

801.1(F)

Verne, B. Michael

From: [Redacted]
Sent: Friday, May 01, 2009 9:55 AM
To: Verne, B. Michael
Subject: HSR Question

Mike,

Thank you for your help on this transaction. I am writing this note to confirm my understanding of our discussion.

Our client, Company X proposes to acquire from Entity A a Note issued by Company Y. The collateral for the Note is voting shares of Company Z. The parties and the price of the note all exceed the thresholds. Under the terms of the Note, Company X at any time may convert all or part of the note into a percentage of the shares that are serving as collateral. The Note also provides that for the next five years Company Y shall not vote its shares "without [Company X's] consent (to be granted at [Company X's] sole discretion." We understand that this is being done in order to prevent the wasting of the underlying assets by the Note issuer. The client understands that the act of converting the shares is likely a reportable event subject to the waiting periods.

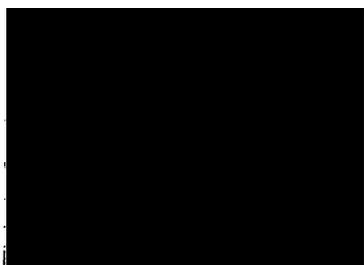
Applicable rules: 802.31 ("Acquisition of convertible voting securities shall be exempt from the requirements of the Act.") and 802.1(f)(2) ("The term 'convertible voting security' means a voting security which presently does not entitle its owner to vote for the directors of any entity.") Under these rules it appears that the note should be treated as a convertible voting security and therefore exempt from the Act.

This conclusion does not appear inconsistent with the informal interpretations I have reviewed. There is a note from you on Interpretation 080002 that "[g]enerally, the only time that a convertible security is deemed a voting security prior to conversion is if the security carries an irrevocable proxy to vote the underlying shares as if the conversion had already occurred." We agreed that the rights that Company X would acquire here is not equivalent to the voting rights mentioned in your note.

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If you disagree with the above in any way, please let me know as soon as possible.

Thank you again,



AGREE
BM
5/1/09

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