

FDI Guide Uruguay

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Foreword: A specific chapter is dedicated to the new Regulation (EU) 2019/452 of 19 March 2019 creating a framework for the screening of foreign direct investment (FDI) into the European Union through a combination of: (1) mandatory information by the Member State receiving a filing under its FDI regime of all other Member States and the European Commission; and (2) the possibility for the latter to make comments or issue opinions to the former.

	Topic	Explanation/Description of what is expected	Uruguay
1.	Principle	Describe if the FDI regime is built by exception to a principle of freedom of investment or whether restrictions to transferring funds to and from your country apply generally.	<p>While we have seen the rise (or at least reactivation) of FDI control regimes worldwide, <i>there is no foreign investment control regime to speak of in Uruguay</i>. Uruguayan authorities encourage all investments, without discrimination between local and foreign investors, and, outside the scope of the traditional state monopolies, there does not seem to be any support for the idea that certain strategic sectors should be owned exclusively by Uruguayan capital.</p> <p>There are some specific rules applicable in certain sectors, as we describe below, but those are geared at knowing who owns the capital invested, and sometimes making sure that they do so through a local entity that will be caught by Uruguayan regulations, rather than pursuing some protectionist or patriotic view.</p> <p>Freedom of investment</p> <ul style="list-style-type: none"> • The Uruguayan FDI regime is built on the principle of freedom of investment, with certain exceptions to areas under bilateral or multilateral agreements. • There is no foreign exchange control in Uruguay and there are restrictions for transferring funds to and from Uruguay.

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			<ul style="list-style-type: none"> • Uruguayan laws 12670 (dated 17 December 1959) and 14500 (dated 8 March 1976) provide freedom of foreign currencies to and from Uruguay, and the possibility of agreeing contracts and investments in foreign currencies. • Uruguayan law 16906 (dated 7 January 1998) provides equal treatment of foreign and national investments. • Uruguay has agreed to plenty of Treaties for the Protection of Investments with other jurisdictions, where the rule is the freedom to invest. Certain exceptions may apply with each of those jurisdictions. • Most exceptions are related to public monopolies, rural real estate, land, maritime and aeronautical industries, and the warehousing business.
2.	<p>Legal regime</p> <p>Authority(ies) in charge</p>	<p>Describe source(s).</p> <p>Name of authority in charge of applying the FDI rules (Minister/Agency/...).</p>	<p>The Uruguayan general regime is provided by Law 16906. Law 16906 declares the promotion and protection of investments made in the country by Uruguayan and foreign investors of national interest. It also guarantees freedom to transfer invested capital, as well as profits in any currency and at any time.</p> <p>According to this law, national interest status may be granted to any activity, specific project or company that meets certain objectives, such as the increase and diversification of exports of processed goods, the establishment of new industries, or the expansion or refurbishing of existing industries.</p> <p>The Investments Law enables the Executive Branch to provide tax advantages to certain activities that are then qualified as ‘promoted activities’. Investment incentives are equally available to foreign investors and Uruguayan investors. Incentives mainly take the form of tax incentives. These consist in the possibility of deducting between 20 per cent and 100 per cent of the total value of the investment from the applicable income tax in a term that can go from three to 15 years. For the purpose of obtaining such advantages, companies must submit detailed accounting and financial information to the Investment Implementation Committee (COMAP). Once a recommendation from the COMAP has been obtained, the Executive Branch will issue a resolution declaring the project promoted, where the amounts and deadlines of the granted tax benefits are established.</p> <p>In general, no prior authorisation is required in Uruguay to proceed with an investment. Certain restrictions may apply in regulated markets or antitrust clearance.</p>

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			Uruguay has no limitations on the holding or trading of foreign currency or precious metals. Moreover, transactions may be entered into in any currency and no permits or authorisations are required to bring money into the country or to send funds abroad. Any individual or duly incorporated legal entity may own real estate (with certain exceptions in the case of rural real estate – see below), regardless of nationality, residence or place of incorporation.
3.	<p>Transactions that may be subject to FDI</p> <ul style="list-style-type: none"> • Type • Materiality thresholds • Rights of evocation 	<p>Describe the nature of the transactions that may be subject to FDI rules.</p> <p>In the case of share acquisition, specify if the FDI regime is triggered only beyond a certain threshold and, if so, describe such a threshold.</p>	<p>Although antitrust regulations may apply to the investment, such rules are the same for both a national and foreign investor.</p> <p>Law 18159 (dated 20 July 2007), as amended, provides the thresholds under which an investment, if considered as a concentration act, is to be cleared by the relevant antitrust authorities.</p> <p>Other than antitrust law, we detail below some of the main regimes applicable to specific sectors, and which may be of relevance to foreign investors and local investors alike.</p> <p>Environmental authorisation</p> <p>Prior environmental authorisation is required for several activities, operation of facilities or works listed in the environmental regulation. These include, for example, electricity generating plants of over ten megawatts; nuclear power plants; construction of public terminals for loading and unloading of goods and passengers; and implementation of complex urban developments of over ten hectares.</p> <p>Uruguayan financial system</p> <p>The Uruguayan financial system allows entities to operate as full branches of foreign banks or, alternatively, as local subsidiaries of foreign companies or banks. Entities that carry out ‘financial intermediation’, such as banks, financial houses and offshore banks, require a licence granted by the Central Bank of Uruguay and authorisation from the Executive Power. The Central Bank of Uruguay, in its capacity as a supervising entity, overlooks financial entities and is vested with the authority to impose minimum capital requirements, liquidity ratios, reserves, maximum exposures, debt ratios and so on, all in line with the Basel Convention principles.</p> <p>Mining</p> <p>All mineral deposits located within the Uruguayan territory belong to the Uruguayan state and therefore, all rights over such deposits can only be granted by the Executive Branch. The</p>

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			<p>Uruguayan Mining Code recognises and regulates the granting of easements, prospecting rights, exploration rights and exploitation permits, and expressly states that all persons or entities, whether national or foreign, can be holders of mining rights.</p> <p>Oil and gas</p> <p>Under the Uruguayan Mining Code, all: (1) fossil substances, oil and gas; and (2) ‘other minerals or elements capable of generating energy industrially’ are classified as Class I minerals and all mining activities regarding this Class is reserved to ANCAP (the state-owned oil company) directly or through concessions to third parties.</p> <p>Treatment of foreign investment in real estate (rural and urban properties)</p> <p>Real estate property may be owned by one or more individuals, partnerships and corporations, or some combination of the same, whether national or foreign. The only restrictions refer to ownership of agricultural land (ie, destined for agriculture and rural land with other destinations – eg, industrial – are not subject to limitations) and are set forth in Laws 18,092 and 19,283.</p> <p>Law 18,092 declared that it is of national interest that the owners of agricultural land are individuals (national or foreign) or corporations with registered shares owned by individuals (national or foreign). However, the Executive Branch may authorise companies that do not comply with the above requirements to own agricultural land:</p> <ol style="list-style-type: none"> 1. when the nature of their undertaking or number of their shareholders impedes that their capital belongs to individuals; 2. when the shareholders are listed in a well-reputed stock exchange; and /or 3. when the activity to be carried out qualifies as a productive project. <p>Law 19,283, states that <i>sociedades anonimas</i> and <i>sociedades en comanditas por acciones</i> (ie, Uruguayan corporations) with bearer shares, in principle, are no longer authorised to own rural real estate if their controlling shareholders are: (1) national entities owned by foreign states; or (2) sovereign funds of said states.</p> <p>Exceptionally, the Executive Branch may grant authorisation to a Uruguayan corporation whose shareholders are foreign states or sovereign funds of said states if such a Uruguayan corporation: (1) presents a productive project; and (2) has a minor non-controlling participation of foreign states or sovereign funds.</p>

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			<p>Forestry investment</p> <p>Uruguay may well be considered an emerging forestry country. A 1987 Forestry Law introduced various incentives to the industry such as:</p> <ol style="list-style-type: none"> 1. complete tax exemption for forested areas planted in land declared to be of ‘Forestry Priority’, not only for net worth tax but also for municipal land taxes; 2. the fact that the proceeds of forested areas are not compounded for the payment of income tax and other taxes related to agricultural activities; 3. investors may receive partial reimbursement of the expenses incurred; (4) eligibility for special soft credit lines provided by the Banco de la República Oriental del Uruguay (BROU, the Uruguayan state bank); and 4. tax and customs duties exemptions for the importation of supplies and capital assets destined for the production and industrialisation of Uruguayan wood. <p>Aviation</p> <p>If the owner of the company is a natural person, that person must be a Uruguayan citizen. In the case of a limited liability company, at least half of the partners (with a majority of capital) must be Uruguayan citizens with real domicile in Uruguay. In the case of a corporation, the majority of the shares (with the majority of votes) must belong to Uruguayan entities with real domicile in Uruguay. This restriction has limited effects in practice because Uruguay largely allows foreign aviation companies to operate in Uruguayan skies and airports.</p> <p>National security/defence</p> <p>National security and defence are exclusively within the state’s competence. Private investment, local or foreign, is prohibited.</p> <p>State monopolies</p> <ul style="list-style-type: none"> • OSE (State Waterworks), a state-owned company, has the monopoly for water supply, so private investment is not possible. • ANCAP has the monopoly for the import and refining of crude oil, and import and export of liquid, semi-liquid and gaseous fuel, so private investment in these areas is not possible (although a recent amendment allows for the importing of oil within certain conditions).

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			<ul style="list-style-type: none"> • ANTEL (a state-owned company) has the monopoly for local fixed-line telecom services, so private investment is not possible. Foreign investment is permitted in mobile telecom services and long-distance telecom services with prior authorisation from URSEC. <p>Regarding the type of investors, no distinctions are made between local and foreign investors, except for the ownership of rural land, as previously mentioned.</p>
		<p>Are indirect acquisitions of assets or shares in the jurisdiction subject to the relevant FDI rules (acquisitions in a parent company outside the jurisdiction)?</p> <p>Are share transfers involving a group company internal restructuring covered?</p> <p>Are greenfield investments covered?</p>	<p>Regarding the ownership of aviation, maritime or land transport corporations, Uruguayan authorities are entitled to monitor transactions being carried out in Uruguay and to require that a minimum national provision of capital be complied with in the stock of the company. If a given transaction falling within its scope is not referred to them before this, they may nullify the sale or terminate the benefits.</p> <p>In general, such controls are fulfilled based on the regulated entity being a corporate entity having registered or dematerialised shares and informing the authorities of which natural person or final beneficiary owns them, and not generally the nationality of the shareholders.</p>
		Does the FDI authority (or another type of governmental authority) have a power of evocation/ex officio/call-in powers? If so, please describe.	
4.	Sectors falling under the FDI scope	<p>Describe the economic sectors for which the FDI regime will apply. If relevant, explain for each sector the level of flexibility that the authority may apply (or not) in evaluating whether FDI rules should apply.</p> <p>Are there sector-specific stricter limits on foreign investment that will apply, such as a lower threshold of investment by foreign interests or sectors for which no foreign investment is possible? If yes,</p>	<p>As detailed above, exceptions to foreign investment are given in Uruguay to areas where a state monopoly exists or where treaties allow a component national to obtain the benefits of the treaty for companies domiciled in the Uruguayan jurisdiction.</p> <p>There are certain monopolies in the state in Uruguay that do not admit private investment, either national or foreign:</p> <ul style="list-style-type: none"> • water and waterworks; • oil and gas import and export; • telephone landlines and electricity lines; • railways; and

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		which sectors (eg, nuclear energy/agriculture)?	<ul style="list-style-type: none"> • national mail. <p>With regards to the national component, such a situation is relevant only when referred to land, maritime or air transportation companies, within the specific office regulating them (Transport Directorate of the Ministry of Transport and Public Works (<i>Dirección Nacional de Transporte del Ministerio de Transporte y Obras Públicas</i>); National Port Authority (ANP); or the National Directorate of Civil Aviation and Air Infrastructure (DINACIA), respectively), or the property of <i>entrepôts</i> controlled by the Ministry of Finances and the National Customs Directorate (<i>Ministerio de Economía y Finanzas y Dirección Nacional de Aduanas</i>).</p> <p>Uruguay may need, in any type of investment in regulated areas, to know the shareholders and final beneficiary owners of the regulated entity. However, such a situation applies to both national and foreign investments.</p>
5.	Qualified investors	Describe the main characteristics of investors that fall under the FDI regime and if there are nuances depending on their origin (eg, EU v not EU).	<p>Regarding the Uruguayan law standpoint, there are three types of foreign investors:</p> <ul style="list-style-type: none"> • a MERCOSUR resident investor (non-Uruguayan); • a protected investor under a non-MERCOSUR bilateral or multilateral agreement; and • other foreign investors. <p>The differences are due to issues on benefits to be received under the treaties (for example, bidding in State tenders or regional components in air public services), but not as a means to promote, discriminate or differentiate their FDI investments.</p>
6.	Procedure 6.1 Before or post-closing filing		<p>The various prior approval regimes mentioned above are mandatory and impose a standstill obligation. Consequently, closing must be suspended until the corresponding authorisation is given, unless the granting of such authorisation is agreed as a suspensive condition (eg, financial intermediation institutions organised as corporations must require prior authorisation from the Central Bank of Uruguay to issue or transfer shares).</p>
7.	6.2 In the case of pre-closing filing	Mandatory/optional filing	Not applicable.

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8.	6.3 In the case of post-closing, what are the powers of the authority?		Not applicable.
9.	6.4 Advance ruling	Explain, if it is possible to obtain a pre-ruling from the authority as to whether the transaction falls under the FDI rules and, as the case may be, describe the process to be followed.	Not applicable.
10.	6.5 Timing of various steps (i) Filing	How much lead time is required?	Not applicable.
11.	(ii) Review by the authority	Specify the timing available to the authority; indicate if the timeframe is mandatory or not and describe what other flexibility may exist <i>de facto</i> or <i>de jure</i> .	Not applicable.
12.	(iii) Negotiation with the authority	Describe how to handle the relationship with the authority, including when approval is subject to commitments from, or conditions imposed on, the investor.	Not applicable.
		Are there any guidelines issued by the authority?	Not applicable.
13.	(iv) Filing fees	Is there a filing fee?	Not applicable.

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14.	(v) Information needed for filing	What information about the investor is required? Are there any thresholds for the identity and nationality of minority passive shareholders? Information on other FDI approvals by other authorities?	Not applicable.
15.	(vi) Final decision	Indicate if the final decision is to be issued within a set timeframe and what are the consequences if the authority does not issue a decision within the set timeframe.	Not applicable.
16.	Conditionality of approval (i) Type of conditions or commitments	Describe the type of conditions or commitments to which FDI approval may be subject. Specify their usual duration. Specify what powers the authority may exercise to control/monitor the satisfaction of such conditions/commitments.	Not applicable.
17.	(ii) Level of discretionary power of the authority	Indicate if it exists and, if so, describe exceptional circumstances that have led to the use of such discretionary power.	Not applicable.
18.	(iii) Risk of veto	Describe a topical case. Statistics	Not applicable.
19.	Role of other national authorities	Indicate if other authorities or administrations (eg, Army or Defence Minister) can get involved and, if so, how (by the authority or otherwise) and how much influence it may exercise.	Not applicable.

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20.	Sanctions	Describe the type of sanctions that may be imposed by the authority in the case of:	Not applicable.
		<ul style="list-style-type: none"> • breach of conditions and/or commitments attached to the approval; and 	
		<ul style="list-style-type: none"> • investment carried out without prior approval. 	Not applicable.
21.	Covid – special regime	Please describe specific rules applicable as a result of the Covid-19 pandemic.	Not applicable.