

A Cautionary Tale: FTC Obtains \$12M Settlement for HSR Act Failure to File Violation

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SUMMARY

- The Federal Trade Commission imposed \$12 million in penalties against Edwards Lifesciences Corp. and Genesis MedTech Group Ltd. for closing a July 2024 acquisition without required Hart-Scott-Rodino Act premerger notification.
- The FTC alleged the parties intentionally structured the deal—including a contemporaneous \$25 million purchase of nonvoting securities—to keep the voting securities valuation below the \$119.5 million HSR threshold. HSR Act regulations prohibit devices employed to avoid filing obligations.
- As part of the settlement, Edwards must provide prior HSR notice for certain U.S. acquisitions for five years and maintain an antitrust compliance program.
- Sellers, not just buyers, face risk when agreeing to structures that appear to avoid an HSR filing, particularly where the transaction raises substantive antitrust concerns.

The Federal Trade Commission (“FTC”) [announced](#) on July 13, 2026, that it imposed penalties, totaling \$12 million, in a failure-to-file settlement with Edwards Lifesciences Corp. (“Edwards”) and Genesis MedTech Group Limited (“Genesis MedTech”). The FTC complaint alleges that the companies violated the Hart-Scott-Rodino Act (“HSR Act”) when they closed an acquisition in July 2024 without submission of the required premerger notification and observation of the required waiting period. This enforcement action shows the FTC’s continued commitment to HSR Act compliance and its belief that substantial penalties are needed to deter parties seeking to avoid the HSR Act’s requirements.

The HSR Act requires parties of a certain size, contemplating transactions of a certain size, to notify both the FTC and the Department of Justice, Antitrust Division, and observe a waiting period (typically thirty days) before consummation. Relevant here, acquisitions of nonvoting securities are generally not reportable, and the value of nonvoting securities would not be included in the size-of-transaction threshold under the HSR Act. Advance notification of significant transactions, and adherence to the waiting period, provide the federal antitrust agencies with an opportunity to review and, when necessary, to seek an injunction to prevent the consummation of acquisitions that may substantially lessen competition. Currently, failure to make a filing carries penalties of up to \$53,088 per day.

The regulations promulgated under the HSR Act make clear that the FTC will disregard “devices . . . employed to

avoid" the obligation to make a filing. The FTC's complaint alleges that the companies intentionally structured Genesis MedTech's sale of its subsidiary to Edwards to avoid triggering a filing. Specifically, the FTC claims that Genesis MedTech would not accept a valuation below the then-applicable HSR threshold of \$119.5 million, and alleges that Edwards did not want agency review to delay the transaction. The FTC alleges that the buyer contemporaneously purchased \$25 million of Genesis nonvoting securities in order to reduce the valuation of the voting securities to below the HSR Act's threshold.

Another factor in the instant case is the FTC's [successful challenge in January 2026](#) to Edwards' attempted acquisition of another company in the same business as the Genesis MedTech subsidiary acquired by Edwards. The FTC alleges that this earlier unsuccessful acquisition was under consideration when Edwards proposed to Genesis MedTech its purchase of the nonvoting stock. The complaint also states that documents and testimony "show that . . . Edwards wanted to avoid filing under HSR."

The parties settled for a combined \$12 million. As part of the settlement, Edwards will also be subject to additional requirements, including prior notice for certain U.S. acquisitions for five years and maintenance of an antitrust compliance program.

FTC Chairman Andrew Ferguson warned, in the FTC's press release announcing the settlement, that "[t]he FTC will be vigilant in enforcing the requirements of the Hart-Scott-Rodino Act and we will not hesitate to seek penalties for its violation." Although allocation of purchase price to nonvoting securities can be entirely legitimate, doing so solely for the purpose of avoiding an HSR filing is not permitted under the regulations.

Noncompliance with the HSR Act continues to carry serious penalties, as fines continue to mount for each day that a party is in violation of the act. Even though the regulations task buyers with the responsibility for valuation, sellers should take great care when agreeing to structures or artifices that appear to avoid an HSR filing, particularly when the selling company will continue to exist post-closing and when the transaction could present substantive antitrust concerns. Importantly, some state "mini-HSR" statutes laws, including those in California (effective January 1, 2027), Colorado, and Washington also provide for their own "failure-to-file" penalties, up to \$25,000 per day in California and up to \$10,000 per day in Washington and Colorado. Consultation with experienced counsel early in a transaction and well in advance of any purchase agreement can assist with mitigating such risks.

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