

Haynes, Lanea

From: Shaffer, Kristin
Sent: Wednesday, November 15, 2017 4:05 PM
To: [REDACTED]
Cc: HSRHelp
Subject: RE: Inquiry about Mortgage Servicing Rights

[REDACTED],

The "REIT Exemption" does not apply to the acquisition of mortgage servicing rights standing alone. Therefore, none of the three scenarios would be exempt.

[REDACTED]

Best regards,
Kristin

Kristin Shaffer

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From: [REDACTED]
Sent: Tuesday, November 14, 2017 1:41 PM
To: Walsh, Kathryn E.; Berg, Karen E.; Gillis, Diana L.; Whitehead, Nora; Shaffer, Kristin; Carson, Timothy; Sheinberg, Samuel I.
Subject: Inquiry about Mortgage Servicing Rights

Dear All,

I am writing to seek your advice on whether a REIT's acquisition in several scenarios listed below qualifies for the ordinary course of business exemption under Section 7A(c)(1), the "REIT exemption." In each scenario the target will exit and thus the ordinary course of business exemption that applies to the acquisition of portfolios of loans, leases, servicing rights and other financial instruments under Section 7A(c)(1) is not available. See Premerger Notification Practice Manual (5th ed.) 2015, Nos. 99 and 106.

As described in Informal Staff Opinions 99 and 105, a REIT's acquisition that is related to property may be exempt even if the same acquisition by a non-REIT buyer would not be exempt (i.e., a REIT's acquisition of nursing homes and assisted living facilities is exempt but a non-REIT's acquisition of these operations is not exempt). It is not clear whether this principle applies to the acquisition of mortgage servicing operations. While Informal Staff Opinion 106 indicates certain circumstances when the acquisition of mortgage servicing rights can be exempt and states that the acquisition of mortgage servicing rights standing alone is not exempt, the opinion does not indicate whether the latter rule is different when a REIT makes the acquisition.

Please advise:

1. REIT's acquisition of contracts that relate to mortgage servicing rights

2. REIT's acquisition of the stock/assets of a company whose operations pertain to mortgage servicing rights
3. REIT's acquisition, through its taxable subsidiary, of the stock/assets of a company with operations pertaining to mortgage servicing rights

Thank you for your consideration and guidance.

Best,

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]