

KIRKLAND ALERT

January 31, 2018

Revised Hart-Scott-Rodino Act Thresholds & Civil Penalty Amounts Announced

The Federal Trade Commission (“FTC”) announced revisions to the Hart-Scott-Rodino (“HSR”) Act filing thresholds on January 26, 2018. The HSR Act requires annual adjustment of the thresholds based on the change in the U.S. gross national product. All thresholds will increase from the prior year.

The revised thresholds will apply to all transactions that close on or after February 28, 2018.

Under the new thresholds, and subject to certain exemptions, HSR forms must be filed when, as a result of an acquisition, the buyer will hold assets, voting securities, and/or non-corporate interests valued in excess of \$84.4 million and the transaction involves parties with annual net sales or total assets valued at \$16.9 million or more and \$168.8 million or more, respectively. If the value of the assets, voting securities, and/or non-corporate interests to be held after the acquisition will exceed \$337.6 million, then — again, subject to certain exemptions — HSR forms must be submitted regardless of the size of the parties. The revised thresholds will apply to all transactions that *close* on or after February 28, 2018.

The chart below summarizes the original thresholds set forth in the HSR Act and regulations, as well as last year’s and the new thresholds.

	Original Thresholds	2017 Thresholds	New Thresholds
Size-of-Transaction	\$50 million \$200 million	\$80.8 million \$323.0 million	\$84.4 million \$337.6 million
Size-of-Person	\$10 million \$100 million	\$16.2 million \$161.5 million	\$16.9 million \$168.8 million

Transaction Value	Filing Fee
Greater than \$84.4 million but less than \$168.8 million	\$45,000
Greater than or equal to \$168.8 million but less than \$843.9 million	\$125,000
\$843.9 million or more	\$280,000

The FTC also has announced an increase in the maximum civil penalty amounts for HSR violations from \$40,654 per day to \$41,484 per day, effective January 22, 2018. The FTC is required by law to adjust the HSR penalty amounts and various other civil penalty amounts annually for inflation based on the percentage change in the Consumer Price Index.

Application of the HSR thresholds to a transaction involves detailed knowledge of the HSR Act and its implementing regulations. If you have questions regarding the HSR Act, the new thresholds or whether a transaction is subject to HSR reporting, please contact the following individuals or your regular Kirkland contact.

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