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Antitrust Alert

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After Fifth Circuit ruling, FTC reinstates old HSR form and rules

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What the Fifth Circuit's HSR ruling means for merger filings: FTC returns to pre-2025 notification standards.



What's the impact?

- The FTC's expanded HSR premerger notification requirements are no longer mandatory.
- The FTC will accept HSR filings using the new form or the form used prior to February 10, 2025.
- Further changes remain possible as the FTC's appeal proceeds.

On March 19, 2026, the U.S. Court of Appeals for the Fifth Circuit denied the motion of the Federal Trade Commission (FTC) for a stay of the U.S. District Court for the Eastern District of Texas ruling, which vacated the agency's [expanded scope of required information and documents for HSR filings](#) under the Hart-Scott-Rodino (HSR) Act.¹ After the Fifth Circuit's order, the FTC stated that it "is now accepting HSR filings using the [Form and Instructions](#) that were in place before the February 10, 2025, effective date of the new rule." The FTC "will continue to

¹See Order, *Chamber of Commerce v. FTC*, No. 26-40094, ECF 44-2 (5th Cir. Mar. 19, 2026).

accept HSR filings made pursuant to the February 10, 2025, Form and Instructions should filers voluntarily decide to submit them.”

District court vacates HSR expansion

In January 2025, several business organizations filed suit before the FTC’s Final Rule went into effect, challenging the rule as unlawful under the Administrative Procedures Act.² On February 12, 2026, the district court agreed with the Plaintiffs and vacated the FTC’s Final Rule.³ The court held that the FTC’s Final Rule conflicted with “the unambiguous terms of the [HSR] Act” because it failed to demonstrate that the benefits of the Final Rule reasonably outweigh its significant costs, as required by the statute. The court also deemed the Final Rule “arbitrary and capricious” because the benefits did not “bear a rational relationship” to its costs and the FTC “did not adequately explain its rejection of less costly and burdensome alternatives.”

FTC’s emergency stay request and appeal

On February 17, 2026, the FTC filed an emergency motion to stay the district court’s decision on the merits. The district court denied that request the next day, and the FTC immediately filed a notice of appeal and a request for administrative stay of the order pending appeal in the Fifth Circuit. The Fifth Circuit temporarily granted the FTC’s request on February 19, “until further order of [the] court.”⁴

Administrative stay lifted, but the appeal continues

The Fifth Circuit’s brief March 19 order ends the administrative stay of the district court’s decision vacating the Final Rule, but it is not a final decision on the merits of the appeal.

Our team will continue to monitor developments and provide updates as they become available. For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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² See Complaint, *Chamber of Commerce v. FTC*, 6:25-cv-00009, ECF 1 (E.D. Tex. Jan. 10, 2025).

³ See Memorandum Opinion and Order, *Chamber of Commerce v. FTC*, 6:25-cv-00009, ECF 75 (E.D. Tex. Feb. 12, 2026).

⁴ Order, *Chamber of Commerce v. FTC*, No. 26-40094, ECF 18 (5th Cir. Feb. 19, 2026).