

Verne, B. Michael

7A(c)(1)

From: [REDACTED]
Sent: Tuesday, January 16, 2007 2:52 PM
To: Verne, B. Michael
Cc: [REDACTED]
Subject: Ordinary Course Exemption

January 16, 2007

Mr. B. Michael Verne
Premerger Notification Office
Bureau of Competition - Room 303
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Ordinary Course Exemption

Dear Mike:

I am writing to memorialize advice you provided during our telephone conversation on January 4, 2007 regarding the application of the ordinary course exemption of § 7A(c)(1) of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "Act") to the transaction described below.

Seller, an entity with a number of affiliates that provide financing, proposes to sell all the assets of its equipment finance division, which consist primarily of: (i) equipment leasing finance contracts, (ii) loans secured by aircraft, maritime vessels, and/or other equipment, (iii) project finance loans, and (iv) miscellaneous other loans. As part of the transaction, the Buyer will hire certain of the Seller's personnel and acquire certain miscellaneous assets from the Seller, in addition to the Seller's equipment finance division loan portfolio. The value of all assets being acquired that are not part of the loan portfolio is below \$56.7 million, although the value of the loan portfolio is significantly in excess of such amount. After the proposed transaction, Seller, through other affiliates and divisions, will continue to own various loan portfolios and offer various forms of credit, including structured finance, factoring, healthcare financing, mortgage financing, and other forms of revolving credit and term loans.

As I understand the Staff's current position, where a buyer is acquiring a portfolio of loans from a seller, including all the credit assets of an operating unit of the seller, that transaction will be exempt as a transaction in the ordinary course under § 7A(c)(1) of the Act, provided that the seller continues to have one or more other portfolios of loans or continues to be in the business of providing other forms of credit. This exemption applies whether or not the buyer will also be acquiring staff and/or facilities servicing the portfolio of loans. Any assets other than servicing of the portfolio must be separately analyzed for potential reportability under the Act.

Based on our discussion, I concluded that the proposed transaction would be exempt from the requirements of the Act as a transaction in the ordinary course of business.

Please let me know if you think that the above does not accurately reflect your advice.

Best regards,
[REDACTED]

AGREE
[Signature]
1/16/07