

Hart-Scott-Rodino Transaction Thresholds to Increase on February 24, 2011

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Effective February 24, 2011, the minimum transaction value triggering a Hart-Scott-Rodino filing will increase to \$66 million.

Indexing: Basic Filing Threshold to Increase from \$63.4 Million to \$66 Million

When Congress amended the Hart-Scott-Rodino (HSR) Act in 2001, it required the Federal Trade Commission (FTC) to revise the jurisdictional thresholds annually, beginning in 2005, based on changes in the United States Gross National Product. Most significantly, the adjusted HSR thresholds relate to the “size-of-transaction” and “size-of-person” tests used for determining whether a proposed transaction requires advance notification to the FTC and the Antitrust Division of the Department of Justice under the HSR Act. After decreasing last year for the first time, the thresholds will rise above their pre-recession levels when they become effective on February 24, 2011.

Summary Chart of New HSR Thresholds (Effective February 24, 2011)

2001 HSR Provision	New Indexed Amount
Size-of-transaction test:	
\$50 million jurisdictional threshold	\$66 million
Size-of-person test:	
\$10 million size-of-person test	\$13.2 million
\$100 million size-of-person test	\$131.9 million
Size-of-transaction threshold at which the size-of-person test is eliminated:	
\$200 million	\$263.8 million

Filing Fee Amounts Unchanged

The filing fees will not change, but the transaction value that triggers each fee will be indexed with the new jurisdictional thresholds:

2001 HSR Provision	New Indexed Threshold	Filing Fee Amount
\$50 million value of transaction	\$66 million	\$45,000
\$100 million value of transaction	\$131.9 million	\$125,000
\$500 million value of transaction	\$659.5 million	\$280,000

Section 8 Interlocking Directorate Thresholds to Increase

Section 8 of the Clayton Act prohibits a person from simultaneously serving as an officer or director of two competing corporations if certain minimum dollar thresholds are met. As with the HSR thresholds, the FTC adjusts Section 8's thresholds annually based on changes in the Gross National Product. The Section 8 thresholds will also increase effective February 24, 2011. The \$10 million threshold (which applies to the combined capital, surplus, and undivided profits of each corporation) will increase to \$26,867,000, and the \$1 million threshold (which applies to the annual competitive sales of each corporation) will increase to \$2,686,700.

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