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Policy Statement on Foreign Investment Review and COVID-19

April 18, 2020 – Ottawa, Ontario

As the global COVID-19 pandemic continues to evolve, the Government of Canada is taking strong and quick action to protect the health and safety of all Canadians and to stabilize our economy. Under these extraordinary circumstances, the Government will subject certain foreign investments into Canada to enhanced scrutiny under the *Investment Canada Act* (the Act or the ICA).

Many Canadian businesses have recently seen their valuations decline as a result of the pandemic, consistent with patterns in other major economies. These sudden declines in valuations could lead to opportunistic investment behaviour. Foreign direct investment is essential in ensuring that Canadian businesses are able to invest in innovation and to compete in the global economy. The current circumstances, however, are unique.

The Government has taken a number of concrete actions to support Canada's economy during and after the pandemic and will ensure that in-bound investment does not introduce new risks to Canada's economy or national security, including the health and safety of Canadians. While each investment will continue to be examined on its own merits, the Government will scrutinize with particular attention under the Act foreign direct investments of any value, controlling or non-controlling, in Canadian businesses that are related to public health or involved in the supply of critical goods and services to Canadians or to the Government.

Some investments into Canada by state-owned enterprises may be motivated by non-commercial imperatives that could harm Canada's economic or national security interests, a risk that is amplified in the current context. For this reason, the Government will also subject all foreign investments by state-owned investors, regardless of their value, or private investors assessed as being closely tied to or subject to direction from foreign governments, to enhanced scrutiny under the Act. This may involve the Minister requesting additional information or extensions of timelines for review as authorized by the ICA, in order to ensure that the Government can fully assess these investments.

For investments subject to net benefit review, investors are required to file an application with the Minister of Innovation, Science and Industry and to obtain approval prior to implementation. Under the national security review provisions of the ICA, which apply to foreign investments of any size, the Government may block a proposed investment, allow an investment with conditions (which can be imposed pre- or post-implementation), or order the divestiture of an implemented investment. Foreign investors are therefore strongly encouraged to consider the Act's review process in the early stages of their investment planning. This includes engaging with Innovation, Science and Economic Development Canada before the implementation of an investment. To obtain regulatory certainty, foreign investors must file a notification under the Act at least 45 days before closing.

This enhanced scrutiny of certain foreign investments under the ICA will apply until the economy recovers from the effects of the COVID-19 pandemic. Based on facts and evidence, and in accordance with applicable laws, the Government of Canada will take action where necessary to protect national security and to ensure the integrity of all investments into Canada, while remaining open to investment that benefits Canadians.

The Investment Review Division of Innovation, Science and Economic Development Canada may be reached at:

Telephone: 1-343-291-1887

Fax: 1-343-291-2469

Email: ic.investmentcanada-investissementcanada.ic@canada.ca

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