

DAVIS POLK & WARDWELL

Revised Jurisdictional and Exemption-Related Thresholds under the HSR Act

January 29, 2008

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 upward adjustment of HSR Act jurisdictional thresholds based upon changes in the GNP.

The initial threshold for a notification under the HSR Act will increase from \$59.8 million to \$63.1 million. For transactions valued between \$63.1 million and \$252.3 million (up from \$239.2 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 \$126.2 million, up from \$119.6 million, and the other party has sales or assets of at least \$12.6 million, up from \$12 million. All transactions valued in excess of \$252.3 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 28, 2008.**

The following is a summary chart of the threshold adjustments:

PRIOR THRESHOLD	REVISED THRESHOLD
Size-of-the-transaction test	
in excess of \$59.8 million	in excess of \$63.1 million (filing fee remains \$45,000)
Size-of-the-person test	
\$12 million/\$119.6 million	\$12.6 million/\$126.2 million
Transaction value above which size-of-the-person test is inapplicable	
\$239.2 million	\$252.3 million

This memorandum is a summary for general information only. It is not a full analysis of the matters presented and should not be relied upon as legal advice.

In addition to adjusting upward the \$59.8 million 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 \$63.1 million (filing fee remains \$45,000)
\$100 million	\$126.2 million (filing fee remains \$125,000)
\$500 million	\$630.8 million (filing fee remains \$280,000)
25% of total outstanding shares worth more than \$1 billion	25% of total outstanding shares worth more than \$1,261.5 million
50% of total outstanding shares worth more than \$50 million	50% of total outstanding shares worth more than \$63.1 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 above, do not hesitate to call any of the persons listed below.

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