

Sheinberg, Samuel I.

From: [REDACTED]
Sent: Monday, December 14, 2020 2:40 PM
To: Berg, Karen E.; Carson, Timothy; Sheinberg, Samuel I.; Six, Anne; Whitehead, Nora; Musick, Vesselina
Subject: FW: 802.9 Exemption

From: Walsh, Kathryn E.
Sent: Monday, December 14, 2020 2:40:05 PM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: 802.9 Exemption

Your scenario below does not preclude 802.9, but, as you are in possession of all the facts related to this inquiry, you will need to make the final call and be prepared to defend any decision not to file and observe the waiting period if the Bureau's Compliance Division investigates.

From: [REDACTED]
Sent: Monday, December 14, 2020 9:52:17 AM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Subject: 802.9 Exemption

Good morning,

I am writing to confirm my understanding of the investor-only exemption under 16 C.F.R. § 802.9. Please assume the following facts:

1. Person A currently holds less than 1% of the voting securities of Company X.
2. Person A intends to acquire additional voting securities of Company X in the near future (the "Acquisition").
3. After the Acquisition, the value of Person A's voting securities of Company X will exceed the "\$50 million (as adjusted)" threshold, but Person A will still hold less than 1% of the voting securities of Company X.
4. Person A works at Company X but is not a director or officer and does not participate in the formulation, determination, or direction of the basic business decisions of Company X. Person A also has no intention of participating in the formulation, determination, or direction of the basic business decisions of Company X moving forward.

Under these circumstances, based on my review of the HSR rules and regulations, my understanding is that Person A's employment with Company X does not render the 802.9 exemption inapplicable. Can you please confirm?

Thanks in advance for your time and consideration.

[REDACTED]

[REDACTED]

[Redacted]

[Redacted]