

January 27, 2020

FTC Announces Revised Thresholds for Interlocking Directorates

The Federal Trade Commission has announced revised thresholds for interlocking directorates required under Section 8 of the Clayton Act (15 U.S.C. § 19(a)(5)). The revised thresholds are effective as of January 21, 2020.

As revised, with certain exceptions, Section 8 prohibits a person from serving as a director or officer of two competing corporations (other than banks, banking associations, and trust companies) if each corporation has capital, surplus and undivided profits in excess of \$38,204,000 (increased from \$36,564,000) and the competitive sales of both corporations equal or exceed \$3,820,400 (increased from \$3,656,400). Note that a person shall not be prohibited from simultaneous service if the competitive sales of either corporation are less than 2 percent of its total sales or the competitive sales of each corporation are less than 4 percent of its total sales.

“Competitive sales” are defined as the gross revenues for all products and services sold by one corporation in competition with the other during its most recent fiscal year. “Total sales” are defined as gross revenues for all products and services sold by one corporation in the corporation’s most recent fiscal year.

The question of whether any of safe harbors apply in a given situation may be complex. If you have any questions regarding these changes, please feel free to contact a member of the [antitrust practice group](#).