

Haynes, Lanea

To: Shaffer, Kristin
Subject: RE: Question on 7A(c)(10)

From: Shaffer, Kristin
Sent: Friday, October 20, 2017 2:27 PM
To: [REDACTED]
Cc: HSRHelp
Subject: RE: Question on 7A(c)(10)

[REDACTED]

We would not consider this to be the same acquisition, so 7A(c)(10) does not apply.

Also, we are rolling out a new email address for HSR questions for the shop. When you email HSRHelp@ftc.gov, every PNO attorney will receive your question at the same time. In the future, unless you are inquiring about a particular filing, please use this email address rather than our individual addresses. We expect that this will make it easier for us to efficiently address questions and get responses out as soon as we can.

Best regards,
Kristin

Kristin Shaffer
Attorney
Premerger Notification Office
Federal Trade Commission
202-326-3434 | kshaffer@ftc.gov

From: [REDACTED]
Sent: Thursday, October 19, 2017 2:36 PM
To: Whitehead, Nora
Cc: Walsh, Kathryn E.
Subject: Question on 7A(c)(10)

Nora,

I have a question on 7A(c)(10).

Would it apply to a transaction in which five (5) shareholders enter into a single binding Stock Purchase Agreement ("SPA") with the Issuer as a \$100 million financing round of the Issuer to raise more capital. Each of the five shareholders will receive 20% of the newly-issued common stock for \$20 million each. After the transaction, all shareholders except Shareholder A will own less than \$80.8 million of Issuer's voting securities. Shareholder A currently owns \$70 million in shares of Issuer that represent 25% of the Issuer. After all closings, Shareholder A will hold less than 25% of the Issuer's voting securities (as it is only getting 20% of the new shares, its holdings will be diluted).

This is one transaction with multiple closing dates. For financial reasons, there will be five separate closing for each shareholder based on their ability to come up with the \$20 million cash each needs for the transaction that will span a 35-day period. Assume there will be one closing for each shareholder every 7 days (5x7=35 days).

Question: For purposes of 7A(c)(10), can the transaction involving the five shareholders described in the SPA be considered the same "acquisition" such the Shareholder A will not need to file?

Thanks,

[Redacted]

[Redacted]

[Redacted]

