

# Client Alert

A report  
for clients  
and friends  
of the Firm    **February 2008**

## Revised Hart-Scott-Rodino Jurisdictional Thresholds

Effective February 28, 2008, the notification thresholds under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 USC §18a (2001), (the “HSR Act” or the “Act”) will be increased. The increases, which occur annually, are a product of the indexing of the HSR Act’s thresholds required by the 2000 amendments to the Act.

*As a result of the 2008 revisions to the HSR Act’s jurisdictional thresholds, announced January 18, 2008, the basic notification threshold for all transactions will be increased from \$59.8 million to \$63.1 million.*

Unless otherwise exempt, an entity that is not controlled by any other entity or individual (a “Person”) that, as a result of an acquisition, will hold voting securities, assets, or interests in an unincorporated entity of any other Person valued in excess of the HSR Act’s jurisdictional

threshold may be required to file notification under the Act and to observe the applicable waiting period before consummating the transaction.

Transactions valued at \$252.3 million or less (\$239.2 million prior to February 28, 2008) are not subject to the HSR Act unless the parties also meet the size-of-person thresholds. Under the revised thresholds, the size-of-person thresholds will generally be met where a person with annual net sales or total assets of \$126.2 million acquires a person with annual net sales or total assets of \$12.6 million, or vice-versa.

In each instance where an acquiring person files under the Act, the acquired person is also required to submit a filing. The purpose of the HSR filing is to enable antitrust regulators to review the transaction and investigate and address potential antitrust violations prior to its consummation.

The following charts provide a summary of the HSR Act’s threshold adjustments:

SIZE-OF-TRANSACTION		Old Threshold	New Threshold (Effective February 28, 2008)
Jurisdictional Threshold	Basic Notification Threshold	\$59.8 Million	\$63.1 Million
	Subsequent Notification Thresholds	\$119.6 Million	\$126.2 Million
		\$597.9 Million	\$630.8 Million
		25% (if value exceeds \$1.1958 billion)	25% (if value exceeds \$1.2615 billion)
		50% (where value exceeds \$59.8 million)	50% (where value exceeds \$63.1 million)

SIZE-OF-PERSON		Old Threshold	New Threshold (Effective February 28, 2008)
Jurisdictional Threshold	Size-of-Person Thresholds	\$12 Million	\$12.6 Million
		\$119.6 Million	\$126.2 Million
	Size-of-Person Inapplicable Where Transaction Exceeds	\$239.2 Million	\$252.3 Million

## Filing Fees

The dollar amount of the filing fees payable to the Federal Trade Commission with HSR Act filings are not subject to indexing; however, the thresholds applicable to the statutory filing fees do adjust with indexing. As of February 28, 2008, the schedule for filing fees will be as follows:

Transaction Size	Filing Fee
Greater than \$63.1 million but less than \$126.2 million	\$45,000
\$126.2 million or greater but less than \$630.8 million	\$125,000
\$630.8 million or greater	\$280,000

## Summary

The application of the HSR Act typically requires a detailed and careful analysis of a transaction. Proskauer's HSR team has extensive experience with the issues presented under the HSR Act. If you have any questions concerning a potential HSR filing requirement please contact one of the lawyers identified in this publication.

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### Client Alert

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