U.S. Department of Justice Formalizes Streamlined Merger Review Process

By Paul Feinstein, Zachary Jacobs, Hannah Shoss | July 29, 2026

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On July 23, the Antitrust Division of the U.S. Department of Justice ("DOJ") announced another initiative aimed at expediting the merger review process in the U.S.: the return of "targeted Second Request investigations."[1] This iterative process would allow the agency to evaluate whether its competitive concerns can be resolved through more narrowly focused information production. The announcement is part of a broader administrative effort to "eliminate bureaucratic burdens" without sacrificing the integrity of DOJ merger investigations, though whether these measures will meaningfully expedite merger review or reduce the disclosure burdens on transacting parties remains to be seen.

Under the Hart-Scott-Rodino ("HSR") Antitrust Improvements Act of 1976, transactions valued above a certain threshold must be reported to the DOJ and Federal Trade Commission ("FTC") (collectively, the "Agencies"), triggering a statutory 30-day waiting period allowing the Agencies to review the transaction for anticompetitive concerns. In some instances, the FTC or DOJ may request additional information relating to the proposed transaction in an extensive, months-long investigation, referred to as a "Second Request," which extends the statutory waiting period until the parties comply.

Under the targeted approach announced by the DOJ, parties may enter into a timing agreement aimed at prioritizing the submission of information that could resolve the DOJ's concerns before the parties proceed with broader Second Request obligations. In connection with the announcement, the DOJ also published a model timing agreement that lays out how the streamlined process will work ("Model Timing Agreement").[2]

Pursuant to the Model Timing Agreement:

1. The parties commit to a rolling production of specified documents and information that the DOJ views as high priority and potentially determinative in its investigation ("Priority Production").
2. Within 21 days after the parties complete the Priority Production, the DOJ will offer a meeting ("Front Office Meeting") with members of DOJ senior leadership. The Front Office Meeting affords the parties an opportunity to present their arguments about why the proposed transaction should not raise antitrust concerns.
3. Within 14 days after the Front Office Meeting, the DOJ will notify the parties whether it plans to (i) close the investigation or grant early termination (if applicable); (ii) modify the Second Request or investigation; or (iii) proceed with the full scope of the investigation.
4. The merging parties agree not to consummate the proposed transaction earlier than 60 days—30 days more than the default standstill requirement in the absence of a timing agreement—after certifying their compliance with the Second Request (regardless of whether the Second Request ends at the Priority Production stage or continues in the form of a modified or full-scale investigation).

5. In addition, in exchange for the prospect of an expedited Second Request, the merging parties must agree that, if the DOJ elects to challenge the proposed transaction, the parties will not close unless and until a court enters an appealable order that does not prohibit consummation. Practically speaking, this contractual standstill would have the same transaction-blocking effect as a temporary restraining order ("TRO") or preliminary injunction, without requiring the DOJ to first satisfy the applicable legal standard to obtain such relief from a court.

Thursday's announcement complements a series of recent initiatives by the antitrust agencies aimed at streamlining merger enforcement, including, most notably, the reinstatement of "early termination" of the 30-day waiting period under the HSR Act;[3] a renewed willingness by the DOJ to settle merger inquiries through negotiated consent decrees rather than litigation;[4] and a joint request for information by the FTC and DOJ seeking input on the effectiveness of the HSR premerger notification rules with an aim toward "reduc[ing] the burden for nonproblematic transactions."[5]

As a practical matter, the DOJ's return to targeted Second Requests will only affect a small fraction of reportable transactions. In 2025, for example, only 2.1 percent of HSR filings were followed by a Second Request, and only half of those were issued by the DOJ.[6] It is also uncertain whether the FTC will formally adopt the same targeted approach as the DOJ. Nonetheless, taken together, the Agencies' recent initiatives suggest a deliberate recalibration of the merger review process towards greater speed and predictability. For transactions with potential antitrust exposure, this trend is an important factor for deal timelines, risk allocation and negotiation strategy—including, for example, financing contingencies, the size of any termination or reverse breakup fees and the scope of interim operating covenants. Merging parties should consult with antitrust counsel as early as possible to formulate a strategy suited to a shifting and potentially faster-moving review environment, while still accounting for the possibility of heightened antitrust scrutiny and follow-up inquiries.

For more information and tailored guidance regarding antitrust issues, please reach out to Paul Feinstein or Hannah Shoss.

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[1] DOJ Press Release linked **here**.

[2] DOJ Model Timing Agreement linked **here**.

[3] Statement on Revocation of Biden-Harris Executive Order on Competition linked **here**.

[4] Statement on Revocation of Biden-Harris Executive Order on Competition linked **here**.

[5] Previous HB Client Alert (May 28, 2026) linked **here**.

[6] Hart-Scott-Rodino Annual Report, Fiscal Year 2025 linked **here**.