

HSR Filing Thresholds Decrease for First Time: Basic HSR Threshold Lowered to \$63.4 Million

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The Federal Trade Commission ("FTC") announced on its website yesterday that the Hart-Scott-Rodino ("HSR") thresholds will be lowered by approximately 3%. Thus, the size-of-transaction filing threshold (also known as the "\$50 million threshold") will decrease from the current \$65.2 million to \$63.4 million. The FTC is expected to publish a notice of the new thresholds in the Federal Register in the next few days, and the thresholds will become effective thirty days later (the "Effective Date"). Parties whose transaction will close on or after the Effective Date will be subject to the revised thresholds.

The thresholds' decrease arises from the 2000 amendments to the HSR Act, which require the FTC to adjust the thresholds annually for change in the gross national product. This is the first year since the amendments (indeed, the first time in decades) that annual GNP has declined and therefore the first time that the thresholds have declined. All of the notification and exemption dollar thresholds in the HSR statute, regulations, and reporting instructions that are subject to annual adjustments will also be adjusted. The new HSR dollar thresholds will be as follows:

Original Threshold	2010 Threshold
\$10 million	\$12.7 million
\$50 million	\$63.4 million
\$100 million	\$126.9 million
\$110 million	\$139.6 million
\$200 million	\$253.7 million
\$500 million	\$634.4 million
\$1 billion	\$1.2687 billion

The FTC has also announced that it will be adjusting the two dollar thresholds for Section 8 of the Clayton Act to account for changes in the gross national product. Section 8, in many circumstances, forbids a person from serving as an officer or director of two competing corporations if two thresholds are met. Under the revised thresholds, effective when published in the Federal Register, Section 8 may apply when each of the competing corporations has capital, surplus, and undivided profits

aggregating more than \$25,841,000, and each corporation's competitive sales are at least

\$2,548,100.

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