

2021 COMPETITION ACT AND INVESTMENT CANADA ACT THRESHOLDS



This chart is meant as a reference guide to assess whether a transaction triggers a filing under the Competition Act or the Investment Canada Act. It does not include all applicable calculation rules, exemptions, etc., does not address other sector-specific regimes in industries such as transportation, broadcasting/telecom and financial services, and does not constitute legal advice.

	COMPETITION ACT	INVESTMENT CANADA ACT			
	All buyers	Trade Agreement investors ¹	WTO investors ²	State-owned enterprise (SOE) investors	Other investors or investments in cultural businesses ³
Acquisition of assets or voting interests in a Canadian corporation, limited partnership or trust	<p>Target had assets in Canada or revenues from sales in/from Canada (domestic sales plus exports) > C\$93 million* during previous FY⁴</p> <p>Buyer & affiliates, vendor / target & affiliates have assets in Canada or revenues from sales in/from/into Canada (domestic sales plus exports and imports) > C\$400 million during previous FY</p>	Target's enterprise value > C\$1.565 billion*	Target's enterprise value > C\$1.043 billion*	Target's book value > C\$415 million* in previous FY	Target's book value in previous FY ≥ C\$50m unless direct acquisition of Canadian business or target's Canadian assets >50% of total assets, then ≥ C\$5m
Additional requirement for asset transactions	Assets form part of "operating business"	All or substantially all of the target assets used in carrying on a "Canadian business"			
Additional requirements for equity transactions	Target carries on an "operating business"	Target carries on a "Canadian business"			
	<p><i>Corporations:</i> Buyer acquires >20% shares of a public corporation, >35% shares of a private corporation, or >50% shares if buyer exceeds prior thresholds</p> <p><i>Other Entities (LPs, JVs, Trusts):</i> Buyer acquires >35% interest in profits or assets on dissolution, or >50% interest if buyer already holds >35%</p>	Investor acquires >50% interest for corporations, LPs, trusts or JVs, between 33.3%-50% of the voting shares of a corporation and will have control in fact on closing, or where buyer is an SOE or target is a cultural business and Minister determines buyer has acquired control in fact			
Filing	Notification pre-closing to the Canadian Competition Bureau (CCB) if above criteria are met ⁵	Application for review pre-closing if above criteria are met and deal structured as direct acquisition of assets or voting equity of a Canadian business or a non-Canadian LP, trust or JV		Application for review if above criteria are met, but can be filed 30 days post-closing if indirect	
		Post-closing notification otherwise		Post-closing otherwise ⁶	
Review period	30 days unless CCB issues a Supplementary Information Request (SIR), then 30 days after compliance ⁷	45 days, extendable to 75 days at the discretion of the Minister, or longer if the investor consents			
Filing Fee	C\$75,055.68*	None			
Possibility of national security review	Not applicable	Applicable to all new Canadian businesses or investments in existing ones, but must be commenced within 45 days of filing (or closing if no filing required) ⁸			

*Subject to annual revision.

Notes

¹ A Trade Agreement investor refers to a non-SOE investor ultimately controlled in a jurisdiction with a trade agreement with Canada, namely: all EU countries as well as the United States, Australia, Chile, Colombia, Honduras, Japan, Mexico, New Zealand, Panama, Peru, Singapore, South Korea and Vietnam. The United Kingdom, which is temporarily not a trade-agreement investor as a result of Brexit, will once again receive this designation once the Canada-United Kingdom Trade Continuity Agreement comes into force.

² A WTO investor refers to a non-SOE investor ultimately controlled in a state that is a member of the World Trade Organization.

³ Investments in businesses involved in the publication, distribution, sale or exhibition of books, magazines, periodicals, newspapers, film or video products, audio or video music recordings and music in print or machine readable form, as well as radio, television, cable, broadcasting undertakings and satellite programming and broadcast network services.

⁴ For formal corporate amalgamations, in addition to the “target” (the continuing corporation) being required to have assets or revenues from sales in and from Canada in excess of C\$93 million, at least two of the amalgamating corporations, together with their affiliates, must each have assets in Canada or revenues from sales in, from or into Canada, in excess of C\$93 million.

⁵ The CCB can challenge any merger below the thresholds up to one year after closing. The CCB reviewed 33 non-notifiable matters over its last two fiscal years.

⁶ For below threshold investments in cultural businesses, the Governor-in-Council (federal Cabinet) may, within 21 days after receipt of a notification, require that the investor submit an application for review and obtain an approval for the investment.

⁷ Actual review periods may extend beyond the waiting periods. The CCB’s non-binding “service standards” are two weeks for “non-complex” transactions and 45 days for “complex” transactions, except where a SIR is issued. If a SIR is issued, the service standard time period runs until 30 days following submission of the complete response to the SIR. The CCB can complete its review before the end of these periods.

⁸ Process can take up to 200 days to complete, or longer if the investor consents.

We would be pleased to discuss Competition Act and Investment Canada Act filing obligations with you in more detail.

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