

4(c)

Verne, B. Michael

From: [REDACTED]
Sent: Thursday, June 12, 2008 3:25 PM
To: Verne, B. Michael
Subject: Item 4(c) Question

Hi Mike,

I hope that you are enjoying these "cooler" days of June.

I have several related question regarding Item 4(c) documents with which I would appreciate your guidance.

We have a client that is in the process of selling some assets from one of its divisions. The client prepared a number of documents in connection with the proposed sale for internal purposes. The documents compare potential buyers of the assets and do contain some Item 4(c) information. However, the documents were prepared by non-officers/directors of seller and were never seen by officers/directors of seller. My understanding is that these documents are therefor not considered Item 4(c) documents of seller but I want to confirm that my understanding is correct.

Would these documents become Item 4(c) documents of seller (with same facts as above) if they were shared with buyer? My assumption is that if the documents are shared with buyer, they are deemed to be shared with the officers/directors of buyer. That being said, my understanding is that this would not make these documents Item 4(c) documents of seller but I want to confirm that my understanding is correct.

Is the analysis different if the documents are prepared by seller (no officers/directors of seller see documents) for buyer as opposed to for internal purposes as described above?

Thanks for your help,
Rachel

[REDACTED]

1. If never seen by an officer/director they are not 4(c)
2. If shared with buyer they do not become 4(c) documents of seller but may be for buyer
3. Analysis is the same – they are still not 4(c) for seller

BM
6/13/08