

802.21

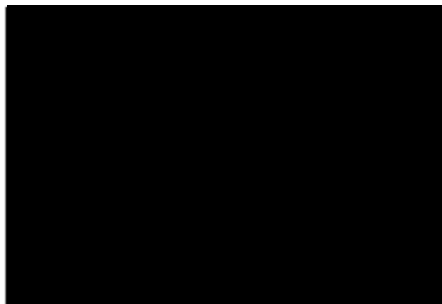
Verne, B. Michael

From: [REDACTED]
Sent: Thursday, May 29, 2008 5:13 PM
To: Verne, B. Michael
Subject: Hypothetical

Hi Mike. I'm hoping that you can help me sort through this scenario. It is not clear to me.

Shareholder was cleared at the 25% threshold to acquire Parent stock and busted that threshold within one year of filing. Shareholder's five years runs in May or June of 2009. Parent has several classes of tracking stock that all vote together in the election of directors. Parent is considering a "split off" pursuant to which holders of Tracking A stock will redeem their Tracking A shares for shares of a newly formed company (Splitco) that will hold the current parent subsidiaries that are tracked by the tracking A stock. This is not a pro rata spin off since the holders of other tracking stock will not get stock of Splitco. Accordingly, the Tracking A shareholders will hold more of Splitco directly than they now indirectly hold (through their ownership of Parent tracking stock) in the subsidiaries that will be put into Splitco. I believe then that this split off is a potentially reportable event for any Tracking A shareholder who meets the jurisdictional tests. If so, does Shareholder's previous filing for an acquisition of Parent stock covers his acquisition of Splitco stock provided that it is consummated within the 5 year period and does not result in him owning 50% or more of Splitco's voting securities?

Thank you.



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You are correct that the shareholders who will hold a higher percentage in Splitco than they did in Parent would have a potential reporting obligation. 802.21 would not exempt this because Splitco is a different issuer. We re-evaluated this decision as a result of the introduction of the dollar thresholds. Prior to that we said that 802.21 would cover this situation as long as a new percentage threshold was not exceeded. With the dollar thresholds adjusted annually, complications were introduced that made applying this position too difficult to administer.

BW
5/29/08