

Sheinberg, Samuel I.

From: HSRHelp
Sent: Monday, August 22, 2022 3:11 PM
To: Walsh, Kathryn E.; Berg, Karen E.; Musick, Vesselina; Sheinberg, Samuel I.; Six, Anne; Whitehead, Nora; Fetterman, Michelle
Subject: FW: Question about 802.51

From: Shaffer, Kristin <kshaffer@ftc.gov>
Sent: Monday, August 22, 2022 3:10:38 PM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: HSRHelp <HSRHelp@ftc.gov>
Subject: RE: Question about 802.51

[REDACTED]
Rule 802.51 provides a limited exemption for assets covered by 801.40(d)(2), which only includes credit obligations. You must still determine whether the JV will hold other US assets valued over \$50 million, or if the assets/businesses to be contributed had more than \$50 million in aggregate sales in or into the US in the most recent fiscal year.

To determine whether the size of person test is met, please see 801.40(c).

Best regards,

Kristin

Kristin Shaffer

Attorney

Premerger Notification Office

Federal Trade Commission

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From: HSRHelp <HSRHelp@ftc.gov>
Sent: Sunday, August 21, 2022 8:14 PM
To: Walsh, Kathryn E. <kwalsh@ftc.gov>; Berg, Karen E. <KBERG@ftc.gov>; Musick, Vesselina <vmusick@ftc.gov>; Shaffer, Kristin <kshaffer@ftc.gov>; Sheinberg, Samuel I. <SSHEINBERG@ftc.gov>; Six, Anne <asix@ftc.gov>; Whitehead, Nora <nwhitehead@ftc.gov>; Fetterman, Michelle <mfetterman@ftc.gov>
Subject: FW: Question about 802.51

From: [REDACTED]
Sent: Sunday, August 21, 2022 8:13:35 PM (UTC-05:00) Eastern Time (US & Canada)
To: HSRHelp <HSRHelp@ftc.gov>
Subject: Question about 802.51

Good morning

I hope you all had a great summer, which unfortunately is coming to a close.

I apologize for bothering you but I wanted to check a reportability issue with you.

We have a foreign-to-foreign transaction. Two German companies are partnering to form a German joint venture. Each will acquire controlling voting security interests of the German joint venture.

Each of the two German partners have very substantial sales and assets in the United States that far exceed \$202 million.

However, applying 802.51(b), I understand that the correct analysis is that the joint venture is the issuer, and that this transaction would be reportable only if the issuer itself (the joint venture, not the joint venture partners) has sales or assets in the United States that exceed \$101 million. Since the joint venture has no sales or assets, I understand the transaction to be exempt. I also understand that 802.51(b) provides an exemption from the application of 801.40 when foreign transactions are involved.

I would be grateful if you would please confirm this.

Best wishes

