

802.4

Verne, B. Michael

From: [REDACTED]
Sent: Wednesday, February 13, 2008 12:03 PM
To: Verne, B. Michael
Subject: HSR Exemption

Dear Mr. Verne:

I would appreciate your confirming or correcting the following analysis of a filing issue:

Institutional Investor I is already a shareholder in an REIT and wishes to purchase additional shares. The total value of the investment following the purchase of the additional shares (which would close before the effective date of the new amended thresholds) would exceed the existing \$59.8 million threshold but not the soon-to-be-effective \$63.1 million threshold. The investment would also exceed the limitations in 802.64(b)(4).

The REIT has been formed solely to purchase residential mortgages, the direct acquisition of which would be exempt under section 7A (c)(2) of the HSR Act. Under section 802.4(a) of the regulations, as long as the REIT and all entities it controls do not collectively hold non-exempt assets with an aggregate fair market value of more than \$63.1 million.

Accordingly, the purchase of additional shares in the REIT should be exempt as long as the REIT and the entities it controls do not hold more than \$63.1 million of non-exempt assets. Please advise if you concur. Thank you.

[REDACTED]

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Yes - I concur with one caveat. The mortgages held by the REIT would be exempt under 7A(c)(2) if acquired directly. If the REIT does not hold other non-exempt assets valued in excess of \$59.8 million (not \$63.1 million, because the transaction is closing before the effective date of the \$63.1 million limitation in 802.4), then the acquisition would be exempt.

BW
2/13/08