

## NEW HART-SCOTT-RODINO NOTIFICATION AND REPORT FORM IS NOW IN EFFECT

As of February 10<sup>th</sup>, the new pre-merger Notification and Report Form ("**HSR form**") has gone into effect. This means that transactions meeting the thresholds under the US Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("**HSR Act**"), that are not otherwise exempt, are required to be notified using the new form.

On the evening of February 10<sup>th</sup>, Federal Trade Commission ("**FTC**") Chairman Andrew Ferguson tweeted "[t]oday is a big day if you care about stopping monopolization and protecting Americans from anticompetitive mergers. Updated rules are now in effect for businesses when they notify the [@FTC](#) of proposed large mergers or acquisitions. The old rules were passed nearly 50 years ago, and updates were long overdue. The updates were the product of bipartisan consensus and will allow us to find anticompetitive mergers efficiently, while more quickly getting out of the way of deals that will benefit the American people." Transacting parties should prepare for the more extensive requirements of the new HSR form.<sup>1</sup>

### WHAT COMPANIES NEED TO KNOW:

1. If parties are negotiating or contemplating a transaction that meets the HSR Act's thresholds, and the transaction is not otherwise exempt, the parties will need to use the new HSR form.
2. The new HSR form does not impact:
  - a. the HSR Act's thresholds (HSR thresholds are adjusted annually and the latest adjustments are available here: [U.S. Federal Trade Commission Announces Annual Adjustments to the HSR Thresholds and Interlocking Directorate Thresholds](#));

<sup>1</sup> It is worth noting that the new HSR form is still facing some challenges. In January 2025 the US Chamber of Commerce, along with other organizations, filed suit in the Eastern District of Texas seeking to have the new HSR form set aside or enjoining the FTC from enforcing the requirements of the new HSR form. See *Chamber of Commerce of the United States of America v. FTC*, No. 6:25-cv-009 (E.D. Tex. Jan. 10, 2025.) Further, on February 11<sup>th</sup>, US Representative Scott Fitzgerald introduced a Congressional Review Act resolution to repeal the new HSR form.

- b. the types of transactions subject to the HSR Act; or
  - c. the applicability of the statutory exemptions in the HSR Act requirements.
3. Given the additional requirements in the new form, transacting parties should factor in extra time for preparation and submission of the new HSR form. This includes through reflecting appropriate preparation time in transaction documents, rep and warranty provisions, or other deal terms.
  4. For companies that are "frequent filers" or those actively contemplating a reportable transaction, there are steps you can take now to begin preparing to file under the new HSR form. Contact us for access to our toolkit for preparing filings under the new HSR form and/or to explore what steps may best suit your organization's needs.

For additional information about the requirements of the new HSR form, please see [U.S. FTC Publishes Finalized Changes to the HSR Pre-Merger Notification and Report Form, Increasing Disclosure Requirements](#).

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