

801.30

From: [Redacted]  
To: [Redacted]  
Date: Tue, Mar 14, 2000 9:56 AM  
Subject: 801.30

Mike - I am still troubled by the result that when someone acquires shares during an IPO in a reportable transaction, the transaction does not qualify as an 801.30 transaction and the acquired person is obligated to file HSR before the IPO and identify the acquiring person. In many cases, the acquired person does not know with certainty who will acquire its shares in the IPO. Nor is there an agreement between the acquiring and acquired persons. You indicated that the acquired person should attach the underwriters agreement to its HSR form. Under this reasoning, could the transaction fit into 801.30(5). Can the underwriter be considered a holder? If not, why not?

I appreciate your thoughts. Thanks,

Phone: [Redacted]  
Fax: [Redacted]  
E-mail address: [Redacted]

ISNT A PURCHASE OF STOCK IN AN IPO ESSENTIALLY AN OPEN MARKET PURCHASE? COULDN'T WE EXTEND 801.30 TREATMENT TO SUCH AN ACQUISITION ON THAT BASIS?

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(V1.6)

R. SMITH COMMENTS THAT AS LONG AS THERE IS NO CONTRACT ESTABLISHING THE PERSON ACQUIRING SHARES IN THE IPO & THE UNDERWRITERS, THERE WOULD BE AN 801.30 TRANSACTION.

Michael Veme 3/21/00