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Two key financial thresholds relevant to the review of proposed transactions under Canada's *Competition Act* and *Investment Canada Act* for 2019 were recently increased for 2019 as a result of an indexing mechanism mandating annual adjustments to relevant thresholds.

## *Competition Act*

On January 31, 2019, the Competition Bureau announced an increase in the size of the target threshold from CA\$92<sup>1</sup> million to \$96 million. The new threshold went into effect on February 2, 2019.

Parties to transactions over certain financial thresholds must notify the Competition Bureau in advance of closing and pay a \$72,000 filing fee.

While the thresholds vary by type of transaction, for 2019, a transaction will generally require notification if it is above **both** of the following thresholds:

- The target's assets in Canada, or revenues from sales generated from those assets, exceed \$96 million; and
- The assets in Canada or revenues in, from or into Canada, of all of the parties to the transaction and their affiliates, on a combined basis, exceed \$400 million.

## *Investment Canada Act*

The Government also recently announced increased 2019 *Investment Canada Act* thresholds for review (effective January 1, 2019) of various categories of transactions in which non-Canadian investors acquire control of Canadian businesses based on whether the investment results in a net benefit to Canada.

### Private sector trade agreement investments

For direct acquisitions of Canadian businesses by private sector investors from certain countries with a free trade agreement with Canada (currently, EU member countries, USA, Mexico, Australia, Japan, New Zealand, Singapore, South Korea, Chile, Peru, Colombia, Panama, and Honduras), the threshold has increased from \$1.5 billion to \$1.568 billion, measured by the enterprise value<sup>2</sup> of the target.

### Private sector World Trade Organization (WTO) investments

For direct acquisitions by other private sector WTO investors, the Government increased the threshold from \$1 billion to \$1.045 billion in enterprise value.

## State Owned Enterprise (SOE) WTO investments

The Government raised the review threshold for direct acquisitions of a non-cultural Canadian business by an SOE of a WTO member country from \$398 million to \$416 million in the book value of the target's assets.

## Non-WTO investments and investments in cultural businesses

For direct acquisitions of cultural businesses (such as those involving the production, publication, distribution, sale or exhibition of books, magazines, film and music recordings) and direct acquisitions of non-cultural businesses by and from investors from the few countries that are not WTO members, the threshold remains unchanged at \$5 million in book value of the target's assets. Indirect acquisitions of cultural businesses and of non-cultural businesses by non-WTO members are subject to a \$50 million threshold, based on the book value of the target's assets.<sup>3</sup>

For more information, please contact a member of Dentons' **Competition and Foreign Investment** group.

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1 All funds are in Canadian Dollars.

2 Enterprise value is generally equal to the market capitalization for a public company transaction, or the purchase price for a private company transaction, plus liabilities (excluding operating liabilities) less cash and cash equivalents.

3 "Indirect" investments concern acquisitions of Canadian businesses by virtue of the acquisition of a non-Canadian corporate parent of a Canadian entity that carries on the Canadian business.

## Your Key Contacts



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