

# Comprehensive Economic And Trade Agreement (CETA) Now In Force

September 22, 2017

Amends key review threshold for private investors from trade agreement countries under the Investment Canada Act

## Introduction

The Comprehensive Economic and Trade Agreement with the European Union ("CETA") has now been provisionally implemented in Canada, bringing into effect an increase to the net benefit review threshold to CAD \$1.5 billion under the Investment Canada Act ("ICA") for foreign investors from free trade agreement partner countries.

## Background

The ICA is Canada's legislation that governs reviews of foreign investments in Canada. It contains two separate review processes to which foreign investments may be subject:

1. A review process which considers generally whether an acquisition of control of a Canadian business by a foreign investor would be of net benefit to Canada ("Net Benefit Review"); and
2. A discretionary review process which considers whether a foreign investment in Canada could injure Canada's national security ("National Security Review").

Whether a Net Benefit Review of an acquisition is required turns on whether the value of the target Canadian business exceeds the applicable financial threshold. If the value of the target business exceeds the applicable threshold, investors must file an application for Net Benefit Review with the Investment Review Division ("IRD"), and observe a waiting period of up to 75 days prior to closing the investment. In order to secure approval under this process, investors must satisfy the relevant federal Minister that the investment is likely to be of "net benefit" to Canada, having regard to certain evaluative factors set out in the legislation. To do this, investors typically give enforceable undertakings to the Minister that address these factors – for example, commitments on employment levels, economic activity, innovation, global competitiveness, and the participation of Canadians in management and on the board.

## **Increase in the Net Benefit Review Threshold for Trade Agreement Investors**

Starting September 21, 2017, the Net Benefit Review threshold was increased to CAD \$1.5 billion in enterprise value<sup>1</sup> for non-state owned enterprise<sup>2</sup> investors from any CETA country or other bilateral free trade agreement partner country (now defined in the ICA as a "Trade Agreement Investor"). Other Trade Agreement Investors include Chile, Colombia, Honduras, Mexico, Panama, Peru, South Korea, and the United States. The increased threshold will be adjusted annually starting January 1, 2019 to reflect growth in Canada's GDP.

The threshold for investments from non-state owned enterprise investors controlled in a World Trade Organization ("WTO") member state remains CAD \$1 billion.

In addition, as noted in [our previous bulletin](#), the amendments to the ICA as a result of the implementation of CETA do not affect the other Net Benefit Review thresholds under the ICA, which apply to different types of transactions, including:

- Acquisitions by non-Canadian investors that are state-owned or controlled ("SOEs");
- Acquisitions of target Canadian businesses that are engaged in "cultural" activities (e.g., in the film/TV, music, or publishing sectors); and
- Acquisitions by investors that are controlled in states that are not WTO members.

**1 The methodology for calculating enterprise value depends on the structure of the transaction (i.e., whether it is an acquisition of shares or assets) and whether the shares of the target are privately held or publicly traded.**

**2 A state-owned enterprise is an organization that is owned, controlled or influenced, directly or indirectly, by a foreign government; a non-state owned enterprise is any other enterprise, such as a private sector investor.**

By

[Subrata Bhattacharjee, Danielle Ridout](#)

Expertise

[Competition/Antitrust and Foreign Investment](#)

---

## BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

[blg.com](http://blg.com)

### BLG Offices

#### Calgary

Centennial Place, East Tower  
520 3rd Avenue S.W.  
Calgary, AB, Canada  
T2P 0R3

T 403.232.9500  
F 403.266.1395

#### Ottawa

World Exchange Plaza  
100 Queen Street  
Ottawa, ON, Canada  
K1P 1J9

T 613.237.5160  
F 613.230.8842

#### Vancouver

1200 Waterfront Centre  
200 Burrard Street  
Vancouver, BC, Canada  
V7X 1T2

T 604.687.5744  
F 604.687.1415

#### Montréal

1000 De La Gauchetière Street West  
Suite 900  
Montréal, QC, Canada  
H3B 5H4

T 514.954.2555  
F 514.879.9015

#### Toronto

Bay Adelaide Centre, East Tower  
22 Adelaide Street West  
Toronto, ON, Canada  
M5H 4E3

T 416.367.6000  
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing [unsubscribe@blg.com](mailto:unsubscribe@blg.com) or manage your subscription preferences at [blg.com/MyPreferences](http://blg.com/MyPreferences). If you feel you have received this message in error please contact [communications@blg.com](mailto:communications@blg.com). BLG's privacy policy for publications may be found at [blg.com/en/privacy](http://blg.com/en/privacy).

© 2025 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.