

From: Carson, Timothy
Sent: Wednesday, November 30, 2016 5:42 PM
To: [REDACTED]
Cc: Gillis, Diana L.; Whitehead, Nora; Walsh, Kathryn E.
Subject: RE: CTO Question

[REDACTED]

If the Acquiring Person will acquire 50% or more of the voting securities of Target via the cash tender offer portion of the acquisition (i.e., will obtain control via voting securities purchased with cash), you may file as a CTO under the Rules.

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From: [REDACTED]
Sent: Wednesday, November 30, 2016 12:19 PM
To: Carson, Timothy
Cc: Gillis, Diana L.; Whitehead, Nora
Subject: CTO Question

Hi Ty.

I hope you are doing well.

We have a question about whether an acquisition qualifies as a CTO under the HSR rules.

Buyer will launch a tender offer to acquire in exchange for cash over 50% of the voting shares of Target. Currently Target has a very small percentage of unvested stock (about 1%) that appears to have present rights to vote for directors (the "Unvested Shares"). If instead of acquiring the Unvested Shares for cash, Buyer rolls them over into unvested Buyer shares, would the transaction still qualify as a CTO under the HSR rules?

Thanks for your help.

Best regards,
[REDACTED]