

ALERT

January 28, 2020

FTC ANNOUNCES NEW THRESHOLDS FOR 2020

SUMMARY

As required by the HSR Act, on January 28, 2020, the FTC released its annual adjustments to the reporting thresholds. The key number to remember is now \$94 million. Generally, transactions valued at \$94 million or more must be reported and cleared by the federal antitrust authorities before the transaction may close. The adjustments will become effective on February 27, 2020, 30 days following publication in the *Federal Register*. The revised thresholds will apply to all transactions that close on or after the effective date.

Each year, the Federal Trade Commission (FTC) adjusts the reporting thresholds under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the HSR Act) based on changes in gross national product. On January 28, 2020, the FTC announced the revised thresholds. Below are the current and new thresholds:

Test	2019 Threshold	**NEW**
		Adjusted 2020 Threshold
Size-of-Transaction	\$90 million	\$94 million
Size-of-Person as Measured by Annual Net Sales or Total Assets	\$18 million for one party	\$18.8 million for one party
	AND	AND
	\$180 million for the other party	\$188 for the other party
Net Sales or Total Assets	\$359.9 million	\$376 million

The practical effect of this change is that transactions valued in excess of \$94 million will be subject to the reporting and waiting requirements of the HSR Act. In general, the size-of-parties test will be satisfied only if one party to the transaction has annual net sales or total assets of \$188 million or more and the other party has annual net sales or total assets of \$18.8 million or more.

The interlocking directorate thresholds under Section 8 of the Clayton Act have also been adjusted to account for changes in the gross national product. Section 8 may preclude a person from serving as an officer or director of two competing corporations when (1) each of the competing corporations has capital, surplus, and undivided profits aggregating more than \$ 38,204,000, and (2) each corporation's competitive sales are at least \$ 3,820,400.

The current premerger filing fee schedule is:

- \$45,000 for transaction valued at \$94 million or more, but less than \$188 million
- \$125,000 for transactions valued at \$188 million or more, but less than \$940.1 million
- \$280,000 for transactions valued at \$940.1 million or more

Earlier this year, the FTC also announced that the maximum civil penalty amount has increased from \$42,530 to \$43,280 per day for violations of the 16 provisions of law the FTC enforces.

Please contact any member of the Transactional Antitrust Team if you have any questions:
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