



HART-SCOTT-RODINO

PREMERGER NOTIFICATION PROGRAM

CHECKLIST FOR SUBMITTING AN HSR FILING

Updated 09/15/17

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Use this checklist to avoid common filing errors that may delay the start of the waiting period.

- **Answer each required item.**
Do not cross-reference answers. If unable to answer any item fully, provide such information as is available and a statement for non-compliance. If exact answers to any item cannot be given, add an endnote with the notation "est." to any item where data is estimated.
- **Request Early Termination, if desired.**
If either party in any transaction requests early termination, it may be granted and published in the Federal Register and on the PNO website.
- **Provide an answer to Item 1(f), if applicable.**
Information provided in response to this item is helpful, even if the acquiring entity is identified simply as an unformed Newco.
- **Identify the contact representatives in Item 1(g) who will be available to answer questions during the waiting period.**
Provide the name, firm name, address, telephone number and e-mail address of two individuals to contact regarding questions about the Form.
- **Check the highest available threshold in Item 2(c).**
Details concerning the basis for reportability, exemptions and related filings are particularly helpful. Check the HSR Style Sheet for more details.
- **Provide a thorough response to Item 3(a).**
In the Transaction Description section, briefly describe the transaction, indicating whether assets, voting securities, or non-corporate interests (or some combination) are to be acquired. Describe the business operation(s) being acquired. If assets, describe the assets and whether they comprise a business operation. Also, indicate what consideration will be received by each party and the scheduled consummation date of the transaction.
- **Include any Non-Competition Agreements in response to Item 3(b).**
Non-Competition Agreements that are exhibits to the main agreement should be included. Submit the most recent draft if the Non-Competition Agreement is not yet signed.
- **Stipulate to the appropriate size of person in Item 4(b), if required.**
- **Submit complete documents in response to Items 4(c) & 4(d).**
Even if only parts of a document relate to the transaction at issue, you must submit the entire document in response to Items 4(c) & 4(d). There are two exceptions: you may (1) redact unrelated information from board minutes that are responsive to Item 4(c); or (2) withhold or redact documents on the basis of attorney-client or work-product privilege for documents that would otherwise be responsive to Items 4(c) or 4(d). If documents are withheld or redacted on the basis of privilege, you must include a statement concerning the basis for that privilege that complies with 16 C.F.R. Section 803.3(d). Check the PNO Blogs for more information about 4(c) and 4(d) documents.
- **Provide location information by address for any reported overlaps in a NAICS code that falls within item 7(c)(iv)(b) or 7(d).**
If required to respond to item 7(c)(iv)(b) or 7(d), list state, county, city, and street address - sorted alphabetically in that order. Providing information in any other format will result in a phone call from PNO staff asking for information in the correct form and may result in a bounce. Note that sellers need not answer Item 7(d).
- **Report information only as to what is being sold for Items 5, 6 and 7, if you are the seller.**
Note that sellers need not answer Item 6 in pure asset transactions and that Items 6(c)(ii), 7(b)(ii), & 8 do not apply to sellers.
- **Use the correct language in the affidavit required by Section 803.5.**
For non-801.30 transactions, you **MUST** state that an agreement (or contract or letter of intent) has been executed and that the filing person has the good faith intention to complete the acquisition. It is NOT acceptable to respond that "Pursuant to an agreement, dated September 20, 2018, Company A will acquire voting securities of Company B." For 801.30 transactions, provide the notice letter to the acquired issuer. For tender offers, the affidavit must state that the intention to make the tender offer has been publicly announced. See page 1 of the instructions for more information on the affidavit requirement.



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For a filing being made in hard copy:

- Print the Form and all documents on 8½ by 11 inch paper, single-sided.
- Staple or clip the HSR form and separately staple or clip and label each attachment. Labels should include the name of the filing party, the date of filing, and an attachment number.
- Check the Style Sheet for HSR filings for instructions on numbering & binding documents.
- Place the Form and all attachments in letter-sized redwelds.

For a filing being made on DVD:

- Each DVD submitted to the FTC and DOJ should be housed in a separate, plastic, square, transparent, DVD jewel case.
- Check the Style Sheet for HSR Filings for instructions on DVD file naming conventions.
- Paper copies of the cover letter, affidavit, and certification page are still required within 2 days if filing submitted on DVD.