



## Conor Reidy Discusses New Antitrust Law in Washington State with *Private Funds CFO*

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Winston & Strawn partner Conor Reidy spoke with *Private Funds CFO* to discuss the first-of-its-kind antitrust law in Washington state and what this means for private fund managers. Under the new law, which will take effect July 27, any company required to file for Federal Trade Commission merger review under the *Hart-Scott-Rodino Act* that does sufficient business in Washington must also file for review with Washington's attorney general. Firms will have to file in Washington if their principal place of business is in Washington, if the in-state value of the merger is at least 20 percent of the federal *Hart-Scott* threshold, or if at least one firm's annual net sales in Washington reach 20 percent of the federal threshold.

"The good news is that compliance is actually straightforward," Conor said. He noted that Washington's new, broader antitrust law isn't targeted at a specific industry, but it widens the scope of Washington's so-called "baby HSR" law dramatically.

"It's a wholesale replacement of merger notification law in Washington," he said. "What's really new about Washington's law is that it goes beyond healthcare. It could be food and beverage, it could be defense, it could be anything under the sun."

Conor stated that the threat of such laws is latent for now, but he anticipates that the more lax the feds are, the more aggressive state enforcers are likely to be.

"I don't think the additional risk from Washington is enough to push most firms away from doing deals, but it is a risk," he says. "State antitrust enforcers have become more vigorous about enforcement in the last few years. If an attorney general says they're worried about private equity in healthcare and the state has a baby HSR bill on the books, you should take it seriously. The federal government has said they won't treat private equity any differently. But state attorneys general haven't made that promise."

For now, fund managers thinking about mergers or acquisitions in Washington should give extra thought to the new law, he noted. "As part of that you need to be thinking about whether there are any Washington-specific concerns that could be addressed by the attorney general," he says. "These state HSR obligations can fly under the radar, even among people who have been working for years and they may not know about them. It's another bite at the apple for a regulator to slow down or stop a merger."

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