



CLIENT MEMORANDUM

Revised HSR Act Thresholds

January 13, 2009

The Federal Trade Commission (“FTC”) has announced revised monetary thresholds for the Hart-Scott-Rodino Antitrust Improvement Act of 1976 (“HSR Act”). The revised thresholds were published in the Federal Register on January 13, 2009 and will be effective on February 12, 2009, applying to all transactions that close on or after that date.

REVISED THRESHOLDS

The revisions increase the size-of-transaction and size-of-person tests for filing under the HSR Act. The critical size-of-transaction thresholds used in determining filing obligations have been increased as follows: from \$63.1 to \$65.2 million, from \$126.2 to \$130.3 million, from \$252.3 to \$260.7 million, from \$630.8 to \$651.7 million, and from \$1,261.5 to \$1,303.4 million.

Acquisitions valued above \$65.2 million but less than \$260.7 million will be reportable if one party has annual net sales or total assets of at least \$130.3 million and the other has annual net sales or total assets of at least \$13 million. Acquisitions valued at or above \$260.7 million will be

reportable without regard to the sales or assets of the parties.

ACQUISITIONS OF ADDITIONAL VOTING SECURITIES

The revisions will also increase filing thresholds for acquisitions of additional voting securities from the same person. Notifications will be required at each of the following thresholds: \$65.2 million; \$130.3 million; \$651.7 million; 25% of the shares if their value is at or above \$1,303.4 million; and 50% of the shares if their value is above \$65.2 million. Acquisitions of additional voting securities that do not meet or exceed the next notification threshold for a period of five years after expiration or termination of the HSR waiting period are exempt, assuming that the acquiring person crosses the threshold for which it filed within the first year of expiration or termination of the HSR waiting period. An acquiring person has one year after the waiting period expires to reach the notification threshold in place at the time that it filed, even though the notification threshold may have subsequently been adjusted during that year. However, an acquiring person

can then acquire up to the next greater adjusted notification threshold (as opposed to the next notification threshold in place at the time of the filing) during the five years following expiration or termination of the waiting period.

FILING FEES

The filing fees for reportable transactions will not change, but the size-of-transaction thresholds that trigger those fees will change. The acquiring person will pay a filing fee of \$45,000 for transactions valued above \$65.2 million but less than \$130.3 million, \$125,000 for transactions valued at or above \$130.3 million but less than \$651.7 million, and \$280,000 for transactions valued at or above \$651.7 million.

EXEMPTIONS

Finally, the dollar amounts used for determining the applicability of certain exemptions to filing have also been adjusted to reflect the new thresholds, where indicated by the term "as adjusted" in the HSR rules.

For further information about these threshold changes or other aspects of the HSR Act and rules, please contact:

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