



Corporate Advisory

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New Hart-Scott-Rodino Filing Thresholds Minimum Filing Threshold Increases to \$66 Million

The Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), requires parties to certain mergers or acquisitions to notify the Federal Trade Commission (the "FTC") and the Department of Justice (the "DOJ") before consummating the proposed transaction. The FTC has announced the 2011 revisions to the filing thresholds for the HSR Act. The increased thresholds went into effect February 24, 2011.

Minimum Filing Thresholds

Under the HSR Act, transactions that meet the Size-of-Transaction Test (and for which no exemption is available) and the Size-of-Person Test must be reported to the FTC and the DOJ prior to closing.

Size-of-Transaction Test

- Under the 2011 revisions, the Size-of-Transaction Test is met if, as a result of the transaction, the buyer will hold assets or voting securities of the seller valued in excess of \$66 million (increased from \$63.4 million).
- Transactions valued in excess of \$263.8 million (increased from \$253.7 million) are subject to the HSR Act regardless of the size of the parties to the transaction.

Size-of-Person Test

- Under the 2011 revisions, the Size-of-Person Test is met if one person has assets or sales in its most recent fiscal year in excess of \$13.2 million (increased from \$12.7 million) and the other person has assets or sales in excess of \$131.9 million (increased from \$126.9 million).

Civil Penalties

The HSR Act imposes civil penalties on parties that fail to notify the FTC and DOJ of a reportable transaction. Violations of the HSR Act remain subject to civil penalties of \$16,000 for each day of noncompliance.

Filing Fee

The HSR filing fees remain unchanged, though the transaction values associated with each filing fee are adjusted as follows:

- \$45,000 filing fee: Transaction value in excess of \$66 million but less than \$131.9 million.
- \$125,000 filing fee: Transaction value at or above \$131.9 million but less than \$659.5 million.
- \$280,000 filing fee: Transaction value at or above \$659.5 million.

MLA regularly advises clients with respect to analysis under the HSR Act and the pre-merger notification filings with the FTC and DOJ. With a team of experienced professionals, we are well-equipped to address any questions or concerns you may have about these new thresholds.

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