

801.11  
801.2(e)

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Subject: 801.2(e)

For purposes of determining the size-of-person of an individual shareholder who has to make an 801.2(e) filing, is the value of the voting securities the individual receives deemed to be included in the measure of the assets

shareholder will be filing?

For example, A merges into B. S, a shareholder of A, will receive \$15.1 million of B's voting securities as a result of the transaction. B paid a substantial premium over market for A's shares. Prior to S's gaining beneficial ownership of the B shares at the expiration of the waiting period, S's total assets (based on the trading value of A's shares - S has no other assets) are only \$9.5 million. Is S a \$10 million dollar person for purposes of filing under 801.2(e)?

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NO - S MUST PREPARE A FAS-FINRA BALANCE SHEET, VALUING ITS STOCK IN A BY ANY ACCEPTABLE ACCOUNTING METHOD. THE VALUE OF B STOCK BEING ACQUIRED DETERMINES THE SIZE OF

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