type of procedure and the relevant threshold. (obligatory)	Application for certificate of non-objection (Sec. 58 AWW) Mandatory notification (Sec. 55a(4) AWW) Precautionary mandatory notification (Sec. 55a(4) AWW) AND application for certificate of non-objection (Sec. 58 AWW) Mandatory notification (Sec. 60(3) AWW) Precautionary mandatory notification (Sec. 60(3) AWW) AND application for certificate of non-objection (Sec. 58 AWW) Mandatory notification (Sec. 55a(4) AWW AND Sec. 60(3) AWW) Precautionary notification (Sec. 55a(4) AWW AND Sec. 60(3) AWW) AND application for certificate of non-objection



6. Indication of incomplete/contradictory data

A notice may appear in five places on the form depending on your data entries. This applies in particular to cases in which the data you provide is incomplete/contradictory. For the sake of better visibility, the respective lines are highlighted in **light blue**.

- **Firstly**, this concerns the data re. the „type of procedure“ in **1.b)**: If no information is provided here, a warning will appear when entering data on the "country of origin of acquisition" at **4.c)**. This is because the dropdown menu for the country selection can only be used if a statement has been made under **1.b)**. At **4.c)** the following notice appears:

Please note: You first have to give the type of procedure and the relevant threshold under 1.b) before you may use the drop-down-menu here under 4.c).

- **Secondly**, if you specify a date prior to 01.05.2021 as the date of signing at **1.d)**, a purely informational notice appears that the transitional regulation according to Sec. 82a of the Foreign Trade and Payments Ordinance applies here:

Please note: The date given here under 1.d) as the date of signing is before the 1st May 2021. Therefore, the transition rule under Sec. 82a AWV applies.

- **Thirdly**, if you specify a date of closing at **1.f)** that is before the date of signing specified in **1.d)**, the following notice appears at **1.f)**:

Please note: The date given here under 1.f) as the date of closing lies before the date that was given under 1.d) as date of signing.

- **Fourthly**, if you specify a date at **1.g)** as the date for the long-stop date that is before the closing date specified at **1.f)**, the following notice appears at **1.g)**:

Please note: The date given as Long-Stop-Date here under 1.g) is before the date that was given as the date of closing under 1.f).

- **Fifthly**, there may be an error concerning the information at **3.c)** on the amount of voting rights prior to the acquisition (existing share) and at **3.d)** on the amount of voting rights that is the subject of the current acquisition. If the sum of the two is more than 100% there is obviously an input error and the following notice appears at **3.d)**:

Please note: The sum of the preexisting share in 3.c) and the acquisition share here in 3.d) is more than 100 %.

7. Ways to make reference in the form to the written statement and/or exhibits

There are many places in the form where you can use an extra line to make reference to further details of information required by the form. Depending on the data field, a reference can be made to the accompanying written statement or to an exhibit.

Reference to the page of the statement where this is explained in detail.	
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You can include corresponding references in all of these places on the form. However, depending on the answer you give in a certain data field, it may be the case that a reference to further details is **obligatory**. In this case, the reference to the more detailed information is marked as "Obligatory":

Obligatory , in case under b) "Currently unclear" was selected: Reference to the page of the statement where this is explained in detail.	
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8. Submitting the report/application

Once you have completed the form, please add the name of the target company in the file name ("Formular Investitionsprüfung"_(Name Zielgesellschaft) and send it as an Excel file along with the other documents of the notification/application to:

investitionspruefung@bmwi.bund.de

III. Detailed explanation on the individual data fields

1. Basic information

a) What would you like to do? (**obligatory**)

This data field is **obligatory**. In any case, you need to select one of the options from the dropdown menu.

Explanation and possible answers

- **„Application for certificate of non-objection (Sec. 58 AWV)“**: This answer should be selected if you are **only** applying for a certificate of non-objection and there is **definitely no** obligation to report the acquisition under Section 55(4) or Section 60(3) of the Foreign Trade and Payments Ordinance.
- **„Mandatory notification (Sec. 55a (4) AWV)“**: This answer should be selected if you are required to notify the acquisition under Section 55a (4) of the Foreign Trade and Payments Ordinance. If there are no objections to the acquisition, a clearance would be issued in line with Section 58a of the Foreign Trade and Payments Ordinance.
- **„Precautionary notification (Sec. 55a (4) AWV) AND application for certificate of non-objection (Sec. 58 AWV)“**: This answer should be selected if, in the view of the applicant/notifier, there is probably no requirement to notify the acquisition under Section 55(4) of the Foreign Trade and Payments Ordinance, but it is nevertheless possible that such a requirement does exist. The applicant/notifier then provides a precautionary notification under Section 55(4) of the Foreign Trade and Payments Ordinance, but primarily applies for a certificate of non-objection. Should it then transpire that the acquisition needs to be notified, this obligation will have been met. If there are no objections to the acquisition, a clearance would be issued here in line with Section 58a

of the Foreign Trade and Payments Ordinance. In contrast, a certificate of non-objection would be issued if there is no obligation to report pursuant to Section 55a (4) of the Foreign Trade and Payments Ordinance and there are no objections to the acquisition.

- **„Mandatory notification (Sec. 60 (3) AWW)“:** This answer should be selected if you are required to notify the acquisition under Section 60 (3) of the Foreign Trade and Payments Ordinance. If there are no objections to the acquisition, a clearance would be issued here in line with Section 61 of the Foreign Trade and Payments Ordinance.
- **„Precautionary notification (Sec. 60 (3) AWW) AND application for certificate of non-objection (Sec. 58 AWW)“:** This answer should be selected if, in the view of the applicant/notifier, there is probably no requirement to notify the acquisition under Section 60(3) of the Foreign Trade and Payments Ordinance, but it is nevertheless possible that such a requirement does exist. The applicant/notifier then provides a precautionary notification under Section 60(3) of the Foreign Trade and Payments Ordinance, but primarily applies for a certificate of non-objection. Should it then transpire that the acquisition needs to be notified, this obligation will have been met. If there are no objections to the acquisition, a clearance would be issued here in line with Section 61 of the Foreign Trade and Payments Ordinance. In contrast, a certificate of non-objection would only be issued if there were no notification requirement under Section 60(3) of the Foreign Trade and Payments Ordinance and if there are no objections to the acquisition.
- **„Precautionary notification (Sec. 55a (4) AWW AND Sec. 60 (3) AWW) AND application for certificate of non-objection (Sec. 58 AWW)“:** This answer should be selected if, in the view of the applicant/notifier, there is probably no requirement to notify the acquisition either under Section 55a(4) nor under Section 60(3) of the Foreign Trade and Payments Ordinance, but it is nevertheless possible that such a requirement does exist. The applicant/notifier then provides a precautionary notification under Section 55a(4) and under Section 60(3) of the Foreign Trade and Payments Ordinance, but primarily applies for a certificate of non-objection. Should it then transpire that the acquisition needs to be notified, this obligation will have been met. If there are no objections to the acquisition, a clearance would be issued here in line with Section 58a or Section 61 of the Foreign Trade and Payments Ordinance. In contrast, a certificate of non-objection would only be issued if there were no notification requirement under Section 55a(4) or Section 60(3) of the Foreign Trade and Payments Ordinance and if there are no objections to the acquisition.
- **„Mandatory notification (Sec. 55a (4) AWW AND Sec. 60 (3) AWW)“:** This answer should be selected if there is a **cumulative** notification

requirement under **both** Sec. 55a (4) **and** Sec. 60 (3) of the Foreign Trade and Payments Ordinance. If there are no objections to the acquisition, a clearance would be issued according to Sec. 58a or Sec. 61a of the Foreign Trade and Payments Ordinance.

b) Type of procedure and relevant threshold (obligatory)

This data field is **obligatory**. In any case, you have to select one of the options from the drop-down menu.

Here, the type of procedure („sector-specific“ or „cross-sectoral“) and the relevant threshold which triggers screening („10 %“, „20 %“ or „25 %“) shall be indicated. Please select „sector-specific“ if this type of procedure may be considered.

The same applies to the screening thresholds „10 %“ and „20 %“. The **lowest** potentially applicable threshold should be selected, even if, in the opinion of the applicant/notifier, this should not be relevant in the outcome.

The options to answer are:

- „sector-specific (10 %)“
- „cross-sectoral (10 %)“
- „cross-sectoral (20 %)“
- „cross-sectoral (25 %)“
- „currently unclear“

Please note: This data field has to be filled in **before** further information is provided. Depending on the selection here, the selection options available under **4.e)** will change. If you select "cross-sectoral" as the type of procedure, you cannot specify any EU/EFTA countries under **4.e)**.

Please note: At this point, you have only to indicate the **screening thresholds** according to Sec. 56 (1) nr. 1 to 3 AWV respectively Sec. 60a (1) AWV (i.e. "10 %", "20 %" and "25 %"), **not** the **acquisition thresholds** according to Sec. 56 (2) nr. 1 to 3 AWV (in conjunction with Sec. 60a (2) AWV). In addition, this data field has **always** be filled in, even in the case of an "asset deal" or an "atypical acquisition of control". This is because even in these cases there is either a cross-sectoral procedure or a sector-specific procedure. Information on "asset deal" and "atypical acquisition of control" has to be provided under **3.b)** "Type of acquisition".

Please note: The option "currently unclear" may only be used in **exceptional cases** where it is not possible to provide information due to special circumstances in that specific case. This **has to** be explained in more detail in the following text box. In particular, such an exceptional case does **not** exist if there are indications of the existence of one or more case groups, but the applicant/notifier is of the opinion that these are ultimately not relevant or is

uncertain about it. In this case, the information shall be made on the assumption that the relevant case groups are indeed relevant.

c) Possible case groups (obligatory)

This data field is **obligatory**. In any case, you have to select one of the options from the dropdown menu.

Please select the relevant case groups or "No case group". Please cite a case group even if this is merely a potential option, and even if you believe this should not be relevant to the outcome. Together with the four other input lines, you can specify a total of up to five case groups. If there are more than five case groups that come into consideration, you can elucidate this in your written statement.

The following options are available:

- „Sec. 60 (1) no. 1 of the Foreign Trade and Payments Ordinance (Part I Section A of the Export List)“
- „Sec. 60 (1) no. 2 of the Foreign Trade and Payments Ordinance (military goods according to classified patent/IP)“
- „Sec. 60 (1) no. 3 of the Foreign Trade and Payments Ordinance (products with IT security function for the processing of classified information and key components thereof)“
- „Sec. 60 (1) no. 4 of the Foreign Trade and Payments Ordinance (facilities instrumental for the defence capabilities according to the Security Clearance Act)“
- „Sec. 55a (1) no. 1 of the Foreign Trade and Payments Ordinance (operator of critical infrastructures)“
- „Sec. 55a (1) no. 2 of the Foreign Trade and Payments Ordinance (software for critical infrastructures)“
- „Sec. 55a (1) no. 3 of the Foreign Trade and Payments Ordinance (surveillance of telecommunications according to Sec. 170 of the Telecommunications Act)“
- „Sec. 55a (1) no. 4 of the Foreign Trade and Payments Ordinance (cloud computing services above the threshold for critical infrastructures)“
- „Sec. 55a (1) no. 5 of the Foreign Trade and Payments Ordinance (infrastructure for telematics)“
- „Sec. 55a (1) no. 6 of the Foreign Trade and Payments Ordinance (media with reference to current events & widespread impact)“
- „Sec. 55a (1) no. 7 of the Foreign Trade and Payments Ordinance (government communication infrastructure according to the Act on the Establishment of a Federal Institute for the Digital Communications of the Authorities and Organisations with Security Tasks)“

- „Sec. 55a (1) no. 8 of the Foreign Trade and Payments Ordinance (personal protective equipment (PPE))“
- „Sec. 55a (1) no. 9 of the Foreign Trade and Payments Ordinance (essential pharmaceutical products)“
- „Sec. 55a (1) no. 10 of the Foreign Trade and Payments Ordinance (specific medical products)“
- „Sec. 55a (1) no. 11 of the Foreign Trade and Payments Ordinance (specific in vitro diagnostics)“
- „Sec. 55a (1) no. 12 of the Foreign Trade and Payments Ordinance (operator of high-quality earth exploration satellites as defined in Sec. 2(1) no. 4 of the Satellite Data Security Act)“
- „Sec. 55a (1) no. 13 of the Foreign Trade and Payments Ordinance (artificial intelligence)“
- „Sec. 55a (1) no. 14 of the Foreign Trade and Payments Ordinance (autonomous driving/flying)“
- „Sec. 55a (1) no. 15 of the Foreign Trade and Payments Ordinance (robots with specific qualities/abilities)“
- „Sec. 55a (1) no. 16 of the Foreign Trade and Payments Ordinance (semiconductors & optoelectronics)“
- „Sec. 55a (1) no. 17 of the Foreign Trade and Payments Ordinance (cyber security)“
- „Sec. 55a (1) no. 18 of the Foreign Trade and Payments Ordinance (aerospace)“
- „Sec. 55a (1) no. 19 of the Foreign Trade and Payments Ordinance (nuclear technology)“
- „Sec. 55a (1) no. 20 of the Foreign Trade and Payments Ordinance (quantum technology)“
- „Sec. 55a (1) no. 21 of the Foreign Trade and Payments Ordinance (3D printing)“
- „Sec. 55a (1) no. 22 of the Foreign Trade and Payments Ordinance (data networks)“
- „Sec. 55a (1) no. 23 of the Foreign Trade and Payments Ordinance (smart meter gateways)“
- „Sec. 55a (1) no. 24 of the Foreign Trade and Payments Ordinance (employment of people working in a security-sensitive position in an essential facility)“
- „Sec. 55a (1) no. 25 of the Foreign Trade and Payments Ordinance (raw materials according to the EU List of Critical Raw Materials)“
- „Sec. 55a (1) no. 26 of the Foreign Trade and Payments Ordinance (classified patents/IP)“

- „Sec. 55a (1) no. 27 of the Foreign Trade and Payments Ordinance (cultivating an agricultural area larger than 10,000 hectares)“
- „No case group applies“

Please note: Provided you have **not** selected the option "no case group applies", you **have to** make a reference in the following line to the page of the written statement where you provide a more detailed explanation, in particular whether or not the case group is indeed fulfilled in your opinion:

d) Has the contract on the acquisition been signed yet (Signing)? (obligatory)

This data field is **obligatory**. In any case, you have select one of the options from the dropdown menu.

If a contractual agreement under the law of obligations for the acquisition (so-called signing, e.g. a Share Purchase Agreement (SPA)) has already been concluded, the option "Yes" has to be selected here. If this is **not** the case, select the option "No".

Please note: If you have specified "Yes", you **have to** enter the date of conclusion of the contractual agreement under the law of obligations in the format **DD.MM.YYYY**. Otherwise you can leave this field blank.

e) Is the issuance of a clearance/certificate of non-objection a closing condition? (obligatory)

This data field is **obligatory**. In any case, you have to select one of the options from the dropdown menu.

Please select „Yes“ if the issuance of a clearance/certificate of non-objection is a closing condition. If this is not the case, select the option "No". If there is no contractual agreement under the law of obligations (signing) yet, no execution conditions may have been agreed. In this case, please select the option "No". In the following line, you have the option to refer to the page of the written statement on which you provide a more detailed explanation:

f) For which date is the closing of the transaction planned?

At this point, an approximate indication of the planned date of the completion can be made in the format **MM.YYYY** or – if already possible – an exact indication in the format **DD.MM.YYYY**. In both cases, the information is then displayed as follows: "MM.YYYY (month; year)". If an approximate period of several months comes into consideration, the earliest possible month should be indicated. If there are no plans regarding the time of the completion, you can leave this line blank.

In the following line, you can have the option refer to the page of the written statement on which you provide a more detailed explanation:

g) Is there a Long-Stop-Date for the closing of the acquisition? (obligatory)

This data field is **obligatory**. In any case, you have to select one of the options from the dropdown menu. If a long-stop date has been agreed in the

contractual agreement under the law of obligations for the acquisition, the option "Yes" has to be selected. If this is not the case, select the option "No". If there is no contractual agreement under the law of obligations (signing), no long-stop date may have been agreed. In this case, option "No" has to be selected.

Please note: If you have specified "Yes", you have to enter the date of the long-stop date in the following in the format **MM.YYYY**. Otherwise you can leave this field blank.

h) Special urgency in exceptional cases (obligatory)

This data field is **obligatory**. In any case, you have to select one of the options from the dropdown menu. The option "Yes" may only be chosen if concrete facts justify a special, case-by-case urgency.

Please note: If you have specified "Yes", you have to make a reference in the following line to the page of the written statement on which you explain the urgency in detail.

2. Information on the German target company

All data fields in this section refer solely to the German target company. This also applies to larger transactions which affect a large number of companies, including foreign companies. In cases where several German target companies are affected, please complete the excel form only once (**not**: one excel form per domestic target company). In these cases, the information to be provided such as turnover shall be added for all German companies and the total entered into the form.

a) Name of the German target company (obligatory)

This data field is **obligatory**. Please state the name and legal form of the German target company (e.g. Mikroelektronik GmbH or Robotik AG). Even in cases where several target companies are affected (for example subsidiaries), please enter only **one** target company here (preferably the parent company).

Please note: In any case, it is **obligatory** to make a reference to the exhibit with the completed "Excel Template_Target company" (see above under I.1 "Excel Template_Zielgesellschaft").

b) Business sector (obligatory information)

This data field is **obligatory**. In any case, you have to select one of the options from the dropdown menu. Please select the relevant sector. Please select the most precise description, for example "Cyber security" and not "Information & communication technology". In cases where several German target companies are affected, only one sector have to be indicated here. It is then to be decided according to the focus of the business activity. For example, at Volkswagen AG, specify the sector "Automotive" and not "Finance and Insurance", although Volkswagen Bank is also a Group-owned banking institution.

Please note: The category “Other” shall only be selected if nothing else applies.

Here too, you have the possibility to make a reference to the section of your written statement where this is explained in more detail.

You can choose from the following options:

- „Aerospace“
- „Automotive“
- „Biotechnology“
- „Chemistry“
- „Cyber security“
- „Defence“
- „Energy“
- „Engineering“
- „Finance & insurance“
- „Food“
- „Health“
- „Information & communication technology“
- „Logistics & transport“
- „Media“
- „Metal & steel industry“
- „Optics“
- „Other“
- „Raw materials, rare metals & earths“
- „Robotics“
- „Sensors, optronics & radar“
- „Semiconductors“
- „Water supply“

c) **Short description of the business activity (obligatory)**

This data field is **obligatory**. Please give a short description of the target company’s business activity (e.g. “production of semiconductor components” or “development of software for autonomous driving solutions”). In cases where several German target companies are affected, only one indication has to be given here. It is then to be decided according to the focus of the business activity.

Please note: It is **obligatory** to make a reference in the following line to the page of the written statement on which the business activity is explained in detail.

d) **Is or was the German target company cleared to handle classified information by the Federal Ministry for Economic Affairs and Energy? (obligatory information)**

This data field is **obligatory**. In any case, you have to select one of the options from the dropdown menu.

Explanation of the options:

- **„Yes, the German target company is or was registered with BMWK for authorisation to handle classified information on a regular basis (Geheimsschutzbetreuung)“:** This option is to be selected if the German target company is/was registered by BMWK to handle classified information on a regular basis. If the necessary conditions are met (see in particular <https://www.bmwk-sicherheitsforum.de/ghb/allgemeines/222,0,0,1,0.html>), a company is cleared to handle classified information by BMWK by concluding a public-law contract. This option should therefore only be selected if a public-law contract currently exists or existed in the past.
- **„Yes, the German target company is or was otherwise obliged to protect classified information“:** Even if the target company is or was not registered to handle classified information on a regular basis, it may be otherwise be obligated to protect classified information to a lesser degree. This may be the case if the target company only handles classified information of the lowest degree of confidentiality or the company does not have possession of the respective documents. In these cases, the target company is legally obliged to protect classified information. This information is relevant for the FDI Screening Procedure. This option may only be chosen if the first option “Geheimsschutzbetreuung” is not applicable
- **„No.“:** This option may only be chosen, if the target company is/was neither registered in the „Geheimsschutzbetreuung“ nor otherwise obligated to protect classified information.

Further information regarding the protection of classified information handles by companies may be found here: <https://www.bmwk-sicherheitsforum.de/ghb/start/>. Please explain your answer in detail in your statement.

Please note: If you choose „Yes“, it is **obligatory** to explain your answer in detail in your statement and make reference to this in the next line of the form:

e) **Number of employees of the German target company (obligatory)**

This data field is **obligatory**. Please state the number of employees of the target company at the time of your application/notification in whole numbers and using Arabic numerals. Please state the headcount (and **not** full time

equivalents (FTEs)). In cases where there are several German target companies, the number of employees of all German target companies shall be added and the total entered into the form. If subsequent changes lead to deviations of less than 5%, the change does not have to be transmitted.

Here too, you have the possibility to make a reference to the section of your written statement where this is explained in more detail.

f) Annual turnover of German target company in EUR (obligatory)

This data field is **obligatory**. Please state the turnover (in EUR) based on the last certified financial statements. In cases where several German target companies are acquired, the turnover of all individual companies shall be added and the total entered into the form. The specification can be rounded to the nearest thousand-euro value. If subsequent changes lead to deviations of less than 5%, the change does not have to be submitted.

Here too, you have the possibility to make a reference to the section of your statement where this is explained in more detail.

g) Business contacts with public institutions or with companies in the defence sector? (obligatory)

This data field is **obligatory**. In any case, you need to select one of the options from the dropdown menu.

You can choose from the following options:

- „Yes with public institutions“
- „Yes with companies in the defence sector“
- „Yes both with public institutions and with companies in the defence sector“
- „No“

Please note: If you specify one of the options including “yes”, you have to make a reference in the following line to the page of the written statement on which the contacts are explained in more detail. If there is a large number of business contacts (**more than 20**), these have to be listed in a separate exhibit for better clarity. Then, a reference is to be made to the corresponding exhibit.

h) Where applicable: name of the law firm representing the German target company

Please state the name of the law firm representing the acquirer **without** the legal form suffix (e.g. “Mustermann Rechtsanwälte” and not “Mustermann Rechtsanwälte PartG”).

i) Where applicable: name of the lead lawyer

Please state the name in the following format: “surname, first name” or “surname, first name von” (**no** titles such as Prof or Dr). Only **one person** is to be specified here.

3. Information on the acquisition

a) Purchase price in EUR

Please state the purchase price (in EUR) for the acquisition. The specification can be rounded to the nearest thousand-euro value. The relevant price shall be the purchase price stated in the contract on the acquisition (usually the share purchase agreement). In cases where some details are still unclear, for example because of some variable elements in the purchase price (for example certain key indicators that have to be achieved by a certain deadline), an estimated price can be stated here and the details of this explained in the written statement. The exact price shall be submitted as soon as it is clear.

If subsequent changes lead to deviations of less than 5%, the change does not have to be submitted.

In cases of larger transactions where a large number of companies is acquired, only the purchase price for acquiring the German target company/companies shall be given.

In cases where several German target companies are acquired, the turnover of all individual companies shall be added and the total entered into the form.

In cases where no separate price for the German target company/companies has been determined, the following procedure shall be used: The German target company's/companies' share of the total purchase price shall be calculated using as a basis the German target company's/companies' turnover in relation to the turnover of the entire transaction.

Example:

- Total purchase price of the entire transaction = 100 Mio EUR.
- Total turnover of the companies covered by the transaction = 60 Mio. EUR
- Turnover of domestic companies covered by the transaction = 30 Mio. EUR, equates to 50 %
- The purchase price attributable to the domestic target companies is therefore 50 % of the total purchase price = 50 Mio. EUR.

Please note: If, exceptionally, it is not possible to specify the purchase price, a reference **has to** be made in the following line to the page of the written statement on which this is explained in more detail.

b) Type of transaction (obligatory)

This data field is **obligatory**. Please state the turnover (in EUR) based on the last certified financial statements.

Explanation of the options:

- „Share deal“: Acquisition of a stake in a domestic company.

- **„Asset deal“**: Acquisition of a definable part of a business or all substantial assets of a domestic enterprise or a definable part of a domestic enterprise necessary for the maintenance of the operation of the enterprise or a definable part of the business.
- **„Combination of share/asset deal“**: If the acquisition includes both the acquisition of a shareholding and also a definable part of the business or all substantial assets of a domestic undertaking/part of a business.
- **„Atypical acquisition of control“**: The acquisition of a shareholding is accompanied by the assurance of additional seats or majorities in supervisory bodies or in the management, the granting of veto rights in strategic business or personnel decisions or the granting of rights over information within the meaning of section 15 (4) sentence 1 no. 3 of the External Trade and Payments Act.

Please note: If there are special features requiring clarification, it is **obligatory** to make a reference in the following line to the page of the written statement on which the nature of the acquisition is further explained (in particular in the case of "asset deal", "combination of share/asset deal" and "atypical acquisition of control").

c) **Share of voting rights before the transaction in percent (pre-existing share) (obligatory)**

This data field is **obligatory**. Please give the share of voting rights of the direct/indirect acquirers that were held **BEFORE** the current acquisition, expressed in percent to four decimal places (e.g. 9.9999). A maximum of four decimal places (e.g. 9.9999) can be specified here. In cases where no voting rights are being held, please state "0" (zero) here.

Please note: This calculation shall be based on the attribution principles pursuant to Section 56(4) and (5) of the Foreign Trade and Payments Ordinance in conjunction with Section 60a(2) of the Foreign Trade and Payments Ordinance. Even in cases where the proportion of existing shares deviates from the existing share of voting rights, only the voting rights shall be taken into account here.

Please note: If you are using more than four decimal places, the entry will be rounded automatically. For example, 9.99999% will become 10%. For this reason, please limit your entry to four decimal places.

Please explain further details of the existing participation in your written statement. Here, too, you have the possibility make a reference to the page of the written statement on which the information is explained in more detail.

d) **Share of voting rights to be acquired in percent (acquisition share) (obligatory)**

This data field is **obligatory**. Please specify the share of voting rights to be acquired in the current acquisition. A maximum of four decimal places (e.g.

9.9999) can be specified here. If no voting rights are acquired – for example in the case of a pure "asset deal" – "0" (zero) has to be entered here.

Please note: This calculation shall be based on the attribution principles pursuant to Section 56(4) and (5) of the Foreign Trade and Payments Ordinance in conjunction with Section 60a(2) of the Foreign Trade and Payments Ordinance. Even in cases where the proportion of existing shares deviates from the existing share of voting rights, only the voting rights shall be taken into account here.

Please note: If you are using more than four decimal places, the entry will be rounded automatically. For example, 9.99999% will become 10%. For this reason, please limit your entry to four decimal places.

Please note: If you are (currently) not able to provide any valid information here (e.g. the amount of the voting rights to be acquired has not yet been determined, e.g. in the case of equity increases, if it is not yet clear whether all shareholders are co-signing), a reference **has to** be made in the following line to the page of the written statement on which it is explained in detail why an indication is (currently) not possible and the information is then to be submitted later.

e) **What is the purpose of the acquisition? (obligatory)**

This data field is **obligatory**. In any case, you have to select one of the options from the dropdown menu. Please state the purpose of the acquisition here.

Explanation of the options:

- **„Active investment without strategic interest“** refers to investments where the acquirer seeks an active role in the target company (exercise of voting rights, delegation of members to executive bodies etc.) but has no strategic interest in it. This means in particular that the acquirer is not active in the same field of business as the target company and has not made any other significant investments in companies that have a similar or complementary product portfolio.
- **„Passive financial investment“** refers to investments that are made in a purely financial interest, with no intention to exert influence over the target company. This means in particular that the acquirer has no intention to delegate members to executive bodies of the target company or exercise voting rights at the general shareholders' meeting.
- **„Strategic acquisition“** refers to all acquisitions where the acquirer seeks an active role in the target company (exercise of voting rights, delegation of members to executive bodies etc.) **AND** has a strategic interest in the target company. This is the case in particular if the acquirer is active in the same field of business as the target company or has made significant investments in companies that have a similar or complementary product portfolio.

- **„Mere internal restructuring“** refers to cases where **all of the** following criteria are met
 - An already existing investment is simply “reassigned” within a group of companies.
 - New non-EU/foreign entities enter the investment chain, giving the Federal Ministry for Economic Affairs and Energy the **right to assess the acquisition** as set out in the Foreign Trade and Payments Ordinance. **Please note:** Acquirers also need to take into account Section 55(1)b of the Foreign Trade and Payments Ordinance. As set out in this section, **no right to assess the acquisition** exists if a transaction is concluded on the acquisition of a domestic company solely between companies whose respective shares are held in full by the same controlling company, and all contracting parties have their headquarters located in the same third country.
 - However, the new non-EU/foreign entities are held and controlled by those shareholders of the group of companies who already held and controlled the target company before the acquisition.
- **„Other“** shall only be selected if none of the other options applies. Please provide details on the purpose of the acquisition in your written statement. It is **obligatory** to include a reference to the relevant section of the statement.

f) Is the acquisition publicly known? (obligatory)

This data field is **obligatory**. In any case, you have to select one of the options from the dropdown menu. Please indicate whether or not the acquisition is already publicly known. You have to choose between the options "Yes" and "No".

At the very least, it has to be known which target company is involved and who the acquirer is. In any case, the acquisition is publicly known if one of the parties has publicly confirmed it. Accurate press coverage of the acquisition also means that the acquisition is publicly known if the reported information includes at least the target company and the acquirer. The same applies if the acquisition is already known to the market. In this respect, "rumours" are also sufficient if they are correct and in any case include the target company and the acquirer.

Here, too, you have the possibility make a reference to the page of the written statement on which the information is explained in more detail.

4. Information on the acquirer(s)

a) Name of direct acquirer (obligatory)

This data field is **obligatory**. Name including legal form and country of registration (e.g. "Microélectronique S.A. (France)" or "Robotics Ltd. (UK)"). Only **one** direct acquirer has to be cited here.

If there is more than one direct acquirer, there are several acquisition processes. In this case, a separate Excel form is to be completed for each direct acquirer (see above in section I.2 In which cases do I have to complete the Excel form several times?).

Please note: It is **obligatory** to make a reference to the exhibit with the completed "Excel-Template_Acquirer" (see above under I.2 "Excel-Template_Acquirer").

b) Indirect acquirers (obligatory)

If there are indirect acquirers, this data field is **obligatory**. Name including legal form and country of registration (e.g. "Microélectronique S.A. (France)" or "Robotics Ltd. (UK)". Where there are several indirect acquirers, a **maximum of three** may be indicated here. The various indirect acquirers should be separated from one another by ";" (a semicolon). The maximum number of characters is limited to 100.

Please note: The attribution principles pursuant to Section 56(4) and (5) of the Foreign Trade and Payments Ordinance in conjunction with Section 60a(2) of the Foreign Trade and Payments Ordinance are decisive for the question of whether it is an indirect acquirer. Even if the amount of the existing shares differs from the existing voting rights, only the voting rights are to be taken into account here.

Please note: If there are indirect acquirers, again it is **obligatory** to make a reference to the exhibit with the "Excel Template_Acquirer" (see also above at 2.a)).

c) Country/area of origin (obligatory)

This data field is **obligatory**. In any case, you have to select one of the options from the dropdown menu. Please enter the acquirer's country of origin. The purpose of this query is to obtain a **single information** for the **entire acquisition**, including the entire acquirer's structure with all indirect acquirers.

Please note: All indirect acquirers who reach or exceed the attribution principles pursuant to Section 56 (4) and (5) of the Foreign Trade and Payments Ordinance in conjunction with Section 60a(2) of the Foreign Trade and Payments Ordinance are to be taken into account. In each case, the proportion of voting rights is decisive, not the possibly different share of capital

In the case of a plurality of indirect acquirers from different countries/territories of origin, the following procedure are to be followed:

- Priority has to be given to countries that are listed according to Section 13 (1) no. 17 of the Security Clearance Act (available at: <https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/sicherheit/staatenliste-para-13-anleitung-sicherheitserklaerung.html>):
 - Afghanistan (Islamic Republic of Afghanistan)
 - Algeria (Democratic People's Republic of Algeria)
 - Armenia (Republic of Armenia)
 - Azerbaijan (Republic of Azerbaijan)
 - Belarus (Republic of Belarus)
 - China (People's Republic of China)
 - Cuba (Republic of Cuba)
 - Georgia
 - Iraq (Republic of Iraq)
 - Iran (Islamic Republic of Iran)
 - Kazakhstan (Republic of Kazakhstan)
 - Kyrgyzstan (Republic of Kyrgyzstan)
 - Korea (Democratic People's Republic of Korea)
 - Laos (Democratic People's Republic of Laos)
 - Lebanon (Republic of Lebanon)
 - Libya (State of Libya)
 - Moldova (Republic of Moldova)
 - Pakistan (Islamic Republic of Pakistan)
 - Russian Federation
 - Sudan (Republic of Sudan)
 - Syria (Arabic Republic of Syria)
 - Tajikistan (Republic of Tajikistan)
 - Turkmenistan
 - Ukraine
 - Uzbekistan (Republic of Uzbekistan)
 - Vietnam (Socialist Republic of Vietnam).

- In contrast, **EU/EFTA Member States/NATO members** are to be indicated only subordinate if no non-Union/non-NATO members are included in the acquisition structure.

- In addition, where "cross-sectoral" has been indicated as the type of procedure under **1.b)**, **no** EU/EFTA Member State may be indicated, because in this case the scope of the investment screening review would not be opened.

- If there are several countries that come into consideration, the country of origin of the acquirer that has the highest position in the chain of acquirers shall be indicated (ultimate acquirer).
- **Specific procedure for determining the country/region of origin to be entered in the data field "What is the country or territory of origin of the acquisition?":**
 - First of all, the entire chain of acquirers has to be taken into account, regardless of the function of the individual acquirer in the transaction structure (e.g. as an acquisition vehicle, holding company or ultimate beneficial owner). If this is a country that is listed according to according to Section 13 (1) no.17 of the Security Clearance Act, it has to be mentioned here.
 - If several acquirers come from a country that is listed according to Section 13 (1) no.17 of the Security Clearance Act, the country of origin of the acquirer that has the highest position in the chain of acquirers shall be indicated (ultimate acquirer).
 - If none of the acquirers comes from a country that is listed according to Section 13 (1) no.17 of the Security Clearance Act, but there are nevertheless acquirers from different countries, the country of origin that is not a member of the EU/EFTA or NATO has to be indicated here.
 - Offshore areas such as Cayman Islands, British Virgin Islands and Bermuda may only exceptionally be indicated as "country of origin of acquisition", namely in the following constellation: Apart from the offshore area, the acquirer structure only includes countries that are not subject to the scope of the investment screening review (i.e. only EU/EFTA countries in the cross-sectoral procedure and only Germany in the sector-specific procedure).
 - If there are still several countries that come into consideration, the country of origin of the acquirer that has the highest position in the chain of acquirers shall be indicated (ultimate acquirer).

Here, too, you have the possibility to make a reference to the page of the written statement on which the information is explained in more detail. Especially in the case of complex acquirer structures, it is advisable to make use of this possibility.

d) Investor-related factors (obligatory)

This data field is **obligatory**. You have to select one of the options from the dropdown menu. If there is no indication for investor-related factors, please select "No". The so-called investor-related factors are the circumstances listed in Section 60 (1b)) of the Foreign Trade and Payments Ordinance respectively Section 55a (3) of the Foreign Trade and Payments Ordinance.

If several investor-related factors come into consideration, you can make up to four entries via the remaining input lines. Otherwise you can leave the remaining input lines blank.

You can choose from the following options:

- „Control/financing by foreign state (Sec. 60 (1b) sentence 1 no. 1, sentence 2 of the Foreign Trade and Payments Ordinance / Sec. 55a (3) no. 1, sentence 2 of the Foreign Trade and Payments Ordinance)“
- „Investor is known for past activities detrimental to public order or security (Sec. 60 (1b) sentence 1 no. 2 of the Foreign Trade and Payments Ordinance / Sec. 55a (3) no. 2 of the Foreign Trade and Payments Ordinance)“
- „Relevant risk of participation in a criminal offence according to Sec. 123 (1) of the Act against Restraints of Competition (Sec. 60 (1b) sentence 1 no. 3a) of the Foreign Trade and Payments Ordinance / Sec. 55a (3) no. 3a) of the Foreign Trade and Payments Ordinance)“
- „Relevant risk of participation in a criminal/administrative offence according to the Foreign Trade and Payments Act or the War Weapons Control Act (Sec. 60 (1b) sentence 1 no. 3b) of the Foreign Trade and Payments Ordinance / Sec. 55a (3) no. 3b) of the Foreign Trade and Payments Ordinance)“
- „No“

Please note: Unless you do **not** specify "No" here, it is **obligatory** to make a reference in the Excel form to the page of the written statement on which the investor-related factors are explained in detail.

e) Where applicable: Name of the authorized law firm

Please state the name of the law firm representing the acquirer without the legal form suffix (e.g. "Mustermann Rechtsanwälte" and **not** "Mustermann Rechtsanwälte PartG").

f) Where applicable: Name of the lead lawyer representing the acquirer

Please state the name in the following format: "surname, first name" or "surname, first name von" (**NO** titles such as Prof or Dr). Only **one** person is to be specified here.

5. Information on the seller

a) Name of the seller (obligatory)

This data field is **obligatory**. Name including legal form and country of registration (e.g. Mikroelektronik GmbH or Robotik AG). If several sellers are involved, all have be listed and separated from one another by ";" (a

semicolon). A **maximum of three sellers** should be cited in the data field. A maximum of 100 characters can be entered here.

Please note: It is **obligatory** to make a reference to the exhibit with the completed "Excel template seller" (see above under I.3 "Excel-Template_Seller")

b) Where applicable: Name of the authorized law firm

If available, please state the name of the law firm representing the seller **without** the legal form suffix (e.g. "Mustermann Rechtsanwälte" and not "Mustermann Rechtsanwälte PartG").

c) Where applicable: Name of the lead lawyer representing the seller

Please state the name in the following format: "surname, first name" or "surname, first name von" (**NO** titles such as Prof or Dr). Only **one** person is to be specified here.

6. Confirmation on accuracy of information

At the end of the Excel form there is the final confirmation on the accuracy of information with the following wording:

"The applicant hereby confirms that all information provided in this excel form and submitted in the exhibits and the written statement is accurate. In case any of the information or circumstances changes during the FDI Screening Procedure, the applicant will inform the BMWK in due course. The applicant is aware that the information provided by him is the basis for the decision of BMWK and incorrect information may lead to a revocation of a certificate of non-objection or approval that was granted on this basis (Sec. 48, 49 VwVfG). This would the result in a new FDI Screening Procedure (Sec. 14a(7) Sentence 2 AWG.)"

By submitting the completed Excel form to the Federal Ministry of Economic Affairs and Climate Action, you also submit this final confirmation on the accuracy of information. Therefore, please make sure that your information is correct. If there is any ambiguity, you can always explain your information in more detail in your accompanying written statement. Please also remember to inform us if circumstances change subsequently. If there are still any uncertainties, you can also contact the respective case officer.