

Practice Update

FTC's New HSR Rules Vacated, Allowing for Reversion to Prior Submission Requirements

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By [Austin A.B. Ownbey](#)

Federal courts have struck down the FTC's recent overhaul of the Hart-Scott-Rodino (HSR) premerger notification rules, materially reducing filing burdens for reportable transactions. The vacated HSR rules had represented the most significant expansion of premerger notification requirements since the HSR Act's adoption, but the recent court decisions mean that all of the requests for additional information have been eliminated.

On **February 12, 2026**, the U.S. District Court for the Eastern District of Texas vacated the FTC's 2024/2025 HSR rule amendments in their entirety, holding that the agency exceeded its statutory authority and acted arbitrarily and capriciously by failing to demonstrate that the expanded filing requirements were "necessary and appropriate" under the HSR Act. The court emphasized the FTC's failure to show that the new rules' benefits outweighed their substantial compliance costs.

After a brief administrative stay, the **Fifth Circuit on March 19, 2026**, denied the FTC's motion to stay the ruling pending appeal, making the vacatur effective immediately. The FTC must now resume acceptance of filings using the pre-2025 HSR form, although the FTC announced that it will continue to accept voluntary filings prepared under the expanded rules

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for parties. Under some limited circumstances, it may be less burdensome to file using the now voluntary new form as opposed to the shorter, old form, which gives parties the flexibility to choose which form to use based on their specific structure and the individual transaction.

The practical differences between the **new (now-invalidated) rules** and the **old (now back in effect) rules** are summarized below:

1. Scope of Required Narrative Disclosures

- **New rules:** Required parties to prepare detailed written narratives explaining the strategic rationale for the transaction, competitive dynamics, supply relationships, and potential horizontal or vertical overlaps.
- **Prior rules:** Do not require narrative descriptions. Filings focus exclusively on objective information (financial data, revenue by NAICS codes, and limited documentary submissions) without affirmative explanations of competitive effects.

2. Volume and Types of Documents

- **New rules:** Significantly expanded the categories of documents required to be produced, including materials prepared by or for a broader group of officers, directors, and “supervisory deal team leads,” as well as drafts and ordinary-course business documents.
- **Prior rules:** Limit required materials primarily to final Item 4(c) and 4(d) documents reflecting competitive analyses prepared for transaction evaluation.

3. Organizational and Governance Information

- **New rules:** Required detailed organizational charts, expanded officer and director information, and enhanced disclosure of minority investors, board observers, and interlocking relationships.

- **Prior rules:** Require more limited governance information, including no information regarding limited partners, and do not mandate comprehensive organizational mapping.

4. Overlap and Supply Relationship Analysis

- **New rules:** Obligated filing parties to identify and describe horizontal overlaps, vertical supply relationships, and other competitive links — even where overlaps were not material. Required a description of overlaps even if there was no NAICS code overlap.
- **Prior rules:** Rely exclusively on NAICS code revenue reporting and do not require affirmative overlap or supply-chain analyses.

5. Foreign Subsidies and International Information

- **New rules:** Added requirements to disclose certain foreign government subsidies and other international business information.
- **Prior rules:** Do not require separate foreign subsidy disclosures.

6. Translations

- **New rules:** Required complete English-language translations of certain foreign-language documents submitted with HSR filings.
- **Prior rules:** Do not impose a general translation requirement for foreign-language documents. Parties may submit foreign-language materials without translation, subject to limited, longstanding agency discretion to request translation in follow-up reviews after filing.

7. Compliance Burden and Timing

- **New rules:** Substantially increased preparation time, internal coordination, and costs for nearly all reportable transactions, regardless of competitive risk.

- **Prior rules:** Are more streamlined and can be prepared with limited burden.

Practical Implications for Transactions That Trigger HSR Filings

- Filing parties may immediately revert to the prior, less burdensome HSR form.
- The FTC's appeal remains pending, but any reinstatement of the vacated rules appears unlikely in the near term.
- Deal timelines may shorten, and filing strategies should be reassessed for transactions currently in planning or early execution stages.
- The FTC has already begun the process of potential future HSR rulemaking, meaning that at some point there is likely to be a new, new HSR form with an updated set of requirements.

Akerman's Antitrust and M&A teams will continue to monitor appellate developments and agency guidance and will provide additional updates as warranted.

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