

## Sheinberg, Samuel I.

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**From:** HSRHelp  
**Sent:** Wednesday, May 11, 2022 10:48 AM  
**To:** Walsh, Kathryn E.; Berg, Karen E.; Musick, Vesselina; Shaffer, Kristin; Sheinberg, Samuel I.; Six, Anne  
**Subject:** FW: 802.21 Hypothetical

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**From:** Whitehead, Nora <nwhitehead@ftc.gov>  
**Sent:** Wednesday, May 11, 2022 10:48:16 AM (UTC-05:00) Eastern Time (US & Canada)  
**To:** [REDACTED]  
**Cc:** HSRHelp <HSRHelp@ftc.gov>  
**Subject:** RE: 802.21 Hypothetical

Confirmed.

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**From:** HSRHelp <HSRHelp@ftc.gov>  
**Sent:** Wednesday, May 11, 2022 8:52 AM  
**To:** Walsh, Kathryn E. <kwalsh@ftc.gov>; Berg, Karen E. <KBERG@ftc.gov>; Musick, Vesselina <vmusick@ftc.gov>; Shaffer, Kristin <kshaffer@ftc.gov>; Sheinberg, Samuel I. <SSHEINBERG@ftc.gov>; Six, Anne <asix@ftc.gov>; Whitehead, Nora <nwhitehead@ftc.gov>  
**Subject:** FW: 802.21 Hypothetical

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**From:** [REDACTED]  
**Sent:** Wednesday, May 11, 2022 8:51:28 AM (UTC-05:00) Eastern Time (US & Canada)  
**To:** HSRHelp <HSRHelp@ftc.gov>  
**Subject:** 802.21 Hypothetical

Suppose UPE X files to acquire voting securities of Issuer Y at the \$100 million (as adjusted) threshold. During the first year after the expiration of the waiting period, X makes an acquisition that crosses the \$50 million (as adjusted) threshold, and then (within the same year) sells all of its Y stock.

Could you please confirm that:

- Prior to the first anniversary of the expiration of the waiting period, X can still acquire Y stock without refiling as long as X's holdings do not meet or exceed the \$500 million (as adjusted) threshold *in effect at the time of the acquisition*, or 50%.
- If X makes an acquisition, prior to the first anniversary of the expiration of the waiting period, that crosses the \$100 million (as adjusted) threshold that was in effect *at the time of filing* (even if the threshold is now higher) X can acquire Y stock without refiling until the fifth anniversary of the expiration of the waiting period, as long as X's holdings do not meet or exceed the \$500 million (as adjusted) threshold *in effect at the time of the acquisition*, or 50%.
- If X does not cross the \$100 million (as adjusted) threshold that was in effect *at the time of filing* prior to the first anniversary of the expiration of the waiting period, X can still re-cross the \$50 million (as adjusted) threshold that is in effect *at the time of such acquisition* without refiling until the fifth anniversary of the expiration of the waiting period, as long as X's holdings do not meet or exceed the \$100 million (as adjusted) threshold that is in effect at the time of such acquisition, or 50%. (See example #4 to Rule 802.21.)

[Redacted]

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[Redacted]