

Investment Canada Act and Competition Act – Review Threshold Increases

The 2014 increases to the thresholds for review of investments by non-Canadians under the *Investment Canada Act* and for merger notification under *Canada's Competition Act* have been announced.

Investment Canada Act

The threshold for pre-merger review of investments by WTO members will increase from \$344 million to \$354 million for 2014.

Under the *Investment Canada Act*, direct investments by WTO investors in non-cultural businesses exceeding the \$354 million threshold are subject to pre-merger review and approval by the Minister of Industry. The investment must be determined to be of "net benefit to Canada".

The threshold calculation is currently based on the "book value" of the Canadian business assets. However, at an as-yet known future date, the threshold will be changing from "book value" to "enterprise value" (except for investors that are state-owned entities) and will be increased to \$600 million, \$800 million and \$1 billion over a period of several years.

The thresholds applicable to investments by non-WTO investors and investments in the cultural sector remain unchanged at \$5 million for direct investments and \$50 million for indirect investments.

The government is also permitted to review any investment by non-Canadians on the basis of "national security" concerns. No financial threshold applies to such reviews.

Competition Act

The pre-merger notification transaction-size threshold under the *Competition Act* has increased from \$80 million to \$82 million for 2014. Under the *Competition Act*, transactions that exceed the following thresholds generally require pre-merger notification:

- (a) Size of parties: where the combined Canadian assets or revenues of the parties and their affiliates in, from or into Canada exceed \$400 million; and
- (b) Transaction size: where the Canadian assets or revenues of the target company generated in or from Canada exceed \$82 million.

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