FTC Takes Action Against Interlocking Directorate in Beretta–Ruger Deal

September 18, 2026

This week, the FTC confirmed its commitment to continue enforcing violations of the prohibition on interlocking directorates in Section 8 of the Clayton Act. After decades of dormancy, the FTC and the DOJ have revived Section 8 enforcement in recent years. This week's proposed consent order is yet another example of why Section 8 should remain a top priority during the diligence process of transacting parties. Importantly, the proposed consent order provides more contours for the independence requirement of board members and underlines that Section 8 comes into play even where an investor is not acquiring control over the target.

On September 16, 2026, the Federal Trade Commission (the "FTC") announced a proposed consent order addressing Beretta Holding S.A.'s ("Beretta") proposed acquisition of additional shares of Sturm, Ruger & Co., Inc. ("Ruger"). The FTC alleged that governance rights associated with the investment would have created an unlawful interlocking directorate in violation of Section 8 of the Clayton Act.

Under a stock purchase agreement, Beretta sought to both (i) increase its minority position in Ruger and (ii) appoint two directors to Ruger's board. According to the FTC, Beretta and Ruger compete across multiple firearms product lines, and therefore Beretta's anticipated role in Ruger's Board of Directors could have opened an avenue for the exchange of competitively sensitive information between competitors.

Section 8 of the Clayton Act generally prohibits an individual from serving simultaneously as an officer or director of competing companies, subject to certain statutory exceptions. However, Section 8 may also apply indirectly when a company places an agent, deputy or representative on a competitor's board, creating the interlock through company-level overlaps rather than through the individual director serving on competing boards. The FTC alleges that the Beretta-Ruger agreement created a company-level interlock because it could not guarantee that the Beretta-appointed directors would be independent of Beretta and its affiliates.

Under the proposed consent order, Beretta may nominate directors to Ruger's board only if they satisfy detailed independence requirements, including the following:

- **Not a Relevant Person or Immediate Family Member:** The nominee may not be an employee, officer, director, representative or agent of a "Relevant Person" (i.e., Beretta, its parent or any entity they control) or an immediate family member of a Relevant Person.

- **Three-Year Lookback:** In the preceding three years, the nominee may not have been (a) an employee, officer, director, representative or agent of a Relevant Person; (b) a recipient of direct or indirect compensation from a Relevant Person; or (c) a partner or employee of a firm that is a Relevant Person's internal or external auditor.

- **No Material Relationship:** The nominee may not have a "Material Relationship" with a Relevant Person, anyone within a Relevant Person, or an immediate family member of such a person. A "Material Relationship" is any relationship that would reasonably be expected to impair the objectivity of the nominee's judgment when serving as a director of Ruger.

The order would also require Beretta to provide the FTC prior written notice at least 15 days before any nominee can join Ruger's Board. Beretta would be prohibited from seeking, receiving or attempting to receive Ruger's nonpublic information from a director it nominates, and certain restrictions on Beretta's relationship with such a director would remain in effect for one year after the director leaves Ruger's board.

The Commission voted 2–0 to issue the complaint and accept the consent agreement for public comment. The proposed order is subject to a 30-day comment period and, if finalized, would terminate five years after issuance.

KEY TAKEAWAYS

- **Minority Investments Can Raise Section 8 Issues.** The FTC's action is notable because Beretta is not acquiring control of Ruger; it focused instead on the governance rights accompanying a minority investment. Parties considering strategic minority investments should therefore assess board nomination and appointment rights separately from the competitive effects of the investment itself.

- **Section 8 Risk Extends to Agents and Other Representatives.** The complaint reflects the FTC's view that an entity may create an anticompetitive interlock indirectly by placing on a competitor's board an agent or representative (and not necessarily one of its own board members) who is not sufficiently independent from the nominating corporation. In the diligence process, transacting parties should therefore consider not only existing director overlaps but also whether representatives who will be sent to the competitor's board will satisfy the independence concerns articulated by the FTC.

- **Interlocking Directorates Remain an Enforcement Priority.** This action confirms that the FTC will continue to scrutinize potential interlocking directorates. Deal teams should not assume that the FTC will overlook Section 8 issues simply because the interlock is at the company level rather than the individual board director level.

In light of this action, companies contemplating strategic investments involving competitors should evaluate potential Section 8 issues early in the deal process, including board nomination rights, director independence, information-sharing arrangements and related governance provisions.

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Debevoise lawyers regularly advise clients on antitrust compliance, including Section 8 of the Clayton Act. We are available to assist with evaluating board composition, director independence requirements, governance arrangements involving competitors and related regulatory matters. Please do not hesitate to contact us with any questions.

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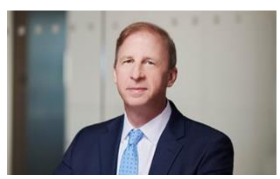

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