

KIRKLAND ALERT

January 2010

Hart-Scott-Rodino Act Thresholds Decrease

The Federal Trade Commission (“FTC”) recently announced revisions to the Hart-Scott-Rodino (“HSR”) Act filing thresholds. The HSR Act requires annual adjustment of the jurisdictional thresholds based on the change in the U.S. gross national product. For the first time since the annual adjustments to the thresholds have been in effect, the thresholds will decrease from the prior year.

Effective February 22, 2010, subject to certain exemptions, an HSR Notification and Report Form must be filed when, as a result of an acquisition, the buyer will hold voting securities and/or assets valued in excess of \$63.4 million, and the transaction involves parties with annual net sales or total assets valued at \$12.7 million or more and \$126.9 million or more, respectively. If the value of the voting securities and/or assets exceeds \$253.7 million, then — again, subject to certain exemptions — the size of the parties is irrelevant and an HSR Notification and Report Form must be submitted. The revised thresholds will apply to all transactions that close on or after the February 22, 2010 effective date.

The chart below summarizes the original thresholds set forth in the HSR Act and regulations, as well as last year’s and the new thresholds.

	Original Thresholds	2009 Thresholds	New Thresholds
Size-of-Transaction	\$50 million \$200 million	\$65.2 million \$260.7 million	\$63.4 million \$253.7 million
Size-of-Person	\$10 million \$100 million	\$13.0 million \$130.3 million	\$12.7 million \$126.9 million

Filing fees have not changed and apply to the new thresholds as follows:

Transaction Value	Filing Fee
Greater than \$63.4 million but less than \$126.9 million	\$45,000
Greater than or equal to \$126.9 million but less than \$634.4 million	\$125,000
\$634.4 million or more	\$280,000

Application of the HSR thresholds to a transaction involves detailed knowledge of the HSR Act and its implementing regulations. If you have questions regarding the HSR Act or its revised thresholds, please contact the following individuals or your regular Kirkland contact.

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