Fifth Circuit Clears Path for Immediate Return to Prior HSR Form

March 20, 2026

Yesterday, the U.S. Court of Appeals for the Fifth Circuit denied the Federal Trade Commission's motion for a stay pending appeal in the litigation challenging the revised Hart-Scott-Rodino Act ("HSR Act") rules and notification form. As a result, the district court's judgment vacating the new form is now effective immediately. The FTC's Premerger Notification Office ("PNO") has responded by announcing that the agency is accepting HSR filings using the Form and Instructions that were in place before the February 10, 2025 effective date of the new rule. The PNO also stated that it will continue to accept filings submitted under the February 10, 2025 Form and Instructions if parties voluntarily choose to use them.

As discussed in our earlier client update, the U.S. District Court for the Eastern District of Texas vacated the revised HSR rules and form on February 12, 2026, but stayed its ruling for seven days to allow the FTC to seek emergency relief. The Fifth Circuit subsequently entered an administrative stay while it considered the FTC's motion. With today's denial of a stay pending appeal, the district court's vacatur has now taken effect, and the prior HSR form is back in place.

Implications. For dealmakers, the immediate takeaway is straightforward: the expanded disclosure requirements introduced in 2025 are no longer mandatory. Parties with active or imminent filings should assess whether to proceed under the reinstated prior form and instructions or, if appropriate, continue with a voluntary filing under the vacated regime. In many cases, the return to the prior form should materially reduce the time and burden associated with HSR preparation.

Today's ruling does not resolve the merits of the appeal, and further litigation remains possible. But unless and until a court orders otherwise, the expanded 2025 HSR filing requirements are no longer required, and the pre-February 10, 2025 Form and Instructions have been reinstated.

Debevoise is continuing to monitor the appeal and the FTC's implementation of today's ruling and is advising clients on how best to navigate the transition.

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Please do not hesitate to contact us with any questions.

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