

# Foreign investment review

Our global capabilities

**Navigating the new normal**

**The complex regulatory landscape**

**Worldwide review of inbound M&A**

**Navigating an uncertain climate**

**What does an uncertain climate mean for you?**

**Managing the FIR process**

**A selection of our experience**

**Meet our foreign investment team**



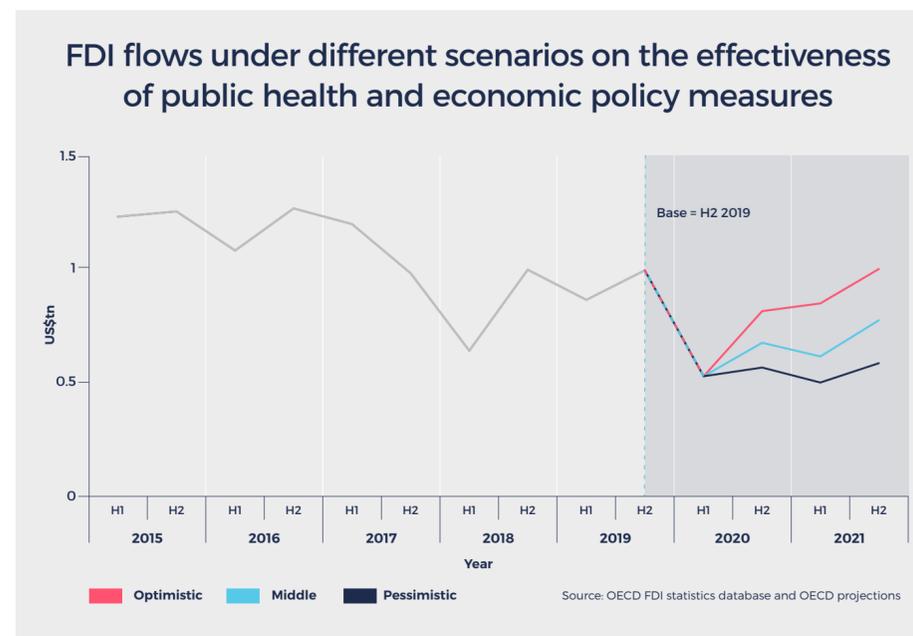
# Navigating the ‘new normal’ for foreign investment

Businesses are operating in a different and uncertain climate for cross-border M&A. COVID-19 has accelerated the already heightened international focus on foreign investment.

We have witnessed a period of unprecedented international focus on foreign investment issues and geo-political change, leading to national security and other foreign investment legislative changes or proposals in most major economies.

COVID-19 has accelerated these changes. It has also driven the steep downward trend for foreign direct investment (FDI) in the first half of 2020, creating uncertainty around foreign investment opportunities in the coming term.

Foreign investment restrictions vary and are rapidly developing around the world. Against this backdrop, you need a law firm that has cutting-edge experience advising on complex and difficult cross-border transactions across all the key jurisdictions to ensure your investments are successful. Our global team of foreign investment experts has just that.



**Foreign investment review decisions are always based on highly subjective criteria. Yet, the review authorities work behind closed doors and without public explanation of their decisions. A company is best served, then, by counsel that has extensive, direct experience with complex cases, from both the outside and the inside. This is where Freshfields shines.**

Aimen Mir,  
Partner, Antitrust, Competition and Trade,  
CFIUS specialist, Washington DC

# Our experts can guide you through this increasingly complex regulatory landscape

We are particularly experienced in advising on complex and difficult cross-border transactions, providing an integrated and co-ordinated approach to obtaining foreign investment, merger control and other regulatory approvals across multiple jurisdictions.

We combine the various types of advice and expertise needed to lead to a successful outcome in these challenging matters, including legal, regulatory, political communication and stakeholder analysis skills.

We have foreign investment specialists based in numerous countries globally who are leaders in their home jurisdiction, and many have previously worked as regulators in government and are intimately familiar with the review of foreign investments from the 'inside'.

Our specialists enable us to offer our clients unique insights into the rapidly evolving foreign investment laws, and help our clients understand the complexities of the current economic and political climate to enable them to make the right moves for their business.

Our specialists also work closely together to ensure a joined-up foreign investment review approach and strategy across jurisdictions, which is becoming increasingly important as agencies themselves seek to co-ordinate more.

Where necessary, we work with a trusted network of local law firm partners whose jurisdictional experience in foreign investment and antitrust complements our expertise.

In addition, we have cultivated an international network of highly experienced public relations and communications consultants with whom we regularly engage, and we often recommend these experts to our clients as part of our integrated team.

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**2020 has seen a further increase of governmental powers to screen and potentially intervene in cross-border M&A. It is therefore critical to conduct a foreign investment filing risk assessment up front and factor this into deal structuring and planning.**

Alastair Mordaunt,  
Partner, Antitrust, Competition and Trade,  
Hong Kong

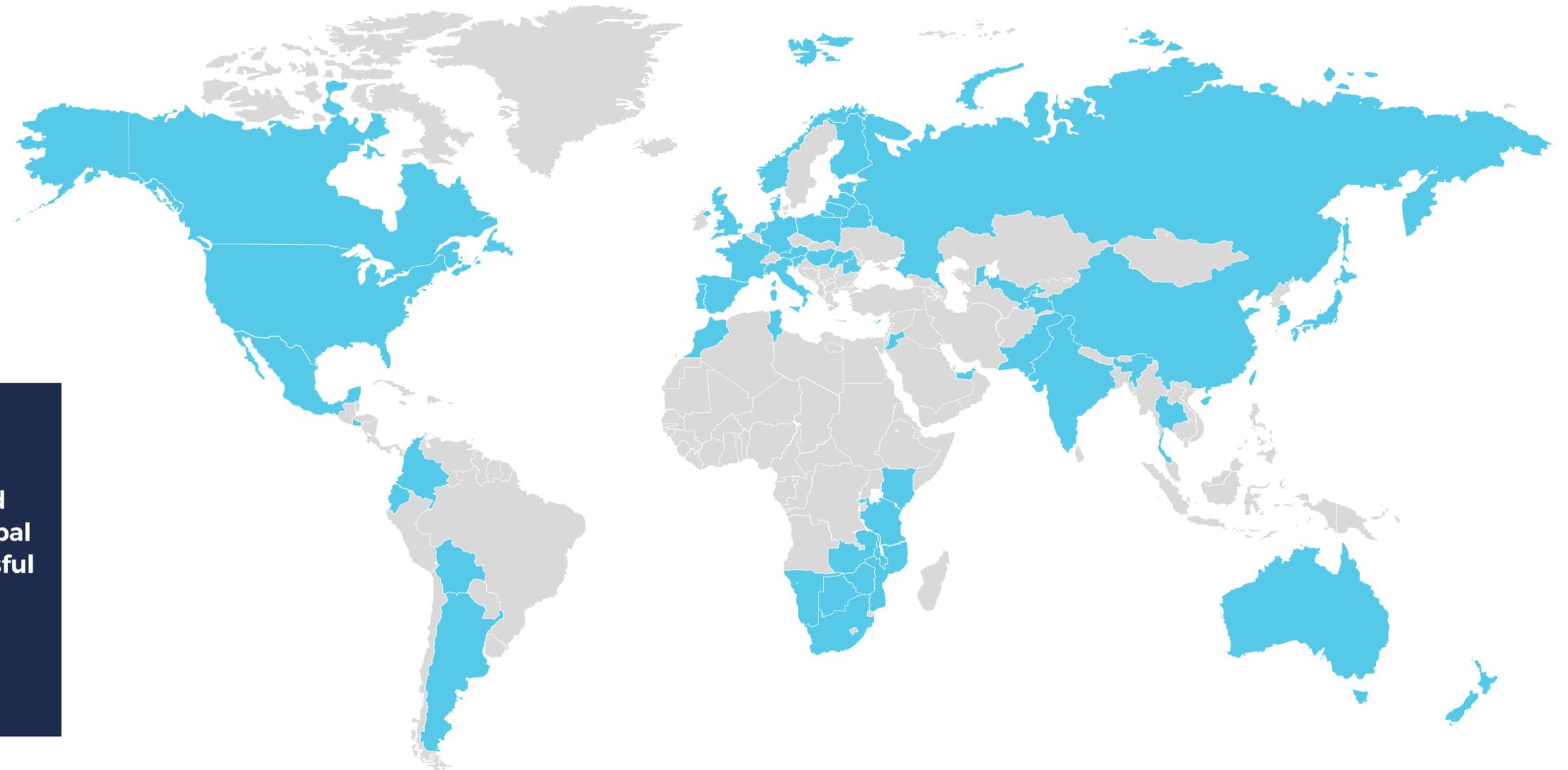
# A growing number of jurisdictions worldwide review inbound M&A

Over 100 jurisdictions now have foreign investment laws, and the rules are constantly being tightened – in particular in this time of COVID-19.



**Foreign investment law follows in the footsteps of merger control law and has been spreading around the world at a fast pace. Like in merger control, global transactions require global strategies to be successful and mitigate concerns of governments, which themselves seek to co-ordinate their enforcement.**

Frank Röhling, Partner,  
Antitrust, Competition and Trade, Berlin



# Navigating an uncertain climate

Key foreign investment review issues for dealmakers

1

## A wider range of buyers are becoming affected

The rise of protectionist sentiment means that screening rules are increasingly being applied against foreign investors from any third country, not just from jurisdictions perceived to be particularly 'risky'.

2

## The range of industry sectors affected is growing

Reviews increasingly involve deals that are outside the 'obvious' national security sectors such as the military and defence. The list of critical sectors in many jurisdictions can be extensive, but not always clearly defined.

3

## A wide range of transactions are triggering interest

Foreign investment rules will often have lower (or no) financial thresholds than merger control, and may capture minority, non-controlling investments.

4

## Governments are more willing to intervene

There has been an uptick in deals failing as a result of regulatory issues, whether foreign investment or antitrust related. This trend can be expected to continue.



**We are seeing increased scrutiny of transactions on national security grounds, with new rules on the horizon expected to result in more transactions being subjected to government intervention. In 2020, widening of the rules to capture additional transactions means that all types of buyer should assess the risks of intervention, irrespective of their country of origin.**

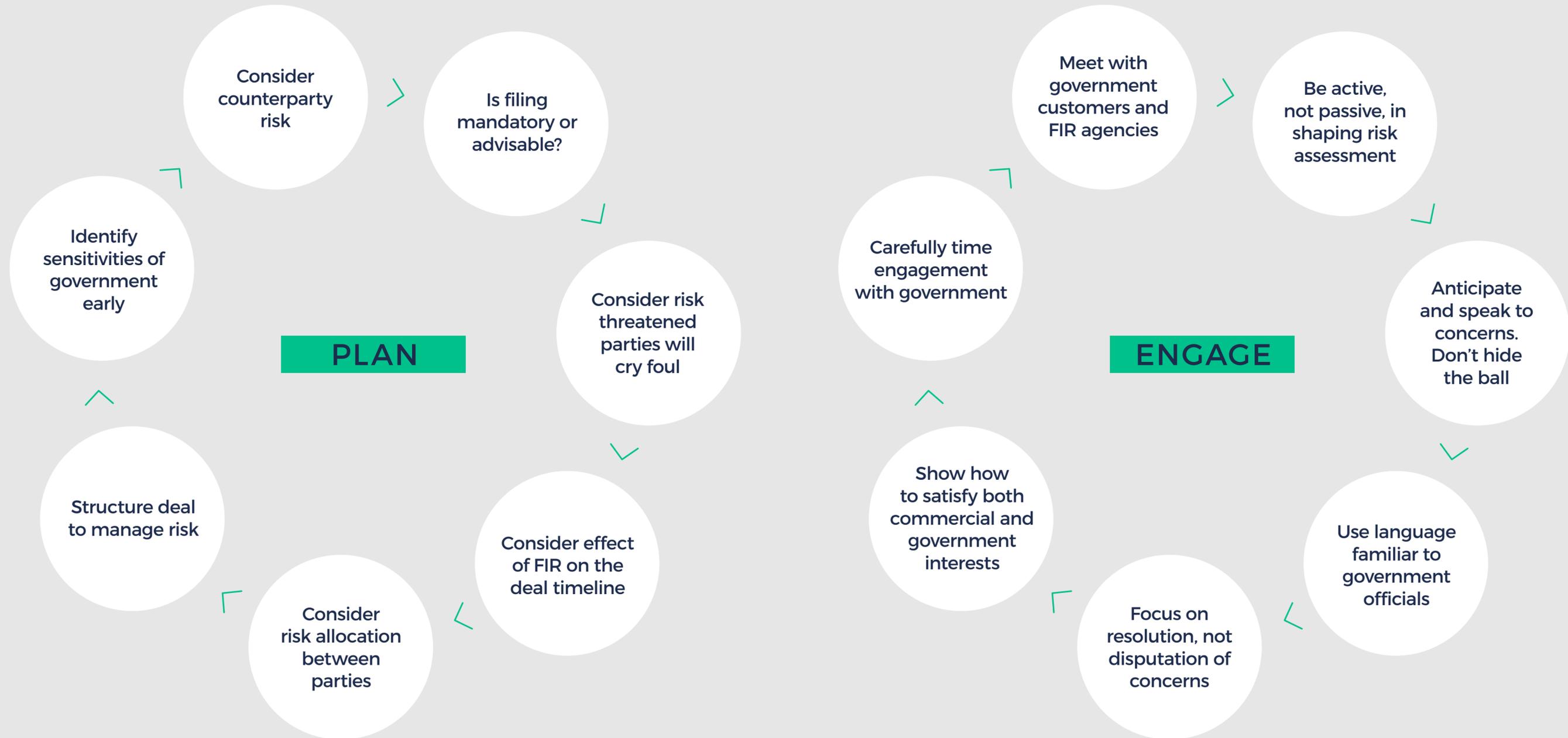
Michele Davis,  
Partner, Antitrust, Competition and Trade, London

# What does an uncertain climate mean for you?

## FOREIGN INVESTMENT



# Managing the foreign investment review process



# A selection of our experience

We have experience navigating foreign investment regimes across the globe

**Apax**  
PARTNERS

A group of private equity firms and institutional investors on the US\$3.4bn takeover of satellite telecommunications company Inmarsat.

**KKR**

KKR on the acquisition of a co-controlling stake in Axel Springer.

**vossloh**

Vossloh on the divestment of its locomotives business to a subsidiary of the state-owned China Railway Rolling Stock Corporation (CRRC).

 **London**  
Stock Exchange

London Stock Exchange Group on the proposed US\$27bn acquisition of Refinitiv, a financial markets and infrastructure business (ongoing).

**AIRBUS**

Airbus on the US\$1.2bn sale of Airbus Defence Electronics to KKR.

**WENCAN**

Wencan, a specialist in the manufacture of aluminium alloy auto components, on its acquisition of Le Bélier, a leading publicly listed aluminium auto parts company in France and supplier of aluminium parts to the aerospace industry.



Volkswagen, on the CFIUS review of its investment in Argo AI, the autonomous vehicle platform company.

**Infineon**

Infineon Technologies on its acquisition of Cypress Semiconductor Corporation.

**Midea**

Midea on its €4.5bn bid for the German robotics company KUKA.

**ABInBev**

AB InBev on its £71bn acquisition of SABMiller. The transaction was the third largest in corporate history.

 **COMCAST**

Comcast Corporation on the global merger control and public interest aspects of its £30bn public bid for Sky.

**HITACHI**

Hitachi on its US\$6.4bn acquisition of a power grid business from Swiss engineering group ABB.

**ANTA**

The ANTA and FountainVest consortium on the €4.6bn acquisition of Amer Sports.

# Our global co-ordination team

## ASIA-PACIFIC

### Alastair Mordaunt

Partner



Alastair is a co-head of the Asia antitrust practice and also co-heads the firm's foreign investment skills group. He specialises in international cross-border merger review and foreign investment-related work. His extensive experience both at the regulator and as a private practitioner across three continents gives him a deep understanding of working effectively with regulators and devising successful strategies for his clients in the context of transactional work.

## CONTINENTAL EUROPE

### Frank Röhling

Partner



Frank is a partner in our antitrust, competition and trade, global investigations and regulatory practices, based in Berlin. He also co-heads the firm's foreign investment skills group. Frank focuses on all aspects of competition matters, often advising on global merger and foreign investment reviews. He has worked in several offices around the network, in-house (Nestlé) and for governmental agencies.

## UNITED KINGDOM

### Michele Davis

Partner



Michele is a partner in our London office. Her practice covers all aspects of EU and UK competition law and she specialises in merger control and foreign investment reviews. Michele has particular experience of advising clients in the regulated sectors, including energy and utilities, water and telecoms. As well as London, she has also spent time on secondment in our Beijing, Brussels and Washington DC offices.

## UNITED STATES

### Aimen Mir

Partner



Aimen is a partner in our Washington office. With more than a decade of experience shaping and implementing US national security and investment policy, Aimen focuses on the national security review of foreign investments conducted by the interagency Committee on Foreign Investment in the United States (CFIUS), US technology transfer and export control policy, and other national security and foreign policy-based regulation of international business transactions. He joined the firm after serving in several leadership roles in CFIUS and the US Department of the Treasury.

# Key contacts by region

## ASIA-PACIFIC

<p><b>Ninette Dodoo</b> Partner, China</p> 	<p><b>Hazel Yin</b> Partner, China</p> 
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<p><b>Alastair Mordaunt</b> Partner, Hong Kong</p> 	<p><b>Kaori Yamada</b> Partner, Japan</p> 
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## CONTINENTAL EUROPE

<p><b>Stephan Denk</b> Partner, Austria</p> 	<p><b>Maria Dreher</b> Partner, Austria</p> 	<p><b>Rafique Bachour</b> Partner, Brussels/EU</p> 	<p><b>Andreas von Bonin</b> Partner, Brussels/EU</p> 	<p><b>Christiaan Smits</b> Head of EU Regulatory and Public Affairs, Brussels/EU</p> 
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<p><b>Pascal Cuche</b> Partner, France</p> 	<p><b>Jérôme Philippe</b> Partner, France</p> 	<p><b>Aude Guyon</b> Counsel, France</p> 	<p><b>Juliane Hilf</b> Partner, Germany</p> 	<p><b>Frank Röhling</b> Partner, Germany</p> 
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<p><b>Uwe Salaschek</b> Counsel, Germany</p> 	<p><b>Gian Luca Zampa</b> Partner, Italy</p> 	<p><b>Ermelinda Spinelli</b> Counsel, Italy</p> 	<p><b>Alexander Viktorov</b> Counsel, Russia</p> 	<p><b>Álvaro Iza</b> Partner, Spain</p> 
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<p><b>Ignacio Borrego</b> Of Counsel, Spain</p> 	<p><b>Winfred Knibbeler</b> Partner, The Netherlands</p> 	<p><b>Paul van den Berg</b> Partner, The Netherlands</p> 
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## UNITED KINGDOM

<p><b>Michele Davis</b> Partner, London</p> 	<p><b>Alex Potter</b> Partner, London</p> 
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<p><b>Sarah Jensen</b> Counsel, London</p> 
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## UNITED STATES

<p><b>Aimen Mir</b> Partner, Washington DC</p> 	<p><b>Christine Laciak</b> Special Counsel, Washington DC</p> 
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<p><b>Colin Costello</b> CFIUS Advisor, Washington DC</p> 
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