

74(c)(1); LISTS; 801.d

RS

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FEDERAL TRADE COMMISSION  
MAR 11 4 25 PM '94  
PLEASE REFER TO...

March 4, 1994

**BY HAND DELIVERY**

Richard B. Smith, Esquire  
Premerger Notification Office  
Federal Trade Commission  
6th Street and Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

RECEIVED  
FEDERAL TRADE COMMISSION  
MAR 11 11 00 AM '94  
PLEASE REFER TO...

**Re: Informal Policy of the Premerger Notification Office with  
Respect to the Acquisition of a REIT by a REIT**

Dear Dick:

I am writing to confirm my understanding of the informal policy of the Federal Trade Commission's Premerger Notification Office with respect to the acquisition of a real estate investment trust ("REIT") by a REIT. In our telephone conversation of February 23, 1994, you said that it is the informal policy of the Premerger Notification Office that the acquisition of a REIT by a REIT is not a reportable event under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("HSR" or the "Act"). The purpose of this letter is to confirm that the transaction described below would fall within this policy and would not be reportable under the Act.

Company A is a REIT, organized as a corporation under the laws of California. Company A has one class of voting common stock outstanding. Company B also is a REIT, organized as a corporation under the laws of California. Company B has one class of voting common stock, two classes of preferred stock, and one class of convertible preferred stock outstanding. Each of Company A and Company B is its own ultimate parent entity.

Under the terms of the proposed transaction, Company A will merge with and into Company B, with Company B surviving. The outstanding shares of Company A common stock will be converted into cash and/or shares of Company B common stock, at the election of each Company A shareholder. However, no more

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Richard B. Smith, Esq.  
March 4, 1994  
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than 50% of the Company A common stock will be converted into cash. The outstanding common stock of Company B will not be converted or exchanged as a result of the merger.

I assume that the acquisition described above would fall within the FTC's informal policy that the acquisition of a REIT by a REIT is not reportable. If you do not agree with this conclusion, or if you need additional information in order to make a determination, please contact me at 202-637-5652. If you do not contact me, I will assume that you agree with this conclusion.

Thank you for your help and attention to this matter.

Very truly yours,

[REDACTED]

3/11/94 - advised writer that a REIT's purchase of the assets or voting stock of another REIT is exempt under A(c)(1). However, the acquisition of the voting stock of a REIT by someone other than a REIT, such as by a shareholder of Company A after its merger into REIT, is potentially reportable as a voting stock purchase.

RBSmith

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