

New Guidelines from the Romanian Competition Council on the Approval of Direct Investments

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Most foreign direct investments (FDI) in Romania are subject to prior approval before being carried out. We have reported on this before, as well as on the broad scope of affected investments¹.

The legal framework has undergone several recent amendments. Most recently, on July 22, 2025, the Romanian Competition Council (*Consiliul Concurenței*) issued guidelines for the interpretation and application of Article 3(5) of Emergency Ordinance No. 46/2022 (EGO 46). These guidelines were approved by Order No. 2,112/2025 and published in the Official Gazette (Monitorul Oficial) No. 707 of July 30, 2025.

EGO 46 governs the legal framework for the screening and approval of foreign direct investments (FDI) in Romania. The aim of the new guidelines is to clarify interpretation issues arising in practice and to ensure consistent application of legal provisions. What should investors know?

Regulatory Objectives

The guidelines pursue three main objectives:

- Clarification of the method for calculating the investment value,
- Specification of notification obligations to the competent authorities,
- Interpreting the term “control” within the meaning of EGO 46/2022.

These provide a binding framework for both investors and the screening commission (CEISD) for assessing notifiable investments.

Calculation of Investment Value

The provisions for determining investment value are found particularly in Chapter II of the guidelines. According to Article 3(1), the investment value corresponds to the total resources provided by the investor. Article 3(2) defines these resources broadly, including cash payments, in-kind contributions, intangible assets, shares, debt assumptions, and services.

Specific Case Groups

In cases of acquisitions of equity (shares, stock, etc.), the purchase price or contributed capital value is used. For capital increases, the full contribution—including nominal value and premium, if applicable—is to be considered (Article 4).

¹ https://stalfort.ro/wp-content/uploads/2025/07/New_legislation_authorization_direct_investments.pdf

These provisions clarify the legal threshold under Article 3(1)(b) of EGO 46/2022 and ensure a consistent calculation basis.

In all other cases of investments that do not involve a price payment, the investment value is determined as the market value of the acquired interests/assets. This is based on the buyer's own valuation for the purposes of the transaction.

If the transaction involves a loan or financing agreement, the consideration includes the total loan amount plus interest or other related costs. The new guidelines explicitly clarify that granting loans is generally considered a form of direct investment and is therefore subject to approval. The only exceptions are financings granted by licensed financial institutions, banks, or non-banking financial institutions (IFN) as part of their regular lending activities—provided they do not establish management or control rights.

For investments carried out in multiple stages, the investment value is determined as the sum of the values of each stage.

If the investment is part of a cross-border transaction and no separate price is stated for the Romanian company/assets, the parties' own valuation will be used to determine the investment value. Otherwise, the value of the investment is deemed to be the total value of the cross-border transaction.

Further Procedural Aspects

Chapter III of the guidelines (Articles 5–8) includes additional provisions, particularly regarding the formalities of notification and the procedural steps for review by the CEISD.

As for the timing of the notification, the intention to carry out an investment can already be documented through a preliminary agreement. However, an application for approval can only be submitted after negotiations have been concluded and the essential elements of the transaction have been defined. Essential elements include, for example, the price, type of financing, parties involved, and subject matter of the contract.

Conclusion

The guidelines issued by the Competition Council create legal certainty for investors and transparency in the implementation of EGO 46/2022. By clarifying the calculation methods and procedural obligations, the risk of divergent interpretations is reduced. At the same time, the rules strengthen the predictability and consistency of FDI screening in Romania.

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