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FTC and DOJ Temporarily Suspend Early Termination of HSR Waiting Periods

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Today the U.S. Federal Trade Commission (FTC) announced that the FTC and the Antitrust Division of the U.S. Department of Justice (DOJ) will temporarily suspend granting early termination of the waiting period (ET) for filings made under the Hart-Scott-Rodino Act (HSR Act).

Under the HSR Act's Premerger Notification Program, the parties to a transaction must wait for expiration of the 30-day statutory waiting period (15 days for cash tender offers and certain bankruptcy transactions) to close their deal. However, the FTC and DOJ have discretion to grant ET, which terminates the waiting period before it expires and allows the parties to close their deal earlier. The FTC and DOJ grant ET to many of the transactions that require HSR Act notification. Until the agencies lift the announced suspension, parties to a transaction will need to wait until the full waiting period expires before closing their deal.

The FTC stated that ET will be suspended "during the transition to the new Administration" as part of a review of "the processes and procedures used to grant" ET. The FTC also pointed to the "unprecedented volume" of HSR Act filings over the last several months as part of this decision. The agencies expect the suspension "will be brief."

This is the second time that the FTC and DOJ temporarily suspended ET in the last year, having also done so in March 2020 after they implemented the HSR Act notification e-filing system as a result of the COVID-19 pandemic.

A link to the announcement is here.

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If you have questions concerning the contents of this issue, or would like more information about Weil's Antitrust/Competition group, please speak to your regular contact at Weil or to one of the authors below:

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