

## Sheinberg, Samuel I.

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**From:** [REDACTED]  
**Sent:** Thursday, September 10, 2020 1:39 PM  
**To:** Walsh, Kathryn E.; Carson, Timothy; Sheinberg, Samuel I.; Six, Anne; Whitehead, Nora; Musick, Vesselina  
**Subject:** FW: Size of Person Question

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**From:** Berg, Karen E.  
**Sent:** Thursday, September 10, 2020 1:39:04 PM (UTC-05:00) Eastern Time (US & Canada)  
**To:** [REDACTED]  
**Cc:** HSRHelp  
**Subject:** RE: Size of Person Question

A UPE's pro forma balance sheet should include the value of the interests it holds.

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**From:** [REDACTED]  
**Sent:** Tuesday, September 8, 2020 11:52:55 PM (UTC-05:00) Eastern Time (US & Canada)  
**To:** HSRHelp  
**Cc:** [REDACTED]  
**Subject:** Size of Person Question

Hi everyone,

I have a question regarding the size of person test.

P-Ship A and P-Ship A-1 are U.S. partnerships. P-Ship A is its own UPE and also the UPE of P-Ship A-1. P-Ship A-1 is the acquiring entity. Both P-Ship A and P-Ship A-1 were formed for purposes of the underlying transaction – namely P-Ship A-1's acquisition of less than 20% of the voting shares of Issuer I. Neither P-Ship-A nor P-Ship A-1 has regularly prepared financial statements.

**Question:** When calculating the size of the acquiring person pursuant to Section 801.11(e), must P-Ship A include on its pro forma balance sheet the value of its interests in P-Ship A-1 even though it controls P-Ship A-1 and thus will include the value of P-Ship A-1's assets and net sales, if any, when calculating its size? Please note that neither P-Ship A nor P-Ship A-1 have any assets or annual revenues other than the cash P-Ship A-1 will use to acquire certain voting shares of Issuer I, and we understand that we can disregard this cash when assessing whether P-Ship A satisfies the size of person test. See 16 C.F.R. § 801.11(e)(1)(ii); *Premerger Notification Practice Manual* 5<sup>th</sup> ed., Nos. 81, 88.

Please advise if you need any additional information.

Thank you in advance!

[REDACTED]

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