Brief Ideas

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Future-proofing Investment Regulation Across ASEAN

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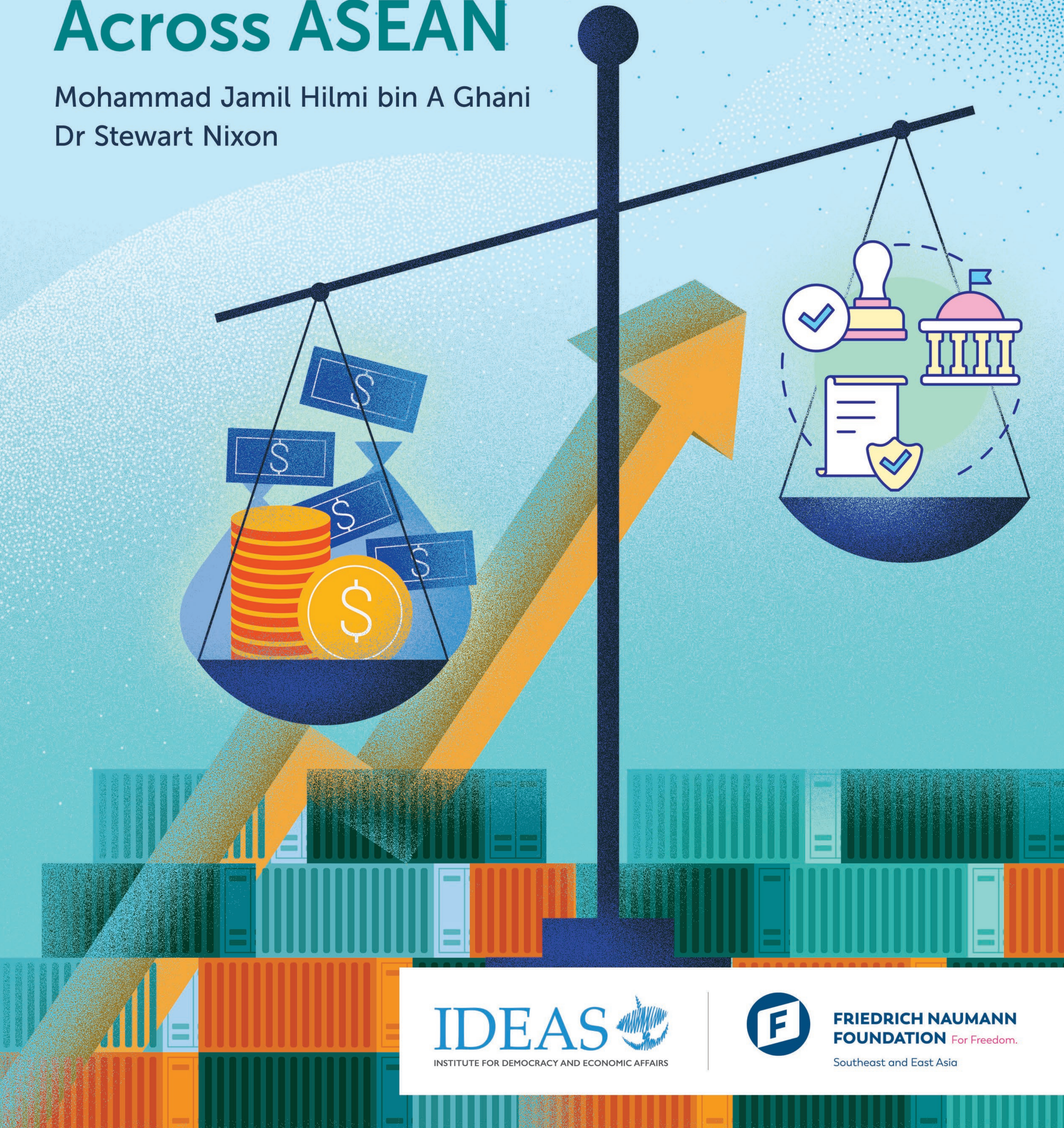

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Executive Summary

Foreign direct investment (FDI) is central to the Association of Southeast Asian Nations' (ASEAN) growth model, but global shifts since 2019 have reshaped how individual member governments balance investment policy openness with rising economic and security risks. In response to geopolitical tension, technological rivalry, digital economy risks and supply chain disruptions, several member economies are adapting their investment screening and regulatory frameworks.

This paper examines changes to investment governance within ASEAN through the examples of Singapore, Vietnam, the Philippines, and Indonesia between 2019 and 2025. It shows that while each country adopts a distinct approach, all are moving toward conditional openness: retaining liberalisation as a strategic priority while embedding proportionate safeguards to manage national security, data governance, and critical infrastructure risks.

Key Findings

- **Strategic regulation is rising across ASEAN**

  - Singapore's Significant Investments Review Act (2024) (SIRA) establishes Southeast Asia's most comprehensive, entity-based investment screening mechanism.

  - Vietnam is introducing a special fast-track pre-clearance procedure for priority and strategic sectors, while expanding regulatory oversight — including mandatory vetting — for energy, telecommunications and other critical sectors.

  - Since 2022, the Philippines has combined broad liberalisation — easing foreign equity restrictions and lowering barriers for SMEs — with statutory screening powers for foreign investments in public-service and strategically sensitive sectors such as rail, shipping and telecommunications.

  - Indonesia is opening up to foreign investors while anchoring new investment in downstream-oriented industrial policy, with local-content and value-addition requirements as key conditionalities.

- **The scope of screening is widening**

  Data governance, digital platforms, green industries, and strategic infrastructure now fall within routine assessment across multiple ASEAN jurisdictions.

- **Flexibility defines ASEAN's approach**

  Rather than replicate Western models, ASEAN economies are adopting risk-based, context-specific frameworks that integrate security considerations into investment promotion.

- **Predictability remains uneven**

  A period of regional turbulence has reduced regulatory predictability, making transparency, procedural clarity, and institutional coordination more important for investors. Some ASEAN members are providing these foundations more effectively than others, resulting in varied levels of certainty across the region.

Taken together, these developments suggest that openness should remain the central organising principle of ASEAN's investment landscape, with safeguards applied only where risks genuinely warrant them. When regulatory measures are proportionate, transparent, and non-discriminatory — and avoid investor-specific targeting — they can support rather than constrain the region's attractiveness to foreign capital. ASEAN's evolving investment governance reforms therefore reflect attempts to manage rising geopolitical and security pressures without undermining the broader commitment to openness.

Introduction

Purpose and Contribution of this Paper

By reviewing regional FDI trends since 2019 and analysing major legislative and regulatory changes in Singapore, Vietnam, the Philippines, and Indonesia, the paper identifies emerging approaches that can help the region sustain competitiveness amid intensifying geopolitical and technological competition. The findings aim to support regional and national policymakers in strengthening regulatory resilience while maintaining investor confidence.

Economics Meets Security and the New Investment Landscape

FDI has been a cornerstone of ASEAN's development, driving industrialisation, technology transfer, and export-led growth. However, since 2019, a series of global shocks has reshaped the environment in which cross-border capital flows operate. US–China technological rivalry, pandemic-related supply chain disruptions, shifting industrial policies in major economies, and tighter global financial conditions have collectively brought FDI within a strategic — rather than purely economic — domain.

Economic and technological capabilities have long been recognised as elements of national-security strategy. This is particularly so when their control affects military strength or strategic advantage, as seen during the Cold War's technology and arms competition. After the Cold War, many governments and international institutions promoted a policy environment grounded in economic liberalisation, where expanded trade, foreign investment and technology flows were expected to support growth and stability. This outlook was consistent with liberal theories emphasising the benefits of interdependence. Even so, scholars and policymakers frequently cautioned that greater economic interconnectedness could also generate dependencies that expose states to strategic risks.

The current environment marks a revival of security-driven economic framing, whereby weakening geopolitical trust and intensifying major-power rivalry are refocusing attention on economic and technological competition. Trade, investment, and industrial policy are increasingly being re-cast as instruments of national security, particularly in critical sectors tied to supply chain resilience, strategic technology, and industrial capacity.

For ASEAN economies that depend heavily on foreign investments, this shift creates a complex policy challenge: How to sustain competitiveness and capital inflows while managing risks associated with foreign ownership, critical sector exposure, and strategic dependency. Policymakers now face dual pressures: external partners calling for stronger security reviews, and industries demanding regulatory predictability to attract investment. Countries are competing for a smaller pool of global investment amid unprecedented economic policy uncertainty.

Post-2019 Shifts and ASEAN's Regulatory Response

The COVID-19 pandemic triggered a sharp contraction in global investment, followed by an uneven recovery amid persistent geopolitical tensions, supply chain realignments, and tighter financial conditions. Despite this turbulence, ASEAN has remained relatively resilient. According to the bloc's *Investment Report 2025*, the region registered an 8.5 per cent increase in FDI inflows, reaching US$226 billion in 2024, and continues to position itself as one of the world's most dynamic destinations for investment.

This resilience, however, masks deeper structural challenges. While major economies have moved rapidly toward more restrictive investment and trade controls, ASEAN governments have proceeded more cautiously, balancing risks against competitiveness and development needs. Policymakers are now recalibrating investment regimes and strategic sector oversight to "future-proof" their economies against emerging security, technology, and supply chain risks.

The Growing Prevalence of Investment Screening Globally

Over the past two decades, a succession of shocks has accelerated the fusion of economic and security policy. Post-9/11 security fears, the 2008 financial crisis, intensifying US–China rivalry and more have heightened concerns surrounding vulnerabilities in finance, technology, and supply chains. Governments have responded by reclassifying a broader set of activities as strategic or security-relevant for the purposes of FDI regulation. Data infrastructure, cloud services, advanced manufacturing, pharmaceuticals, fintech and other dual-use technologies now routinely fall within modern investment screening regimes. Driven by perceived supply chain fragility and technology security risks, this boundary expansion is the defining global trend — although a few jurisdictions (notably Australia) have also added screening or intervention powers to block or condition acquisitions.

The reclassification has been accompanied by a transformation in institutional design. What began as screening concentrated in traditional critical infrastructure sectors — telecommunications, energy, and public utilities — has in many jurisdictions evolved into cross-sectoral regimes, empowering authorities to scrutinise transactions across the economy. More recently, some states have added entity-based mechanisms, enabling governments to designate specific firms or infrastructures as critical without amending legislation each time. This refinement responds to the cross-cutting nature of modern strategic risk, where digital platforms, green technologies, and cloud services transcend conventional sector boundaries.

Today, FDI is increasingly subject to heightened governance scrutiny. Policymakers are tightening controls, lowering notification thresholds, expanding call-in powers, and in some cases introducing retrospective or emergency review mechanisms — often without outright prohibitions. Across jurisdictions, the shift takes different institutional forms: Some countries have created comprehensive investment screening mechanisms (ISMs) for the first time; others have deepened existing systems or added new security-governance tools. The shared aim is to give authorities the discretion to assess — and where necessary, restrict — transactions deemed risky for national security or public order.

Regional Dynamics: ASEAN's Evolving Approach to Investment Regulation

While ISMs have become widespread among advanced economies — particularly among members of the Organisation for Economic Co-operation and Development (OECD) — ASEAN's regulatory frameworks remain more heterogeneous. The region's individual economies rely heavily on sustained capital inflows but face a global environment in which policymakers are calling for greater strategic oversight of investment risks. This presents a policy paradox: Overly restrictive regimes can deter investment, while under-regulated markets can leave investors and countries with excessive exposure to shocks. At the same time, well-designed regulation can support investment by reducing uncertainty and risk. The policy challenge for ASEAN is therefore to design regulatory approaches — whether formal screening systems or alternative tools — that are transparent, proportionate, and compatible with the region's openness objectives.

ASEAN Overview

ASEAN's investment screening landscape remains diverse, as exemplified by recent national regulatory changes. Singapore introduced a cross-sectoral investment screening mechanism with the SIRA in 2024, establishing a standing national security review framework that applies across the economy rather than being confined to predefined sectors or ownership caps. Vietnam continues to operate a conditional list market access regime under the Investment Law 2020 and Decree 31/2021, while a draft regulation circulated by the Ministry of Public Security in 2025 proposes mandatory security vetting for foreign investment in selected sensitive sectors. The Philippines has liberalised major public service sectors through the 2022 amendments to the Public Service Act and incorporated targeted national security review provisions for critical infrastructure. Indonesia has expanded foreign ownership liberalisation through its Positive Investment List but continues to rely on downstreaming and other industrial policy tools — rather than a comprehensive, cross-sectoral screening mechanism — to steer investment into strategic sectors.

Taken together, ASEAN's trajectory toward conditional openness is shaped more by sector-specific safeguards and industrial policy priorities than by uniform, OECD-style screening regimes. A closer look at these examples further highlights this.

Singapore: Balancing Openness with Institutional Vigilance

For decades, Singapore relied on sector-specific regulation in banking, media, real estate, and telecommunications, underpinned by a dense compliance ecosystem of licensing, disclosure, and prudential supervision. Over the same period, the city-state evolved into a major regional gateway for cross-border capital — including substantial Chinese investment and the rapid expansion of family offices — supported by a regulatory environment that emphasised market openness and institutional credibility. Singapore introduced SIRA in 2024, not as a policy response framed around the volume of capital entering the economy, but to provide a dedicated national security risk management framework for significant investments that might affect entities critical to Singapore's security and resilience. This complements existing sectoral safeguards and reflects evolving global policy trends in investment screening.

Given Singapore's role as a key intermediary for regional and global capital flows, SIRA illustrates how a highly globalised economy can strengthen national security oversight through a predominantly ex post, compliance-based enforcement regime, within which selective ex ante controls apply to designated entities, without abandoning its pro-investment orientation. Rather than a blanket, investor-specific screening regime, SIRA adopts a functional, entity-based approach that applies equally to domestic and foreign investors.

Only entities formally designated under the Act are subject to its ownership and control change rules: acquiring a 5 per cent stake triggers notification, while crossing 12, 25 or 50 per cent requires prior ministerial approval. These ex ante requirements are complemented by extensive call-in and remedial powers, enabling retrospective intervention when transactions or conduct threaten national security interests. Taken together, these tools indicate Singapore's preference for intensive monitoring over economy-wide pre-clearance, aiming to protect strategically important functions while minimising the chilling effects associated with broad screening systems.

SIRA resembles developments in the US and Australia — both of which have expanded call-in and retrospective review tools in recent years — yet it remains distinctive in its entity-specific scope and its reliance on Singapore's wider compliance ecosystem. An ecosystem that includes regulated intermediaries, reporting obligations, and ongoing monitoring. These design choices reveal a preference for proportionate, remedial oversight rather than blanket prohibition. They also align with a broader policy lesson visible in the evolution of ISMs globally: screening mechanisms work best when backed by strong institutional capacity, transparent procedures, legal clarity around process, and safeguards that help maintain investor confidence even as national security oversight deepens. SIRA's architecture reflects an effort to internalise these lessons while adapting them to Singapore's regulatory tradition and economic model.

That said, the ultimate effect on investor confidence remains a matter for future analysis. Investors typically prefer ex ante certainty, so clear thresholds, transparent processes and predictable enforcement will be essential to sustaining competitiveness as the regime matures.

Importantly, SIRA preserves Singapore's long-standing pro-investment stance. By selecting a focused, entity-based model rather than a broad sectoral list, the government sought to retain openness while equipping itself to manage concentrated strategic risks. In this respect, Singapore's approach illustrates how the pragmatic evolution of ISMs worldwide — balancing openness with heightened vigilance — can be adapted to the institutional context of a highly globalised, small open economy.

Vietnam: Institutionalising Security in a Liberalising Economy

Vietnam entered the 2020s with an investment regime marked by substantial restrictions. It had foreign ownership caps in certain sectors, conditional business lines, and sector-specific licensing. Approval authority was dispersed and multi-tiered. While many Investment Registration Certificates (IRCs) were issued by provincial authorities, large, land-intensive or strategically sensitive projects often required ministerial, prime ministerial or even National Assembly review. Projects in defence – or security-sensitive areas needed clearance from the Ministry of National Defence or Ministry of Public Security, adding to regulatory complexity and inconsistent implementation.

The adoption of the Law on Investment 2020 (No. 61/2020/QH14) and its implementing Decree 31/2021/ND-CP established the backbone of Vietnam's modern foreign investment framework. Under Decree 31, foreign investors face a negative list system: 25 business lines are prohibited and 59 sectors are subject to conditional or restricted access requiring prior approval or compliance with specific conditions. The Decree also mandates publication of market entry conditions, aiming to reduce discretionary rule-making and enhance transparency.

Although the legislation contains provisions related to national security and identifies certain sectors and locations for higher scrutiny, the negative list architecture does not constitute a comprehensive, economy-wide security screening law. Rather, security considerations remain embedded in discrete sectoral prohibitions, location-based restrictions, and clearance requirements for some sensitive projects.

At the same time, Vietnam's policy trajectory since the mid-2010s emphasises selective liberalisation. The state seeks to attract higher-quality, technology – or capital-intensive FDI (consistent with goals such as in Resolution 50-NQ/TW) while maintaining tighter controls over strategically important sectors. The result is not blanket deregulation, but a regulated opening under rule-based constraints.

On the implementation side, a novel mechanism emerged in 2022 when the Vietnam Chamber of Commerce and Industry (VCCI), in partnership with the United Nations Development Programme (UNDP), introduced the Foreign Investment Screening Instrument (FISI). FISI is a non-binding, province-level appraisal tool that provides structured procedures — eligibility screening, risk assessment (including environmental, social and security risk), and alignment with national policy — for greenfield projects, including those with foreign investors. The inclusion of security risk assessment suggests an effort to systematise oversight in a decentralised approval environment.

Finally, reflecting a shift toward more formalised security oversight, a draft decree circulated in 2025 by the Ministry of Public Security (MPS) proposes mandatory police/security vetting for foreign-invested projects in critical sectors — including energy, telecommunications, construction, industrial parks, and even golf course developments. If adopted, this reform would institutionalise security screening powers for security agencies alongside the existing negative list framework.

In summary, Vietnam's current regime combines selective liberalisation (greater clarity, published rules, and negative list access) with continued and increasingly institutionalised security-linked oversight. Rather than transitioning from an open regime to a securitised one, the country is modernising and consolidating a longstanding approval-based structure — preserving openness in many sectors while retaining strong tools to regulate foreign investment in strategic areas.

The Philippines: Liberalising with Strategic Oversight

Historically, the Philippines maintained highly restrictive foreign ownership rules. Its 1987 Constitution enshrined a "60–40 rule" — requiring at least 60 per cent Filipino ownership in sectors such as land, mass media, and public utilities — contributing to a regulatory environment that, in 2020, placed the country among the top three most restrictive out of 84 economies in the OECD's FDI Restrictiveness Index. In 2024, personal remittances reached a record US$38.34 billion, while net FDI inflows stood at about US$8.9 billion — highlighting a development model still heavily reliant on labour export and remittance inflows rather than stable foreign capital accumulation.

This restrictive baseline is now shifting. Two laws enacted in March 2022 marked a decisive liberalisation turn. Republic Act 11647 (RA 11647) (the Amended Foreign Investments Act) allows 100 per cent foreign ownership of micro, small, and start-up enterprises under certain conditions and establishes the Inter-Agency Investment Promotion Coordination Committee (IIPCC) to enhance policy coherence. Republic Act 11659 (the Amended Public Service Act) narrows the constitutional definition of "public utilities" and opens major public service sectors — including telecommunications, airlines, railways, and domestic shipping — to full foreign ownership, subject to reciprocity and national security safeguards. However, core infrastructure such as electricity transmission and distribution, water pipelines, seaports, airports and toll roads remain restricted to Filipino ownership. The law also explicitly bars foreign state-owned enterprises from participating in critical infrastructure projects and tasks the National Security Council with reviewing such investments.

In recent years many advanced economies have tightened foreign investment screening and introduced stricter national security controls over strategic sectors. The 2024 update of the OECD FDI Restrictiveness Index recorded a modest rise in global statutory FDI restrictiveness — the first such uptick in six years — largely driven by reinforced screening and tighter rules in sectors such as energy, critical minerals, and other strategic industries. Manila, by contrast, is liberalising market access in many of these areas. Analysts note that the Philippines has long lagged behind peers like Vietnam or Indonesia in opening up to foreign capital — and is now working to close the gap even as several strategic partners maintain or increase barriers. This positions the Philippines as a structural outlier: easing foreign ownership limits in sectors seen as critical even as many investors' home countries tighten theirs.

With RA 11647 and its implementing rules, the Philippines has embedded a national level security review mechanism for foreign investments. Under Section 16, the President may suspend, prohibit, or condition investments in "strategic industries", including defence-related activities, cyber infrastructure, and pipeline transportation, based on recommendations from the IIPCC. The law establishes the IIPCC, led by the Department of Trade and Industry (DTI), and empowers the government to designate which industries or geographic zones fall under national security review. Although implementation remains nascent and no official data on review volumes have been released, the reform establishes the Philippines' first statutory framework for security-oriented investment screening.

Indonesia: Downstreaming, Opening and Strategic Economic Stewardship

Indonesia's investment screening regime has undergone significant restructuring in recent years. A major milestone was the replacement of the long-standing Negative Investment List with the 2021 Positive Investment List, which liberalised a wide share of the economy. It allows up to 100 per cent foreign ownership in most sectors while retaining restrictions in areas such as media, defence and selected natural resource activities. Many viewed this reform as a major simplification aligned with the Job Creation Law (Law No. 11/2020); an omnibus reform enacted in 2020 to consolidate and amend labour, licensing and investment statutes to reduce red tape and attract investment and improve regulatory coherence. In practice, foreign investors can enter a much broader range of sectors, though investment remains contingent on establishing a foreign-owned limited liability company (PT PMA), meeting minimum capital thresholds and securing sector-specific approvals.

Liberalisation has proceeded alongside a more interventionist posture in strategic industries, particularly minerals and mining. Indonesia's downstreaming strategy — anchored in export restrictions on unprocessed minerals and tightened through the renewed nickel ore export ban from 2020 — has become the centrepiece of its industrial policy. Studies of the nickel sector show how these measures spurred a wave of largely

Chinese investment into smelters, high-pressure acid leach (HPAL) facilities and industrial parks such as Morowali and Weda Bay. The combination of export controls, targeted incentives and integrated industrial park development enabled Indonesia to move rapidly into midstream and downstream processing and emerge as a dominant global producer of processed nickel. Policymakers frequently cite the sector as evidence that downstreaming, when matched with strong market demand and credible investor commitment, can attract capital, generate employment, and embed more value-added activity domestically.

However, Indonesia's broader downstreaming record has proved uneven. For instance, following the bauxite export ban, domestic alumina refining capacity remained limited and exports of ore resumed, indicating that refining did not scale as intended. Similarly, the raw rattan export ban failed to yield a competitive downstream furniture industry across the board. Gains were concentrated in a few high-end firms while many raw-material suppliers suffered, and raw-material smuggling reportedly increased. These cases illustrate that export bans alone rarely sustain industrial upgrading without supportive infrastructure, technology, and credible long-term investment commitment.

Even nickel now faces emerging challenges. Rapid processing capacity expansion has contributed to global oversupply and downward price pressure, complicating investment planning. Environmental and social concerns have intensified: Industrial parks rely heavily on coal-fired captive power, while pollution, land-use change, and workplace accidents have heightened scrutiny of safety and Environmental, Social, and Governance (ESG) standards. The sector's dependence on Chinese capital and technology raises concerns about market concentration and strategic vulnerability. Adding to these pressures, the global shift toward nickel-free lithium iron phosphate (LFP) batteries poses a structural challenge to long-term demand, even as Indonesia courts LFP-related investment as a hedge.

Regulatory developments beyond industrial policy also shape the investment environment. In 2024, the Constitutional Court partially restored and clarified several labour protections diluted under the Job Creation Law—tightening fixed-term contract limits, narrowing outsourcing definitions, strengthening wage safeguards and affirming that employment relationships remain in force until a final industrial relations court ruling. These changes enhance predictability but increase compliance obligations for firms.

Strategically, Indonesia appears to be pursuing a hybrid approach of retaining openness to foreign investment while deploying an assertive industrial policy aimed at capturing more value within domestic industry. FDI inflows remained robust in 2024, and the government continues to support priority sectors with tax and non-tax incentives alongside licensing streamlining. In parallel, export restrictions, processing mandates and local-content policies are central to efforts to steer investment toward onshore processing and value chain integration, especially in minerals and metals.

Comparative Insights

This cross-country comparison shows divergent responses to shared global pressures. Despite these divergences, three regional trends are discernible:

1. **A Shift from Liberalisation to Conditional Openness:** All four countries continue to court FDI, but increasingly condition market access on strategic considerations — including national security, technological dependence, and domestic value creation.

2. **The Emergence of Sectoral and Ex Post Review Models:** Singapore's ex post, entity-based monitoring and Vietnam's sectoral pre-clearance demonstrate a regional move toward adaptive regulatory frameworks that calibrate oversight to evolving risks.

3. **Fragmented Institutional Architectures:** Unlike the EU's coordinated model, investment screening arrangements across the four ASEAN economies remain decentralised and nationally shaped. Yet these differentiated models collectively contribute to greater regulatory maturity and resilience amid a more contested global environment.

Conclusion: Future-Proofing ASEAN's Investment Ecosystem

Across the four countries examined, investment governance is recalibrating in response to an uncertain global environment. Each of these ASEAN economies is responding to similar external pressures, yet their regulatory choices reflect distinct institutional legacies and development priorities. Singapore has adopted a highly targeted security screening regime centred on designated entities and ex post intervention powers. Vietnam is consolidating its longstanding approval-based model while introducing more structured security vetting. The Philippines is liberalising long protected public service sectors while adding national security review mechanisms. And Indonesia is managing strategic exposure, not through screening, but through industrial policy tools that shape the composition of inbound investment.

Taken together, these cases point to an emerging pattern of conditional openness, in which market access remains broad but additional safeguards apply to sectors linked to national security, technological dependence or strategic infrastructure. The central challenge for all four countries is maintaining predictability. As security considerations become more salient, the sustainability of investor confidence will hinge on clear thresholds, transparent procedures and consistent institutional practice. Strengthening governance capacity — particularly around screening processes, sectoral oversight and inter-agency coordination — will be essential to ensuring that new safeguards do not inadvertently deter investment.

Ultimately, the experience of these four ASEAN economies shows that future-proofing investment regimes requires balancing strategic autonomy with continued openness. The mechanisms differ, but the underlying task is the same: protecting national interests while retaining the liberal investment environment that remains vital to long-term economic competitiveness.

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