

Verne, B. Michael

7A(c)(10)

From: [REDACTED]  
Sent: Wednesday, July 11, 2007 7:44 PM  
To: Verne, B. Michael  
Cc: [REDACTED]  
Subject: Question

Hi, Mike -  
I'm hoping to get your thoughts on this situation.

Our client will acquire voting securities of an issuer in the form of convertible preferred stock. This acquisition does not require an HSR notification because the value of the shares is less than \$59.8 million. Thereafter, two things could happen that might require an HSR filing:

1. The client, as a holder of convertible preferred stock, may have increases in its conversion rights as a result of terms of the preferred stock (i.e., the number of shares of common it will receive upon conversion may increase from time to time) at a time when the value of the securities held has increased beyond the \$59.8 million threshold. It seems that the addition of these rights would not trigger an HSR filing requirement because there would be no acquisition of additional shares. Please confirm.

2. At the time of conversion from preferred voting shares to common voting shares the value of the shares to be held may have crossed the \$59.8 million threshold and the client's percentage share of the outstanding voting securities of the issuer may have increased from the percentage the client held at the time of its initial investment. However, there would be no change in the client's percentage share of the outstanding voting securities of the issuer as a result of the conversion. In these circumstances, would an HSR filing and observation of the waiting period be required before the shares could be converted?

Thanks for your help!

[REDACTED]

1. AGREE  
2. EXEMPT UNDER (C)(10)

*[Signature]*  
7/12/07

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