

## Updated HSR Thresholds Take Effect With Status of HSR Form in Limbo

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On Jan. 14, 2026, the Federal Trade Commission (FTC) announced its annual adjustments to the premerger filing thresholds and fees under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (HSR Act). The updated thresholds and fees take effect on Feb. 17, 2026, with the most notable adjustment being an increase to the “size-of-transaction” threshold from \$126.4 million to \$133.9 million. As a result, only transactions valued at more than **\$133.9 million** may require an HSR filing during the coming year. As further described below, the new thresholds also take effect at a time of historic uncertainty regarding the substance of HSR filings moving forward.

### *Background*

Under the HSR Act, parties to certain transactions must file a detailed notification (“HSR filing”) with the FTC and the Department of Justice, pay a filing fee and wait to close the transaction until the end of the statutory waiting period (usually 30 days), allowing the agencies time to assess the transaction for potential antitrust concerns. Application of the HSR Act is not limited to traditional mergers and acquisitions. Rather, HSR filings can also be required in connection with minority investments in a corporation, conversions of securities and exclusive license deals, among others, if the transaction meets certain jurisdictional thresholds. Typically, an HSR filing is only required if a transaction meets both the “size-of-transaction” and the “size-of-person” tests, and there are no available exemptions (such as for the purchase of oil and gas reserves or certain real property, intracompany deals, “ordinary course” acquisitions or passive investments).

The application of the HSR Act can be complex, and the penalties for noncompliance are high (the current civil penalty is \$53,088 per day and expected to increase this month). **Accordingly, parties to a transaction that may trigger a filing should seek specialized HSR guidance to ensure compliance and determine whether any exemptions apply.**

### *2026 HSR Thresholds*

Effective Feb. 17, 2026, the updated size-of-transaction and size-of-person thresholds are as follows:

**Size-of-Transaction:** Transactions valued at more than **\$133.9 million** (increased from \$126.4 million in 2025) may trigger an HSR filing if the size-of-person test is also met. Transactions valued at more than **\$535.5 million** (increased from \$505.8 million in 2025) are not subject to the size-of-person test and may require a filing even if the size-of-person test is not met.

**Size-of-Person:** The size-of-person test is met if one party has annual net sales or total assets of at least **\$26.8 million** (increased from \$25.3 million in 2025) and the other party has annual net sales or total assets of at least **\$267.8 million** (increased from \$252.9 million in 2025).

### *2026 HSR Filing Fees*

The HSR filing fees are also increasing on Feb. 17, 2026, as outlined in the chart below. A single filing fee is required per reportable transaction, which can be paid by one party or split between them.

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2025 Filing Fee	2025 Transaction Size	2026 Filing Fee	2026 Transaction Size
<b>\$30,000</b>	More than \$126.4 million but less than \$179.4 million	<b>\$35,000</b>	More than \$133.9 million but less than \$189.6 million
<b>\$105,000</b>	At least \$179.4 million but less than \$555.5 million	<b>\$110,000</b>	At least \$189.6 million but less than \$586.9 million
<b>\$265,000</b>	At least \$555.5 million but less than \$1.111 billion	<b>\$275,000</b>	At least \$586.9 million but less than \$1.174 billion
<b>\$425,000</b>	At least \$1.111 billion but less than \$2.222 billion	<b>\$440,000</b>	At least \$1.174 billion but less than \$2.347 billion
<b>\$850,000</b>	At least \$2.222 billion but less than \$5.555 billion	<b>\$875,000</b>	At least \$2.347 billion but less than \$5.869 billion
<b>\$2,390,000</b>	\$5.555 billion or more	<b>\$2,460,000</b>	\$5.869 billion or more

## *Status of HSR Form in Limbo*

Unrelated to the updated HSR thresholds, on Feb. 12, 2026, a federal judge in Tyler, TX vacated the extensive new HSR rules that went into effect in February 2025 (the “New Rules”) on grounds that they are not “necessary and appropriate” and thus exceed the FTC’s statutory authority. The New Rules greatly expanded filing requirements for merging parties, representing the first major change to the HSR premerger notification form (the “HSR Form”) since its inception nearly 50 years ago. U.S. District Judge Jeremy Kernodle stayed his order for seven days, allowing the FTC to seek emergency relief from the Fifth Circuit before Feb. 19, 2026.

This decision will critically affect the substance of HSR filings moving forward. Pending further developments in the case and/or guidance from the FTC, parties with upcoming HSR filings should be aware of the following:

- All HSR filings made through Feb. 19 will continue to be subject to the New Rules, and filers must continue to use the new, expanded HSR Form.
- Unless the Fifth Circuit grants an emergency stay or other relief, HSR filings made after Feb. 19 will be subject to the HSR rules that were in effect immediately prior to the implementation of the New Rules (the “Old Rules”).
- Pending further guidance from the FTC or Fifth Circuit, should the Old Rules become effective again, reportable transactions will likely be filed using the old HSR Form, which would mean less burdensome HSR filings with substantially fewer requirements compared to filings under the New Rules.

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Despite the uncertainty surrounding the HSR Form, many HSR requirements will remain unchanged even if the New Rules are ultimately overturned. Most notably, the rules pertaining to when a filing is required will be unaffected, as will the HSR waiting period and the updated thresholds and filing fees.

For more information and assistance regarding HSR issues, please contact Paul Feinstein or Hannah Shoss.