

Memorandum

Update: Fifth Circuit Denies FTC's Motion for Stay, Filers Return to Using Old HSR Form and Rules

March 20, 2026

As we previously noted, last month a U.S. District Court struck down¹ the Federal Trade Commission's ("FTC") new HSR Form ("New HSR Form") in a lawsuit filed by the U.S. Chamber of Commerce. The New HSR Form, which went into effect in February 2025, substantially expanded requirements for filings under the HSR Act. That District Court decision was paused temporarily by the U.S. Court of Appeals for the Fifth Circuit while it considered the FTC's request for a stay pending appeal on the merits. Yesterday, the Fifth Circuit ruled against the FTC, denying its motion for a stay.² This denial means that the New HSR Form is vacated effective immediately while the appeal on the merits proceeds. The FTC has provided updated guidance on its website³ that it is now accepting HSR filings using the HSR form and instructions in place before the New HSR Form took effect ("Old HSR Form") but will continue to accept the New HSR Form should filing parties voluntarily decide to submit.

Practical implications for filing parties: Parties can use the Old HSR Form starting immediately, but may also continue to use the New HSR Form if they prefer to do so, such as for imminent filings already prepared. Parties should take note that if the FTC ultimately prevails on the merits, parties could in the future be required to switch back to the New HSR Form, though any submissions made using the Old HSR Form in the intervening period would not be invalidated or otherwise prejudiced.

Please see our prior memorandum ([here](#)) for more information on the District Court's reasoning in deciding to strike down the New HSR Form.

¹ *Chamber of Com. of the United States v. FTC*, No. 6:25-cv-9-JDK, 2026 U.S. Dist. LEXIS 29275 (E.D. Tex. Feb. 12, 2026)

² *Chamber of Com. of the United States v. FTC*, No. 26-40094 (5th Cir. March 19, 2026)

³ See Premerger Notification Program, FTC, available at <https://www.ftc.gov/enforcement/premerger-notification-program>

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