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New HSR Thresholds Announced for 2019

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On April 3, the mandatory notification thresholds under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the “HSR Act”), will increase, including an increase to the Size of Transaction threshold from its current \$84.4 million to **\$90 million**. The increased thresholds officially take effect 30 days after publication in the Federal Register, which occurred on March 4, 2019.

Background: The Hart-Scott-Rodino Antitrust Improvements Act of 1976

The HSR Act provides that, where certain jurisdictional thresholds are met, parties intending to merge or make acquisitions must (absent any applicable exemptions) furnish the Premerger Notification Office of the FTC and the Antitrust Division of the Department of Justice with prescribed information regarding their respective businesses and the proposed transaction, and wait a specified period of time before consummating the transaction. The statutory “waiting period” stays consummation of the transaction for a minimum of 30 days (15 days in the case of bankruptcy or cash tender offers), absent a grant of early termination.

Revised Notification Thresholds

The 2000 amendments to Section 7A of the Clayton Act mandate annual adjustments of the HSR Act thresholds each year, based on changes in the gross national product. The revised jurisdictional and filing fee thresholds for this year increase the dollar amount limits for the size of transaction and the size of person at which parties to a transaction are required to make an HSR filing, as well as the filing fee tiers. Many of the other filing requirements related to dollar amounts in the HSR Act have similarly been increased to remain consistent with the revised jurisdictional and filing fee thresholds. These revised thresholds will apply to all transactions closing on or after the effective date, April 3, 2019.

In past years, these adjustments have taken place in February, but the FTC acknowledged that the 2019 revisions were delayed by the government shutdown in January.

An overview of the updated thresholds for the most common HSR filing issues is included on the next page.

If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings Washington, D.C. lawyers:

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New Jurisdictional Thresholds

	Revised 2019 Thresholds	2018 Thresholds
Size of Transaction Test	The Acquiring Person will hold, as a result of the transaction, an aggregate total amount of voting securities, assets, and/or interests in noncorporate entities of the Acquired Person valued at in excess of \$90 million .	\$84.4 million
Size of Person Test	Transactions valued at more than \$359.9 million are reportable, regardless of the size of person test above.	\$337.6 million
	One party has annual net sales or total assets of \$180 million or more, and the other party has annual net sales or total assets of \$18 million or more.	\$168.8 million \$16.9 million
Subsequent Acquisitions of Voting Securities	Voting securities valued at \$180 million or more;	\$168.8 million
	Voting securities valued at \$899.8 million or more;	\$843.9 million
	Voting securities constituting 25% of the issuer's securities if valued at more than \$1,799.5 million ; and	\$1,687.8 million
	Voting securities constituting 50% of the issuer's securities if valued at more than \$90 million .	\$84.4 million

New Filing Fee Thresholds

Filing Fee	Revised 2019 Filing Fee Thresholds	2018 Thresholds
\$45,000	Transactions valued at more than \$90 million but less than \$180 million .	\$84.4 million \$168.8 million
\$125,000	Transactions valued at \$180 million or more but less than \$899.8 million .	\$168.8 million \$843.9 million
\$280,000	Transactions valued at more than \$899.8 million .	\$843.9 million

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