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FTC Updates the Size of Transaction Thresholds for Premerger Notification Filings

On January 23, 2023, the Federal Trade Commission (FTC) announced revised jurisdictional thresholds for determining whether a proposed transaction must be reported to federal authorities under the Hart-Scott-Rodino (HSR) pre-merger notification statute. In addition to approving new HSR filing thresholds, the FTC also announced new merger filing fees, as required pursuant to the 2023 Consolidated Appropriations Act. The new thresholds were published in the Federal Register on January 23, 2023 and will apply to all transactions closing on or after February 22, 2023.

As a result of the revision:

- The \$101.0 million minimum transaction value filing threshold has increased to \$111.4 million.
- The \$403.9 million transaction value, above which size-of-person tests are inapplicable, has increased to \$445.5 million.
- The \$20.2 million and \$202.0 million size-of-person tests become \$22.3 million and \$222.7 million tests, respectively.

The new merger filing fees based on the size of the proposed transaction were updated as follows:

FILING FEE	SIZE OF TRANSACTION
\$30,000	More than \$111.4 but less than \$161.5 million
\$100,000	\$161.5 million or more but less than \$500 million
\$250,000	\$500 million or more but less than \$1 billion
\$400,000	\$1 billion or more but less than \$2 billion
\$800,000	\$2 billion or more but less than \$5 billion
\$2.25 million	\$5 billion or more

The new FTC structure will significantly alter the expenses faced by transacting parties and cause a substantial increase in cost for the largest transactions.



It is important for any company contemplating a transaction to seek legal advice to determine if the transaction triggers an HSR filing obligation pursuant to the revised HSR thresholds. If required, the failure to file an HSR prior to closing is a violation of federal law and can subject the parties to significant penalties.

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