

HART-SCOTT-RODINO ACT TO CHANGE FROM SIC CODES TO NAICS CODES; BASE YEAR TO CHANGE FROM 1992 TO 1997

The Federal Trade Commission (the "FTC") is amending the Notification and Report Form (the "Form") required by the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"). The HSR Act requires premerger notification to the FTC and Department of Justice for certain mergers and acquisitions of voting securities or assets. The interim rule, published May 7, 2001 with a request for comment, implements three significant changes to the reporting requirements, and is expected to apply to all HSR filings submitted on or after July 1, 2001. Under the rulemaking, all revenue information will need to be reported using the North American Industrial Classification System ("NAICS") instead of the Standard Industrial Classification System ("SIC"). In addition, "base year" revenue information will be required for 1997 rather than 1992. Finally, insurance revenues will now be reported in the body of the Form rather than in a separate insurance appendix.

NAICS, developed jointly by the United States, Canada and Mexico, more precisely accounts for lines of business in today's economy that have been difficult to categorize under existing SIC codes (e.g., online services, cellular and wireless communications, satellite telecommunications, fiber optic cable manufacturing, semiconductor machinery manufacturing, HMO medical centers). It also restructures and redefines traditional industries. NAICS doubles the number of top-level groupings of industrial classification -- from ten to twenty, and redefines the subsector, industry group, and industry classifications therein. The hierarchical numbering system utilized by NAICS is also a departure from the 4-digit, 5-digit and 7-digit codes utilized by the SIC. The revised Form will require 6-digit NAICS codes instead of 4-digit SIC codes, 10-digit NAICS codes instead of 7-digit SIC codes (for base year manufacturing revenue as well as products added and deleted), and 7-digit NAICS codes instead of 5-digit SIC codes (for most recent year manufacturing revenue). Moreover, NAICS will be reviewed every 5 years to ensure that it properly accounts for new industries.

We recommend that you identify the NAICS codes that apply to your business well in advance of the July 1, 2001 effective date. Our HSR attorneys are available to assist you in identifying NAICS codes or determining new base year information. If you would like our assistance, or have any questions regarding the rulemaking, please contact Jonathan J. Konoff ((212) 728-8627 or jkonoff@willkie.com).

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