

EU Consults on Foreign Subsidies Regulation Guidelines

March 6, 2025

On March 5, 2025, the European Commission (EC) [launched a public consultation](#) on the EU Foreign Subsidies Regulation (FSR). The consultation will run to April 2, 2025.

Background. The EC is developing its guidelines on the FSR's distortion and balancing tests, which will be published in January 2026. Feedback from the consultation will inform these guidelines.

Scope of consultation. The consultation focuses on topics covered by the new guidelines:¹

1. The determination of a distortion caused by a foreign subsidy and the criteria applied.
2. The application of the balancing test to assess if positive effects of the foreign subsidy outweigh the distortion.
3. The EC's power to call in "below threshold" mergers and public tenders and the criteria considered.
4. The assessment of distortion in a public procurement procedure, and specifically, the meaning of an "unduly advantageous" tender and the need for a link between the foreign subsidy and the tender.

Outside these issues, the consultation is an opportunity for businesses to comment on other aspects of the FSR which the EC should consider in its case practice and other reviews of the legislation.² The EC will be publishing its first periodic report on the FSR's implementation in July 2026, as part of which it will consider if changes are required to the mandatory filing thresholds.

Next steps. Alongside the public consultation, the EC will send questionnaires to various stakeholders from business, legal practitioners and Member State authorities. The EC will publish its draft guidelines for an eight-week consultation in Q3 2025, before final adoption by January 12, 2026.

If you have any questions concerning this memorandum, please reach out to your regular firm contact or the following authors

BRUSSELS

François-Charles Laprèvote
+32 2 287 2184
fc laprevote@cgsh.com

Wanjie Lin
+32 2 287 2076
wlin@cgsh.com

¹ Article 46 of the Regulation.

² The EC must make an annual report to the European Parliament and the Council on the FSR's implementation (with the first report planned for end 2026), and issue three-year reviews for the regulation (with the first due July 13, 2026).

