

Revised 2017 Jurisdictional Thresholds Under the HSR Act and For the Prohibition of Interlocking Directorates

January 20, 2017

Yesterday, the Federal Trade Commission (FTC) announced revised Hart-Scott-Rodino Act (HSR) reporting thresholds under which transactions will be reportable only if, as a result of such transaction, the acquiring person will hold voting securities, assets, or non-corporate interests valued above \$80.8 million, compared to \$78.2 million in 2016. The newly adjusted HSR thresholds will apply to all transactions that close on or after the effective date, which is expected to be in late-February (the exact date will depend on when the changes are published in the Federal Register).

The FTC also announced revised thresholds above which companies are prohibited from having interlocking memberships on their boards of directors under Section 8 of the Clayton Act. The new Interlocking Directors thresholds are \$32,914,000 for Section 8(a)(1) and \$3,291,400 for Section 8(a)(2)(A). The new Section 8 thresholds become effective upon publication in the Federal Register.

In summary, the relevant HSR thresholds are:

Threshold	Original Amount	2017 Adjusted Threshold
Size of Transaction	\$50 million	\$80.8 million
Size of Person (if applicable)	\$10 million and \$100 million	\$16.2 million and \$161.5 million
Size of Transaction above which Size of Person Test does not apply	\$200 million	\$323 million

Corresponding increases will also apply to certain other thresholds and exemptions under the HSR Act. The complete list of revised HSR thresholds is available on the [FTC's website](#).

For reportable transactions, the acquiring person's holdings must cross the threshold with respect to which the HSR notification is made within one year of the expiration or early termination of the HSR waiting period. Once the acquiring person has crossed the applicable threshold during the first year, any additional acquisitions by the same acquiring person of the same issuer's voting securities will be exempt from notification during the five years following the expiration or early termination of the waiting period, up to the highest value of the threshold range for which the HSR notification was made. For purposes of this exemption, any subsequent acquisition by the acquiring person would be subject to the adjusted thresholds in effect when the subsequent acquisition is consummated.

HSR filing fees remain as follows:

2017 Adjusted Threshold	Filing Fee
Transaction valued at greater than \$80.8 million but less than \$161.5 million	\$45,000
Transaction valued at greater than \$161.5 million but less than \$807.5 million	\$125,000
Transaction valued at \$807.5 million or greater	\$280,000

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.

Arthur J. Burke	212 450 4352	arthur.burke@davispolk.com
Joel M. Cohen	212 450 4592	joel.cohen@davispolk.com
Arthur F. Golden	212 450 4388	arthur.golden@davispolk.com
Ronan P. Harty	212 450 4870	ronan.harty@davispolk.com
Christopher B. Hockett	650 752 2009	chris.hockett@davispolk.com
Jon Leibowitz	202 962 7050	jon.leibowitz@davispolk.com
Mary K. Marks	212 450 4016	mary.marks@davispolk.com
Michael N. Sohn	202 962 7145	michael.sohn@davispolk.com
Jesse Solomon	202 962 7138	jesse.solomon@davispolk.com