



March 11, 2019

FTC Announces Hart-Scott-Rodino Thresholds for 2019

The Federal Trade Commission (FTC) has adopted the annual adjustment in Hart-Scott-Rodino filing thresholds (15 USC § 18a, Clayton Act § 7A), which were published in the Federal Register on March 4, 2019 (84 Fed. Reg. 7369-70). The 2019 thresholds were announced, and thus will come into effect, about a month later than usual, due to the lingering impact of the recent government shutdown.

Starting April 3, 2019, all stock and asset acquisitions, mergers, consolidations, joint ventures and similar transactions valued **under \$90.0 million** will be exempt from all HSR filing and waiting period requirements (assuming no prior or related transactions between the parties or their affiliates); an increase from last year's \$84.4 threshold (reflecting continued growth in the national economy). All transactions valued at **\$359.9 million and over**, not otherwise exempt under one of the many substantive HSR exemptions, will require a pre-acquisition filing, and will need to observe the 30-day waiting period requirement (subject to possible early termination); while most (non-exempt) transactions valued **between \$90.0 million and \$359.9 million** will likely require a filing based on the "size-of-the-person" test (with size-of-the-person thresholds being adjusted to \$18 million and \$180 million). HSR filing fee levels are being similarly adjusted (though the fee amounts remain the same), and the penalty for not filing increases to \$42,530 per day, effective immediately. Any transactions valued between \$84.4 million and \$90 million scheduled to close prior to April 3 (which we hope we would have heard about by now) will require an HSR filing under the old threshold (unless otherwise exempt).

As many of you know, we have longstanding experience in Hart-Scott-Rodino pre-merger filings. In addition to preparing the necessary HSR filing documents and communicating with the FTC and DoJ, we also analyze transactions to determine if they are exempt from the HSR filing requirements, counsel on pre-closing restrictions concerning the operations of the acquired entity, and advise on structuring transactions to avoid or minimize both potential antitrust problems and costly second requests. If you have an upcoming merger, consolidation, stock purchase or asset acquisition, please give us a call.

Contacts

Robert A. Jaffe	Washington, D.C.	(202) 828-2434	Robert.Jaffe@KutakRock.com
Nicole Moriarty	Washington, D.C.	(202) 828-2446	Nicole.Moriarty@KutakRock.com

This Corporate Client Alert is a publication of Kutak Rock LLP. This publication is intended to notify our clients and friends of current events and provide general information about corporate issues. This Kutak Rock LLP Corporate Client Alert is not intended, nor should it be used, as specific legal advice, and it does not create an attorney-client relationship. ©Kutak Rock LLP 2019 – All Rights Reserved

This communication could be considered advertising in some jurisdictions.
The choice of a lawyer is an important decision and should not be based solely upon advertisements.