

801-1 (F)

**Verne, B. Michael**

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**From:** [REDACTED]  
**Sent:** Tuesday, November 20, 2012 8:07 AM  
**To:** Verne, B. Michael  
**Subject:** RE: REITs

Hi Mike.

Very sorry to trouble you on this REIT question, especially since I know this week is crazy busy. Just checking in though to see if you will be able to get back to me today.

Thanks,  
[REDACTED]

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**From:** [REDACTED]  
**Sent:** Thursday, November 15, 2012 7:31 PM  
**To:** 'Verne, B. Michael'  
**Subject:** REITs

Hi Mike.

I hope you are doing well.

I am writing to confirm that Informal Interpretation 0501003 still reflects current PNO thinking.

Specifically, we are analyzing whether the acquisition of interests of a REIT (REIT X) would be HSR reportable. REIT X is organized as a trust under Maryland law (like the REIT in Informal Interpretation 0501003). Specifically, the relevant law is the Maryland REIT Law, which is Title 8 of the Maryland Corporations and Associations Laws. The law defines a "real estate investment trust" as an "unincorporated business trust formed under [Title 8] in which property is acquired, held, managed, administered, controlled, invested, or disposed of for the benefit and profit of any person who may become a shareholder." It is distinguished from a common law "business trust."

REIT X has a board of trustees and the securities that would be acquired have rights to vote for trustees.

Would the acquisition of REIT X securities by X not be HSR reportable so long as X would not acquire interests in REIT X entitling it to at least 50% of the profits or assets of REIT X? Is this the case despite the fact that the definition of non-corporate interests states that "unincorporated entities do not include trusts that are irrevocable and/or in which the settlor does not retain a reversionary interest and any interest in such a trust is not a non-corporate interest as defined by this rule."

If REIT X does not qualify as an unincorporated entity, how should we treat it for HSR purposes?

Thanks,  
[REDACTED]

IT IS A NON-CORPORATE ENTITY.  
BM  
11/20/12  
K. WALSH CONCURS