

802.51

**From:** [REDACTED]  
**To:** FTC.SERIOS (nouvuka@ftc.gov)  
**Date:** 8/8/02 3:43PM  
**Subject:** Informal Advice regarding Rule 802.51(a)

Dear Ms Ovuka -- It was a pleasure talking with you this afternoon. This email is to confirm your advice regarding the applicability of Rule 802.51(a) in the following situation.

A U.S. acquiring person ("Buyer") intends to acquire 100% of the voting securities of a foreign issuer ("Issuer"). The Issuer, which has two divisions A and B, has no U.S. assets; however, in its most recent fiscal year the Issuer sold goods for more than \$50 million into the U.S. Since the Buyer is only interested in acquiring division A, the Issuer divested its division B assets; in other words, the division B assets will not be part of the proposed acquisition. Without the revenues attributable to the division B assets, the Issuer's sales into the U.S. fall below the \$50 million mark.

You kindly confirmed that for determining the \$50 million "sales in or into the United States" threshold in Rule 802.51(a), sales of the Issuer into the U.S. in its most recent fiscal year are properly adjusted to deduct sales made by a division (here, division B) that will not be part of the Issuer when it is sold to a U.S. acquiring person (here, the Buyer). Should the adjusted sales into the U.S. fall below the \$50 million threshold, Rule 802.51(a) is applicable (assuming that all other requirements of the Rule are met).

Please let me know if I have misstated your advice in any way so that I can inform my client accordingly.

Thank you very much for your assistance in this matter.

Best regards,

[REDACTED]

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8/9  
Confirmed advice  
by telephone

PS CONCURS