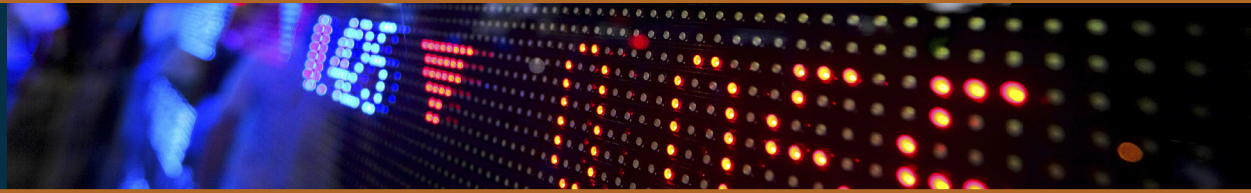


January 26, 2016



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## Hart-Scott-Rodino Antitrust Improvements Act: New Thresholds for 2016

On January 21, 2016, the U.S. Federal Trade Commission (FTC) announced new thresholds under the Hart-Scott-Rodino Antitrust Improvements Act (HSR Act). The thresholds are used to determine whether companies are required to notify the federal antitrust authorities in the U.S.—the FTC and the Antitrust Division of the Department of Justice (DOJ) of transactions under the HSR Act.

The FTC is required to revise the thresholds annually based on changes in the gross national product. For 2016, the size-of-transaction threshold for reporting proposed mergers and acquisitions will increase by approximately 2.5% from \$76.3 million to \$78.2 million. The new thresholds are expected to become effective in February.

By way of background, the HSR Act requires that, where the parties and the transaction exceed certain thresholds and absent any applicable exemption, parties intending to merge or make an acquisition furnish the U.S. federal antitrust agencies with prescribed information regarding their respective businesses and the proposed transaction, and wait a specified period of time before consummating the transaction. The required information must be submitted to the federal antitrust agencies on a Notification and Report Form. The acquiring party must also pay a filing fee, the amount of which varies from \$45,000 to \$280,000, depending on the size of 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 offer), absent a request for, and grant of, early termination of the waiting period. Either of the U.S. federal antitrust agencies may request additional information within that initial waiting period, which then extends the waiting period for an additional specified period after the parties have substantially complied with the request.

### NEW JURISDICTIONAL THRESHOLDS

Under the <b>new jurisdictional thresholds</b> , a transaction will be reportable if:		<b>Old Thresholds</b>
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 non-corporate entities of the acquired person valued at in excess of <b>\$78.2 million</b> ; and	<b>\$76.3 million</b>
Size of Person Test	The acquiring person or the acquired person has annual net sales or total assets of <b>\$15.6 million</b> or more, and the other person has annual net sales or total assets of <b>\$156.3 million</b> or more. The size of person test includes sales and assets of all entities, both domestic and foreign, included within the person.	<b>\$15.3 million</b> <b>\$152.5 million</b>
	Transactions valued at greater than <b>\$312.6 million</b> are reportable, regardless of the size of person test described above.	<b>\$305.1 million</b>



## **NEW FILING FEE THRESHOLDS**

The filing fee for a reportable transaction is based on the size of transaction as noted below:

<b>Filing Fee</b>	<b>Size of Transaction</b>
\$45,000	valued at excess of <b>\$78.2 million</b> but less than <b>\$156.3 million</b>
\$125,000	valued at <b>\$156.3 million</b> or greater but less than <b>\$781.5 million</b>
\$280,000	valued at <b>\$781.5 million</b> or greater

The application of these thresholds and the analysis of whether a filing is required under the HSR Act can be complex. Parties to transactions with foreign elements need to consider whether there are sufficient contacts with the U.S. to require a filing under the HSR Act. A party that fails to comply with the HSR Act can face penalties of up \$15.6 million for each day during which such party was in violation.

### **Questions or Assistance:**

For more information about the new thresholds or about antitrust and trade regulation in general, please contact Rachel Talay at [rtalay@goodwin.com](mailto:rtalay@goodwin.com) or 202-741-4883.

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