

# Revised HSR Thresholds Released

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On February 1, 2021, the Federal Trade Commission (FTC) released the revised thresholds for determining whether companies are required to notify federal antitrust authorities about a transaction under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (HSR Act). If a proposed merger; acquisition of stock, assets or unincorporated interests; or other business combination meets certain thresholds, the parties must notify the FTC and the Department of Justice and observe a waiting period before consummating the transaction. Section 7A(a)(2) of the Clayton Act requires the FTC to revise all of the HSR Act thresholds annually, based on changes in the gross domestic product.

The new minimum filing threshold will be \$92 million. For the first time in many years, all of the revised thresholds are lower than the current amounts, as shown on the chart below. This is unusual, but not unexpected, given the contraction in the gross domestic product. It is anticipated that the new HSR Act thresholds will be published in the Federal Register on February 2, 2021, and will become effective March 4, 2021.

The FTC also released the revised jurisdictional dollar thresholds applicable to the Clayton Act's Section 8 prohibitions of interlocking officers or directors on their corporate boards of directors. The revised thresholds are \$37,382,000 for Section 8(a)(1) and \$3,738,200 for Section 8(a)(2)(A). These new thresholds (which also are lower than last year's) took effect immediately upon publication in the Federal Register on January 21, 2021.

| Original Threshold | Current Threshold | Revised Threshold |
|--------------------|-------------------|-------------------|
| \$10 million       | \$18.8 million    | \$18.4 million    |
| \$50 million       | \$94 million      | \$92 million      |
| \$100 million      | \$188 million     | \$184 million     |
| \$110 million      | \$206.8 million   | \$202.4 million   |
| \$200 million      | \$376 million     | \$368 million     |
| \$500 million      | \$940.1 million   | \$919.9 million   |
| \$1 billion        | \$1,880.2 million | \$1,839.8 million |

These revised thresholds will affect the jurisdictional requirements and certain exemptions under the HSR Act, as well as the HSR Act's filing fee schedule. Thus, for example, a transaction valued below the revised minimum notification threshold of \$92 million generally will not need to be reported, and the size-of-person test will not apply to a transaction valued above \$368 million. The filing fees for reportable transactions will be as follows:

- **\$45,000** for transactions valued in excess of \$92 million but less than \$184 million;
- **\$125,000** for transactions valued at \$184 million or greater but less than \$919.9 million; and
- **\$280,000** for transactions valued at \$919.9 million or more.