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FTC Announces New HSR Reporting Thresholds

January 10, 2013

On January 10, 2013, the Federal Trade Commission announced increases to the reporting thresholds and exemptions that, under the Hart-Scott-Rodino Act of 1976 (the “HSR Act”), dictate whether companies must notify antitrust authorities about a transaction. To keep pace with inflation, the HSR Act requires the FTC to adjust reporting and exemption thresholds annually based on changes in the gross national product. The revised thresholds apply to all transactions that close on or after the effective date, which is 30 days after the *Federal Register* publishes the FTC’s announcement (likely next week).

Under the new thresholds:

The minimum size-of-transaction threshold is \$70.9 million (up from \$68.2 million). Acquisitions below this threshold are not reportable.

Transactions exceeding the size-of-transaction threshold—but less than \$283.6 million—are reportable if the ultimate parent entity of one party has sales or assets of at least \$141.8 million and the ultimate parent entity of the other party has sales or assets of at least \$14.2 million (up from \$136.4 million and \$13.6 million, respectively) (the “size-of-person” test).

Transactions valued at more than \$283.6 million (up from \$272.8 million) are reportable regardless of the size-of-person test.

Filing fees did not change, but the size-of-transaction thresholds (on which the filing fee is based) increased. Under the new thresholds, the filing fee is:

- \$45,000 for transactions with a value of at least \$70.9 million but less than \$141.8 million (up from \$136.4 million).
- \$125,000 for transactions with a value of at least \$141.8 million but less than \$709.1 million (up from \$682.1 million).
- \$280,000 for transactions with a value of at least \$709.1 million.

The notification threshold for 25% of the outstanding voting shares is \$1.418 billion, and for 50% of the outstanding voting shares, \$70.9 million (up from \$1.364 billion and \$68.2 million, respectively).

Even if a transaction is reportable based on the above thresholds, it may qualify for one

of the HSR Act's exemptions, some of which also contain changed financial thresholds. For example, a U.S. person's acquisition of a foreign issuer's stock is exempt, unless the foreign issuer has either U.S. assets or sales exceeding \$70.9 million (up from \$68.2 million). Elaborate rules govern deal valuation and exemptions under the HSR Act. Consult HSR counsel to determine whether a deal is reportable.

To read the FTC news release, please click [here](#).

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