

[REDACTED] (ACK)
[REDACTED] VC
A retailer's acquisition of account receivables (AR) which were
previously created by [REDACTED] bank in connection with
sales by the retailer is exempt from the retailer's
financial division which is [REDACTED] engaged in the
acquisition of AR as part of its ordinary course of business.
The bank is not entering the AR line of commerce.
[REDACTED]

April 15, 1992

VIA TELECOPY

Premarmer Notification Office
Room 303
Federal Trade Commission
6th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Attention: Victor Cohen



Re: Request for Informal Interpretation

Dear Victor:

In several telephone conversations yesterday and today, I outlined the following transaction:

X controls a number of subsidiaries engaged in retail sales. Through an arrangement with A, a commercial bank, customers were able to make purchases from X retailers using a store credit card. When customers purchased goods from X retail operations, receivables were created by A reflecting the credit extended by A to each customer.

X is now in bankruptcy and the credit card program with A has been terminated and is being unwound. X has arranged for debtor-in-possession financing with B, another bank. One term of this financing is that X extract itself from its credit card program with A. In order to accomplish this objective, Y, a controlled subsidiary of X, which is also in bankruptcy, will acquire from A the accounts receivable created in connection with purchases from X retail operations. The accounts purchased by Y will be immediately transferred to Z, a newly formed entity also controlled by X; Z is not the immediate purchaser from A for reasons



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relating to the bankruptcy proceeding, but the transfer from A to Y and from Y to Z will be effected simultaneously.

Z is a special purpose finance entity. Its sole purpose will be to purchase accounts receivable from X subsidiaries on an ongoing basis. To do this, it will borrow funds from B and issue unsecured promissory obligations for the balance. Its initial acquisition will be of the accounts receivable now held by A that were created in connection with X retailer sales.

The accounts receivable to be sold by A to Y are a small part of the total accounts receivable created and maintained by A. After this sale, A will remain in business as a commercial bank, including in the business of creating and unwinding credit card programs in this way.

On these facts, you indicated that the acquisition of these accounts receivable from A would be exempt from the reporting obligations of the Hart-Scott-Rodino Antitrust Improvements Act under 16 C.F.R. § 802.1, the so-called "ordinary course" exemption, because the purchase and sale of accounts receivable is in A's ordinary course of business and the purchase of accounts receivable created in connection with X retailer sales will be in Z's ordinary course of business.

I would appreciate it if you would confirm my understanding of your views at your earliest convenience. If you have any questions, please do not hesitate to call.

Thank you for your assistance.

Very truly yours,
