

802.51

**Verne, B. Michael**

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**From:** [REDACTED]  
**Sent:** Wednesday, July 22, 2009 2:21 AM  
**To:** Verne, B. Michael  
**Subject:** 802.51

Hi, Mike:

Hopefully this is relatively quick question for you. We have a transaction where Foreign Acquiring Person is acquiring voting securities of Foreign Issuer from Foreign Acquired Person. Neither Foreign Issuer nor any entities it controls had direct sales in or into the U.S. in the most recent fiscal year, but a separate foreign entity controlled by Foreign Acquired Person ("Foreign Entity") did have sales into the U.S. and Foreign Issuer made some sales to Foreign Entity. Foreign Entity is not being acquired in this transaction.

Do we count the sales made by Foreign Entity (an entity not controlled by Foreign Issuer) in the 802.51 exemption threshold calculation or does the fact that Foreign Issuer did not make sales directly in or into the U.S. mean we do not count them? I looked through the online informal interpretations but did not come across anything specifically on point.

Thanks much,

[REDACTED]

[REDACTED]

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You would not look to sales by Foreign Entity into the US. You would only look to Foreign Issuer's sales into the US, even if some of the products sold by Foreign Issuer to Foreign Entity eventually were resold into the US.

BAW  
7/22/09