Cassels

Cassels Foreign Investment & Merger Control Checklist and Screening Guide – 2026

Davit Akman

September 28, 2026

This checklist and guide are intended to help transaction teams quickly identify the mandatory Canadian foreign investment and competition/merger control approvals and/or filings that may be required in connection with transactions and investments involving Canadian businesses.

Part I: Investment Canada Act

Step 1: Determine Whether an ICA Filing is Required

An *Investment Canada Act* (ICA) filing is required when a non-Canadian:

- acquires control of an existing Canadian business; or
- establishes a new Canadian business.

Most investments require a filing under the ICA, although only a subset of transactions are subject to pre-closing review.

Acquisition of Control

For corporations:

- acquisition of less than one-third of the voting shares generally does not constitute control;
- acquisition of between one-third and 50% of the voting shares is presumed to confer control, subject to rebuttal;
- acquisition of more than 50% of the voting shares constitutes control.

For partnerships, trusts and other non-corporate entities, control is generally acquired through the acquisition of a majority of voting interests.

Asset acquisitions may also constitute an acquisition of control where all or substantially all of the assets used in carrying on a Canadian business are acquired.

Step 2: Determine Whether a Pre-Closing Net Benefit Review Is Required

While most investments are subject only to a notification requirement, larger transactions involving direct acquisitions of control of non-cultural Canadian businesses and direct or indirect acquisitions of control of Canadian cultural businesses may require a pre-closing review and approval.

2026 ICA Review Thresholds

Investor Category
WTO investor (non-SOE) – publicly traded target, privately held target or asset acquisition
Trade Agreement investor (non-SOE) – publicly traded target, privately held target or asset acquisition
State-owned enterprise (SOE)
Cultural business
Non-WTO investor acquiring a non-WTO-controlled target

Indirect non-WTO investments and indirect investments in the cultural sector

The higher Trade Agreement threshold generally applies to investors from countries that have qualifying trade agreements with Canada (e.g., the US, EU member states, Japan, etc.) provided the investor is not state-owned and is ultimately controlled by nationals of those jurisdictions.

Transactions Typically Requiring Only Post-Closing Notification

The following transactions are generally subject only to a post-closing notification filing:

- direct acquisitions below the applicable review threshold;
- indirect acquisitions by WTO and Trade Agreement investors; and
- establishment of a new Canadian business.

Notification-only (and non-notifiable) transactions may nevertheless be reviewed on national security grounds.

Step 3: Assess National Security Risk

National security review (NSR) has become an increasingly important component of foreign investment analysis.

Unlike the net benefit review regime:

- there is no monetary threshold;
- minority investments may be reviewed;
- greenfield investments may be reviewed;
- acquisitions of control are not required; and
- transactions that otherwise require only post-closing notification may still be reviewed.

Common Risk Indicators

Regulatory scrutiny may be heightened where a transaction involves:

- critical minerals;
- sensitive technology (including AI, life science technology, aerospace, space and satellite technology, big data technology and advanced materials and manufacturing);
- sensitive personal or proprietary data;
- critical infrastructure; or
- direct or indirect foreign state ownership, influence or control.

Where any of these factors are present, NSR risk should be evaluated at an early stage of the proposed transaction.

Step 4: Understand the ICA Process

Before closing a transaction that is subject to a pre-closing net benefit review:

- submit an application for net benefit review and observe the waiting period; and
- obtain Ministerial approval.

For transactions that are subject to only a post-closing notification obligation, file the prescribed notification form within 30 days after closing.

There is no filing fee for either pre-closing net benefit review or post-closing notification.

Review Timelines

Process

Net Benefit Review

National Security Review Screening Period

Part II: Competition Act

Step 1: Determine Whether Pre-Merger Filing and Approval are Potentially Required

Filing/approval is required only if **both** the Transaction Size Threshold and the Party Size Threshold are met.

Threshold Summary

Threshold

Transaction Size Threshold

Party Size Threshold

Transaction Size Tests

i

ii

iii

iv

v

vi

Step 2: Understand the Competition Act Merger Review Process

Before closing a notifiable transaction, the parties generally must:

- submit a formal merger notification and observe the waiting period;
- obtain an Advance Ruling Certificate (ARC); or
- obtain a waiver of the notification requirement together with a No Action Letter (NAL).

Competition Bureau Filing Fee

C$90,198.19 (effective April 1, 2026).

Review Timelines

Process

Statutory Waiting Period

Supplementary Information Request (SIR)	Statutory 30 Days
Non-complex Transaction Review	14-day (r
Complex Transaction Review	45-day (r

Disclaimer

This checklist and guide are intended for general information purposes only and do not constitute legal advice. Legal advice should be obtained based on the specific facts and circumstances of each transaction.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.