



FTC Raises Hart-Scott-Rodino Thresholds Effective February 17, 2006

January 19, 2006

Effective on February 17, 2006, the Federal Trade Commission (FTC) will raise the Hart-Scott-Rodino Act (HSR Act) jurisdictional and filing fee thresholds. The new rules include an increase in the size-of-transaction test from greater than \$53.1 million to greater than \$56.7 million, meaning that under the new threshold, acquisitions valued for HSR Act purposes at \$56.7 million or less will not require pre-closing filing and approval.

New Jurisdictional Thresholds

As a general rule, the HSR Act requires both acquiring and acquired persons to file notifications if the following post-adjustment jurisdictional thresholds are met:

- a) One person has sales or total assets of at least \$113.4 million;
- b) The other person has sales or total assets of at least \$11.3 million; and
- c) As a result of the transaction, the acquiring person will hold an aggregate amount of stock and assets of the acquired person valued at more than \$56.7 million; or
- d) As a result of the transaction, the acquiring person will hold an aggregate amount of stock and assets of the acquired person valued at more than \$226.8 million, regardless of the sales or assets of the acquiring and acquired persons.

The first two conditions (a and b) are generally referred to as the “size-of-person” test, while the second two conditions (c and d) are commonly described as the “size-of-transaction” test.

The HSR Act rules relating to acquisitions of partnership interests and membership interests in a limited liability company (LLC) remain the same. Acquisitions of economic control in an LLC or partnership may be reportable. “Control” is defined as having a right to 50% or more of the revenues of a partnership or LLC or 50% or more of the assets upon the dissolution of such entity.

New Filing Fee Thresholds

Filing fees are also determined by a threshold test relating to the size of the transaction; the fees themselves have not been adjusted:

