

Revised Jurisdictional and Exemption-Related Thresholds Under the HSR Act

The Federal Trade Commission today published a notice to amend the premerger notification rules under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended ("HSR Act"). These amendments represent the annual adjustment of HSR Act jurisdictional thresholds based upon changes in the GNP. For the first time, these thresholds have **declined**.

The initial threshold for a notification under the HSR Act will **decrease** from \$65.2 million to **\$63.4 million**. For transactions valued between \$63.4 million and \$253.7 million (down from \$260.7 million), the size-of-the-person test will continue to apply. That test will now make the transaction reportable only where one party has sales or assets of at least \$126.9 million (down from \$130.3 million), and the other party has sales or assets of at least \$12.7 million (down from \$13 million). All transactions valued in excess of \$253.7 million are reportable without regard to the size of the parties. **The new thresholds will apply to any transaction that will close on or after February 22, 2010.**

The following is a summary chart of the threshold adjustments:

PRIOR THRESHOLD	REVISED THRESHOLD
Size-of-the-transaction test	
in excess of \$65.2 million	in excess of \$63.4 million (filing fee remains \$45,000)
Size-of-the-person test	
\$13 million/\$130.3 million	\$12.7 million/\$126.9 million
Transaction value above which size-of-the-person test is inapplicable	
\$260.7 million	\$253.7 million

In addition to adjusting downward the initial threshold for HSR notification, the amendments will adjust all subsequent notification thresholds as follows:

NOTIFICATION LEVELS	
in excess of \$50 million	in excess of \$63.4 million (filing fee remains \$45,000)
\$100 million	\$126.9 million (filing fee remains \$125,000)
\$500 million	\$634.4 million (filing fee remains \$280,000)
25% of total outstanding shares worth more than \$1 billion	25% of total outstanding shares worth more than \$1,268.7 million
50% of total outstanding shares worth more than \$50 million	50% of total outstanding shares worth more than \$63.4 million

These notification threshold adjustments also adjust upward thresholds applicable to certain exemptions, such as those involving the acquisition of foreign assets or voting securities of foreign issuers.

If you have any questions regarding the matters covered in this publication, please contact any of the lawyers listed below or your regular Davis Polk contact

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