
Alerts

FTC Announces Annual Changes to HSR Thresholds

January 2013

J. Mark Gidley, George L. Paul, Rebecca H. Farrington, Martin M. Toto, Noah A. Brumfield, S. Lynn Diamond

On January 10, 2013, the Federal Trade Commission (FTC) announced the annual changes to the Hart-Scott-Rodino (HSR) Act notification thresholds. The FTC is required to revise the jurisdictional thresholds annually, based on the change in gross national product. The thresholds will increase slightly over last year's thresholds. The changes are expected to become effective in mid-February, 30 days after notice is published in the Federal Register. The application of these thresholds, particularly to cross-border transactions, is rarely straightforward and requires a thorough understanding of the statute and the voluminous and complex implementing regulations.

The size-of-transaction threshold will increase to US\$70.9 million from US\$68.2 million. Transactions in which the acquirer will hold voting securities, noncorporate interests or assets valued above that amount (as calculated under the Act) may be reportable if the size-of-parties test is also satisfied and no exemptions are available.

The size-of-parties threshold will also increase. It generally will require that one party have sales or assets of at least US\$141.8 million and the other party have sales or assets of at least US\$14.2 million. (Currently these thresholds are US\$136.4 million and US\$13.6 million, respectively.) Transactions valued at more than US\$283.6 million will be subject to pre-merger notification without regard to the sales or assets of the parties. (Currently, this threshold is US\$272.8 million.)

Certain dollar thresholds relevant to HSR exemptions, including those for acquisitions of non-US assets and voting securities, will also increase. The notification thresholds (which determine the filing fee payable) have increased as well, although the filing fees have not changed.

To summarize, the new HSR thresholds are as follows:

Size-of-transaction threshold:

US\$68.2 million will become *US\$70.9 million*

Size-of-parties thresholds:

US\$13.6 million will become *US\$14.2 million*

US\$136.4 million will become *US\$141.8 million*

Size-of-parties valuation "cap":

US\$272.8 million will become *US\$283.6 million*

Notification thresholds:

US\$68.2 million will become *US\$70.9 million*

US\$136.4 million will become *US\$141.8 million*

US\$682.1 million will become *US\$709.1 million*

Filing fees:

No changes

This Client Alert is provided for your convenience and does not constitute legal advice. It is prepared for the general information of our clients and other interested persons. This Alert should not be acted upon in any specific situation without appropriate legal advice, and it may include links to websites other than the White & Case website. White & Case LLP has no responsibility for any websites other than its own, and does not endorse the information, content, presentation or accuracy, or make any warranty, express or implied, regarding any other website.

This Client Alert is protected by copyright. Material appearing herein may be reproduced or translated with appropriate credit.

© 2013 White & Case LLP