

Sheinberg, Samuel I.

From: HSRHelp
Sent: Wednesday, March 12, 2025 6:16 PM
To: HSR Auto Forward List
Subject: FW: Select 801.30 Question

From: Fetterman, Michelle
Sent: Wednesday, March 12, 2025 6:16:04 PM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Select 801.30 Question

What you describe does not qualify as a select 801.30 transaction.

From: [REDACTED]
Sent: Tuesday, March 11, 2025 5:54:17 PM (UTC-05:00) Eastern Time (US & Canada)
To: HSRHelp
Cc: [REDACTED]
Subject: Select 801.30 Question

[REDACTED]
Hi PNO,

Our client, PE Fund X, is planning to acquire voting securities of a privately held company ("PrivateCo") in the >\$555.5m, but

1. Acquisition 1: PE Fund X will acquire voting securities of PrivateCo valued at ~\$40m from a holder that is not the issuer. PrivateCo will not be a party to the agreement.
2. Acquisition 2: PE Fund X will acquire voting securities of PrivateCo valued at ~\$250m from a second holder that is not the issuer. It is anticipated that PrivateCo will be a signatory to this agreement (see explanation below).
3. Acquisitions 3 and more: PE Fund X will acquire voting securities of PrivateCo from affiliated funds of PE Fund X in a series of acquisitions. It is anticipated that PrivateCo will be a signatory to at least some of these transactions as well. These acquisitions together would put PE Fund X's aggregate holdings of PrivateCo in the >\$555.0m, but
4. All of the above acquisitions are planning to occur within one year.

The acquisitions will not confer control of PrivateCo to PE Fund X. PE Fund X will not have, and will not obtain the right to serve as, appoint, veto, or approve board members of any similar body of any entity within the acquired person in connection with this transaction.

Certain of the agreements will not be executed at the time we will need to submit our filing (anticipated for no later than the end of this week) to capture the initial HSR reportable transaction in Acquisition 2.

The reason PrivateCo is anticipated to be a signatory of certain of the agreements is that it has pre-existing approval rights over its stock transfers that bind all holders of its securities in addition to certain other agreements it wants to ensure any new shareholder is bound by (i.e. Investor Rights Agreement / Voting Agreement). Furthermore, PrivateCo requires all direct transfers to be on its form agreement, which has PrivateCo as a party and gives it the benefit of the reps and binds the purchaser to the various restrictions/other agreements.

Given the above, we believe this transaction should be eligible as a "select 801.30" under the new rules as all acquisitions are from holders other than the issuer itself. We believe this should be the case notwithstanding the fact that PrivateCo may be a signatory to some of the agreements as we will file one single form capturing all of PE Fund X's

potential acquisitions occurring within one year from the same Acquired Person (and pay the highest filing fee) before the execution of two or more of these agreements occur.

Can you please confirm if you agree this qualifies as a select 801.30 transaction?

Thank you,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]