

COVID-19: PROPOSED LEGISLATION WOULD PROHIBIT MANY MERGERS AND ACQUISITIONS DURING PANDEMIC

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Senator Elizabeth Warren and Rep. Alexandria Ocasio-Cortez are sponsoring legislation to halt certain mergers and acquisitions during the coronavirus pandemic.

The “Pandemic Anti-Monopoly Act” would impose a moratorium on mergers and acquisitions meeting any of the following criteria:

1. Companies with over US\$100 million in revenue or financial institutions with over US\$100 million in market capitalization;
2. Private equity companies, hedge funds, or companies that are majority-owned by a private equity company or hedge fund;
3. Companies with an exclusive patent that impacts the crisis, like personal protective equipment; and
4. Transactions that must otherwise be reported to the Federal Trade Commission (FTC) under current law.

The legislation would also pause “all waiting periods and deadlines imposed on antitrust agencies during the moratorium.”

The legislation would apply to all transactions that are reportable under the Hart-Scott-Rodino Antitrust Improvements Act (HSR Act) and would likely apply to any filings currently in the waiting period or under review by one of the federal antitrust agencies. Currently, transactions valued at more than US\$94 million are typically reportable under the HSR Act.

There is no sunset provision in the legislation; rather, the moratorium would continue until the FTC affirmatively determines that “small businesses, workers, and consumers are no longer under severe financial distress.”

Sen. Warren's press release on the proposed legislation may be found [here](#).

This is a developing situation with far-reaching ramifications. K&L Gates' antitrust practice will provide updates as more information becomes available.

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