

Insights

2021 HSR THRESHOLDS DECREASING

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SUMMARY

In a direction consistent with 2020, the filing thresholds for the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (HSR Act) will decrease beginning March 4, 2021. Following statutory amendments made in 2000, the thresholds are adjusted annually based on changes in the U.S. gross national product (GNP). **A key effect of this year's indexing is that transactions will only be reportable if the Size of Transaction exceeds \$92 million**, a decrease from 2020's \$94 million threshold. This marks the first time since 2010 that the filing thresholds have decreased.

Key revised thresholds are as follows:

Original Threshold	2021 Threshold
\$50 million Size of Transaction Test	\$92 million
\$200 million Size of Transaction Test	\$368 million
\$10 million Size of Person Test	\$18.4 million
\$100 million Size of Person Test	\$184 million

Similarly, while the HSR filing fee amounts themselves have not changed, the thresholds upon which the filing fees are based have decreased as follows:

Filing Fee	Original Filing Fee Threshold	2021 Filing Fee Threshold
\$45,000	Transactions valued at more than \$50 million but less than \$100 million	Transactions valued at more than \$92 million but less than \$184 million
\$125,000	Transactions valued at \$100	Transactions valued at \$184

	million or more but less than \$500 million	million or more but less than \$919.9 million
\$280,000	Transactions valued at \$500 million or more	Transactions valued at \$919.9 million or more

Finally, the maximum daily civil penalty for HSR violations has also been adjusted; unlike the HSR thresholds, however, these have increased slightly. This is because the civil penalty amount is adjusted annually for inflation (not based on GNP like the HSR thresholds). **The current maximum daily civil penalty for HSR violations is now \$43,792 per day** (up from \$43,280).

Determining the HSR value of a transaction (and, ultimately, whether a transaction is reportable), requires a nuanced analysis of numerous factors. To learn whether your transaction is reportable, or for more information regarding HSR filings in general, please contact the authors.

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