No restrictions have been adopted by the Portuguese Government with regard to the foreign direct investments, due to the COVID-19 crisis. Consequently, the applicable regime remains unaltered and is reasonable to speculate that it will remain as such"

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1 Has the government adopted any restrictions on foreign investment during the Covid crisis? What is the extension foreseen for the applicability of such measures? What are the sectors and the investment transactions affected or limited by the measures?

So far, no restrictions have been adopted with regard to the foreign direct investments, due to the COVID-19 crisis. Furthermore, the Portuguese Government, the political parties that support it and the main opposition parties have not yet claimed for the approval of such restrictions.

Consequently, the applicable regime remains unaltered and is reasonable to speculate that it will remain as such.

Furthermore, the Government is in the process of implementing several measures, aimed to promote the internationalisation of the Portuguese economy, by fomenting the exports and by trying to attract foreign direct investment. Here are some examples:

(i) Financing the fulfilment of international orders, allowing companies to have liquidity to meet the demands of foreign customers;

(ii) Granting a tax benefit to internationalization;

(iii) Strengthening of the structural funds allocated to the digitalization of businesses, including the fomenting of e-commerce and digital business matchmaking;

(iv) Incentives to nearshoring strategies;

(v) One of the measures that the European Commission took in response to the pandemic was to allow the coverage of credit insurance policies to be extended to OECD countries as well. The global cap available for Portuguese companies has increased from 2 to 3 billion.

Foreign Investors may endeavour to negotiate fiscal contracts, to be approved by the Portuguese Government, by which there can be granted tax incentives or benefits for a period of up to ten years, under the condition that the investment achieves a set of goals. The projects must be relevant to the strategic development of the national economy, or contribute to boost national technological innovation and scientific research, to improve the environment or to strengthen competitiveness and productive efficiency.

2 What is the procedure foreseen to obtain permission to carry out the restricted or limited investments, if any? Are there any other relevant requirements to be considered by potential foreign investors?

Since no restrictions were introduced, no special permissions are required to carry out investments in Portugal.

The competent authority for the screening process is the member of Government who has legal competence to supervise the strategic assets that the investment can put at risk. However, it is the Portuguese Council of Ministers, under proposal from the said member of Government, which has legal competence to act upon the results of the screening process.

As a matter of principle all investment operations may be subject to foreign investment screening under the general investment screening regime, provided they constitute a potential risk to the defence, security, energy, transport and telecommunications sectors' infrastructures, technologies, readiness, availability and other interests.

Investment in the military, banking, insurance and mass media sectors are screened in the context of specific screening regimes.

There is no need for the competent authority to be notified, before or after the investment. The investors can, however, prior to the investment, address the member of Government who has legal competence to supervise the strategic assets that the investment can put at risk and ask whether if the Government will oppose the planned investment. That member of Government has 30 days to either start a screening process or to declare whether if the Government will not be opposed. If the member of Government fails to act within the said period, it is presumed that his/her answer is favourable.

A screening process may be commenced until 30 days after the investment, or after the investment becomes of the public knowledge if later, by initiative of the competent authority.

Upon the decision of opening a screening process, both the investor and the undertaking in which the foreign direct investment is planned or has been completed will be asked to provide information and documents.

Once all information and documentation has been provided, the Council of Ministers will decide if it opposes the investment, within 60 days. If the Council of Ministers fails to decide within the said deadline, it will be considered to have decided not to oppose the investment.

3 What are the consequences foreseen in the event of non-compliance with the referred restrictions or limitations on foreign investment?

As explained, no special restrictions have been put in place.
Consequently, the foreign direct investments in Portugal remain subject to a general rule of freedom, with the possibility of being subjected to a screening process.
The opposition from the Council of Ministers, at the end of a screening process, renders all agreements and operations related with the investment null and void.

In conclusion, the COVID-19 crisis has not yet provoked any changes in the rules applicable to foreign direct investments.