

Sheinberg, Samuel I.

From: HSRHelp
Sent: Friday, August 4, 2023 9:24 AM
To: Walsh, Kathryn E.; Berg, Karen E.; Shaffer, Kristin; Sheinberg, Samuel I.; Six, Anne; Whitehead, Nora; Fetterman, Michelle
Subject: FW: Inquiry about the merger between two non-profit organizations

From: Musick, Vesselina <vmusick@ftc.gov>
Sent: Friday, August 4, 2023 9:23:27 AM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: HSRHelp <HSRHelp@ftc.gov>
Subject: RE: Inquiry about the merger between two non-profit organizations

Based on the facts you describe, this is a potentially reportable acquisition by the surviving organization of the assets of the organization that will cease to exist after the merger. The asset figures suggest that the size of person test is likely not met, so the acquisition would be reportable if the fair market value of the assets of the acquired organization, determined in good faith by the pre-transaction board of the surviving organization, exceeds \$445.5 million.

Kind regards.

Vesselina Musick

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From: [REDACTED]
Sent: Thursday, August 3, 2023 11:06:14 AM (UTC-05:00) Eastern Time (US & Canada)
To: HSRHelp <HSRHelp@ftc.gov>
Subject: Inquiry about the merger between two non-profit organizations

Hello,

I have an inquiry about the Hart-Scott-Rodino applicability: whether a merger between two non-profit organizations is a reportable transaction. Here is a bit more details about this transaction:

This is a merger of two equals, and no consideration will be paid by either party to the other regarding the transaction.

The surviving entity post-merger has not yet been finally decided, and it can be either one.

The board of the surviving entity would be a fully combined board consisting of all of the board members of both parties immediately before merger. The combined board will select the new CEO of the surviving entity.

Each of the parties is a nonprofit, 501(c)(3) organization.

One of the parties has about \$22M in assets and the other has about \$5M in assets.

Since there is no consideration to be paid and it is a merger of two equals, we are not sure whether (and how) the Size-of-Transaction test should be applied to this transaction.

Could you please advise? Thanks in advance!

[REDACTED]

[REDACTED]

