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FEDERAL TRADE COMMISSION ANNOUNCES INCREASES TO HART-SCOTT-RODINO THRESHOLDS FOR 2009

The Federal Trade Commission recently announced the 2009 revised thresholds under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (HSR Act). The adjustments to the thresholds are required by amendments to the HSR Act that were adopted in 2000, which require annual indexing of the thresholds based on changes in the gross national product for each fiscal year beginning after September 30, 2004. The new thresholds will become effective 30 days after publication in the Federal Register (which should occur shortly) and will be applicable until recalculated in early 2010.

While the revised thresholds will be incorporated in various provisions of the HSR Act and the regulations promulgated thereunder (including in a number of the filing exemptions), the significant revisions are as follows:

- For purposes of the "size of transaction," the initial notification threshold will be increased from \$63.1 million in 2008 to **\$65.2 million**.
- For purposes of the "size of person," the notification thresholds will be increased from \$126.2 million and \$12.6 million to **\$130.3 million** and **\$13.0 million**, respectively, for the annual net sales and/or total assets of the acquiring and acquired persons.
- The threshold beyond which the size of person test is disregarded will be increased from a transaction valued at \$252.3 million to a transaction valued at **\$260.7 million**.
- The filing fee tiers have been similarly adjusted as follows:
 - \$45,000 for a transaction valued at \$65.2 million or more but less than \$130.3 million;
 - \$125,000 for a transaction valued at \$130.3 million or more but less than \$651.7 million; and
 - \$280,000 for a transaction valued at \$651.7 million or more.

As always, the determination of the value of a transaction is subject to certain exceptions and calculation adjustments that can affect either the obligation to make a notification filing or the amount of the filing fee required with the filing.

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