

The Federal Trade Commission's (FTC) Final Rule enhancing the premerger reporting requirements under the HSR Antitrust Improvements Act was published in the Federal Register today, and will become effective February 10, 2025, 90 days after publication. All HSR filings made on or after February 10 will need to comply with the requirements of the Final Rule. Filings made prior to February 10 will be unaffected by these changes.

As discussed in our prior [client alert](#), the Final Rule will substantially transform the HSR process, and significantly increase the time and cost needed to prepare an HSR filing. For example:

- Many filers will be required to provide substantially more information about the proposed transaction, including the deal rationale, competitive overlaps between the parties and existing supply arrangements
- The FTC and DOJ will no longer accept HSR filings where the parties have not yet established key deal terms, such as the transaction structure and purchase price
- Filers will need to identify and produce additional documents, including certain ordinary course reports and deal-related materials from additional custodians
- The Final Rule requires disclosure of entities and individuals that will have the ability to influence decision-making post-merger, which could significantly impact the disclosure requirements of private equity buyers in particular
- The FTC and DOJ will reinstate the early termination process, which allows the agencies to clear transactions that do not present potential competition concerns prior to the expiration of the HSR 30-day waiting period

Although the Final Rule will become effective after the new Trump administration is in place, we do not anticipate material changes to the Final Rule prior to its effective date. The Final Rule was unanimously approved by both Democratic and Republican commissioners at the FTC – and was scaled back from the initially proposed version to secure that unanimous approval – suggesting that future revisions to the Final Rule, if any, would be relatively modest in scope and likely have no appreciable impact on the increased burden associated with the new HSR filing requirements.

In anticipation of the Final Rule effective date, clients pursuing transactions in early 2025 may wish to consider whether they can obtain HSR clearance under the existing regime by filing prior to February 10. Alternatively, they will need to allot additional time to satisfy the requirements of the new rule, and they may find it prudent to take proactive steps to maintain the information that will be required with an eventual filing.

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