

Sheinberg, Samuel I.

From: HSRHelp
Sent: Wednesday, December 6, 2023 11:31 AM
To: Walsh, Kathryn E.; Berg, Karen E.; Musick, Vesselina; Sheinberg, Samuel I.; Six, Anne; Whitehead, Nora; Fetterman, Michelle; Burton, June; Larson, Peter
Subject: FW: Reportability Question

From: Shaffer, Kristin <kshaffer@ftc.gov>
Sent: Wednesday, December 6, 2023 11:30:44 AM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: HSRHelp <HSRHelp@ftc.gov>
Subject: RE: Reportability Question

[REDACTED]
Since UPE 1 did not make a filing for the acquisition of Holdco, 802.21 does not apply and a filing would be required to cross a notification threshold.

Best regards,
Kristin

Kristin Shaffer

Attorney
Premerger Notification Office
Federal Trade Commission
202-326-2388 | kshaffer@ftc.gov

From: [REDACTED]
Sent: Wednesday, December 6, 2023 8:52:27 AM (UTC-05:00) Eastern Time (US & Canada)
To: HSRHelp <HSRHelp@ftc.gov>
Subject: Reportability Question

Dear PNO:

We were hoping to get your interpretation of a scenario set forth below.

UPE 1 formed Holdco to acquire Target A. HSR filings submitted within the past five years whereby UPE 1 and Target A were the acquiring person and acquired person, respectively. The waiting period expired and the transaction closed within one year of the waiting period expiration. Holdco subsequently issued additional voting securities to new investors such that Holdco is now its own UPE. Holdco does not have any holdings other than the holdings it acquired in its acquisition of Target A when UPE 1 was Holdco's UPE. UPE 1 will now acquire additional voting securities of Holdco. UPE 1 will remain under 50% (Holdco will continue to be its own UPE) but UPE 1 will cross a monetary threshold solely on account that UPE 1 is no longer the UPE of Holdco. Since UPE 1 submitted a HSR filing to acquire Target A within the previous 5 years and Holdco does not have any other assets or holdings other than Target A, we do not think an HSR filing should be required in this transaction. Can you please let us know if you agree, or if we can provide any additional information that will assist you in your assessment of this request.

Very Respectfully,

[REDACTED]

