

2025 HSR Act jurisdictional thresholds, filing fees and interlocking director thresholds announced

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The Federal Trade Commission has announced 2025 Hart-Scott-Rodino Act reporting thresholds starting at \$126.4 million and filing fee amounts up to \$2.39 million for the largest deals. The FTC also announced revised jurisdiction and safe harbor thresholds for director overlaps under Section 8 of the Clayton Act.

Revised 2025 jurisdictional thresholds and filing fees under the Hart-Scott-Rodino Act (HSR)

Under the new thresholds, a transaction is reportable if, after the transaction the size of person tests are met, and the acquiring person will hold voting securities, assets, or non-corporate interests valued over \$126.4 million. The changes will become effective 30 days after publication in the Federal Register and will apply to transactions closing on or after the effective date, which is expected to be in mid- to late-February 2025.

In summary, the relevant HSR reporting thresholds are:

Thresholds	Original amount	2025 adjusted thresholds
Size of transaction	\$50 million	\$126.4 million
Size of person (if applicable)	\$10 million and \$100 million	\$25.3 million and \$252.9 million
Size of transaction above which size of person test does not apply	\$200 million	\$505.8 million

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

For a reportable transaction, the acquiring person's holdings must cross the threshold that is the basis of the HSR notification within one year of the expiration or early termination of the HSR waiting period for the transaction. 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 for the initial transaction, up to the highest value of the threshold range for which the HSR notification was made. Any acquisition by the acquiring person subsequent to the five-year exemption period would be subject to the adjusted thresholds in effect when the subsequent acquisition is consummated.

The proposed fees, which are also expected to become effective in mid- to late-February 2025, are below.

2025 revised values	
Transaction value thresholds	Filing fee
Less than \$179.4 million	\$30,000
Not less than \$179.4 million but less than \$555.5 million	\$105,000
Not less than \$555.5 million but less than \$1.111 billion	\$265,000
Not less than \$1.111 billion but less than \$2.222 billion	\$425,000
Not less than \$2.222 billion but less than \$5.555 billion	\$850,000
\$5.555 billion or more	\$2,390,000

These 2025 revisions to the HSR jurisdictional thresholds and filing fees are expected to be implemented regardless of whether the extensive new HSR rules that were adopted in October 2024 become effective. This major overhaul of the HSR filing requirements will apply to HSR filings made on or after February 10. As discussed in our previous alert at the time of the announcement of the final rule in October 2024, if implemented, the HSR overhaul would require transacting parties to provide significantly more information and documents to the agencies, which would require much more up-front preparation time and effort from the filing parties.¹ It is possible, however, that the incoming administration may institute a 60-day freeze on new or pending regulations, which would have the effect of delaying the effective date of the new rules.

It is also possible the new rules will be blocked or delayed due to litigation. On January 10 several parties, including the U.S. Chamber of Commerce, filed a lawsuit in the Eastern District of Texas seeking an order to set aside and enjoin implementation of the new HSR rules on the grounds that the new HSR rules exceed the FTC's statutory authority and are arbitrary and capricious, in violation of the Administrative Procedure Act.²

Revised 2025 jurisdictional thresholds for interlocking directorates

Under the new Clayton Act Section 8 interlocking directorate thresholds a person may not serve as a director or officer of two competing corporations (other than banks, banking associations, and trust companies) if each corporation has (1) aggregate capital, surplus, and undivided profits of more than \$51.38 million and (2) competitive sales of (a) at least \$5.138 million (up from \$4.8559 million in 2024), and (b) more than a certain percent (4%) of the corporation's total sales.

This restriction does not apply, however, if competitive sales of the corporations are below a certain level, where "competitive sales" are defined as the "gross revenues for all products and services sold by one corporation in competition with the other," determined based on the annual gross revenues of the corporation's last completed fiscal year. Specifically, it is not a violation to have this board overlap if:

- the competitive sales of **either** corporation are less than \$1 million as adjusted, with the as-adjusted value now set at \$5.138 million (up from \$4.8559 million in 2024); or
- the competitive sales of **either** corporation are less than two percent of its total sales; or
- the competitive sales of **each** corporation are less than four percent of that corporation's total sales.

The updated dollar thresholds will take effect immediately upon publication in the Federal Register. The FTC is required to revise these thresholds annually.

Under the outgoing Biden administration Section 8 enforcement was more of a priority than in previous years. Under Biden, the Department of Justice brought a number of cases and encouraged the resignation of directors to resolve alleged violations of Section 8. Likewise, in 2023 the FTC (1) brought an enforcement action applying the prohibition to non-corporate entities (even though the statute refers only to corporations), (2) assessed potential Section 8 violations in merger reviews (including questions about interlocking directorates in information requests sent to the transacting parties), and (3) alleged that an interlock may separately be a violation of Section 5 of the FTC Act’s prohibition on “unfair methods of competition.”³ It remains to be seen whether the incoming Trump administration will prioritize enforcement of Section 8.

In summary, the jurisdictional thresholds for the restriction on board overlap to apply are below:

Thresholds	Original amount	2025 adjusted thresholds
Aggregate capital, surplus, and undivided profits of each corporation	More than \$10 million	More than \$51.38 million
<i>De minimis</i> exemptions (The restriction on overlapping board participation does not apply if any of the below conditions met.)		
Amount of either corporation’s competitive sales	Less than \$1 million	Less than \$5.138 million
Percent of competitive sales of either corporation	Less than 2%	N/A
Percent of competitive sales of each corporation	Less than 4%	N/A

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¹ *U.S. antitrust agencies implement overhaul of HSR filing requirements*, Davis Polk & Wardwell LLP (October 11, 2024), <https://www.davispolk.com/insights/client-update/us-antitrust-agencies-implement-overhaul-hsr-filing-requirements>.

² We will follow with a separate client alert on this lawsuit shortly.

³ *FTC challenges director interlock involving non-corporate entity*, Davis Polk & Wardwell LLP (August 23, 2023), <https://www.davispolk.com/insights/client-update/ftc-challenges-director-interlock-involving-non-corporate-entity>.