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Finalized Hart-Scott-Rodino Rules Released

By [Catherine Kordestani](#)

Today, the Federal Trade Commission voted 5-0 to adopt new rules under the Hart-Scott-Rodino ("HSR") Antitrust Improvements Act, as amended. While these new rules are scaled-back versions of the rules originally proposed on June 27, 2023, they still dramatically change the amount of information and number of documents to be produced up front with the initial filing for both deals with competitive concerns and those without. This will make filing HSR both more burdensome and significantly more expensive for both buyers and sellers.

What Will and Will Not Change

The new rules do not alter the statutory mandates for the size and types of transactions that must be reported. Instead, the new rules alter the form itself, requiring up front the type of information that is commonly asked for during preliminary investigations and second requests.

For example, filers will be required to describe the actual and potential competitive overlaps and vertical relationships. They will also be required to disclose:

- Foreign Subsidy Information: Any subsidy (or commitment to receive a future subsidy) from any foreign entity of concern or covered nation government (as defined in the Infrastructure Investment and Jobs Act);
- Orbit Information: Information on certain investors, including limited partners with management rights, organizational charts for funds and master limited partnerships (for the buyer, if they exist).
- Item 4/Ordinary Course Documents: Additional transaction documents from the supervisor of each filing party's deal team and certain ordinary course documents, including documents already translated from foreign languages.

In addition, the Federal Trade Commission is introducing a new online portal for comments to be submitted on proposed transactions that may be under review. According to the Federal Trade Commission, they welcome "information on specific transactions and how they may affect competition from consumers, workers, suppliers, rivals, business partners, advocacy organizations, professional and trade associations, local, state, and federal elected officials, academics, and others."

What Happens Next

Like the recent non-compete rules, we expect lawsuits to follow and for the agencies to face significant hurdles before the rules take effect. Barring a stay in implementation, the current rules are slated to go

into effect 90 days after publication in the Federal Register, which is expected in the next few days. Clients should begin to prepare for a potential new reality when it comes to filing HSR.

What to Do Now

Paul Hastings is prepared to walk clients through this new normal. We can advise on best practices for information and document collection for deals already in the pipeline. We will also be hosting a webinar for clients on **Tuesday, October 15**. Please reach out to any of the lawyers below for an invitation to that webinar.



If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings Washington, D.C. lawyers:

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