

New HSR Act Thresholds and Amendments to HSR Form and Rules

The Federal Trade Commission (the “FTC”) has revised the jurisdictional and filing fee thresholds of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the “HSR Act”) and the Premerger Notification Rules (the “Rules”). In addition, the FTC has made technical amendments to the Rules and to the Notification and Report Form (the “HSR Form”). These amendments are described below.

Threshold Changes.

The changes to the dollar thresholds of the HSR Act and Rules are the second of the annual adjustments (based on changes in the gross national product) that are required by the 2000 amendments to the HSR Act. The new thresholds take effect on February 17, 2006. As a result of these changes, the basic size-of-transaction threshold will increase from \$53.1 million to \$56.7 million. The size-of-parties thresholds, the filing fee thresholds and the thresholds applicable to certain exemptions will also increase as summarized in Appendix A to this memorandum.

Other Amendments.

Effective December 30, 2005, the FTC has amended the HSR Form to require that filers now use 2002, rather than 1997, as the “base year” and use the 2002 North American Industry Classification System (NAICS) codes rather than the 1997 NAICS codes when completing the HSR Form. In order to facilitate the transition to 2002 NAICS information, filers may use either 1997 or 2002 information until January 30, 2006, provided that all filing parties to a transaction use the same year and use the same NAICS codes in Item 7.

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Effective January 11, 2006, when responding to Items 4(a) and 4(b) of the HSR Form, filing parties may provide an internet address linking directly to the documents required by those Items in lieu of providing paper copies.

Finally, effective January 11, 2006, the FTC amended the Rules to specify that an acquiring person's notification and, in certain types of transactions, an acquired person's notification, will expire after 18 months if a second request to either person remains outstanding. Beyond that time, the parties must file updated notifications and a new waiting period will be triggered.

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This memorandum constitutes only a general description of the recent HSR Act and Rules amendments. It is not intended to provide legal advice and no legal or business decision should be based on its contents. Any questions concerning these amendments or HSR premerger notification requirements should be addressed to any of the following:

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APPENDIX A

Summary of Revised Jurisdictional Thresholds of the HSR Act and Rules

<u>Relevant Section of HSR Act or Rules</u>	<u>Original Threshold</u>	<u>2005 Threshold</u>	<u>New Threshold</u>
§7A(a)(2)(A) size of transaction test	\$200 million	\$212.3 million	\$226.8 million
§7A(a)(2)(B)(i) size of transaction test	\$50 million	\$53.1 million	\$56.7 million
§7A(a)(2)(B)(ii) size of parties test	\$10 million	\$10.7 million	\$11.3 million
§7A(a)(2)(B)(ii) size of parties test	\$100 million	\$106.2 million	\$113.4 million
§7A note -- filing fee thresholds*	\$50 million \$100 million \$500 million	\$53.1 million \$106.2 million \$530.7 million	\$56.7 million \$113.4 million \$567 million
Thresholds and limitation values in the Rules (16 C.F.R. Parts 801-803)**	\$10 million \$50 million \$100 million \$110 million \$200 million \$500 million \$1 billion	\$10.7 million \$53.1 million \$106.2 million \$116.8 million \$212.3 million \$530.7 million \$1,061.3 million	\$11.3 million \$56.7 million \$113.4 million \$124.7 million \$226.8 million \$567 million \$1,134 million

* The filing fee amounts, which are currently \$45,000, \$125,000 and \$280,000, remain unchanged. For transactions valued at more than \$56.7 million, but less than \$113.4 million, the filing fee is \$45,000. For transactions valued at \$113.4 million or more, but less than \$567 million, the filing fee is \$125,000. For transactions valued at \$567 million or more, the filing fee is \$280,000.

** The \$200 million and \$500 million limitations set forth in Rule 802.3 for acquisitions of certain carbon-based mineral reserves remain unchanged.