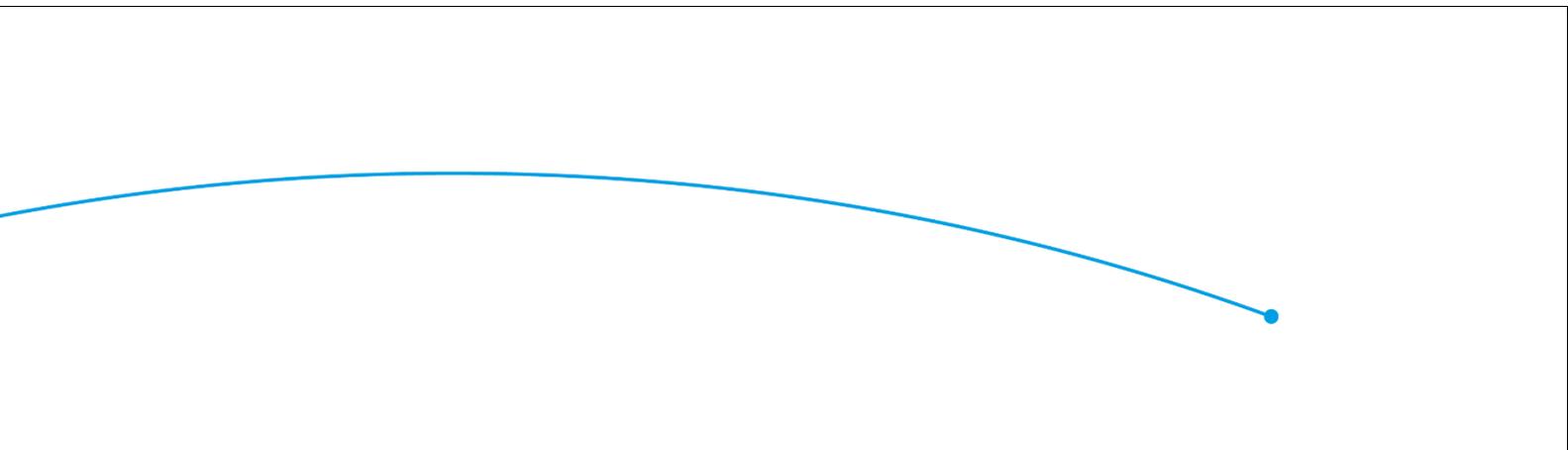




Department for  
Business, Energy  
& Industrial Strategy

# NATIONAL SECURITY AND INVESTMENT

Draft Statutory Statement of Policy Intent



Published for consultation July 2018

# NATIONAL SECURITY AND INVESTMENT

## Draft Statutory Statement of Policy Intent

The draft statutory statement can be found on the BEIS section of GOV.UK:

<https://www.gov.uk/beis>

National Security and Investment

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# Contents

Purpose of this draft guidance..... 3

Executive Summary..... 5

Chapter 1 – National security ..... 11

Chapter 2 – The target risk..... 13

Chapter 3 – The trigger event risk..... 24

Chapter 4 – The acquirer risk..... 27

Chapter 5 – Guidance as to the interpretation of significant influence or control ..... 31

Annex A – The Core Areas..... 46

# Purpose of this draft guidance

- a. It is proposed that the legislation will require the Government to publish a statement to:
  - set out how the Government expects to exercise the call-in power (to call in trigger events) granted by the proposed legislation; and
  - give guidance about the meaning of “significant influence or control” for the purposes of the proposed legislation.
- b. This statement sets out the background and wider context to the reforms and the importance of safeguarding national security (Chapter 1).
- c. In relation to the first point in paragraph (a), the statement sets out some of the factors the Government may consider when exercising the call-in power:
  - **the target risk**: the areas of the economy where the Government considers national security risks are more likely to arise in relation to trigger events (Chapter 2);
  - **the trigger event risk**: how trigger events can give rise to national security risks (Chapter 3); and
  - **the acquirer risk**: circumstances in which acquirers may raise national security concerns (Chapter 4).
- d. Together, these factors explain how the Government expects to exercise the call-in power in the proposed legislation.
- e. In relation to the second point in paragraph (a), Chapter 5 provides guidance about the meaning of significant influence or control.
- f. This statement includes non-exhaustive lists of illustrative examples of the above. These examples should not be taken as limiting the Government’s powers or as suggesting that any situation or area not mentioned in an example is excluded from the proposed legislation.
- g. One Cabinet-level minister would be the key decision-maker for all decisions under the new regime. While normally, legislation refers only to the Secretary of State, the Government proposes using “the Senior Minister” in any legislation, which would be defined as covering Secretaries of State, the Chancellor and the Prime Minister (neither of whom are Secretaries of State). The Civil Contingencies Act takes a similar approach. The rest of this statement uses ‘the Senior Minister’ to refer to the decision-maker throughout.

- h. The statement should be read alongside the practical guidance about the reforms. This practical guidance will be informed by the responses to the White Paper consultation and so is not being published at this stage.
- i. It is proposed that the legislation will set out that the Government must review the statement at least once every five years, but the Government may choose to periodically review and update this statement in the meantime.
- j. The Government invites suggestions as to any potential amendments or additions that may be made to the statement. Respondents can email responses to [nsiireview@beis.gov.uk](mailto:nsiireview@beis.gov.uk) or 0207 215 5000 or can provide hard copy responses to the correspondence address below:
  - National Security and Investment
  - Consumer and Competition Policy Directorate
  - Department for Business, Energy & Industrial Strategy
  - 1st Floor, 1 Victoria Street
  - London, SW1H 0ET

# Executive Summary

## National security threats

- a. The UK faces continued and broad-ranging hostile activity including using ownership of, or influence over, businesses and assets to harm the country. The Government has a well-developed and co-ordinated approach to protecting our national security. National security is not the same as the national interest or public interest.
- b. It is proposed that the call-in power in the legislation will permit the Senior Minister to assess any national security risks posed by events (investments, acquisitions or other activities) that grant a party significant influence or control over entities or assets. These are “trigger events”.
- c. In the context of all the transactions that take place across the economy, the Government will only call in trigger events **in relatively rare but specific circumstances** where they give rise to national security concerns.
- d. The UK continues to welcome foreign investment and international collaboration which is key to economic growth.

## The trigger events

- e. The trigger events set out in the proposed legislation are:
  - the acquisition of more than 25% of shares or votes in an entity;
  - the acquisition of significant influence or control over an entity;
  - the acquisition of further significant influence or control over an entity beyond the above thresholds;
  - the acquisition of more than 50% of an asset;
  - the acquisition of significant influence or control over an asset.
- f. These trigger events are constructed to capture the points at which it is considered an acquirer gains the ability to direct the operations of an asset or direct the operations or the strategic direction of an entity.
- g. **Not all trigger events necessarily provide the means or opportunity to undermine the UK’s national security.** Even if a trigger event would provide the potential means to undermine national security, this does not mean that the Government will consider that the trigger event actually poses a risk to national security. Most acquirers have no intention to undermine UK national

security and the Government continues to encourage international partnerships, including in areas such as advanced technologies.

- h. More detail on the interpretation of significant influence or control is set out in Chapter 5.

## The statutory test to call in a trigger event

- i. The Senior Minister can call in a trigger event if it meets both limbs of the test set out in the proposed legislation, namely the Senior Minister has:
- reasonable grounds for suspecting that it is, or may be, the case that a trigger event has occurred or is in progress or contemplation; and
  - a reasonable suspicion that the trigger event may give rise to a risk to national security due to the nature of the activities of the entity, or the nature of the asset<sup>1</sup>, to which the trigger event relates.
- j. Parties are encouraged to notify trigger events (to which they are party) which they consider may be of national security interest based, in part, on this statement, or if they otherwise believe that there are national security-related concerns relating to the trigger event.
- k. Technological advances can take place rapidly and mean that national security risks can arise in new areas of the economy not mentioned in the statement. Parties to deals related to advanced technology entities and assets are particularly encouraged to consider whether the Government may have a national security interest in the trigger event
- l. The Senior Minister has the power to call in any trigger event which meets the statutory call-in test. Therefore, in the event that parties (for example, the acquirer, the seller or the target business) choose not to notify, the Senior Minister reserves the right to call in a trigger event that meets the statutory test.
- m. This statement provides businesses and other parties with guidance as to how the Senior Minister expects to exercise this power. The Senior Minister, when making their national security assessment (in the context of exercising the power), will have regard to this statement of policy which sets out the three risk factors that are relevant to that assessment. The three risk factors are [the target risk](#), [the trigger event risk](#) and [the acquirer risk](#).

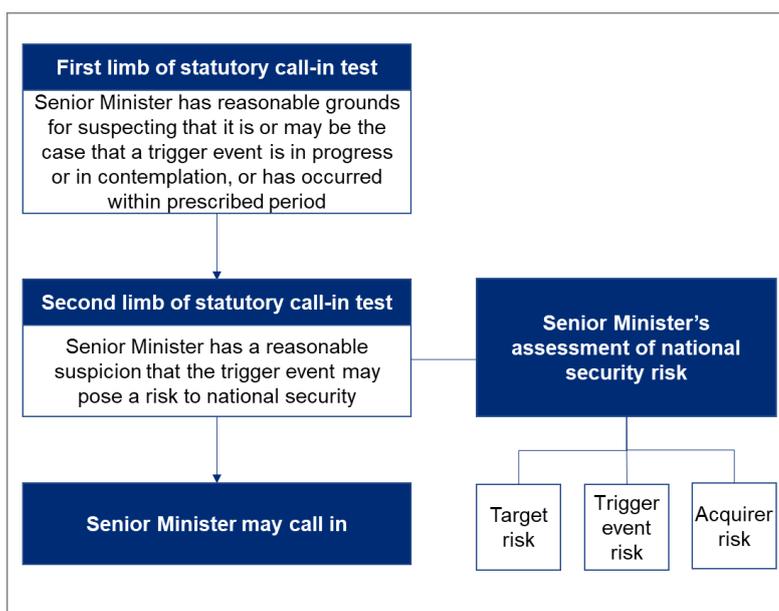
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<sup>1</sup> Where the asset is land, this will be the nature or the location of the land

- n. Where a trigger event has not been notified to the Senior Minister or if the Senior Minister has only limited or incomplete information about the trigger event, the Senior Minister can use the information-gathering powers (in the proposed legislation) to ascertain whether the trigger event poses a risk to national security. The Senior Minister may also use informal discussions to gather information before considering calling in a trigger event.

### Three risk factors

- o. In assessing whether there is a reasonable suspicion that the trigger event, in respect of an entity or asset, may pose a risk to national security the Senior Minister will consider the nature of the activities of the entity or the nature of the asset (or, where the asset is land, the nature or location of the land).
- p. Therefore, when making their national security assessment, in the context of exercising the power, the Senior Minister will have regard to this statement of policy intent which sets out the three risk factors that are relevant to that assessment. The three risk factors are:
- the **target risk** – the entity or asset subject to the trigger event could be used to undermine our national security;
  - the **trigger event risk** – the trigger event gives someone the means to use the entity or asset in this manner;
  - the **acquirer risk** – the person acquiring control over the target has the potential to use this to undermine national security.
- q. The figure below sets out how the three risk assessments fit into the wider national security assessment and statutory call-in test.



## Target risk

- r. The ‘target risk’ is that the entity or asset is such that the acquisition of control over it may pose a risk to the UK’s national security.
- s. Businesses can be established or re-structured in various forms and for various means – for example, to limit a founder’s personal liability for its debts, or for other legal or financial reasons. Therefore, the power under the proposed legislation relates to control being acquired over “entities”. It is proposed that the legislation sets out an indicative but non-exhaustive list of the types of entities that are within scope of the power, including private or public companies and partnerships. This would therefore include organisations (or structures or arrangements) such as joint ventures which are usually formed as a partnership, or a partnership between individuals. An example of the latter would be a business venture between academics who have established a partnership or a limited company. The reference to entities in the proposed legislation is designed to ensure that the reforms cannot be undermined or bypassed by a business or deal being structured so as to avoid scrutiny, while also ensuring that it keeps up-to-date with any developments in corporate law or practice.
- t. Asset is defined by the proposed legislation as real and personal property, intellectual property, and contractual rights.
- u. National security risks may be raised by entities due to the “[nature of their activities](#)” and by assets due to their “[nature](#)” (and in the case of land, due to the nature or location of the land). Nature will be determined on a case-by-case assessment of the national security risk posed by the entity or assets at that point in time. This could mean, for example, that in certain circumstances investments in half-complete national infrastructure developments, could (depending on the facts of the case) be trigger events that could be called in by the Government if those developments pose a risk to national security.
- v. The Government considers that the acquisition of control over some entities and assets within certain areas of the economy are more likely to pose a national security risk. These areas of the economy are termed the ‘[core areas](#)’ and are:
- some parts of national infrastructure sectors;
  - some advanced technologies;
  - critical direct suppliers to the Government and emergency services sectors; and
  - military and dual-use technologies.

- w. However, the Government considers that there are other key parts of the economy where national security risks are more likely to arise compared to the wider economy as a whole. These are:
- critical suppliers who directly and indirectly supply the core areas;
  - those parts of the national infrastructure sectors not in the core areas; and
  - those advanced technologies not in the core areas.
- x. In addition, national security risks could arise from trigger events elsewhere in the wider economy, although the Government considers this to be less likely.
- y. In comparison to other trigger events and to the vast number of asset sales that occur across the economy, the Government expects that the Senior Minister would relatively rarely call in trigger events which relate to the acquisition of an asset.

### **Trigger event risk**

- z. The 'trigger event risk' is the risk that the trigger event may give the acquirer the means or ability to undermine the UK's national security through disruption, espionage, inappropriate leverage or some other means.

### **Acquirer risk**

- aa. The 'acquirer risk' is the risk that the acquirer may seek to use their acquisition of control over the entity or asset to undermine national security.

### **Scope of the Senior Minister's call-in power**

- bb. This statement does not limit the Senior Minister's ability to exercise the call-in power in any area of the economy if a national security risk arises.
- cc. Chapter 2 provides details on the 'target risk' – those areas of the economy where the Government considers national security risks are most likely to arise. The Government may consider that a trigger event in respect of an entity or asset in the wider economy could pose a risk to national security, although this is less likely.
- dd. Geopolitical, national security or technological changes (amongst others) may change the Government's assessment of the three risk factors.

### **Significant influence or control**

- ee. As set out above, acquiring significant influence or control or further significant influence or control over an entity or an asset are trigger events. This

statement provides guidance on the meaning of significant influence or control for the purposes of the proposed legislation related to national security.

- ff. Chapter 5 of this statement provides guidance and indicative (but non-exhaustive) examples on how parties may determine whether significant influence or control has been acquired over an entity or asset.
  
- gg. When considering whether they have acquired significant influence or control, parties should consider whether they have the practical ability or means to be able to use the entity or asset to potentially undermine national security. This significant influence or control would be indicated by the following:
  - in respect of entities, significant influence or control is when a person can **direct the activities of an entity** or can **ensure that an entity generally undertakes or performs the activities which they desire**.
  - in the case of assets, having significant influence or control is when a person has **absolute decision rights over the operation of an asset** or can **ensure the asset is being operated in the way they desire**. This would result in the person being able to use, alter, destroy or manipulate the asset.
  
- hh. Parties are encouraged to notify trigger events (to which they are party) which they consider may be of national security interest based, in part, on this statement or if they otherwise believe that there are national security-related concerns relating to their trigger event.

# Chapter 1 – National security

- 1.01 Protecting national security is the first priority of the Government. National security risks are constantly evolving, and the Government must assess these continually to identify where threats to the UK may arise.
- 1.02 National security is a well-established concept in domestic and international law, where governments and ministers are granted powers necessary to protect their people, economies and societies from those which threaten them with harm.
- 1.03 National security goes beyond ‘defence of the realm’. It relates to all genuine and serious threats to a fundamental interest in society. National security risks arise in many ways – for example, terrorism-related activity or cyber-warfare conducted by hostile parties or states. This statement does not define national security.
- 1.04 The Government periodically publishes its approach to national security which sets out its well-developed and co-ordinated strategies to protecting the UK. At the time of publication of this version of the statement, the most recent of these strategies was published in 2015.<sup>2</sup>
- 1.05 The proposed legislation is focused on tackling the national security risks from investment in entities or assets. These risks are an important part of the overall national security threat. This might be through a trigger event enabling them to gain control of an entity in a critical supply chain in a particular sector in order to bring, or to threaten to bring, the production of certain goods or the provision of certain services to a standstill. Alternatively, a trigger event could provide a hostile state or party with access to sensitive sites, enabling them to be sabotaged more easily.
- 1.06 The powers granted to the Government by the proposed legislation do not relate to wider national security threats that arise from anything other than the acquisition of, or gaining of significant influence or control over, entities and assets. Risks to national security from trigger events can arise from disruptive or destructive actions, espionage or the inappropriate use of leverage. More detail on this can be found in Chapter 3.

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<sup>2</sup> HM Government (2015), ‘National Security Strategy and Strategic Defence and Security Review, <https://www.gov.uk/government/publications/national-security-strategy-and-strategic-defence-and-security-review-2015>

- 1.07 The Government must fulfil its role of safeguarding the UK's national security and therefore the proposed legislation grants powers for the Government to scrutinise trigger events with regard to their potential impact on national security. The key principles that will underpin the Senior Minister's exercise of the powers under the proposed legislation are that:
- any interventions around national security should be **necessary, proportionate**, even-handed and will not impose arbitrary restrictions on corporate transactions or other activities;
  - any interventions are **not designed or intended to limit market access** for any individual countries or to undermine the UK's commitment to being open for business and welcoming foreign direct investment.
- 1.08 Any decision to exercise powers granted under the proposed legislation will be made on a case-by-case basis depending on the individual circumstances. The Senior Minister may only call in a trigger event if it meets both limbs of the statutory call-in test. Chapter 2 of this statement sets out the core areas which the Government considers are the areas of the economy in which it is more likely that acquisitions of, or the gaining of significant influence or control over, entities and assets will pose national security risks. The Government encourages parties to consider notifying trigger events where they occur in these areas.
- 1.09 Chapter 3 of this statement sets out how trigger events could pose a risk to national security by providing the acquirer with the means and ability to undermine national security.
- 1.10 Chapter 4 of this statement sets out the types of acquirers who the Government considers are more likely to pose national security risks.

# Chapter 2 – The target risk

## Summary

This chapter sets out [illustrative examples of the factors](#) that the Government considers make it more likely that an asset or an entity (over which ownership or significant influence or control is being acquired) will have national security implications. For example, the examples illustrate how the activities of an entity or the nature of an asset (or nature or location in the case of land) means that it is more likely to pose a risk to national security.

This chapter sets out the ‘[core areas](#)’ which are the areas of the economy where the Government considers trigger events are most likely to raise national security concerns. These core areas are:

- some parts of certain national infrastructure sectors;
- some advanced technologies;
- critical direct suppliers to the Government and emergency services sectors;
- military and dual-use technologies.

More detail on the core areas can be found in [Annex A](#).

The Government considers there are [other key parts of the economy](#) where trigger events are more likely to raise national security concerns than trigger events in the wider economy (but less likely than in the core areas). These are:

- critical suppliers [who directly and indirectly supply](#) the core areas;
- those parts of the national infrastructure sectors [not in the core areas](#); and,
- other advanced technologies not in the core areas.

The Government considers that it is less likely that national security risks could arise in the [wider economy](#) (i.e. those parts of the economy not mentioned above).

When making their national security assessment, in the context of exercising the power, the Senior Minister will have regard to this statement of policy intent which sets out that one of the three types of risks that are relevant to the assessment is the target risk.

## Introduction

2.01 The illustrative list of examples in this chapter set out the factors that Government considers make it more likely that an acquisition of ownership or significant influence or control over an asset or an entity will have national

security implications. For example, the nature of these assets or entities means that undermining them could have an impact on the delivery of essential services or enable the disclosure of sensitive information.

- 2.02 National security risks arising from the acquisition of ownership of or significant influence or control over, entities and assets do not occur or arise equally across the UK economy. The Government considers it more likely that trigger events will raise these concerns where they relate to entities and assets in certain areas of the economy.
- 2.03 This chapter provides parties with information about the areas of the economy where the Government considers it more likely that these risks will arise. It does so to inform parties where Government is most likely to call in a trigger event and inform parties' assessments whether to notify the Government about the trigger event. The Government encourages parties to consider notifying trigger events where they occur in these areas of the economy. The Government also welcomes informal discussions with parties around potential trigger events in advance of the trigger event occurring.
- 2.04 Parties should also consider Chapters 3 and 4 of this guidance which set out more detail on the trigger event risk and the acquirer risk and will also help inform parties as to whether to notify the Government about a trigger event.
- 2.05 In most parts of the economy, it is less likely that the Government will have national security-related concerns. In other areas, there may be existing protections or mitigations that reduce the likelihood of such risks arising. For example, highly regulated sectors provide some level of security as there is a high degree of oversight that make it more difficult for hostile actors to breach regulations undetected.
- 2.06 However, nothing in this chapter limits the Senior Minister's statutory powers to call in any trigger event, in any part of the economy, which they assess raises national security concerns. The absence of a particular area or sector of the economy from this statement should not be read as meaning that entities or assets within that area would never be called in. This is particularly the case given the sometimes-fast-moving developments that can take place in relation to national security, which mean trigger events in relation to entities or assets in sectors currently outside the core areas could become more likely to pose a national security risk in the future.

## The types of entities and assets more likely to raise national security concerns

2.07 This section sets out the factors the Government considers make it more likely that an entity or asset will have national security implications. The illustrative examples below set out the nature of the activities of an entity or the nature of an asset (or, in the case of land, also its location) that the Government considers have particular national security implications. This is a non-exhaustive list and does not limit the Government's powers under the proposed legislation.

### Illustrative examples in relation to both entities and assets

- if an asset **could be used to cause an emergency** in the UK or an entity's processes could be used to develop such assets. An emergency would be a situation which threatens serious damage to human welfare (this includes terrorism and war);
- if an asset could have a **dual use** (used for both civilian and military purposes) or if an entity has **manufacturing and/or technology capabilities**. In the case of entities this could include companies specialising in precision engineering and tooling for manufacturing, and in the case of assets this could include intellectual property such as software used for the purposes of the UK's cyber security;
- if an entity or asset is **integral to UK defence capabilities**, a trigger event may pose concerns because of the potential implications to UK defence capability;
- if an asset could be **manipulated or controlled remotely to cause detriment or harm** or if an entity uses processes which could be used to produce or manipulate such assets. This could include the production of commonplace technological components used in many household products which, should a design fault be built into them, could be controlled or manipulated remotely and would risk potential widespread damage, including physical harm;
- if an asset could be **manipulated or controlled remotely to extract sensitive information** (of a personal or other nature) or if an entity uses processes which could be used to produce or manipulate such assets to enable sensitive information to be extracted. This could include building in 'listening' devices into household or business electronics such as TVs or computers which either the user is not aware of or are used for different purposes than those publicised.

### Illustrative examples in relation to entities

- if any entity has a role in delivering aspects of **critical national infrastructure** which are necessary for the UK to function and upon which daily life depends. Examples would include operating energy networks or major airports.

### Illustrative examples in relation to assets

- if an asset is personal, or otherwise sensitive, or contains information relating to a large proportion of the population (for example, healthcare databases). A hostile actor acquiring this asset could cause targeted harm to sections or individuals within the population;
- if any asset needs protection due to the **potential danger to the public** (civil nuclear and chemical sites, for example).

### Illustrative examples in relation to land

- land which is **located in a position** which provides access, direct sight of, or insight into, activities or assets which would **allow sensitive or confidential information to be gathered**.

## The areas of the economy where trigger events are currently considered to be more likely to raise national security concerns

2.08 The rest of this chapter sets out those areas of the economy that the Government currently considers national security risks are most likely to arise.

2.09 This does not limit the Senior Minister's statutory powers under the proposed legislation to call in a trigger event in any part of the economy if they consider the event to raise national security concerns. National security risk and technology can both develop rapidly. While the Government will periodically review and update this statement (at least every five years), it cannot necessarily reflect emerging or new threats or issues as quickly as they develop.

## Core areas

2.10 The core areas represent those parts of the economy which the Government currently considers are most likely to give rise to national security risks and where it is, therefore, most likely to exercise its power to call in a trigger event to scrutinise any national security implications.

2.11 These core areas are comprised of four parts of the UK economy:

- a) some parts of the national infrastructure sectors;
- b) some advanced technologies;
- c) critical direct suppliers to the Government and emergency services sector; and
- d) military or dual-use technologies.

## The core areas – (a) some parts of the national infrastructure sectors

2.12 National infrastructure comprises those facilities, systems, sites, information, people, networks and processes necessary for a country to function and upon which daily life depends. It also includes some functions, sites and organisations which are not critical to the maintenance of essential services, but which need protection due to the potential danger to the public (civil nuclear and chemical sites, for example).

2.13 In the UK, there are currently 13 national infrastructure sectors:

- chemicals;
- civil nuclear;
- communications;
- defence;
- emergency services;
- energy;
- finance;
- food;
- Government;
- health;
- space;
- transport; and
- water.

2.14 Not all the national infrastructure sectors are included in the core areas. This is because, despite the fact that all the national infrastructure sectors contain critical national infrastructure, the Government considers that some of these sectors already have sufficient protections in place. These protections mean that the acquisition of control over some assets or entities may not take place or that other protections are in place to mitigate risks.

2.15 These protections include:

- existing regulations and controls about who can acquire entities in these sectors; and
- the inherent competitive nature of certain sectors – for example, the competitive nature of the food sector means that it is less likely that any one entity or asset could (even if subject to hostile control) pose a risk to national security.

2.16 However, this should not be taken to mean that the Government will never call in a trigger event in a regulated or highly competitive sector. This is because the national security landscape and risks are constantly evolving – and it may be that, for some future trigger events, these protections are not sufficient to prevent or mitigate national security risks.

2.17 The Government currently considers that the national infrastructure sectors that contain core areas are:

- civil nuclear;
- communications;
- defence;
- energy; and

- transport.
- 2.18 Trigger events in the parts of the national infrastructure sectors that are within the core areas could pose a serious risk to national security. This includes for example events which undermine the UK's defence capability, damage human welfare, and undermine the systems, processes and structures that enable the country to function. The illustrative examples (above in paragraph 2.07) set out the factors that make it more likely that an asset or an entity has the potential to undermine national security.
- 2.19 More details about the specific parts of the civil nuclear, communication, defence, energy and transport sectors that are most likely to raise national security concerns are set out in [Annex A](#).

### **The core areas – (b) some advanced technologies**

- 2.20 Advanced technologies relates to the entities and assets which deliver the technological advances which have changed how people interact and how businesses develop and grow. These technological advances depend on the continuing developments in computing power and connectivity.
- 2.21 These changes have also brought challenges, for example, cyber security is now a real concern for almost every business and consumer. Equally, advances in technology now mean that there are ubiquitous goods with the potential to be directed remotely which could potentially be used to extract sensitive information or cause harm should a hostile actor obtain control of them.
- 2.22 This is why the acquisition of control over some advanced technology assets and entities involved in some advanced technologies could pose a national security risk. The Government considers that the following advanced technologies fall within the core areas:
- advanced materials and manufacturing science;
  - artificial intelligence and machine learning;
  - autonomous robotic systems;
  - computing hardware;
  - cryptographic technology;
  - nanotechnologies;
  - networking and data communication;
  - quantum technology; and
  - synthetic biology.
- 2.23 More details about these specific advanced technologies that are most likely to raise national security concerns are set out in [Annex A](#).

**The core areas – (c) critical direct suppliers to the Government and emergency services sectors**

- 2.24 Both the Government and the emergency services are national infrastructure sectors and provide essential services to the public. However, many entities providing services within these sectors are publicly owned and cannot be acquired in the same manner as the other national infrastructure sectors. Therefore, the Government and emergency services are not themselves part of the core areas.
  
- 2.25 However, it is possible to acquire ownership or significant influence or control over critical suppliers which directly supply these two sectors. Critical direct suppliers play a fundamental part in the delivery of Government and the emergency services and an acquisition of control over a critical direct supplier by a hostile party could provide an opportunity to compromise this delivery and thereby risk national security. Therefore, it is possible that a trigger event involving a critical direct supplier to the Government or the emergency service sectors could raise national security concerns.
  
- 2.26 A critical direct supplier will be defined by considering:
  - whether the supplier directly provides goods or services to the Government and/or emergency services;
  - whether the supplier directly provides critical goods or services. Critical goods or services are intrinsic to the delivery of the Government and emergency services sectors; and,
  - whether there are alternative suppliers that can be put in place quickly.

*Example of a critical direct supplier to the Government and the emergency services*

The digital ticketing system for the emergency service in an area is provided by Supplier A. The digital ticketing system is used for handling and prioritising incoming contacts, communicating with the public, and dispatching emergency services resources. There are no alternatives available that can be in place quickly if Supplier A suddenly could not provide the service.

Supplier A is a “critical direct supplier” to the emergency services for the following reasons:

- supplier A is a supplier and it directly provides its services to the emergency services sector;
- critical good or services: Supplier A provides a service (digital ticketing system) that is intrinsic to the delivery of the emergency services;

- **alternatives:** there are no alternatives available that can be in place quickly so if Supplier A suddenly could not provide the service this would significantly negatively affect the operation of the emergency services.

As Supplier A is a critical direct supplier, if a trigger event occurred involving control being acquired over it, the Senior Minister may assess that it presents a 'target risk' because it is a critical direct supplier to the emergency services.

## The core areas – (d) military or dual-use technologies

- 2.27 Military items (such as arms, military and paramilitary equipment), and so-called dual-use items (which can have both military and civilian applications) can, in the wrong hands, pose clear and immediate risks to the UK, our people and society.
- 2.28 This risk is one of the reasons that the UK Government, like many others, already controls the export of military and dual-use items. The UK's export control regime (set out under the Export Control Act 2002) is an important and effective tool for controlling the export of so called strategic goods. The UK's Export Control Joint Unit issues licences for the export of these strategic goods including military equipment and technology, dual-use items, radioactive sources and products that could be used for torture.
- 2.29 The existing export control powers will continue to be part of the overall framework for mitigating national security risks in relation to dual-use technologies. These powers may, in some circumstances, be the most appropriate means of mitigating a national security risk. However, the Government may call in trigger events involving military or dual-use technologies if necessary and proportionate to address a risk to national security. A trigger event involving a military or dual-use asset that does not leave the UK might still raise national security concerns (for example, acquiring control over parts of the UK's physical national infrastructure) and so export control would not be a viable policy response. It is important, therefore, for these reforms to sit alongside the export control regime.

## Other key parts of the economy

- 2.30 This section sets out the other key parts of the economy where the Government considers that trigger events are more likely to raise national security concerns than a trigger event in the wider economy (but less likely than the core areas as set out above). These are:
- critical suppliers who directly and indirectly supply the core areas;
  - those parts of the national infrastructure sectors not in the core areas;
  - and

- those advanced technologies not in the core areas.
- 2.31 Similar to those trigger events in relation to core areas, those acquiring ownership or significant influence or control in relation to entities or assets in these other key parts of the economy are encouraged to consider whether to notify this to the Government as provided for under the proposed legislation. Parties should also consider information in Chapters 3 and 4 regarding the trigger event risk and the acquirer risk.

### **Critical suppliers to the core areas**

2.32 Outsourced functions and services and supplied goods can be key to entities' operations. National security risks can arise, therefore, in respect of the acquisition of control over critical suppliers to entities in the core areas.

2.33 A critical supplier to the core areas will be defined using the similar criteria that defines a critical supplier to the Government and emergency services:

- whether the supplier directly or indirectly provides goods or services to an entity within the core areas;
- whether the **supplier directly or indirectly provides critical goods or services**. Critical goods or services are intrinsic to the delivery of the entity's activities within the core areas;
- whether there are alternative suppliers that can be put in place quickly. In certain areas (for example, in the defence sector) it may be that only a UK supplier would be suitable to provide particular goods or services.

#### *Example of a critical supplier to the core areas*

Business H is an energy company involved in oil extraction and production. It plays a key part in the supply of energy to the UK.

Supplier J provides Business H with a key component used in the vacuum distillation process to refine oil. Supplier J would be considered to be a critical supplier because:

- they supply goods to an entity (Business H) which is within the core areas;
- they provide critical goods (the key component) which are intrinsic to the delivery of the core area; and
- there are no alternatives easily available that can be in place quickly.

Therefore, a trigger event involving Supplier J could pose a target risk because it is a critical supplier.

- 2.34 The term ‘critical suppliers’ does not include those suppliers which (directly or indirectly) supply goods and services that are not intrinsic to the activity that defines the entity as within the ‘core areas’. Even an entity providing an intrinsic good or service to an entity within the core areas may not be a critical supplier if there are alternatives that can be in place quickly.

*Example of a non-critical supplier*

Business A is a quantum computing company which researches, tests and brings products to market. Business A is considered to be within the core areas.

Supplier D provides Business A with a catering service for staff and external visitors. Supplier D would not be considered to be a ‘critical supplier’ as:

- they supply a service to an entity (Business A) which is within the core areas;
- however, they do not provide a critical service which is intrinsic to the delivery of quantum computing activity which makes the entity of national security interest; and
- there are alternatives (i.e. other catering services) available that can be in place quickly – so if Supplier D suddenly could not provide catering this would not significantly negatively affect the operation of the organisation (and their work on quantum computing).

Therefore, the acquisition of Supplier D would not pose a target risk.

## Those parts of the economy not mentioned above

- 2.35 Although less likely, the Government may consider that a trigger event in respect of an entity or asset in the wider economy (i.e. an area not mentioned above) could pose a risk to national security. Geopolitical, national security or technological changes (amongst others) may change the Government’s assessment of the areas that are most likely to pose a risk to national security.
- 2.36 In addition, a trigger event involving land in the wider economy may pose a risk to national security because the land is located in close proximity to a sensitive site. This is because, where a trigger event relates to land (rather than other assets) the location of land (as well as its nature) is relevant to the Senior Minister’s assessment of the national security risk that the trigger event may pose.
- 2.37 For example, a hostile party acquiring the land could gain insight to sensitive information due to its location, which may raise a risk to national security. The Government expects that these ‘proximity risks’ are likely to arise only very

rarely. The Government expects that the majority of transactions relating to land in proximity to sensitive sites should not raise national security concerns.

# Chapter 3 – The trigger event risk

## Summary

This chapter sets out that key to the assessment of the level of the ‘trigger event risk’ is the extent to which the trigger event (the acquisition of control) gives the acquirer the practical means or ability to use the entity or asset to undermine national security.

Trigger events may enable or increase the ability of a hostile party to undermine national security through:

- **disruptive or destructive actions:** the ability to corrupt processes or systems;
- **espionage:** the ability to have unauthorised access to information or contribute to the proliferation of weapons; or
- **inappropriate leverage:** the ability to exploit an investment to dictate or alter services or investment decisions or in other geopolitical or commercial negotiations.

Even if a trigger event would provide **the means to undermine national security this does not mean** that the Government will consider that **it poses a risk to national security**. Most acquirers have no intention to undermine UK national security.

When making their national security assessment, in the context of exercising the power, the Senior Minister will have regard to this statement of policy intent which sets out that one of the three risk factors that are relevant to the assessment is the trigger event risk.

## Introduction

3.01 **In order for a trigger event to be called in, both limbs of the statutory call-in test must be satisfied.** The statutory call-in test is summarised in the Executive Summary (paragraphs i to dd) and below. It is proposed the call-in test will be set out in the legislation.

3.02 The Senior Minister must:

- have reasonable grounds for suspecting that it is or may be the case that a trigger event has occurred, or a trigger event is in progress or contemplation; and

- reasonably suspect that the trigger event may give rise to a risk to national security due to the nature of the activities of the entity, or the nature of the asset,<sup>3</sup> to which the trigger event relates.

3.03 When exercising the call-in power, the Senior Minister has a duty to consider this statement of policy intent which sets out the three risk factors that are relevant to that assessment: the target risk, the trigger event risk and the acquirer risk.

## Risk to national security posed by a trigger event

3.04 Key to the consideration of whether to call in a trigger event is the assessment of the extent to which the trigger event gives the acquirer the practical means or ability to use the entity or asset to undermine national security.

3.05 **Not all trigger events necessarily provide the means or opportunity to undermine the UK's national security.** The Senior Minister's decision to call in a trigger event for scrutiny will be determined on a case-by-case basis and with regard to all the relevant facts and circumstances. When making their national security assessment, in the context of exercising the power, the Senior Minister will have regard to the statement of policy which sets out the three risk factors (including the trigger event risk) that are relevant to that assessment.

3.06 The assessment will be focused on whether the trigger event provides the acquirer with the actual ability to use the asset or the entity to undermine national security.

3.07 Parties considering whether a trigger event is likely to be called in should focus on the outcome of the trigger event and whether it provides the acquirer with the ability to direct the operations of an asset or direct the operations and strategy of the entity. For example, acquiring over 25% of shares in an entity (in a core area) could be a trigger event, but if there were active shareholders and the sector was closely regulated it is unlikely the acquirer would be able to use the acquisition to undermine national security. Therefore, it is unlikely that the trigger event would meet the second limb of the statutory call-in test (as set out in the Executive Summary) as the trigger event may not pose a risk to national security.

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<sup>3</sup> Where the asset is land, this will be the nature or the location of the land

## How trigger events can lead to national security considerations

- 3.08 Trigger events may enable or increase the ability of a hostile state or hostile party to undertake such action, or position themselves for future action, to undermine national security. This might be through a trigger event enabling them to gain control of a critical entity within the supply chain in a particular sector in order to bring, or to threaten to bring, the production of certain goods or the provision of certain services to a standstill. Alternatively, a trigger event could provide a hostile state or party with access to sensitive sites, enabling them to be sabotaged more easily.
- 3.09 These national security risks that can arise from trigger events can be characterised as involving at least one of the following:
- a greater opportunity to undertake **disruptive or destructive actions** or to in magnify the impact of such action. This could undermine national security if the impact was sufficiently extreme or widespread; or
  - an increased ability and opportunity to undertake **espionage** activities as a trigger event may grant the acquirer the means to acquire information or contribute to the proliferation of weapons which could be used to undermine national security; or
  - the ability to exploit the acquisition to dictate or alter services or investment decisions or utilise ownership or control as **inappropriate leverage** in other negotiations. For example, an acquirer could use its acquisition of control over an entity or asset to try and extort or coerce the UK Government to change its position on other geopolitical priorities.

# Chapter 4 – The acquirer risk

## Summary

When making the national security assessment in the context of considering whether to exercise the power to call in a trigger event, the Senior Minister will have regard to this statement of policy which sets out the acquirer risk as one of the three types of risks that are relevant to that assessment. The acquirer risk will be considered alongside the target risk and trigger event risk in determining whether or not a trigger event should be called in for a national security assessment.

The assessment of the acquirer risk involves the **consideration of the risk that the acquirer may seek to use the entities or assets to undermine national security.**

Although a trigger event may pose a target risk and trigger event risk, the Government's assessment is that **most acquirers do not pose a risk to national security.**

**National security risks are most likely to arise from acquirers who are hostile to the UK's national security.**

Foreign nationality may also make it comparatively more likely that an acquirer may pose a risk to national security. This does not negate the fact that the vast majority of foreign nationals pose no national security risk and make a positive contribution to the UK.

It is possible that threats may also emerge from UK-based or British acquirers, although this is less likely compared to the types of parties above.

## The Senior Minister's assessment of acquirer risk

- 4.01 In order to call in a trigger event for a national security assessment, the Senior Minister must have a reasonable suspicion that the trigger event may give rise to a risk to national security. In making this broader decision, the Senior Minister will have regard to this statement which sets out the three risk factors that are relevant to that assessment.
- 4.02 The Senior Minister must (based on the information available) have a reasonable suspicion that the trigger event may give rise to a risk to national security in order to call it in to assess it more fully and to assess its potential national security risk. **The Government does not expect that all trigger events**

called in for a national security assessment will result in the imposition of remedies. It is through this process, and the consideration of all relevant information, that the Senior Minister will assess any national security implications. The Government expects that, in many cases, the assessment will conclude that the trigger event (including the acquirer) poses no risk to national security and it can continue without any national security-related conditions.

- 4.03 In considering the acquirer risk, the Senior Minister will assess whether the acquirer has the potential to undermine national security.
- 4.04 This assessment will be done on a case-by-case basis taking into account all relevant available information.
- 4.05 In the case of an **entity** acquiring control over a target, for example, this may involve assessing:
- the people with control over the acquiring entity (including indirect control over the entity); and
  - the entity's track record in relation to other acquisitions or holdings.
- 4.06 In the case of an **individual or individuals** acquiring control, this information may include:
- any criminal record; and
  - information related to their affiliations.
- 4.07 In the absence of full information, the Senior Minister may choose to exercise their information-gathering powers to further inform this assessment.
- 4.08 The remainder of this chapter sets out some further indications as to the types of acquirer that may be more likely than others to pose a risk to national security. However, this is a non-exhaustive list and the case-by-case assessment in relation to a trigger event will take account of the sometimes-fast-moving changes to the national security landscape.
- 4.09 Nothing in this statement should be taken as excluding acquisitions from scrutiny which involve individuals without such affiliations.
- 4.10 Similarly, the fact that the Senior Minister has exercised their call-in powers in relation to a certain acquirer should not be taken as a judgement that the acquirer is hostile. The Senior Minister in reaching a decision on whether there is a reasonable suspicion that a trigger event may pose a risk to national security, will have had regard to the statement of policy which provides for all three risk factors.

## Most acquirers do not pose a national security risk

- 4.11 Some trigger events may relate to entities or assets with the potential to undermine national security (i.e. pose a 'target risk') and involve the acquisition of the means to use the entity or asset to undermine national security (i.e. pose a 'trigger event risk'). However, the Government's assessment is that most acquirers do not pose a risk to national security.
- 4.12 Most parties acquiring control over entities or assets do so for purely financial or commercial reasons.
- 4.13 The Government notes that, for example, pension funds are long-standing investors in entities that operate the UK's national infrastructure. Often, even when acquiring influence over an entity (for example), such parties choose not to interfere in its operation.
- 4.14 The Government's national security assessment will consider whether the party may seek to use the entities or assets to undermine national security. It is this assessment, considered alongside the target risk and the trigger event risk, that will inform the Senior Minister's whether to call in a trigger event for a national security assessment.

## Hostile parties, including hostile states and hostile actors

- 4.15 Notwithstanding the Government's assessment that most parties do not pose a national security risk, the Government assesses that there are some parties who may seek to use their acquisition of control over entities or assets in order to undermine the UK's national security.
- 4.16 These are known as 'hostile parties' and includes other states that are hostile to the UK's national security (known as 'hostile states') and parties acting on their behalf (known as 'hostile actors').
- 4.17 The Government considers that it is most likely to call in trigger events involving hostile parties acquiring control over entities or assets with the potential to undermine national security. It would do this in order to fully assess whether or not the trigger event poses any national security risks.
- 4.18 Hostile states are those which seek to undermine our national security through a range of traditional and non-traditional means which can include the acquisition of entities and assets or acquiring significant influence or control over entities and assets.

- 4.19 Hostile actors mean those individuals or entities acting on behalf of hostile states or affiliated to the hostile state. This could be through, for example, coercion, legal or regulatory control by the hostile state.

## Other states and nationals of other states

- 4.20 Although less likely to pose a risk than a trigger event involving hostile parties, the Government considers that foreign nationality could prove to be a national security risk factor.
- 4.21 While the vast majority of foreign nationals make a positive contribution to the UK, it is accepted that foreign nationals may feel an allegiance or loyalty to their home country. This means that foreign nationals may be motivated to undertake activity that may be contrary to the UK's national security, and therefore are comparatively more likely to pose a risk than UK-based or British acquirers.

## UK-based or British acquirers

- 4.22 Notwithstanding the statements above, it may be that a UK-based or British acquirer could pose concerns around national security. This could be because they are subject to the control of a hostile actor or if they have a hostile motive towards the UK's national security. The Government considers this less likely than the other types of acquirers cited earlier in this chapter.

## Cumulative ownership

- 4.23 As assessment of whether a trigger event may give rise to national security concerns, may also be informed by the entities or assets already owned by the would-be acquirer.
- 4.24 The risk posed by the acquirer would be increased if an acquirer has control over other entities within the sector or significant holdings within a core area. This could mean they may be able to use this as inappropriate leverage over the Government as they could threaten essential services.

## Parties acquiring control involuntarily

- 4.25 A party may become an acquirer, and thereby cause a trigger event, involuntarily. Shares or assets can be obtained by a person without their motive or consent – for example, the inheritance of more than 26% of the shares in a company would constitute a trigger event under the proposed legislation.
- 4.26 However, it is unlikely that a party involuntarily becoming an acquirer would raise national security concerns.

# Chapter 5 – Guidance as to the interpretation of significant influence or control

## Summary

This chapter provides guidance about the meaning of significant influence or control for the purposes of national security. x.

Trigger events involving the acquisition of significant influence or control can, in some circumstances, give rise to national security risks. Chapters 2 to 4 set out the factors that the Government considers relevant for assessing this risk.

In the case of entities, a person has significant influence or control when they can **direct the activities of an entity** or can ensure that an entity generally adopts the activities which they desire. This would allow them to take action contrary to the UK's national security.

In the case of assets, a person has significant influence or control when they have **absolute decision rights over the operation of the asset or when they can ensure the asset is being operated in the way they desire**. This would result in them being able to use, sell, alter, destroy or manipulate the asset in a manner contrary to the UK's national security.

A person can also acquire further or additional significant influence or control which would also be a trigger event. The Government could call in this trigger event if the further acquisition may give rise to a national security risk.

National security concerns may be raised by trigger events involving **either the acquisition of significant influence or control or, in some circumstances, the right to exercise significant influence or control** (e.g. a right to appoint a member of the Board).

With **lenders**, there may be particular, but very rare, instances where **loans** could give rise to national security concerns.

**All positions and relationships should be taken into account** when determining whether a party has significant influence or control.

Various roles (such as employees, lawyers, directors) are considered **excepted roles** and would not (absent any elements that exceed the role or relationship as it is usually

understood or exercised) be considered to have significant influence or control over an entity or asset.

## Introduction

- 5.01 It is proposed that the legislation will set out that regard must be had to this statement in interpreting references to significant influence or control for the purposes of the legislation.
- 5.02 Paragraphs 5.14 to 5.24 of this statement set out a number of examples of a trigger event involving a person acquiring a right to exercise significant influence or control over an entity and when such a trigger event may be called in for a national security assessment. Paragraphs 5.25 to 5.40 similarly set out a number of examples involving a person acquiring significant influence or control over an entity and when such a trigger event may be subject to call in. Paragraphs 5.41 to 5.47 demonstrate different ways in which a person either acquires the right or acquires the ability to exercise significant influence or control over an asset and when such a trigger event may be called in for a national security assessment.
- 5.03 It is proposed that the legislation will be focused on the risk posed to national security through acquisitions of control or significant influence over an entity or asset.
- 5.04 This statement provides guidance about the meaning of significant influence or control for the purposes of national security. It expands the concept of 'significant influence or control' set out in the People with Significant Influence and Control Register (published under Schedule 1A of the Companies Act 2006) which is focused on UK corporate transparency. This is because, the Government considers it essential to be able to protect national security and in order to do this, the Government has to be able to call in a trigger event if there is a risk to national security. The differences in the scope of significant influence or control for the purposes of national security include:
- a lower threshold regarding rights to appoint Board members;
  - the introduction of a new element of significant influence or control where another entity, including a foreign state or its representatives, has the legal right to shape an entity's operations or strategy; and
  - extending the concept of significant influence or control to assets.
- 5.05 For the purposes of national security, the Government is interested in trigger events involving both the acquisition of significant influence or control and the acquisition of the right to exercise significant influence or control, such as the

right to appoint a Board member who may, in certain circumstances, be able to shape the direction and activities of the entity.

- 5.06 There may be particular, but very rare, instances where loans could give rise to national security concerns. However, the Government does not want to interfere in routine business practices or discourage lenders offering financial support to entities. More detail about the exceptional circumstances in which lenders would be considered to have acquired significant influence or control is set out in more detail in paragraph 5.60 to 5.61.
- 5.07 This statement also provides a non-exhaustive list of the kind of roles and relationships which a person may have with an entity or an asset which would not, on their own, ordinarily result in that person being considered to have “significant influence or control”. These are referred to in this statement as “excepted roles” and are set out in paragraphs 5.48 to 5.65.
- 5.08 This guidance is relevant when any party carries out an assessment as to whether a trigger event has taken place, and when determining whether to notify the Government about it if the trigger event may give rise to a national security risk. When applying this guidance, careful consideration should be given to the facts of the particular case which will be important in determining whether significant influence or control is gained in any particular case. This guidance gives indicative and non-exhaustive examples of the circumstances that would grant someone the means to undermine the UK national security through the acquisition of significant influence or control over an entity or asset. Parties unsure as to whether the trigger event may be of national security interest to the Government are advised to seek informal guidance.
- 5.09 For the avoidance of doubt, the acquisition of “significant influence or control” or the “right to exercise significant influence or control” over an entity or asset constitutes a trigger event for the purposes of the Act even if the acquisition is subject to approval by a body other than the Government – for example, the Competition and Markets Authority or another foreign government or competition authority. In such cases the acquisition may have to be approved by multiples bodies.

### **General terminology in relation to significant influence or control**

- 5.10 “Significant influence” and “control” are alternatives. In terms of entities and assets, “significant influence” or “control” are indicated by the following:
- where a person can direct the activities of an entity, this would be indicative of “control”.
  - where a person can ensure that an entity generally adopts the activities which they desire, this would be indicative of “significant influence”.

- when a person has absolute decision rights over the operation of an asset this would be indicative of control. This would result in the person being able to use, alter, destroy or manipulate the asset.
  - where a person can ensure the asset is being operated in the way they desire this would be indicative of “significant influence”. This would result in the person being able to use, alter, destroy or manipulate the asset.
- 5.11 The “control” and “significant influence” do not have to be exercised with a view to gaining economic benefits from the policies or activities of the entity or asset.
- 5.12 The term ‘absolute’ is used in relation to decision rights or a veto to mean that a person has the ability to make or veto a decision without reference to, or collaboration with, anyone else.

### **Cumulative significant influence or control**

- 5.13 Cumulative significant influence or control is not necessarily only about ownership – it also includes relationships and positions. All ownerships, relationships, positions, personal connections and sources of influence or control should be taken into account to identify whether the cumulative effect places the person or entity in a position where they actually exercise (or have the right to exercise) significant influence or control over an asset or entity. For example, a director who has key relationships that are important to the running of the business then acquires ownership of a key asset (e.g. intellectual property rights) that is integral to the business. The director uses this additional power to influence the outcome of decisions related to the running of the business and therefore would be considered to have significant influence or control. The trigger event would be the director acquiring the important asset which provides them with the means to exert significant influence or control.

### **The right to exercise significant influence or control over an entity**

- 5.14 The acquisition of the right to exercise significant influence or control over an entity may constitute a trigger event, regardless of whether or not the party acquiring that right has actually exercised it. Should the Senior Minister conclude the trigger event also meets the other limb of the statutory call-in test, they may call it in for a national security assessment.
- 5.15 Paragraphs 5.16 and 5.17 set out a number of examples of what might constitute a right to exercise significant influence or control over an entity, while paragraph 5.59 sets out a number of examples where rights relating to minority protection would not on their own constitute a right to exercise significant influence or control. The examples do not constitute an exhaustive list.

- 5.16 Where a person has **absolute decision rights** over decisions related to the running of an entity, for example relating to:
- i. adopting or amending the entity's business plan;
  - ii. changing the nature of the entity's business;
  - iii. making any additional borrowing from lenders;
  - iv. appointment or removal of the CEO or equivalent;
  - v. establishing or amending any profit-sharing, bonus or other incentive scheme of any nature for directors or employees;
  - vi. the grant of options under a share option or other share based incentive scheme;
  - vii. right to direct the distribution of funds or assets;
  - viii. right to direct investment decisions of a trust or firm;
  - ix. right to amend a trust or partnership deed; or
  - x. right to revoke a trust or terminate the partnership.
- 5.17 Where a person has **absolute veto rights** over decisions related to the running of the entity, for example relating to:
- i. adopting or amending the entity's business plan;
  - ii. making any additional borrowing from lenders (except as a minority protection as described in paragraph 5.59 below).

### **Right to appoint or remove a Board member of an entity**

- 5.18 In some circumstances, a person acquiring shares or voting rights over an entity may also gain the right or ability to appoint (or remove) a member of the entity's Board. Less commonly, a person can also acquire the right or ability to appoint (or remove) a member of an entity's Board by other means than through acquiring share or voting rights.
- 5.19 Board members are key positions in any company (or another entity). They have important statutory duties. They are the ultimate decision-making body, in relation to both operational or strategic issues.
- 5.20 Depending on the composition of the Board, a person acquiring this right, or ability may, in certain circumstances, gain significant influence or control over an entity. This may not always be the case – in a large Board, one member may not be able to take steps contrary to national security.
- 5.21 In addition, individual Board members can be responsible for particular tasks, have control over certain assets, or direct particular activities. A person with the right or ability to appoint a Board member with particular responsibility over certain important activities of an entity such that the Board member can, in effect, shape the direction and activities of an entity then, the person with the right or ability to appoint the Board member would have significant influence or

control over the entity. This would therefore constitute a trigger event for the purposes of the proposed legislation.

- 5.22 As set out above (in paragraph 5.04), this is different to the approach taken in the People with Significant Influence and Control Register which considers that a person has significant control over a company if they have the right to appoint or remove a majority of the Board of directors. For the purposes of the proposed legislation, it is considered that not only the appointment or removal of a majority of the Board constitutes a trigger event but also, in certain circumstances set out above, the right to appoint or remove one Board member might be a trigger event.
- 5.23 A person has the right to appoint a Board member if they have the right, whether exercised or not, to appoint (or remove) any member of the Board. A person has the ability to appoint or remove a Board member if, even without a contractual right, they are able (on their own) to ensure that a certain individual is appointed to, or removed from, the Board such that they are able to influence the strategic direction of the entity through that appointment or removal.
- 5.24 In the case of companies, 'Board members' includes directors as per the meaning under the Companies Act 2006. This includes, as per section 251 of that Act, any person in the position of director by whatever name called. For companies and other business structures, the Board should have the normal meaning – the ultimate collective decision-making body that makes the strategic and key financial, commercial and operational decisions of the entity.

## Exercising significant influence or control over an entity

- 5.25 A person would exercise "significant influence or control" over an entity if they are significantly involved in the management and direction of the entity. This could, for example, include a person who does not hold over 25% of the shares but is nonetheless able to exert significant influence over the management of the entity, perhaps because they are still the largest shareholder. The trigger event is the point at which the person starts to exert significant influence or control.
- 5.26 A person would exercise "significant influence or control" over an entity if their recommendations are always or almost always followed by shareholders who hold the majority of the voting rights in the company, when they are deciding how to vote.

*Example of a person exercising significant influence or control due to their recommendations almost always being followed*

A company founder who no longer has a significant shareholding in the company they started, acquires a small shareholding but makes recommendations to the other shareholders on how to vote and those recommendations are always or almost always followed.

The company founder would therefore be considered to exercise significant influence or control. The trigger event would be the company founder exerting significant influence or control over the shareholders.

**Foreign state having significant influence or control over an entity**

- 5.27 Significant influence or control would be gained where another entity, including a foreign state or its representatives, has the legal right to shape an entity's operations or strategy.
- 5.28 Some states exert control or significant influence over the operational or strategic decisions of businesses in their jurisdiction and can compel businesses to provide information that could be exploited. This may occur in a variety of forms. For example, if a state has the legal right to appoint its representative(s) to a business's Board of directors the state could have the means or opportunity to directly or indirectly undermine the UK's national security.

*Example of a foreign state having significant influence or control over an entity*

Company D is incorporated in State G but also has extensive operations in the UK (mainly in the defence and dual-use technologies).

State G makes changes to its domestic legislation, so it has the legal authority to direct the operation of businesses (incorporated in the State), and to be able to appoint government representatives on the Boards of such businesses.

State G therefore has acquired significant influence or control over Company D (a trigger event).

This trigger event would not meet both limbs of the statutory call-in test unless the Senior Minister has a reasonable suspicion that this acquisition of significant influence or control may pose a risk to UK national security.

## Foreign state having significant influence or control over an entity by exercising control over an individual

- 5.29 Additionally, if a natural person with control over a relevant entity becomes subject to the actual control of a foreign state, the latter may be considered to acquire significant influence or control over the relevant entity for the purposes of the proposed legislation, and this would qualify as a trigger event.
- 5.30 As set out in Chapter 4, some hostile states may coerce their citizens and therefore acquiring a citizenship of a hostile state could result in heightened risk to UK national security in certain circumstances, where the individual being coerced by a foreign state had ownership or significant influence or control over entities in the core areas.
- 5.31 When considering such a case, the Government would look at how the hostile state exercised control over the entity (through the coercion of the individual). For example, if there was significant evidence that the state uses intimidation and threats to private individuals and coercion to allow state interference in private companies, this would indicate that the state would exercise significant influence or control over the individual. The Government would then consider whether the hostile state having significant influence or control (over a specific entity) would pose a risk to national security.
- 5.32 Where a foreign state acquires significant influence or control over an entity through the coercion of an individual, the trigger event occurs when the state starts to exercise significant influence or control over the entity (over which the individual has control).

## Further acquisitions of significant influence or control

- 5.33 The Government considers that there is a case for it to be able to intervene in any further or additional acquisitions of control over an entity which it considers may give rise to national security risks. This would apply whether or not the Government was notified about, or called in, the original trigger event.
- 5.34 The Government considers that there are, broadly, three main circumstances in which further acquisitions of control over an entity are likely to arise:
- the acquisition of further shares or voting rights the result of which is that the acquirer would then hold over 50% of shares or votes (enabling a party to pass an ordinary resolution in accordance with the Companies Act 2006);
  - the acquisition of further shares or voting rights the result of which is that the acquirer would then hold over 75% of share or votes (enabling a

party to pass a special resolution in accordance with the Companies Act 2006);

- the acquisition of further significant influence or control through new or additional rights (e.g. Board appointment rights), which may or may not relate to an acquisition of further shares or votes.

- 5.35 For example, if the Senior Minister does not call in the acquisition of 26% of a company's shares, should the acquirer gain additional shares taking them beyond 50%, the Senior Minister would be able to call in the trigger event provided that the additional acquisition (the trigger event) may give rise to a national security risk.
- 5.36 This would also apply in the event that the party already had significant influence or control of an entity, then acquired another means of exerting significant influence or control. For example, a director who owned an asset **important for the running of the company** and used this to influence decisions relating to an entity, who then acquired another means of exerting significant influence or control, such as a Board appointment right. By being able to appoint a Board member, **depending on the composition or size of the Board or the specific Board member's role**, the acquirer would have a new way of being able to shape individual Board decisions (as well as its overall direction) that could be used to undermine national security.
- 5.37 In all cases of such further acquisitions, the Government would need to demonstrate that the further acquisition provided further significant influence or control and that the further acquisition gave rise to a new or additional risk to national security linked to that trigger event. Similarly, any remedy would need to apply to the further acquisition only.
- 5.38 These provisions would apply in relation to trigger events relating to all parties – including those who may hold shares, votes or other means of influence or control before the regime comes into force. Those previous holdings would not be affected by this provision – any intervention would only relate to those additional means of control being acquired by the party after the regime was enacted.

### **Involuntary acquisition of significant influence or control**

- 5.39 In some cases, significant influence or control can be obtained by a person without their motive or consent.

*Example of involuntary acquisition*

A person inherits 20% of shares in a company with an ability to appoint or remove the CEO of the company. Such ability would provide them with the right to exert significant influence or control over the company. Such acquisition would therefore constitute a trigger event.

- 5.40 With an ‘involuntary acquisition’, it is unlikely that Government would have advance notice of a trigger event as such circumstances will usually arise as a result of third party actions. It is also unlikely that the Government would seek to ‘block’ or ‘unwind’ the trigger event, because of the limited likelihood that the acquirer will want to use the entity or asset to undermine national security as the acquirer did not actively seek to acquire the entity or asset.

## Significant influence or control over an asset

- 5.41 Hostile parties may have the opportunity to realise national security concerns even when acquiring less than 50% of an asset, if they acquire significant influence or control over an asset.
- 5.42 “Significant influence or control” over an asset refers to a situation where a person has absolute decision rights over the operation of an asset. This would result in the person being able to use, alter, destroy or manipulate the asset. Significant influence or control can only be acquired over an asset through some form of acquisition over, or investment in, the asset or in an entity that owns an asset.

## A foreign state having significant influence or control over an asset

- 5.43 If a natural person with control over a relevant asset becomes subject to the actual control of a foreign state, the latter may be considered to have significant influence or control over the asset for the purposes of the proposed legislation. As set out in Chapter 4, some hostile states may coerce their citizens or individuals based within their jurisdiction and therefore a hostile state acquiring control over an individual could result in heightened risk to UK national security in certain circumstances, where the individual who is being coerced by a foreign state had control over assets in the core areas. When considering such a case, the Senior Minister would consider whether the hostile state actually exercised significant influence or control over the asset through the coercion of an individual and whether this posed a risk to national security.

## Using, altering or manipulating an asset or its functions

- 5.44 When a person has significant influence or control over an asset, this means the party has absolute decision rights over the operation of the asset. This would result in the party being able:

- to use the asset (or having the right to use the asset);
- to permit third party use of the asset;
- to alter the asset and/or its function;
- to destroy an asset;
- to manipulate the asset or its function.

5.45 Persons with the right to use an asset through arrangements (including leasing or licensing the asset) would be considered to have significant influence or control over the asset.

*Example of how gaining significant influence or control allows a party to use an asset*

Business G owns a fibre optic network which handles a large amount of UK communication traffic.

Person F acquires 10% of shares in Business G. As a result of an agreement with Business G, person F can use the fibre-optic network to acquire and monitor personal and otherwise sensitive information.

Person F has significant influence or control over the operation of the asset (i.e. the network), and therefore Person F's acquisition of 10% of shares is a trigger event.

The Senior Minister could call in this trigger event, if it met the call-in test that there is a reasonable suspicion that the trigger event may pose a potential risk to national security.

### **Preferential Access to an Asset**

5.46 A person or entity having preferential access is not in itself a trigger event or an indicator of significant influence or control. The fact that a trigger event may enable preferential access is something that will be relevant as part of the national security risk assessment.

5.47 Preferential access to an asset (including access to information) is access that is greater than the access generally available to the public at large.

### **Excepted roles with respect to entities and assets**

5.48 The following is a non-exhaustive list of roles and relationships which would not, on their own, result in that person being considered to acquire significant influence or control over an entity or an asset.

- 5.49 However, it is possible that a person who has an excepted role might still, in the circumstances of a particular case, have the right to exercise, or actually exercise significant influence or control over an entity or an asset. This could occur if the role or relationship contains elements which exceed the role or relationship as it is usually understood or exercised, or if the role or relationship forms one of several opportunities which that person has to exercise significant influence or control (i.e. when the role is combined with another role or ownership that means the person has cumulative significant influence or control).
- 5.50 Where the person provides advice or direction in a professional capacity, for example, as:
- i. a lawyer;
  - ii. an accountant;
  - iii. a management consultant;
  - iv. an investment manager;
  - v. a tax advisor; or
  - vi. a financial advisor.
- 5.51 Where the person deals with the company under a third party direct commercial arrangement or agreement, for example, as:
- i. a supplier; or
  - ii. a customer.
- 5.52 Where the person exercises a function under an enactment, for example, as:
- i. a regulator;
  - ii. a liquidator or receiver; or
  - iii. a lender (except in the circumstances as set out below).
- 5.53 Where the person is an employee acting in the course of their employment and nominee for their employer, including an employee, director or CEO of a third party (such as a corporate director), which has significant influence or control over the company.
- 5.54 Where the person is a director of a company, including:
- i. a managing director;
  - ii. a sole director; or
  - iii. a non-executive or executive director who holds a casting vote.
- 5.55 A person who makes recommendations to the shareholders of an entity or the owners of an asset on an issue or set of issues on a one-off occasion, which is subject to shareholder vote or a vote by the owners of the asset.

- 5.56 Rights held by all or a group of employees, for the purpose of representing the employees' interests in an employee-owned company.
- 5.57 Any person or entity in relation to any association, professional standards organisation or network of companies or firms which promulgates common rules, policies or standards to be adopted by the members of the network but does not otherwise have control of members of the network.
- 5.58 The following individuals would not, on their own, be considered to have significant influence or control of an asset:
- a. an employee of the entity which owns the asset in question;
  - b. a Board member of the entity which owns the asset in question;
  - c. a business (or its employees) contracted or employed by the person or the entity which owns the asset to supply a good or service;
  - d. shareholders having access to routine commercial information made available to all shareholders but not otherwise in the public domain; or
  - e. a visitor to property where the asset is located.

#### **Excepted persons with rights related to protecting minority rights**

- 5.59 A person is unlikely to have significant influence or control over the entity if they hold veto rights in relation to certain fundamental matters for the purposes of protecting minority interests in the entity. These veto rights would be unlikely, on their own, to constitute significant influence or control. When used for the purposes of protecting minority interests these veto rights could include (or relate to) the following:
- i. changing the entity's constitution;
  - ii. dilution of shares or rights, including establishing a share option or other share-based incentive scheme;
  - iii. making any additional borrowing from lenders, outside previously agreed lending thresholds;
  - iv. fundamental changes to the nature of the entity's business; or
  - v. winding up the entity.

#### **Lenders and loans**

- 5.60 For the avoidance of doubt, the Government expects that the overwhelming majority of loans raise no national security concerns. There may be particular, but very rare, instances where they could give rise to national security concerns. This would be the case where the Senior Minister assessed that the party acquiring control (i.e. the lender) posed an acquirer risk as described elsewhere in this statement.

- 5.61 There are three stages at which loans may, in certain circumstances, lead to national security concerns arising:
- agreement: at the point where a loan is extended;
  - default: where a borrower defaults such that the lender has the legal right to seize the collateral; or
  - acquisition: where the lender is acquiring ownership or significant influence or control over the collateral.

The third of these stages would constitute a trigger event in itself. The first two stages (agreement and default) would only be trigger events where the lender actually exercises significant influence or control over the entity.

*Example of where a lender has significant influence or control over an entity*

An entity acquires a loan from Bank A. It comes to Bank A's attention that the entity is in poor financial health, although it has not yet defaulted on any instalment.

Bank A begins shaping the entity's strategic and operational decisions, including by sending its representatives to Board meetings (a trigger event). Despite the absence of a legal contract or formal right, Bank A is (in practice) exerting significant influence or control over the entity.

The Senior Minister could then decide to call in this trigger event if it met the other limb of the statutory test call-in test that there a reasonable suspicion that the trigger event poses a national security risk.

### **Conditional acquisitions**

- 5.62 Conditional acquisitions are those agreements which would grant a party control over an entity or asset in the event that a particular condition is met.
- 5.63 In broad terms, there are three stages involved in a conditional acquisition: agreement, a condition being met, and an acquisition occurring:
- agreement: parties A and B sign a contract, permitting A to buy B's shares in entity E when condition C (such as E's share price hitting a certain figure) is met;
  - condition met: C occurs – A now has the right to acquire B's shares;
  - acquisition occurs: at any point when C is met, A decides to acquire B's shares.

- 5.64 In line with any other means by which control is acquired over an entity or asset, the third stage would constitute a trigger event allowing the Government to assess whether it has any national security implications.
- 5.65 In normal circumstances, the first and second stages would not, in themselves, constitute trigger events because no control or significant influence is being acquired. However, there may be certain circumstances where the acquiring party does exert practical control over the entity in question at these stages. For example, they may use their potential future acquisition in an entity to direct it to take certain operational decisions.

# Annex A – The Core Areas

a) Some parts of national infrastructure sectors	
<p><b>Civil Nuclear</b></p>	<p>The civil nuclear sector makes a significant contribution to the country’s need for secure, clean and affordable electricity. It offers significant benefits in terms of security of electricity supply. The civil nuclear sector also stores, processes and transports some of the most dangerous radioactive material.</p> <p><b>Specific parts of the sector that the Government considers fall within the core area:</b></p> <ul style="list-style-type: none"> <li>• The operation of civil nuclear reactors for the primary purpose of electricity generation;</li> <li>• Stakeholders performing the function of civil nuclear fuel production who hold a nuclear site licence for a site at which they conduct enrichment and/ or fuel fabrication);</li> <li>• Reprocessing, waste storage and disposal facilities for Category I-III nuclear material (stakeholders performing this function hold a nuclear site licence for a site at which they undertake one or more of reprocessing, waste storage or disposal of Category I-III nuclear material);</li> <li>• The transportation of Category I and II nuclear A (stakeholders performing this function are Class A Approved Carriers of nuclear material as defined in the Nuclear Industries Security Regulations 2003);</li> <li>• The decommissioning and clean-up of civil nuclear facilities (stakeholders performing this function are Site Licence Companies responsible for the decommissioning and clean-up of a civil nuclear site and those companies bidding for such a site licence);</li> <li>• Developers of new nuclear construction sites; and</li> <li>• Nuclear reactor vendors whose technology is subject to or has been subject to the Generic Design Assessment process, with the intent for it to be deployed in the UK.</li> </ul>
<p><b>Communications</b></p>	<p>The communications sector (comprising telecommunications, internet and broadcast sectors) is diverse, technologically advanced and constantly evolving. It is integral to the economy as it underlies an integral component of the UK economy, underlying the operations of all businesses, public safety organisations and</p>

## a) Some parts of national infrastructure sectors

government.

### **A non-exhaustive list of the parts of the sector that the Government considers falling within the core area:**

- Providers of public communication networks and services and associated facilities as defined by the Communications Act 2003 with networks and services in the UK serving more than one million end users.
- Networks including: a transmission system for the conveyance, by the use of electrical, magnetic or electro-magnetic energy, of signals of any description; and apparatus comprised in the system; apparatus used for the switching or routing of the signals; software and stored data; other resources, including network elements which are not active;
- Services including: services consisting in, or having as its principal feature, the conveyance by means of an electronic communications network of signals, except in so far as it is a content service;
- Associated facilities for communication networks and services in the UK serving more than one million end users including:
  - a facility, element or service which is available for use, or has the potential to be used, in association with the use of an electronic communications network or electronic communications service (whether or not one provided by the person making the facility, element or service available) for the purpose of—
    - (i) making the provision of that network or service possible;
    - (ii) making possible the provision of other services provided by means of that network or service; or
    - (iii) supporting the provision of such other services.
- The operation of broadcast infrastructure that carry national radio or television services.
- The provision of Satellite infrastructure required for safety of life communications.

### **A non-exhaustive list of the types of associated facilities that the Government considers falls within the core areas:**

**a) Some parts of national infrastructure sectors**

	<ul style="list-style-type: none"> <li>• Network equipment: companies that sell products and services to network and service providers;</li> <li>• Telecommunications infrastructure: organisations, personnel, procedures, facilities, buildings and networks upon which networks and services are operated;</li> <li>• Managed services provider (MSP): a services provider that is contracted by a network or services for a defined set of services;</li> <li>• Application service provider (ASP): computer-based services to customers over a network or service;</li> <li>• Internet Exchange Points (IXP) in the UK (as defined in Schedule 2 Regulation 8 section 10(5)(c) (i-iii) of the Network and Information Systems Regulations 2018);</li> <li>• Top Level Domains (TLDs) in the UK (as defined in Schedule 2 Regulation 8 section 10 of the Network and Information Systems Regulation 2018);</li> <li>• Domain Name Services (DNS) in the UK (as defined in Schedule 2 Regulation 8 section 10(5(a-b)) of the Network and Information Systems Regulation 2018); and</li> </ul>
<p><b>Defence</b></p>	<p>The objective of the defence industry is the defence of the UK and protecting the security, independence and interests of the UK at home and abroad – that is, the production of goods, or the delivery of services, used for defence. In this context defence has the same meaning as 2(4) of the Official Secrets Act 1989.</p> <p>This includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>• Entities with facilities on List X and/or those issued with a Security Aspects Letter; and</li> <li>• Assets that have military or dual-use purpose.</li> </ul>
<p><b>Energy</b></p>	<p>A stable energy supply is essential to the UK economy and without it the economy cannot function. The UK’s petroleum and electricity supplies come from a diverse range of sources.</p> <p><b>Specific parts of the sector that the Government considers falls within the core area:</b></p> <ul style="list-style-type: none"> <li>• Significant upstream petroleum infrastructure. This includes:             <ul style="list-style-type: none"> <li>○ terminals, upstream petroleum pipelines and infrastructure which forms part of a petroleum production project, with a throughput of greater than 3,000,000 tonnes of oil equivalent per</li> </ul> </li> </ul>

## a) Some parts of national infrastructure sectors

year; and

- infrastructure which forms part of a gas importation and storage project which, if at maximum capacity, could output 40 million cubic meters of gas per day for at least 50 days.

Where:

- "gas" has the same meaning as in section 2 of the Energy Act 2008;
- "gas importation and storage project" means a project carried out by virtue of a licence granted under section 4 of the Energy Act 2008;
- "oil equivalent", "petroleum", "petroleum production project", "terminal", and "upstream petroleum pipeline" have the same meaning as in paragraph 2 of Schedule 2 to the Network and Information Systems Regulations 2018.

- Energy networks that deliver secure, reliable electricity and gas to customers, ensuring continued supply as far as possible on the supply chain;
- Gas and electricity interconnectors, long range gas storage and Gas Reception Terminals, including Liquefied Natural Gas that contributes to the security of supply;
- Organisations owning large scale power generation of greater than 2GW with the capacity to significantly impact balancing of the electricity system if disrupted;
- Energy suppliers that provide energy to significant customer bases;
- The supply of petroleum-based road, aviation or heating fuels (including liquefied petroleum gas) to the UK market, by companies who provide or handle more than 500,000 Tonnes per annum, through at least one of the following activities:
  - the import of any of crude oil, intermediates, components and finished fuels;
  - the storage of any of crude oil, intermediates, components and finished fuels;
  - the production of intermediates, components and finished fuels through a range of refining or blending processes;
  - the distribution of petroleum-based fuels to other storage sites throughout the UK by road, pipeline, rail or ship;
  - the delivery of petroleum-based fuels to retail sites, airports or end users.

Where:

- intermediates" are petroleum or biomass derived substances which are intermediate products

### a) Some parts of national infrastructure sectors

	<p>in the processing of crude oil and other feedstocks to fuels or fuel components;</p> <ul style="list-style-type: none"><li>○ “components” are petroleum or biomass derived substances (e.g. biodiesel and ethanol) which are mixed with other components to produce finished fuels.</li></ul>
<b>Transport</b>	<p>The transport sector within the United Kingdom is made up of road, air, rail and shipping networks. The nation's transportation sector quickly, safely, and securely moves people and goods through the country and overseas.</p> <p><b>Specific parts of the sector that the Government considers fall within the core area:</b></p> <ul style="list-style-type: none"><li>• The ownership and operation of statutory harbour authorities which account for more than 5% of UK traffic;</li><li>• The operation of airports classed as dominant airports for economic regulation purposes as defined in the Civil Aviation Act 2012; and</li><li>• The provision of en route air traffic control services.</li></ul>

<b>b) Some advanced technologies</b>	
<b>Artificial intelligence and machine learning</b>	<p>Artificial intelligence (AI) and machine learning (ML) are automated decision-making applications which use algorithms technologies which enable prediction following an analysis of data. These technologies often simulate human behaviour/intelligence and perform tasks such as visual perception, speech recognition, and language translation.</p> <p><b>Specific parts of the sector that the Government considers falls within the core area include:</b></p> <ul style="list-style-type: none"> <li>• businesses that produce, develop, design digital AI and ML technologies (excluding physical robotics), including components and service providers and all relevant intellectual property.</li> </ul>
<b>Autonomous robotic systems</b>	<p>Advanced robots and tele-robotics belong to the broad class known as Robotic and Autonomous Systems (RAS). RAS are interconnected, interactive, cognitive and physical tools, able to variously perceive their environments, reason about events, make or revise plans and control their actions.</p> <p><b>Specific parts of the sector that the Government considers falls within the core area include entities that:</b></p> <ul style="list-style-type: none"> <li>• research into an advanced robot/tele-robotics; and</li> <li>• develop or produce anything designed for use in connection with an advanced robot/tele-robotics.</li> </ul>

b) Some advanced technologies	
<b>Computing hardware</b>	<p>Technological advances have changed the way in which people interact and businesses develop and grow. New products and services offer the potential to transform the way we live. Much of this depends on continuing advances in computing hardware (including power and in connectivity).</p> <p><b>Specific parts of the sector that the Government considers falls within the core area include entities that are involved in:</b></p> <ul style="list-style-type: none"> <li>• the ownership, creation or supply of intellectual property relating to the functional capability of: computer processing units; architecture for such units; computer code that provides low level control for such units; and</li> <li>• the design, maintenance or provision of support for the secure provisioning or management of: roots of trust of computer processing units; computer code that provides low level control for such units.</li> </ul>
<b>Cryptographic technology</b>	<p>Cryptography means the transformation of data in order to hide its information content, prevent its undetected modification or prevent its unauthorised use.</p> <p><b>Specific parts of the sector that the Government considers fall within the core area include</b></p> <ul style="list-style-type: none"> <li>• Entities that research into and/or develop any product which has authentication as a primary function and uses and/or employs cryptography in performing that function (cryptography means the transformation of information to hide its content). Examples of technologies within scope: <ul style="list-style-type: none"> <li>○ biometric property of an individual to allow access to a restricted area of an industrial site;</li> <li>○ a credit/debit chip-and-pin card at an ATM or retail point of sale;</li> <li>○ facial recognition technology used in conjunction with CCTV footage; and</li> <li>○ the digital information held on an e-passport to determine whether to allow the holder into the country.</li> </ul> </li> </ul>

## b) Some advanced technologies

<b>Materials and manufacturing science</b>	<p>Materials and manufacturing science focuses on the discovery and development of materials. Examples include discovery of new classes of 2-dimensional materials like graphene and new functional materials like metamaterials. Any such valuable areas of materials science and manufacturing science are already defined and protected by Strategic Export Control Lists but there are some gaps.</p> <p><b>Specific parts of the sector that the Government considers fall within the core area include:</b></p> <ul style="list-style-type: none"><li>• Entities that research/develop/produce advanced materials, where their pre-determined and/or reconfigurable patterned or textured surfaces permit activities such as any or all of: the control of surface currents, control or induce attenuation, scattering, refraction or diffraction of electromagnetic waves or signals, provide function to establish or modify (including in real time) the appearance or detectability, traceability or identification of an object to a human or to sensors, metamaterials, high strain rate protection materials;</li><li>• Entities which develop/produce anything designed as an enabler for use in such sector or provide services for enablers; and</li><li>• Entities which develop or exploit intellectual property in advanced materials.</li></ul>
<b>Nanotechnologies</b>	<p>Nanotechnology is the manipulation of matter on an atomic, molecular, and supramolecular scale. This technology is relevant to national security as it is a key enabler of military capability and the ability of materials to convey reliable performance in extreme operating conditions such as high speed, high temperature, high/low pressure (deep underwater, in space) from electronics, photonics, from thermo-mechanically robust structures and in the electromagnetic operating environment.</p> <p><b>Specific parts of the sector that the Government considers fall within the core area include:</b></p> <ul style="list-style-type: none"><li>• Entities that research into or develop or produce anything designed for use in or supply services employing nanotechnologies.</li></ul>

<b>b) Some advanced technologies</b>	
<b>Networking/data communication</b>	<p>Networking and data communication involves technology for the enhancement and protection of the conveyance of signals within a communications network or the processing of data within a communications network</p> <p><b>Specific parts of the sector that the Government considers falls within the core area include entities that research/produce:</b></p> <ul style="list-style-type: none"> <li>• Encoding, modulation and propagation methods for high speed data and products and services that operate on the data of third party networks to provide a service of some sort, where the vendor has some ongoing potential access to the data as part of the operation;</li> <li>• Software Defined Networking which relates to the transportations of data;</li> <li>• Managed security service providers (MSSPs); and</li> <li>• Programmable or reconfigurable hardware (including components, devices and materials) for the purpose of enabling software definable communications systems and networks for high speed data, or as an enabler for high resolution or discriminatory imaging or highly discriminatory detection, or counters to such imaging and detection.</li> </ul>
<b>Quantum technology</b>	<p>Quantum technologies are driving and enabling a new generation of devices and systems, from very powerful medical imaging devices to entirely new methods of computing to solve currently intractable problems – all made possible by the engineering of quantum effects into next-generation technologies.</p> <p><b>Specific parts of the sector that the Government considers fall within the core area include entities that produce or develop anything involved in:</b></p> <ul style="list-style-type: none"> <li>• quantum computing or simulation;</li> <li>• quantum imaging, sensing, timing or navigation;</li> <li>• quantum communications; and</li> <li>• quantum resistant cryptography.</li> </ul>

## b) Some advanced technologies

### Synthetic biology

Synthetic biology is the design and engineering of biologically based parts, devices and systems as well as the redesign of existing, natural biological systems. It represents a systems approach to biological engineering and employs multiple techniques and tools which span the design and engineering of biologically based parts, systems and devices for useful purposes. Synthetic biology is the exploitation of biological systems; the design and construction of new biological entities; or the redesign of existing biological systems.

**Specific parts of the sector that the Government considers fall within the core area include entities that:**

- research/develop/produce synthetic biology-derived products; and
- supply services that support and enable synthetic biology.

This may also include products or materials that are free of synthetic biology components but derived by application of synthetic biology approaches.

### c) Critical suppliers to the Government and emergency services sector

#### Government

The Government sector covers entities and assets that enable a function of the Government of the United Kingdom, devolved governments or local government to be carried out. This includes government buildings (general use office buildings and special use military installations, embassies, courthouses, national laboratories, and structures that may house critical equipment, systems, networks and functions).

**Specific parts of the sector that the Government considers fall within the core area:**

- To ensure resilient, secure means to oversee co-ordination of response in times of emergency, provide for UK national security and support to Defence and ensure the continued functioning of the state including protection of UK citizens.

#### Emergency Services

The emergency services are the public organisations (ambulance service, fire and rescue services, police and HM Coastguard) that respond to and deal with emergencies when they occur. The emergency services sector is a community of highly skilled, trained personnel, along with the physical and cyber resources, that provide a wide range of prevention, protection, preparedness, response, and recovery services during both day-to-day operations and incident response.

**Specific parts of the sector that the Government considers falls within the core area:**

- The provision of emergency services control room services;
- The provision of main national IT systems to enable police operations (this currently covers the Police National Network, the Police National Database and the Police National Computer); and
- The provision of emergency services communications networks.

#### d) Military or dual-use technologies

##### **Military or dual-use technologies**

Dual-use assets are products and technologies normally used for civilian purposes, but which may have military applications. In this case the focus is likely to be, but not limited to, the development or production of goods on well-known and well-established parts of the UK's export control regime, namely:

- the UK Military List (Schedule 2 to the Export Control Order (ECO) 2008);
- the UK Dual-Use List (Schedule 3 to the ECO 2008);
- the UK Radioactive Source List (Schedule to the Export of Radioactive Source (Control) Order 2006);  
and
- the EU Dual-Use List (Annex I to the Council Regulation (EC) No. 428/2009).



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