801.40

Verne, B. Michael

From: [redacted]
Sent: Monday, December 13, 2004 4:11 PM
To: Verne, B. Michael
Subject: Can you backstop me on this one?

In anticipation of acquiring Target and taking it public, three parties (unrelated to one another) contribute $100 million cash apiece to the formation of an LLC.

LLC forms a wholly owned corporate subsidiary.

Corporate subsidiary acquires the stock of Target for $300 million. Transaction is reportable; ultimate parent LLC and Target company file; waiting period expires.

LLC then merges into its own Corporate subsidiary, with the latter surviving as the anticipated issuer in the IPO.

Is the last step (the merger), and the consequent distribution of Corporate subsidiary stock to LLC members, separately reportable? Or does the filing for acquisition of Target cover the subsequent internal reorganization? Does it matter whether the subsequent internal reorganization was disclosed in the description of the Target acquisition that appeared in the HSR filings for that transaction?

[redacted]

CURRENTLY, THE LAST STEP WOULD BE REPORTABLE AS AN 801.40 FORMATION.

PROPOSED 802.10 WOULD EXEMPT IT AS LONG AS PRO-RATA.

Bmichael
12/13/04

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