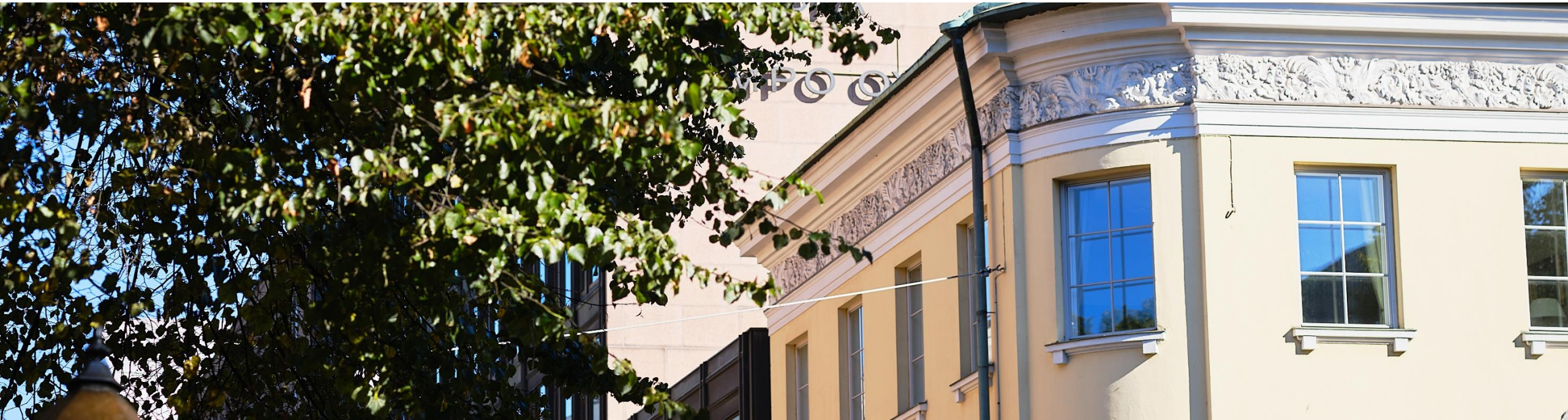


# Foreign Direct Investments

## Eversheds Sutherland Finland webinar

1 November 2023



# Agenda



Scope of FDI regulation

FDI as part of an M&A process

Authorities as part of the process

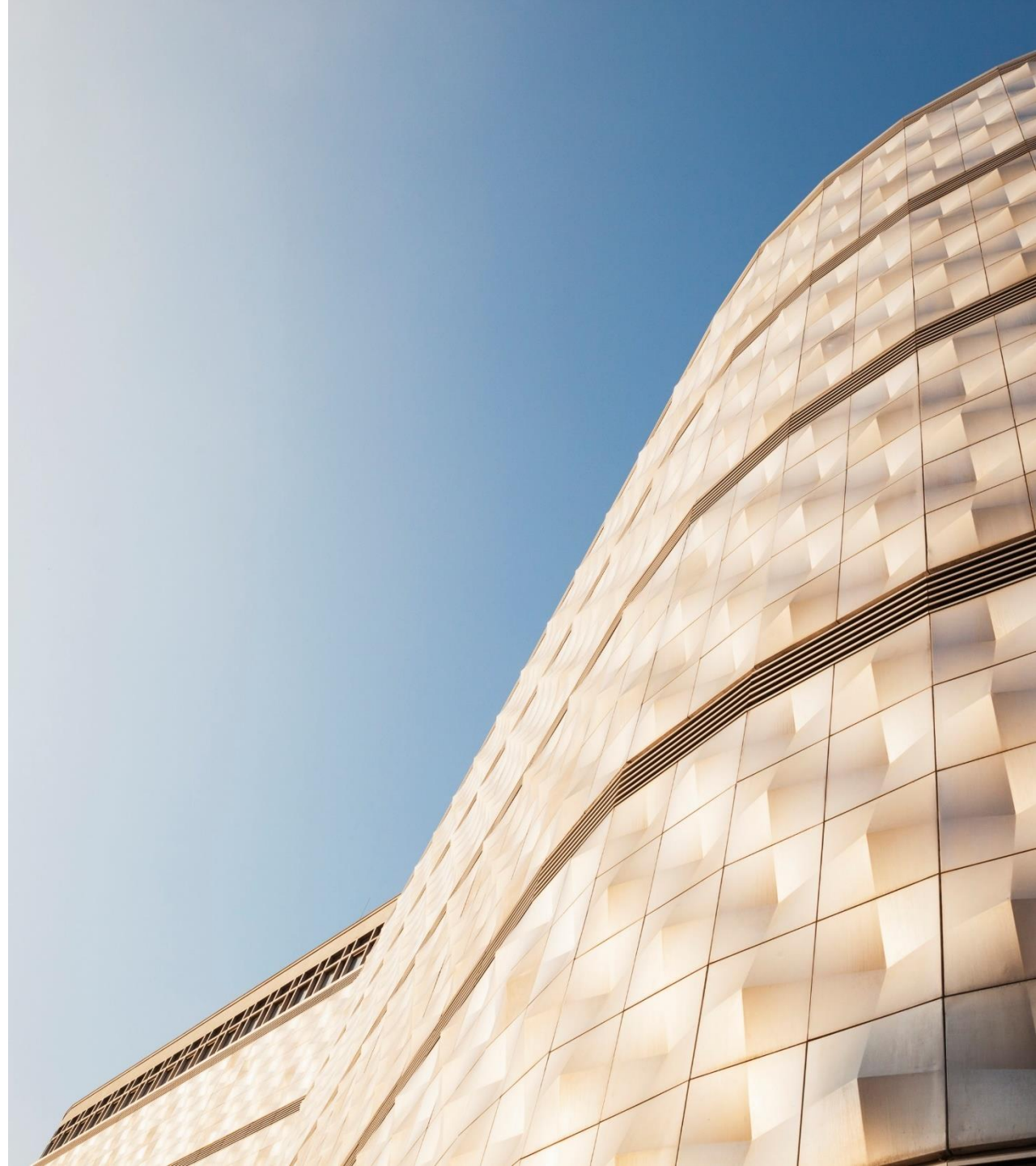




# Scope of FDI regulation

# Regulatory background

- Regulatory background
  - The EU Screening Regulation ((EU) 2019/452)
  - Act on the Screening of Foreign Corporate Acquisitions (172/2012)
- Objective is to screen, and, should a **key national interest** so require, **restrict the transfer** of influence to foreign nationals and foreign organisations and foundations in companies that are subject to screening
- **Key national interests**
  - **military national defense**
  - **functions vital to society** (including safeguarding critical infrastructure and security of supply)
  - **national security and public order**
- The political environment has an impact on the application of the Act





# Military national defense

## – Defence industry enterprise

- a) that produces or supplies defence materiel or other products or services important for military national defence; or*
- b) export of products produced in Finland that are considered as dual-use items.*

**To note, the definition “**products or services important for military national defence**” covers a wide range of products and services and case-by-case assessment needed.**







# FDI as part of an M&A process



# FDI as part of an M&A process

## Impact on an M&A process

- Pre assessment on early stages of the transaction
- Longer lead times
- To note: no turnover thresholds

## Evaluation on early stages

- Target company
  - Sector
  - Relationships to suppliers and clients
- Buyer
  - Control post-Closing
    - 1/10
    - 1/3 or
    - 1/2 of the voting rights or corresponding actual influence in the entity subject to screening
  - Residence and UBO



# FDI as part of cross-border transactions

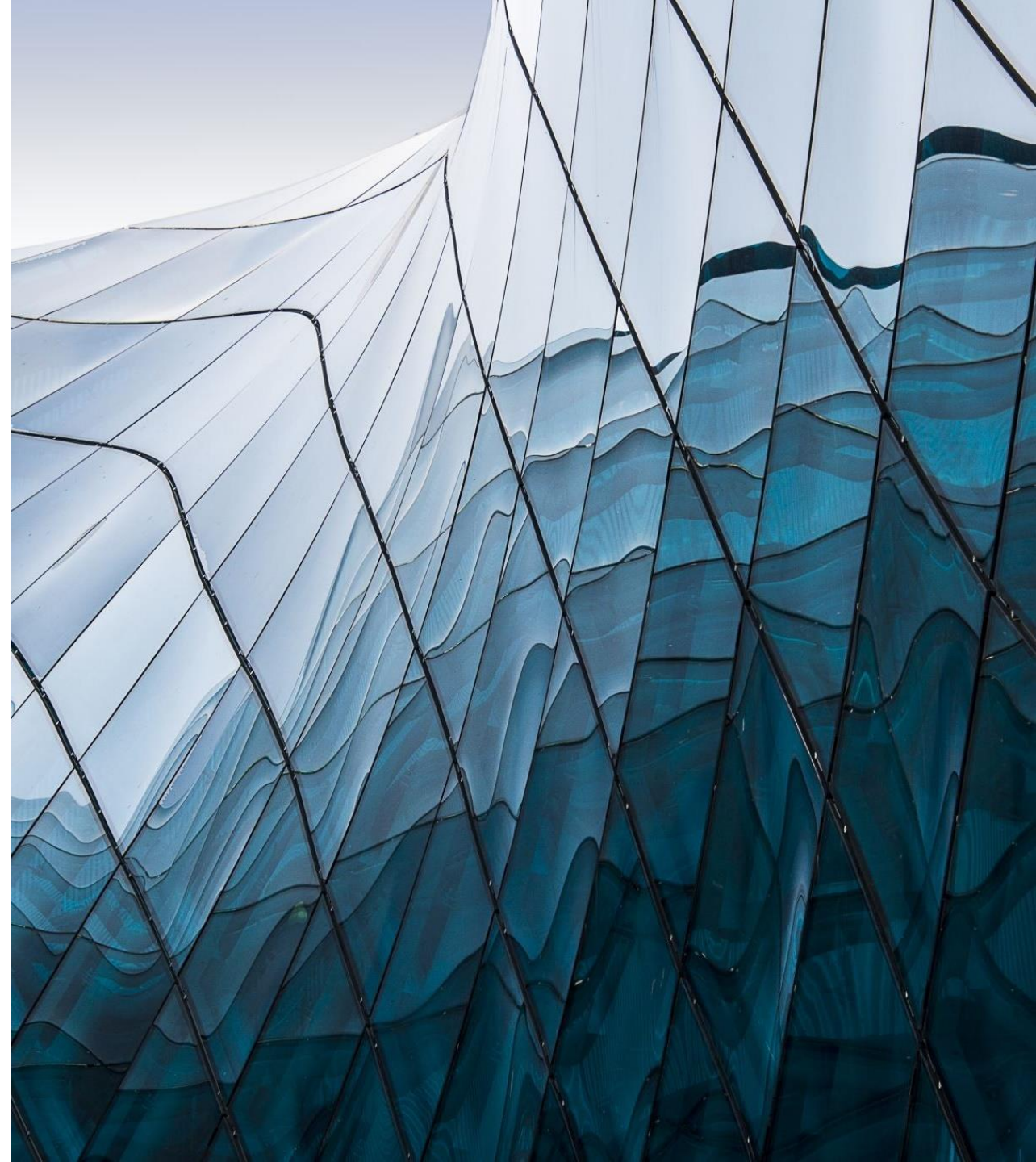
- The transaction may need to be filed in various countries
- Even though the regulation is based on an EU Directive, the process varies between member states
  - General obligations vs. sector specific
- Co-operation between authorities

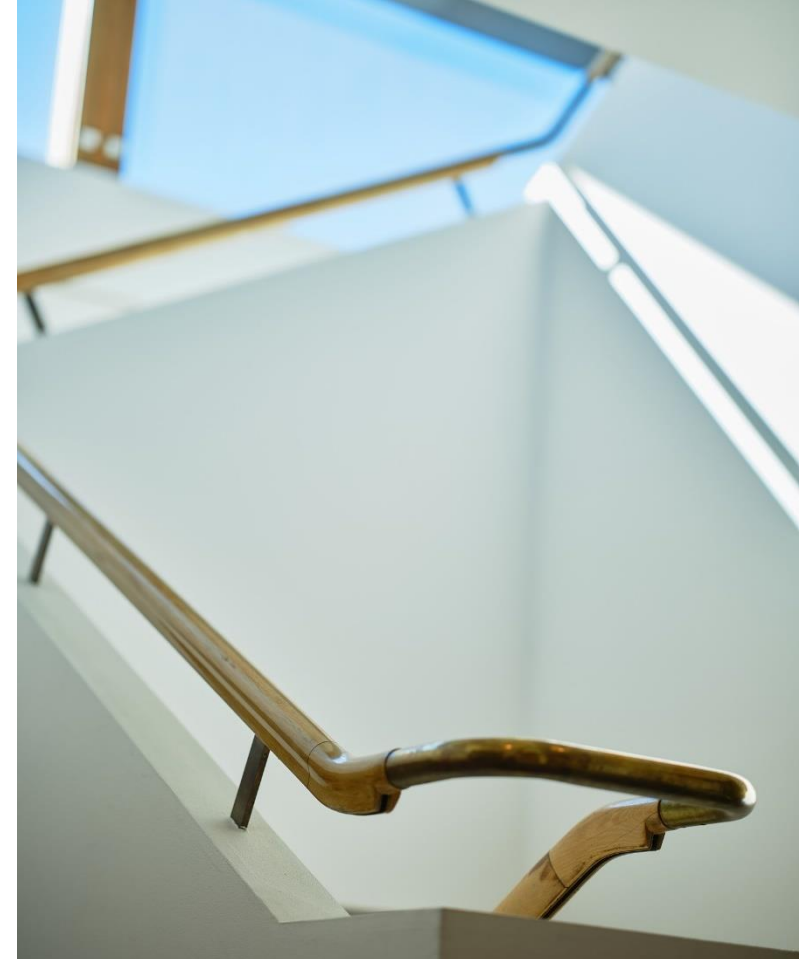




# FDI in Sweden

- Act on the Screening of Foreign Direct Investments (effective as of 1 December 2023)
- Objective is to prevent foreign investments which may harm national security, public order or public safety in Sweden
- **Sectors covered**
  1. Essential services
  2. Security-sensitive activities
  3. Critical raw materials, metals, and minerals
  4. Sensitive personal data and location data
  5. Military equipment
  6. Dual-use products
  7. Emerging technologies and other strategic protected technologies
- Notification mandatory for **Swedish**, **EU-based** and **third country** investors





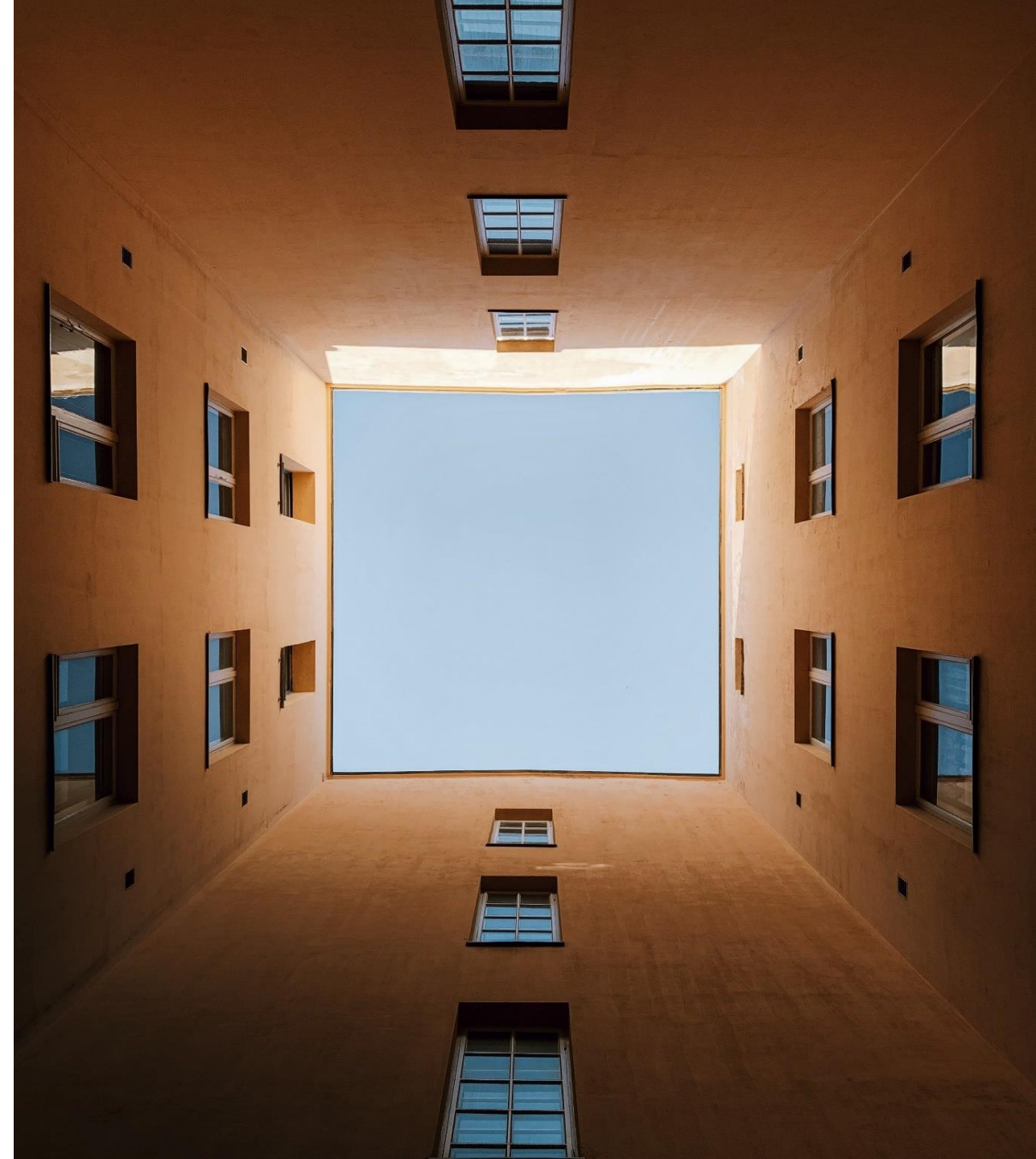
# Authorities as part of the process



# Role of authorities

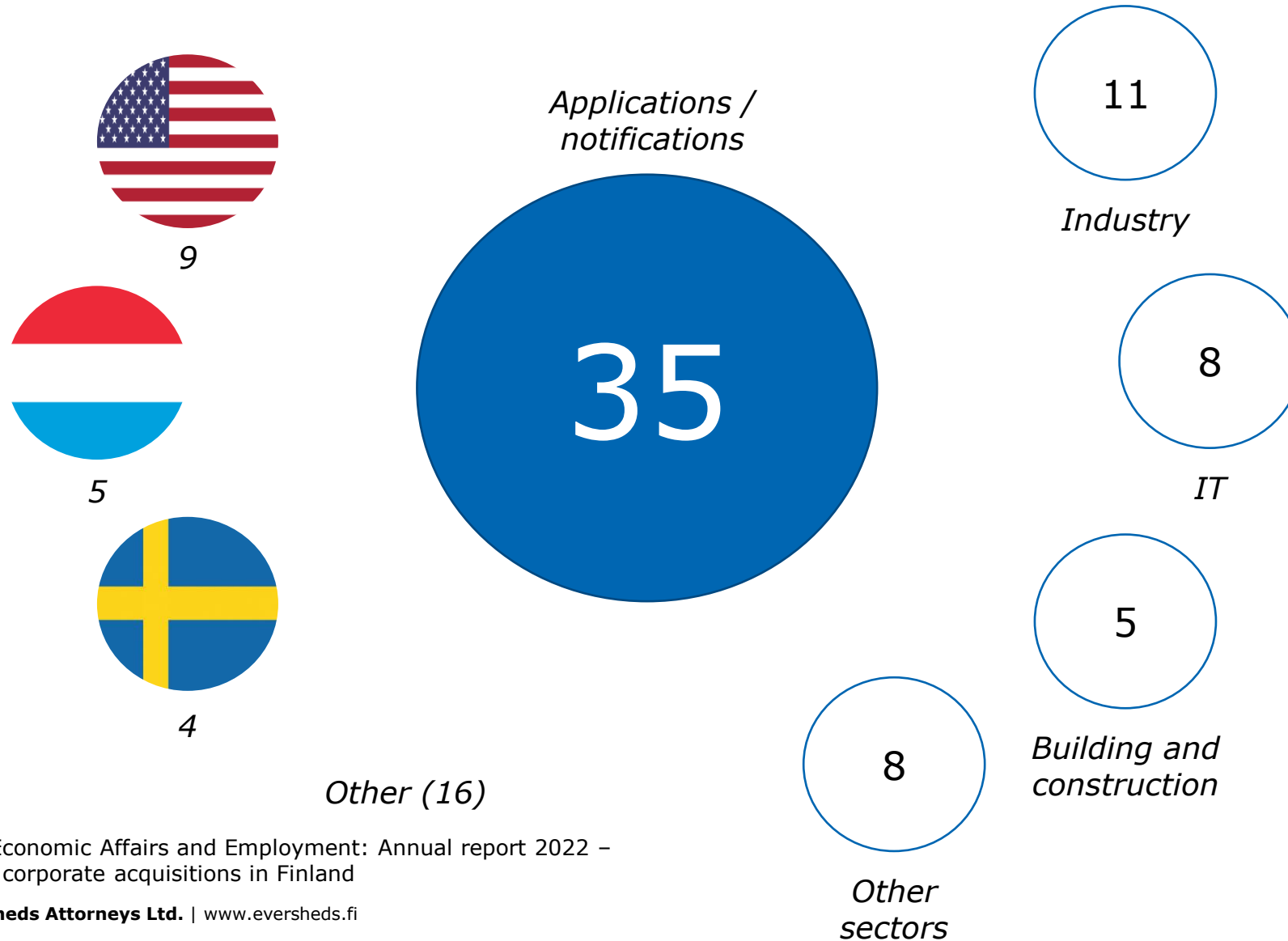
## – Ministry of Economic Affairs and Employment

- The guiding principle of the Act: a positive attitude to foreign investments
- Approval shall be granted, unless it could endanger a key national interest
- All applications will be processed by the Ministry as urgent and confidential
- Co-operation with other authorities
- The Ministry may refer a matter concerning confirmation or denial of confirmation to a government plenary session for consideration



# FDI in Finland

Statistics (2022)



Source: Ministry of Economic Affairs and Employment: Annual report 2022 – Screening of foreign corporate acquisitions in Finland



**Questions?**



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