

Sheinberg, Samuel I.

From: HSRHelp
Sent: Friday, October 4, 2024 4:20 PM
To: Berg, Karen E.; Musick, Vesselina; Shaffer, Kristin; Sheinberg, Samuel I.; Six, Anne; Whitehead, Nora; Fetterman, Michelle; Burton, June; Larson, Peter
Subject: FW: Your VM

From: Walsh, Kathryn E. <kwalsh@ftc.gov>
Sent: Friday, October 4, 2024 4:19:26 PM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: HSRHelp <HSRHelp@ftc.gov>
Subject: RE: Your VM

Size of person must be determined using the most recent regularly prepared balance sheet created prior to consummation of the transaction. Therefore, if a balance sheet that is used by management is normally created after a capital call, and a capital call is made prior to consummation of the transaction, that balance sheet must be used to determine SOP (unless, of course, another regularly prepared balance sheet supersedes it). Additionally, 801.90 would be relevant in assessing any deviation from regular business practices.

From: [REDACTED]
Sent: Friday, October 4, 2024 10:48 AM
To: Walsh, Kathryn E. <kwalsh@ftc.gov>
Subject: Re: Your VM

Thanks Kate. The question is this:

A fund is its own UPE. Based on its most recent regularly prepared balance sheet, it does not meet the SOP. But it has the ability to make a capital call to its investors for additional funds that would put it over the SOP. The uncalled capital is not on its balance sheet. Our conclusion, therefore, is that the un-called capital is not included in the SOP. Agree?

Thanks!

From: Walsh, Kathryn E. <kwalsh@ftc.gov>
Sent: Friday, October 4, 2024 10:23 AM
To: [REDACTED]
Subject: Your VM

[REDACTED] I was stacked up yesterday and am looking at the same kind of day today – please feel free to send me an email with your question(s).

Kathryn E. Walsh
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Premerger Notification Office
Federal Trade Commission
(202) 326-2977

