

# Publications

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## As States Expand Notice Requirements, Updated HSR Thresholds Remain Paramount

### Key Takeaways

- **The FTC's updated Hart Scott Rodino (HSR) thresholds take effect for transactions closing on or after Feb. 17, 2026. The size-of-transaction threshold increases to \$133.9 million, with corresponding increases to size-of-party thresholds and HSR filing fees.**
- **Expanded state-level merger notification requirements, including in Colorado and Washington, heighten the importance of early federal and state filing analysis.**
- **Noncompliance with HSR filing requirements may result in penalties of up to \$53,088 per day, underscoring the need to assess threshold impacts and filing obligations well ahead of closing.**

### FTC Announces 2026 HSR Thresholds

2025 saw an increase in state interest in merger regulation, including two states, Colorado and Washington, joining the federal government in requiring pre-closing notice of mergers. These states have set their thresholds for state filings at 20% of the federal filing threshold — making it more important than ever to know the FTC's annual threshold update.

The Federal Trade Commission (FTC) recently announced the 2026 updates to the thresholds for pre-merger notification filings. The FTC updates the Hart-Scott-Rodino (HSR) Act thresholds annually to adjust for increases in GDP and the Consumer Price Index. These new thresholds will take effect on Feb. 17, 2026 and will apply to all transactions that close on or after this date. The HSR Act requires that transactions over a certain size be reported 30 days prior to closing to the FTC and the Antitrust Division of the Department of Justice (DOJ and, together with the FTC, the agencies). The size-of-transaction threshold under Section 7A of the Clayton Act will increase from \$126.4 million to \$133.9 million.

### New Size-of-Transaction and Size-of-Party Thresholds

There are complexities to whether the size-of-transaction threshold is met for a given

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transaction. Size of party is a consideration when the transaction is valued under \$535.5 million — specifically, when the size of the transaction passes the first threshold of \$133.9 million but is lower than \$535.5 million. The size-of-party thresholds are satisfied if one party has sales or assets over \$267.8 million and the other party has sales or assets over \$26.8 million. If these thresholds are met, the parties should continue the HSR analysis and consider whether an exemption applies. The HSR requirements do not apply to transactions including acquisitions of non-U.S. entities or assets, acquisitions made solely for the purpose of investment and certain real estate transactions.

The table below shows the change in thresholds from 2025 to 2026:

Original Threshold	Current (2025) Threshold	Revised (2026) Threshold
\$10 million	\$25.3 million	\$26.8 million
\$50 million	\$126.3 million	\$133.9 million
\$100 million	\$252.9 million	\$267.8 million
\$110 million	\$278.2 million	\$294.5 million
\$200 million	\$505.8 million	\$535.5 million
\$500 million	\$1.264 billion	\$1.339 billion
\$1 billion	\$2.529 billion	\$2.678 billion

### HSR Filing Fees Also Increase with Deal Size

HSR filing fees will also increase in 2026 based on transaction size. The updated filing fees will become effective on Feb. 17, 2026.

Size of Transaction	Filing Fee
Greater than \$133.9 million to \$189.6 million	\$35,000
\$189.6 million to \$586.9 million	\$110,000
\$586.9 million to \$1.174 billion	\$275,000
\$1.174 billion to \$2.347 billion	\$440,000
\$2.347 billion to \$5.869 billion	\$875,000
\$5.869 billion or more	\$2,460,000

### Watch For Section 8 Enforcement on Board Overlaps

Agencies have shown increased interest in Section 8 of the Clayton Act, which prohibits interlocking directorates. Interlocking directorates arise when one person serves on the boards of, or as an officer of, two competing corporations at the same time. The FTC has increased the thresholds that prohibit companies from having interlocking directorates effective Jan. 16, 2026.<sup>1</sup> Competitor corporations are subject to Section 8 if each has capital, assets and undivided profits aggregating more than \$54,402,000. Note that Section 8 does not apply if any party has competitive sales under \$5,440,200. If a party meets the thresholds for Section 8 to apply, counsel should analyze whether other exceptions may apply.

## **Next Steps: Confirm Filing Obligations Early**

Ignoring the HSR rules can lead to reputational and financial harm. Failure to submit a required HSR filing can draw penalties of \$53,088 for each day of noncompliance. For questions on how the HSR threshold adjustments may affect your business, contact Polsinelli's Antitrust team.

[1] <https://www.ftc.gov/news-events/news/press-releases/2026/01/ftc-announces-2026-jurisdictional-threshold-updates-interlocking-directorates>