

From: [Gillis, Diana L.](#)
To: [REDACTED]
Subject: RE: Question re: 801.12(b)
Date: Friday, July 15, 2016 8:41:00 AM

[REDACTED], I agree with your calculation.

-Diana

From: [REDACTED]
Sent: Thursday, July 14, 2016 3:10 PM
To: Gillis, Diana L.
Subject: Question re: 801.12(b)

Diana,

Thank you for taking the time to speak with me on the phone just now. Further to our conversation, I thought it may be helpful to set forth the relevant facts in our hypothetical scenario, so that you may have them readily accessible. Our question relates to the calculation of the percentage of voting securities pursuant to 801.12(b), and previous guidance that we have received from your office. To illustrate our question, I have set out the hypothetical scenario we discussed on the phone for your review and confirmation:

An issuer currently has 2 classes of common stock (class A and class B) and no preferred stock. There are currently 1,000 shares of class A common stock outstanding and 50 shares of class B common stock outstanding. The class A common stock and the class B common stock vote together as a class on all matters (including the election of directors); however, on all such matters, the class A common stock is entitled to cast one (1) vote per share and the class B common stock is entitled to cast twenty (20) votes per share. There are 5 directors in total. Shareholder X would like to acquire additional shares of class A common stock so that, after the acquisition, it owns 150 shares of class A common stock. For HSR purposes, we believe that pursuant to 801.12(b), the correct calculation of the percentage of voting securities in this scenario is as follows:

$(150 / 2,000) \times (5 / 5) = \% \text{ of voting securities held}$

Where: 150 is the number of votes held after the acquisition by Shareholder X

2,000 is the total number of votes (1,000 for the class A common stock and 1,000 for the class B common stock (50 shares times 20 votes per share))

5 is the total number of directors and all directors are elected by the class A and class B common stock together.

As such, per our above calculation, Shareholder X would have a post-acquisition percentage of voting securities equal to 7.5%. Please confirm that our calculation is correct.

If you have any questions on the foregoing, please do not hesitate to contact me. Thank you in advance for your assistance on this matter.

Best regards,

[REDACTED]