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HSR Burdens Lifted: Fifth Circuit Denies FTC Stay, Reinstating Prior HSR Filing Requirements

Regulatory & Compliance on **March 20, 2026**

In a significant development for antitrust practitioners and dealmakers, the U.S. Court of Appeals for the Fifth Circuit denied the Federal Trade Commission's motion for a stay pending appeal in the long standing litigation over the agency's revised Hart-Scott-Rodino (HSR) filing requirements. The immediate consequence is a reversion to the pre-February 10, 2025 HSR filing framework, introducing practical relief, and near-term uncertainty for transacting parties.

In a brief order, the Fifth Circuit declined to pause the district court's judgment vacating the new HSR form and instructions, thereby leaving that ruling in effect during the appeal. Consistent with that ruling, the FTC has announced that it is immediately accepting filings under the pre-2025 form and instructions. The agency has also indicated that it will continue to accept filings submitted under the 2025 form on a voluntary basis.

This development temporarily relieves parties of the expanded disclosure requirements introduced in 2025, while creating limited strategic flexibility for those considering whether to proceed under the newer framework. Parties preparing filings should reassess their approach in light of this shift.

The Fifth Circuit has not yet addressed the merits of the appeal, and the ultimate status of the revised HSR requirements remains uncertain. Accordingly, while the prior filing regime is now operative, parties should continue to monitor developments closely as the litigation proceeds.

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