

802.51(b)(1)
801.16)(2)



August 2, 1995

Dear Mr. Sharpe:

Pursuant to your request, the following is a summary of the facts and issues we discussed yesterday regarding interpretation of Rule 802.51(b)(1) (the "Rule") under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "Act").

The acquiring company is a foreign person that is acquiring all of the voting securities of another foreign issuer (the "Target"). The Target is in the business of [redacted] throughout the world, including [redacted] in the United States. The Target does not have a subsidiary in the United States, but does lease an office in [redacted] and owns or leases office equipment and furniture. The principal headquarters and the books and records of the Target are maintained in Europe. The Target has assets reflected on its balance sheet consisting of among others, [redacted] recoverable on unearned premiums, reinsurance [redacted] cash

(collectively, the "Book Assets"), each of which essentially constitutes rights to receive cash presently or at some future date. A portion of the Book Assets are attributable to [redacted] in the United States.

Rule 802.51(b)(1) provides that:

[a]n acquisition by a foreign person shall be exempt from the requirements of the act if . . . [t]he

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acquisition is of voting securities of a foreign issuer, and will not confer control of . . . an issuer which holds assets located in the United States (other than investment assets, voting or nonvoting securities of another person, and assets included pursuant to § 801.40(c)(2)) having an aggregate book value of \$15 million or more.

My questions are as follows:

1. Are the Book Assets that are attributable to [redacted] in the United States "assets located in the United States" within the meaning of the Rule, notwithstanding the fact that the books and records of the Target are maintained in Europe? *yes*

2. Are the Book Assets essentially equivalent to cash positions, and hence "investment assets" within the meaning of Rule 801.1(i)(2) under the Act? *yes*

Please contact me if you would find any additional information useful to your analysis of these issues or if you have any questions.

Very truly yours,

[redacted signature]

Patrick Sharpe, Esq.
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since the U.S. assets are liquid assets, that's cash or cash equivalents, then the assets are considered investment assets noted in Section 802.51(b)(1) and the transaction is exempt. (PS) RS - concurs

Premerger Practice manual

[redacted]

called [redacted] 8-3-95

*# 276 - 802.51(b)(1) investment assets
272 - 802.51(b)(1) + (b)(2)*