7A(c)(1)
7A(c)(2)
802.2

Verne, B. Michael

From: [redacted]
Sent: Wednesday, July 11, 2007 6:32 PM
To: Verne, B. Michael
Cc: Peay, Sandra M.; Hallman, Renee A.
Subject: HSR Question

We have the following multi-stepped situation which we desire FTC advice:

1. Newco (a shell corporation with no initial assets) will issue voting shares to the public in an attempt to raise $800,000,000 in cash.

2. Newco will, immediately after Step 1 above, take a significant portion of the $800,000,000 and acquire the assets of three companies; those assets are comprised of outstanding loans, mortgages, receivables (akin to a factoring arrangement, where money is lent against the borrower's receivables), and the like. Also included in those assets are certain real properties which were acquired as a result of foreclosure on various mortgages. Those real properties consist of hotels and some other real estate development projects (development of condominiums).

3. Simultaneous with Steps 1 and 2 above, a management company ("MANCO") that was managing the three companies that held the loans, mortgages, etc. (as well as originating the loans, coordinating each of the transactions, etc.), will sell its assets as a "going concern" to Newco in exchange for $18,000,000 cash and voting stock of Newco worth about $100,000,000. MANCO's hard assets consist of desks, office equipment and the like. Also, all of the employees of MANCO will move over to Newco. However, most of the value of the $118,000,000 (assume over $100,000,000) is goodwill attributable to the going concern nature of the business being transferred.

I am assuming Step 1 and Step 2 are exempt, as Newco will only be acquiring "exempt assets", i.e., loans, receivables, mortgages and the above mentioned real property. Similarly, the purchasers of the Shares of Newco will be exempt under 802.4. Furthermore, MANCO's acquisition of the voting stock of Newco would be exempt for the same reason. In connection with the acquisition of the MANCO assets by Newco, MANCO's last regularly prepared balance sheet (3/31/07) shows assets of approximately $7,500,000 (net sales are below $100,000,000). I am assuming that this should exempt the purchase of assets from MANCO from a filing under the Act, as MANCO does not meet the size of the party test. **Please confirm whether my assumptions are correct and thus no HSR filing is necessary. If my assumptions in this paragraph are incorrect or there are additional factors that need to be considered or if you have questions or require additional information, please let me know.**

Thank you for you assistance.

[redacted]

If Manco is exiting the business, the ordinary course exemption would not be applicable to the acquisitions of the non-real estate loans and receivables. The mortgages and any other loans secured by real property are exempt under 7A(c)(2). The real property is exempt under 802.2

B Mel

7/17/07