

## Sheinberg, Samuel I.

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**From:** [REDACTED]  
**Sent:** Wednesday, November 4, 2020 2:19 PM  
**To:** Walsh, Kathryn E.; Berg, Karen E.; Carson, Timothy; Sheinberg, Samuel I.; Six, Anne; Whitehead, Nora  
**Subject:** FW: NCIs at multiple closings

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**From:** Musick, Vesselina  
**Sent:** Wednesday, November 4, 2020 2:19:07 PM (UTC-05:00) Eastern Time (US & Canada)  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: NCIs at multiple closings

[REDACTED]

Party A should wait and file before the closing that would confer control.

Best,  
Vesselina

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**From:** [REDACTED]  
**Sent:** Monday, November 2, 2020 9:43:01 AM (UTC-05:00) Eastern Time (US & Canada)  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** NCIs at multiple closings

Good morning,

I am hoping you can confirm the applicability of [2004002](#) to the acquisition of non-corporate interests at multiple closings.

In [2004002](#), Buyer's initial closing for 33% of Target's voting securities did not meet the size of transaction test. However, Buyer's future exercise of an option to acquire additional Target voting securities more than one year after the initial closing would result in the size of transaction test being met. In that situation, PNO advised that if Buyer knew at this time that it would exercise the option, it should file upfront for the initial acquisition plus option exercise.

In the current situation, Party A will acquire non-corporate interests of Party B. As provided for by the Agreement between Party A and Party B, the acquisition will take place over time, at multiple closings. Party A anticipates that it will ultimately hold, in the aggregate, at least 50% of the non-corporate interests of Party B,

and that the value may be in excess of \$94m. However, Party A does not anticipate reaching 50% within one year of the initial closing.

Can you please confirm, consistent with [2004002](#), that Party A may submit an HSR filing prior to the initial closing, given that Party A currently knows and expects that it will reach 50% of Party B's non-corporate interests and the aggregate value may be in excess of \$94m?

Thank you, and please let me know if you have any questions!

[Redacted]

[Redacted]

[Redacted] (v)

[Redacted]

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[Redacted]

[Redacted]

[Redacted]