

Sheinberg, Samuel I.

From: Sheinberg, Samuel I.
Sent: Thursday, March 21, 2019 9:46 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Question Re: Cash Proceeds from a Loan

Confirmed.

From: [REDACTED]
Sent: Thursday, March 21, 2019 9:18 AM
To: Walsh, Kathryn E. <kwalsh@ftc.gov>; Berg, Karen E. <KBERG@ftc.gov>; Biagioli, Kimberley <kbiagioli@ftc.gov>; Carson, Timothy <tcarson@ftc.gov>; Sheinberg, Samuel I. <SSHEINBERG@ftc.gov>; Six, Anne <asix@ftc.gov>; Whitehead, Nora <nwhitehead@ftc.gov>
Subject: FW: Question Re: Cash Proceeds from a Loan

From: [REDACTED]
Sent: Thursday, March 21, 2019 9:17:02 AM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: [REDACTED]
Subject: Question Re: Cash Proceeds from a Loan

Confidential

Good morning everyone,

I'm writing to confirm my view regarding cash proceeds from a loan to be used to make an acquisition that are not on the acquiring person's most recent regularly prepared balance sheet available at closing.

X, an entity that is its own UPE, will acquire Y. At the time of the acquisition, X's most recent regularly prepared annual income statement will show less than \$180 million in annual net sales and its most recent regularly prepared balance sheet will show less than \$180 million in total assets. Prior to the closing, it will borrow some of the cash it will need to acquire Y and this cash will not yet be reflected on the most recent regularly prepared consolidated balance sheet of X available a closing. If it were added to the total assets on such balance sheet, however, X would have over \$180 million in total assets.

We understand that we would not need to add the proceeds of the loan to the assets on X's most recent regularly prepared balance sheet available at closing when assessing whether X satisfies the \$180 million size of person test. Instead, we can rely on the total assets figure on X's most recent regularly prepared balance sheet available at closing.

Is this still the case?

[REDACTED]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]