

## FTC Announces 2024 Revised Thresholds and Filing Fees for HSR Filings

FEBRUARY 5, 2024

*This blog post was originally published on January 23, 2024.*

The Federal Trade Commission (FTC) announced yesterday the increased Hart-Scott-Rodino (HSR) Act thresholds for 2024. These thresholds increase the minimum value of transactions that must be notified under the HSR Act to \$119.5 million. The new thresholds will become effective for transactions that close on or after March 6, 2024.

The HSR Act requires all persons or entities contemplating certain mergers or acquisitions that meet or exceed the jurisdictional thresholds of the Act to file notifications of that transaction with the FTC and the Department of Justice. Once both parties have submitted their HSR filings, the enforcement agencies have up to 30 days to decide whether to seek additional information—commonly known as a “Second Request.” The parties also have the option to request “Early Termination,” which, if granted, will shorten the 30-day waiting period. Note, however, that the enforcement agencies have not yet lifted the nearly three-year suspension on grants of Early Termination. If the 30-day waiting period expires without the issuance of a Second Request, or if Early Termination is granted, the parties are free to close the transaction. If the reviewing agency issues a Second Request, the agency has 30 days from the date the parties substantially comply with the request to decide whether to let the transaction proceed or attempt to block it in court.

### 2024 JURISDICTIONAL THRESHOLDS

The FTC adjusts the HSR Act filing thresholds annually, based on changes to the gross national product. Due to the 2023 growth in the gross national product, the FTC will increase the “size of transaction” threshold from \$111.4 million to \$119.5 million. Any transaction valued below \$119.5 million (for HSR purposes) need not be reported. For transactions valued between \$119.5 million and \$478 million (up from \$445.5 million), the “size of person” test further determines whether the parties need to make a filing. For an HSR filing to be required in this range, one party must have annual net sales or total assets of at least \$239 million (up from \$222.7 million) and the other party must have annual net sales or total assets of at least \$23.9 million (up from \$22.3 million). If a transaction is valued above \$478 million, the “size of person” test does not apply.

Below is a table displaying the original dollar amount thresholds of the HSR Act, the current (2023) thresholds, and new 2024 thresholds:

ORIGINAL THRESHOLD	2023 THRESHOLD	2024 THRESHOLD
\$10 million	\$22.3 million	\$23.9 million
\$50 million	\$111.4 million	\$119.5 million
\$100 million	\$222.7 million	\$239 million

## 2024 FILING FEE THRESHOLDS

The 2024 filing fee thresholds incorporate provisions from the Merger Filing Fee Modernization Act, which became law on December 29, 2022. For further discussion on the effect of the Merger Filing Fee Modernization Act, please see our previous post [here](#).

The filing fee amounts the parties must pay as well as the thresholds for those fees will change to the following:

2023 FILING FEE	2023 APPLICABLE SIZE OF TRANSACTION	2024 ADJUSTED FILING FEE <sup>[1]</sup>	2024 ADJUSTED APPLICABLE SIZE OF TRANSACTION
\$30,000	Less than \$161.5 million	\$30,000 (no change)	Less than \$173.3 million
\$100,000	Not less than \$161.5 million but less than \$500 million	\$105,000 (\$5,000 increase)	Not less than \$173.3 million but less than \$536.5 million
\$250,000	Not less than \$500 million but less than \$1 billion	\$260,000 (\$10,000 increase)	Not less than \$536.5 million but less than \$1.073 billion
\$400,000	Not less than \$1 billion but less than \$2 billion	\$415,000 (\$15,000 increase)	Not less than \$1.073 billion but less than \$2.146 billion

\$800,000	Not less than \$2 billion but less than \$5 billion	\$830,000 (\$30,000 increase)	Not less than \$2.146 billion but less than \$5.365 billion
\$2,250,000	\$5 billion or more	\$2,335,000 (\$85,000 increase)	\$5.365 billion or more

Failure to file an HSR Notification and Report Form is subject to a statutory penalty for noncompliance. The FTC has also announced an increase in the maximum civil penalty amounts for HSR violations from \$50,210 per day to \$51,744 per day effective January 10, 2024. The HSR thresholds are only one part of the analysis to determine whether an HSR filing is required. Please contact one of the authors with any questions regarding the reportability of a transaction. Winston lawyers regularly advise parties regarding the reportability of transactions, as well as guide clients through the reporting process and any government investigation that may follow.

[1] Following passage of the Merger Filing Fee Modernization Act, the filing fee amounts have been updated based on changes to the Consumer Price Index.

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## Authors

[Richard Falek](#)

[Conor Reidy](#)

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Richard Falek



Conor Reidy

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