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March 20, 2020

FTC Implements Temporary Hart-Scott-Rodino E-Filing System, Suspends Early Termination Program

Due to the developing coronavirus (COVID-19) pandemic, the Federal Trade Commission (FTC) has implemented a temporary e-filing system for the submission of filings under the Hart-Scott-Rodino (HSR) Antitrust Improvements Act of 1976 and suspended its program that allowed parties to request (and frequently be granted) early termination of the HSR waiting period. The act requires all parties to certain transactions, including mergers and acquisitions that meet or exceed the act's jurisdictional thresholds, to notify the FTC and the Antitrust Division of the U.S. Department of Justice (DOJ) of their intentions, and to wait a designated period of time before consummating those transactions. While the temporary e-filing system is in place, requests for early termination of the HSR waiting period will not be granted.

Normally, parties required to file notification under the act with the FTC and the DOJ may submit their HSR filings in hard copy or on a DVD delivered to the FTC Premerger Notification Office (PNO) and the DOJ in Washington, D.C. Effective Tuesday, March 17, 2020, all HSR filings must be submitted to the FTC and the DOJ electronically via the Accellion secure file-sharing system. E-filing will be the only method for HSR filings until the COVID-19 emergency has passed. Hard copy and DVD submissions of HSR filings have been temporarily suspended.

Key elements of this temporary system include the following:

- The PNO will not grant early termination of the 30-day HSR waiting period during the use of the temporary e-filing system.
- Any electronic submission received after 5:00 p.m. ET will be considered received on the next business day.
- PNO and DOJ review of filings will continue as normal and filing parties will receive notification of receipt of their filings and the start of the 30-day HSR waiting period within a day or two of filing.
- The PNO will accept electronic signatures on the HSR certification and affidavit while the COVID-19 emergency continues.
- Once normal agency operations resume, filing parties may have to submit hard copies or DVDs of filings that were made using the temporary e-filing system.

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