

Fifth Circuit Denies Stay — Parties May Immediately Revert to Pre-2025 HSR Form

Alert

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On March 19, 2026, the U.S. Court of Appeals for the Fifth Circuit denied the Federal Trade Commission's (FTC) motion for a stay pending appeal of the district court's judgment vacating the agency's overhauled Hart-Scott-Rodino (HSR) premerger notification form and instructions. As a result, the vacatur is effective immediately, and filing parties may now submit HSR filings using the form and instructions that were in place prior to February 10, 2025, the effective date of the new rule.

BACKGROUND

In November 2024, the FTC finalized a sweeping overhaul of the HSR notification form and instructions, significantly expanding the information and documentation required from merging parties. The revised form, which took effect on February 10, 2025, required, among other things, detailed narratives describing the transaction rationale, expanded document production requirements, information about labor markets, and additional disclosures regarding prior acquisitions, subsidies from foreign governments or entities of concern, and officers, directors, and board observers. The new requirements were widely criticized by the business and legal communities as imposing substantial new burdens on filers, increasing costs and preparation time, and exceeding the scope of information necessary for the antitrust agencies to conduct an initial review of proposed transactions.

Multiple legal challenges followed. A coalition of business groups, including the U.S. Chamber of Commerce, filed suit in the U.S. District Court for the Northern District of Texas, arguing that the FTC's rulemaking violated the Paperwork Reduction Act, exceeded the Commission's statutory authority, and was arbitrary and capricious under the Administrative Procedure Act. The district court agreed, entering judgment vacating the new form in its entirety. The FTC promptly sought a stay of the district court's order pending appeal to the

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Fifth Circuit.

THE FIFTH CIRCUIT'S ORDER

On March 19, 2026, the Fifth Circuit denied the FTC's motion for a stay pending appeal. With no stay in place, the district court's vacatur took effect immediately, eliminating the obligation of HSR filers to use the new form and instructions that had been in effect since February 10, 2025.

CURRENT FILING REQUIREMENTS

In response to the court's order, the FTC's Premerger Notification Office (PNO) issued two notices confirming the practical implications for filers:

Accepting filings using prior form. On March 19, 2026, the same day the Fifth Circuit issued its order, the PNO advised that the district court's judgment vacating the new form is effective immediately and that the Commission would accept HSR filings using the pre-February 10, 2025, form and instructions. The PNO noted that, in the interim, it would also continue to accept filings made on the new form should filers voluntarily decide to submit them.

Prior forms available on FTC website. On March 20, 2026, the PNO confirmed that the pre-February 10, 2025, HSR form and instructions are now available on the FTC's website. As with the prior day's notice, the FTC confirmed it will continue to accept voluntary filings on the new form.

PRACTICAL IMPLICATIONS

The Fifth Circuit's order represents a significant development for dealmakers and their counsel. As a practical matter, parties with pending transactions or those contemplating HSR filings should be aware of the following:

Immediate reversion. Filing parties may immediately revert to the shorter, pre-2025 HSR form. This should meaningfully reduce the time and cost associated with preparing HSR filings, particularly for transactions that do not raise substantive antitrust concerns.

Voluntary use of the new form. The FTC has indicated that it will continue to accept filings made using the new form and instructions on a voluntary basis. Parties involved in transactions that are likely to receive a Second Request or that wish to provide additional information to the agencies upfront to facilitate their review may elect to do so, but there is no obligation to use the new form.

Ongoing litigation. The Fifth Circuit's denial of the stay does not resolve the underlying appeal. The FTC may continue to press its case on the merits, and the possibility remains that the new form could ultimately be reinstated if the Fifth Circuit reverses the district court. Filing parties and their counsel should continue to

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monitor developments in the litigation.

Transition considerations. Parties that have already prepared or are in the process of preparing filings using the new form may wish to evaluate whether to proceed with the new form on a voluntary basis or to revert to the prior form. For filings that are substantially complete under the new form, the incremental burden of completing that form may be minimal, and the additional information could help facilitate the agencies' review.

We will continue to monitor developments in this matter and provide updates as warranted.

For more information on the Fifth Circuit's denial of the stay and the immediate reversion to the pre-2025 HSR form, please contact [Scott Claassen](#), [Jeetander Dulani](#), [Nicci Warr](#), Heather Franco or the Stinson LLP contact with whom you regularly work.

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