

[Latham & Watkins Antitrust & Competition Practice](#)

February 1, 2021 | Number 2855

## Annual HSR Threshold Adjustments Announced for 2021

***FTC adjusts the Hart-Scott-Rodino Act size thresholds, lowering the minimum size for reportable acquisitions to US\$92 million.***

On February 1, 2021, the Federal Trade Commission (FTC) announced new jurisdictional thresholds for the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (HSR Act). The FTC is required to adjust the thresholds annually, based on the change in gross national product, which shrunk in 2020 due to the COVID-19 pandemic. These decreases are scheduled to be published in the Federal Register on February 2, 2021, making them effective for all transactions closing on or after March 4, 2021.

The new thresholds will:

- Decrease the minimum size-of-transaction test to US\$92 million; this means acquisitions of US\$92 million or less will not be reportable
- Decrease the transaction size to which the size-of-persons test applies to US\$368 million; this means acquisitions of more than US\$368 million will be reportable regardless of the size of the parties unless an exemption applies
- Decrease the size-of-persons test to US\$18.4 million and US\$184 million; this means that acquisitions of US\$368 million or less are not reportable unless one person has assets or annual net sales of US\$18.4 million or more and the other person has assets or annual net sales of US\$184 million or more. The size-of-persons test for an acquired person that is not engaged in manufacturing is sales of US\$184 million or assets of \$18.4 million.

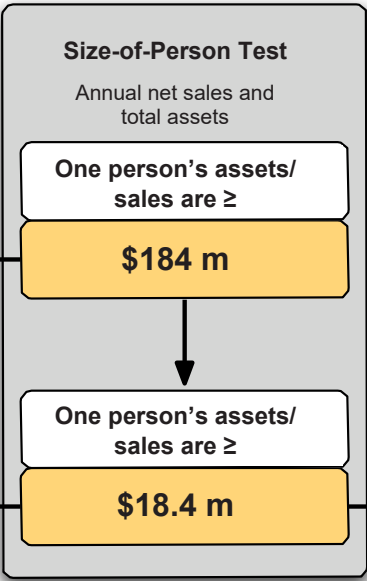
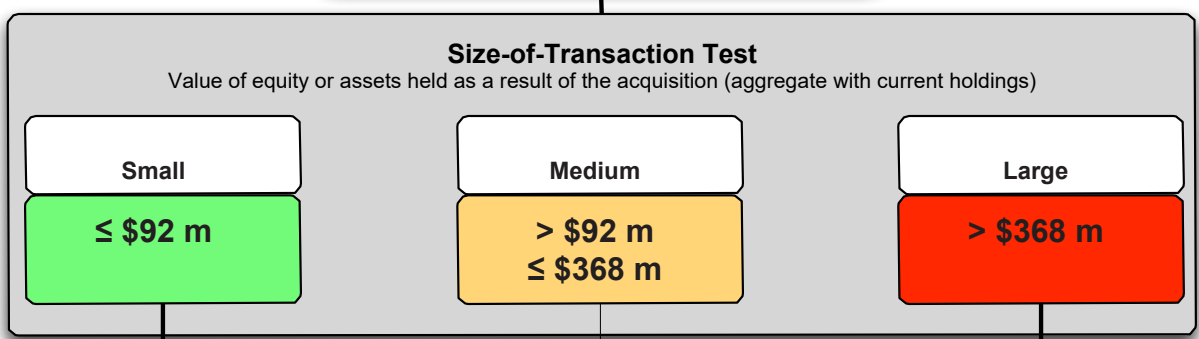
The new thresholds for 2021 are set out below. The chart on the next page illustrates the application of the HSR thresholds and lists the filing fee amounts, which remain unchanged.

Original Threshold	New Threshold
<i>Size-of-Transaction</i> US\$50 million	US\$92 million
<i>Size-of-Persons</i> US\$10 million and US\$100 million	US\$18.4 million and US\$184 million
<i>Transaction Size above which Size-of-Persons Test Inapplicable</i> US\$200 million	US\$368 million
<i>Notification thresholds:</i> US\$50 million US\$100 million US\$500 million 25% of stock worth US\$1 billion	US\$92 million US\$184 million US\$919.9 million US\$1,839.8 million

<i>Filing fee thresholds:</i> US\$50 million US\$100 million US\$500 million	US\$92 million US\$184 million US\$919.9 million
---	--

**2021 Adjusted Thresholds**

**HSR Reportability Thresholds §7A(a)(2)**



No filing required if  
(i) **acquired** person is **not** engaged in manufacturing; and  
(ii) has **assets** of less than \$18.4 m; and  
(iii) has net **sales** of less than \$184 m,  
§7A(a)(2)(B)(ii)(II, III)

**No filing required**

**Filing required, unless an exemption applies**

- Some common exemptions:**
- Ordinary course of business acquisitions, 802.1, §7A(c)(1)
  - Certain acquisitions of real property, 802.2, 802.5
  - Acquisitions solely for investment purposes, 802.9, 802.64
  - Intraperson transfers, restructuring, 802.30
  - Foreign assets, if US sales below threshold, 802.50
  - Voting securities of foreign issuer without US nexus, 802.51
  - Acquisitions subject to US agency approval, 802.6
  - Acquisitions by or from a foreign government 802.52

Size of Transaction	Filing Fee (acquiring person only)
< \$184 m	\$45,000
< \$919.9 m	\$125,000
≥ \$919.9 m	\$280,000

Sources: HSR Act (§7A Clayton Act, 15 USC §18a), Coverage Rules and Exemption Rules (16 CFR Parts 801 and 802)

---

If you have any questions about this *Client Alert*, please contact one of the authors listed below or the Latham lawyer with whom you normally consult:

**Lindsey S. Champlin**

lindsey.champlin@lw.com  
+1.202.637.2122  
Washington, D.C.

**Jason D. Cruise**

jason.cruise@lw.com  
+1.202.637.1033  
Washington, D.C.

**Alan J. Devlin**

alan.devlin@lw.com  
+1.202.637.1071  
Washington, D.C.

**Michael G. Egge**

michael.egge@lw.com  
+1.202.637.2285  
Washington, D.C.

**Joshua N. Holian**

joshua.holian@lw.com  
+1.415.646.8343  
San Francisco

**Hanno F. Kaiser**

hanno.kaiser@lw.com  
+1.858.509.8458  
San Diego

**Farrell J. Malone**

farrell.malone@lw.com  
+1.202.637.1024  
Washington, D.C.

**Amanda P. Reeves**

amanda.reeves@lw.com  
+1.202.637.2183  
Washington, D.C.

**Kelly Smith Fayne**

kelly.fayne@lw.com  
+1.415.646.7897  
San Francisco

**E. Marcellus Williamson**

marc.williamson@lw.com  
+1.202.637.2200  
Washington, D.C.

**Jason L. Daniels**

jason.daniels@lw.com  
+1.415.646.7857  
San Francisco

**Patrick C. English**

patrick.english@lw.com  
+1.202.637.1030  
Washington, D.C.

**Peter M. Todaro**

peter.todaro@lw.com  
+1.202.637.2380  
Washington, D.C.

---

*Client Alert* is published by Latham & Watkins as a news reporting service to clients and other friends. The information contained in this publication should not be construed as legal advice. Should further analysis or explanation of the subject matter be required, please contact the lawyer with whom you normally consult. A complete list of Latham's *Client Alerts* can be found at [www.lw.com](http://www.lw.com). If you wish to update your contact details or customize the information you receive from Latham & Watkins, visit <http://events.lw.com/reaction/subscriptionpage.html> to subscribe to the firm's global client mailings program.