

China Increases Filing Thresholds for Antitrust Merger Review

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The State Council released the "Provisions of the State Council on Thresholds for the Declaration of Concentrations of Undertakings" (Revised in 2024) (《国务院关于经营者集中申报标准的规定(2024年修订)》) (the **"2024 Thresholds"**) on Jan. 26, 2024, effective immediately. The revision is the first revision since China enacted the Anti-Monopoly Law (the **"AML"**) in 2008 and limits coverage of the AML to larger-sized transactions.

Below are summarized highlights of the 2024 Thresholds:

1. Higher Turnover Thresholds for Mandatory Merger Review.

The 2024 Thresholds introduce higher turnover thresholds for merger review filing. Specifically, Article 3 requires mandatory pre-closing merger review, where:

- i. (a) The combined worldwide turnover of all undertakings to the concentration exceeds RMB 12 billion (approx. US\$1.7 billion) (increased from RMB 10 billion) or (b) the combined turnover in China of all undertakings to the concentration exceeds RMB 4 billion (approx. US\$5.7 million) (increased from RMB 2 billion); **and**
- ii. In either of the above scenarios, at least two of the undertakings to the concentration have turnover in China that exceed RMB 800 million (approx. US\$113.5 million) (increased from RMB 400 million).

The penalties for violating the AML, as amended by the 2024 Thresholds, have remained unchanged. For deals that are subject to mandatory pre-closing merger review, failure to file carries substantial penalties. In particular, for transactions that are found to have potential monopoly effects, fines of up to 10% of the undertaking's revenue from the preceding year can be imposed for failure-to-file. If the transaction is found to have no monopoly effect, the fine for failure-to-file will be capped at RMB 5 million.

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