

**Verne, B. Michael**

7A(c)(1)

**From:** [REDACTED]  
**Sent:** Tuesday, April 12, 2011 8:37 PM  
**To:** Verne, B. Michael  
**Cc:** [REDACTED]  
**Subject:** Ordinary Course Exemption

Dear Mike:

I am writing to you to see if you agree with our view that a filing will not be required based upon the facts as set forth below. For the purpose of this email please assume all the various size thresholds (size of persons and size of transaction) are met.

Our client is an international commercial bank based in a European country with offices in various countries, including the United States (the "Bank"). The Bank will be reducing their lending activity in the United States and will be selling several portfolios of loans. More specifically the Bank has previously participated as a member in various lending syndicates, usually as a minority holder, who have established credit facilities (including term loans and revolving lines of credit) for companies in the real estate industry as well as loans to large companies on an asset based basis. The Bank will convey its interest in these various credit facilities to the purchaser.

However, after the transaction is completed, the Bank will also retain its participation as a lender in credit facilities in one or more other loan portfolios and will continue to fund those loans in accordance with its obligations as a lender.

I have reviewed several informal staff opinions, including Informal Staff Opinions Nos. 0701012 and 0110006 as well as Interpretation No. 8 from the ABA Premerger Notification Practice Manual (4th Edition, 2007). It is my understanding that the Staff of the PNO currently takes the position that when a buyer is acquiring a portfolio of loans from a seller, even when the assets to be conveyed consist of the credit assets of an operating unit of a seller, that transaction will be exempt as a transaction in the ordinary course under § 7A(c)(1) of the Clayton Act, provided that the seller continues to have one or more other portfolios of loans or continues to be in the business of providing other forms of credit. This exemption applies whether or not the buyer will also be acquiring staff and/or facilities servicing the portfolio of loans.

In our transaction, the Bank's interest in loan portfolios is being conveyed and the Bank will retain one or more loan portfolios and will continue to extend credit under those facilities. For the reasons stated above, we believe the transaction will be exempt under § 7A(c)(1). We will of course separately analyze any non-exempt assets that the Bank would be conveying to purchaser that would not be considered a servicing asset for potential reportability under the HSR Act.

Assuming the value of any non-exempt assets to be conveyed by the Bank to purchaser will not exceed the current size of the transaction threshold of \$66 million, based upon the above would you agree the transaction as described would be exempt under § 7A(c)(1) ?

We thank you for your time.

AGREE -  
 BM  
 4/13/11