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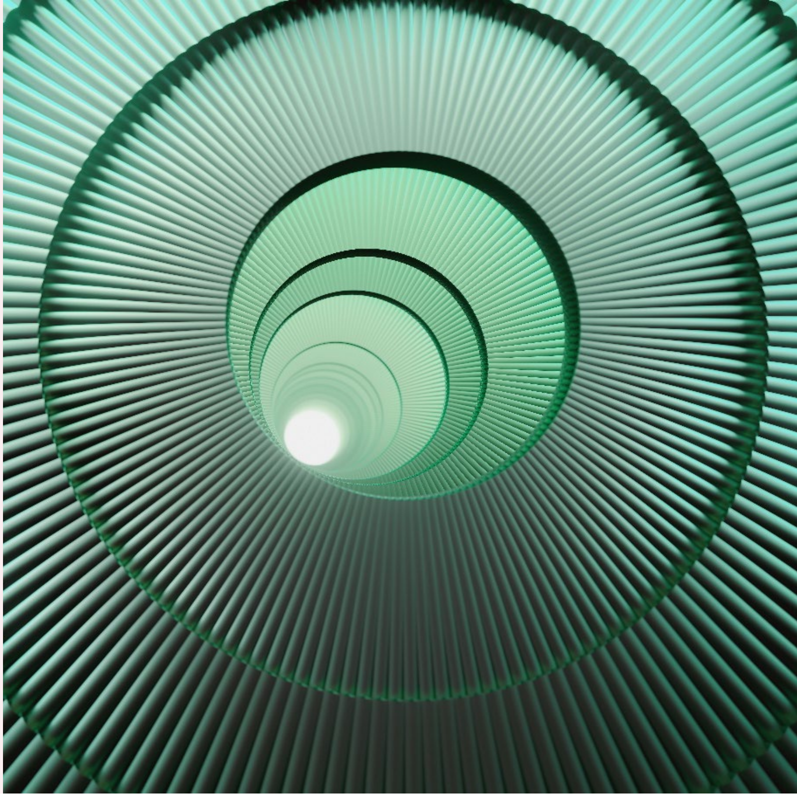
BRIEFING

Foreign Subsidies Regulation enforcement update

24 September 2026



This first edition of our Foreign Subsidies Regulation (FSR) Enforcement Update covers a number of notable developments in Q2 and Q3 2026. These include the first in-depth FSR merger investigation into a Chinese acquirer (JD.com/CECONOMY), the first proceedings for failure to comply with an FSR dawn raid (Temu), the first commitments in a public tender investigation and the Commission's first three-year review of the FSR. There have also been threats to exclude bidders from Greek tender for failure to provide information, as well as reactions from the Chinese government against FSR investigations into Chinese companies, including orders prohibiting cooperation with the Commission's investigations, and investigations into EU subsidies granted to French businesses with Chinese operations.

Key developments

1. First in-depth FSR merger investigation into a Chinese acquirer: JD.com / CECONOMY
2. China blocks cooperation with the Nuctech and JD.com/CECONOMY investigations
3. The Commission's first three-year review of the FSR
4. First FSR obstruction case: the Commission targets Temu
5. China seeks information from French companies over EU subsidies
6. First commitments in a public tender FSR investigation
7. Bidders in Greek energy tenders face exclusion for failure to provide information

First in-depth FSR merger investigation into a Chinese acquirer

On 28 May, the Commission opened an in-depth FSR investigation into the proposed acquisition by JD.com, Inc. of CECONOMY AG. The Commission has preliminary concerns that JD.com may have been granted foreign subsidies – including loans from Chinese State-linked banks, tax breaks and, grants – that could have distorted the process for the sale of CECONOMY and could be used by the merged entity to distort competition, post-transaction. Press reports have indicated that the Commission has dropped the first of its concerns (distortion of the M&A acquisition process) and that JD.com has proposed a remedy that would grant rivals access to some of its logistics services and technology on FRAND terms.

China blocks cooperation with the Nuctech and JD.com/CECONOMY investigations

On 15 May, China's Ministry of Justice formally determined that the EU's cross-border investigative measures against Chinese entities in the Nuctech case constitute "improper extraterritorial jurisdiction" for the purposes of its recently adopted Regulations on Countering Foreign Improper Extraterritorial Jurisdiction. It therefore instructed Chinese organisations and individuals not to comply with or assist such measures without government approval.

On 19 August, the Ministry of Justice took the same step in respect of the investigation into JD.com's acquisition of CECONOMY (see above).

Businesses operating across both China and Europe may increasingly face direct conflicts between competing jurisdictions: complying with an EU information request could breach Chinese blocking rules, and refusing to comply could expose the business to EU fines. While in other areas of EU law the courts have recognised a "State compulsion" defence to liability for infringements, they recently stated in Nuctech's application for interim relief against an FSR dawn raid that "*the applicants and their parent company have chosen to carry out commercial activities in the internal market of the European Union [and] like any other economic operator, they are therefore subject to the EU rules which govern the functioning of that market*."

The Commission's first three-year review of the FSR

On 16 July 2026, the Commission published a report reviewing the first three years of implementation and enforcement of the FSR. The Commission considers that the FSR remains fit for purpose but has identified room for improvement.

In the past three years, businesses have made thousands of filings for M&A transactions and public tenders, of which only seven have led to in-depth investigations. Average pre-notification periods for M&A filings reduced from 42 to 35 working days (a 16% reduction) in the first 18 months of the regime. The Commission concludes that the FSR "does not merit structural changes" and that "the assumptions underlying the FSR remain valid".

The Commission is nonetheless considering targeted adjustments, including:

- raising the M&A notification threshold for target turnover in the EU, potentially from €500 million to €600 million (an estimated 16% reduction in filings);
- a simplified, shorter filing form for certain transactions or foreign financial contributions, including higher reporting thresholds and an expanded list of contributions exempted from reporting (such as limited partner investments in funds);
- simplified public procurement filing forms and a revised waiver framework for information disclosure; and
- a single annual or bi-annual submission for frequent public procurement filers, rather than a filing per procedure, which could cut such submissions by around 76%.

For public procurement, the Commission received over 5,000 filings, of which over 4,000 were declarations that the relevant thresholds were not met, and only four resulted in in-depth investigations; despite this volume, the Commission does not currently consider it necessary to amend the procurement filing thresholds. The Commission intends to consult on the targeted changes in the autumn, with adoption targeted for 2027.

For more details, see our briefing here.

First FSR obstruction case: the Commission targets Temu

The Commission has sent a Statement of Grounds to Temu's owner, PDD Holdings Inc., and its subsidiary, WhaleCo Technology Limited, outlining concerns that they may have obstructed an FSR dawn raid inspection at WhaleCo's premises in Ireland in December 2025.

The Commission preliminarily considers that Temu failed to comply with several basic requests made by the Commission during the dawn raid, including refusing to provide information relating to its EU activities regarding its organisation and management, its IT tools and systems and specific books and records. Such procedural infringements, if confirmed, could result in a fixed fine of up to 1% of Temu's annual worldwide turnover, and periodic fines of up to 5% of its daily worldwide turnover. There is not (yet) any indication that the Chinese Ministry of Justice has issued an order prohibiting cooperation with the Commission's investigation into Temu, in contrast to the investigations into Nuctech and JD.com (see above).

China seeks information from French companies over EU subsidies

China's Ministry of Commerce has sought information from several (unidentified) French companies operating in China about subsidies received from the EU and its member states. A Ministry spokesperson said that such subsidies may have benefited the recipients' Chinese subsidiaries, and has asked for information to assess their potential impact.

It may be inferred that this is a reaction by the Chinese government to the Commission's ongoing FSR investigations into a number of Chinese companies, a number of which are covered above. Given that the EU is unlikely to stop enforcing the FSR against Chinese companies, this could be the first Chinese investigation of many. EU businesses that have received State aid and that have significant operations in China should monitor these developments closely.

First commitments in an FSR public tender investigation

The European Commission has, for the first time, accepted commitments following an FSR investigation into a public tender procedure. The Commission had opened an investigation in November 2025 due to concerns that Portugal CRRC Tangshan Rolling Stock Unipessoal may have received foreign subsidies that distorted the procurement procedure, enabling the consortium in which it was participating as a subcontractor to submit an unduly advantageous tender.

In April 2026, the Commission allowed Metropolitano de Lisboa to move forward with awarding the contract, following commitments that were offered by the consortium to replace Portugal CRRC with a Polish supplier of rolling stock.

Bidders in Greek energy tenders face exclusion for failure to provide information under the FSR

It has been reported that in early September the Commission took action against three (unidentified) bidders in Greek energy sector public tenders, after they failed to provide information that was required by the FSR. It has issued formal decisions requiring the bidders to supply the information. If they failed to do so, the contracting authority would be required to reject their bids.

Last year, enforcement of the FSR led to China Harbour Engineering being excluded from a tender for a construction project in Poland, and an unnamed company being blocked from supplying IT equipment to Electricité de France.

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