

## Axinn Antitrust Insight: FTC Announces New HSR Thresholds for 2022

January 26, 2022

### PRACTICE AREAS

#### Antitrust

#### *Axinn Update*

On January 24, 2022, the Federal Trade Commission announced revised Hart-Scott-Rodino Act premerger notification thresholds for 2022 that will become effective on February 23, 2022. All transactions that close on or after that date are subject to the higher revised thresholds. The threshold for the “size-of-transaction” test is revised to \$101 million – a significant increase from the 2021 threshold of \$92 million. Transactions valued at \$101 million or less will not be reportable.

The thresholds for the “size-of-person” test also are revised. As a result, unless an exemption applies, generally, transactions valued above \$101 million but at \$403.9 million or less will be reportable if one party’s annual net sales or total assets is \$202 million or greater and the other party’s annual net sales or total assets is \$20.2 million or greater. Transactions valued above \$403.9 million are reportable regardless of the size of parties, unless an exemption applies.

The revised thresholds also affect certain exemptions under the HSR Act and the filing fee schedule. HSR filing fees vary depending on the size of a transaction. While the fee amounts remain unchanged, the applicable transaction-value thresholds for each fee level are revised to the following:

- \$45,000 fee for transactions valued above \$101 million but less than \$202 million;
- \$125,000 fee for transactions valued above \$202 million but less than \$1.0098 billion; and
- \$280,000 fee for transactions valued at \$1.0098 billion or above.

Inadvertently or knowingly failing to file an HSR for a reportable transaction can have significant consequences. On January 6, 2022, the FTC increased the maximum civil penalty amount for HSR Act violations from \$43,792 to \$46,517 per day for each day of noncompliance. Determining whether or not an HSR filing is required and what exemptions apply can be



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a complicated analysis. Please contact Axinn should you have any questions.

