

7H(c)(1); 802.1(b)

November 15, 1991

BY HAND

Richard B. Smith, Esq.  
Premerger Notification Office  
Bureau of Competition  
Federal Trade Commission  
Room 312  
6th & Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Dear Mr. Smith:

The purpose of this letter is to confirm our telephone conversation of Tuesday, November 12, 1991, in which [redacted] and I requested your advice as to whether a transaction under consideration by our respective clients is subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act ("the Act"). [redacted] represent the seller in the proposed transaction and I represent the buyer. The transaction satisfies the size-of-persons and size-of-transaction tests established in the Act and would be otherwise reportable unless there is an applicable exemption in the Act or the premerger regulations. Based on our description, you agreed that the proposed transaction is exempt as an acquisition of assets.

The transaction in question involves the sale of equity interests in certain assets that are the subject of lease financing agreements. The assets consist of railroad cars, engines and related equipment. The assets are currently under lease to several different parties, including railroads, a steel

25 years. As we discussed over the telephone, the leases in question are typical of a type of transaction in which leases

lessee of the asset will remain in control of the asset after the sale is consummated.

[REDACTED]

Richard B. Smith, Esq.  
November 15, 1991  
Page 2

The buyer is a large financial institution that, among other activities, originates lease financings and regularly purchases and sells [REDACTED] are the subject of the transaction.

The seller is a large corporation that also regularly originates lease transactions and has regularly purchased and sold equity interests in leased assets in the ordinary course of its business. The assets that are the subject of this transaction account for less than 2% of the seller's [REDACTED]

exiting the leasing business.

Section 7A(c)(1) of the Act exempts acquisitions of assets in the ordinary course of business. You have advised [REDACTED] and me that this exemption extends to [REDACTED]

with the existing lessee and (5) the seller is not exiting the leasing business, but intends to continue in its leasing activities. Accordingly, the transaction described above is exempt from the reporting and waiting period requirements of the Act.

Please call me if you have any questions or if the above does not accurately reflect your advice.

Sincerely yours,  
[REDACTED]

cc: [REDACTED]

11/18/91 - called [REDACTED]. He confirmed that this proposed sale did not involve [REDACTED] assets of

a division of the seller and that the buyer's purchase of these lease financing leases was for financial purposes, i.e., in order to receive lease payments. I advised that sale was exempt under our interpretation of 7A(c)(1).  
R.B. Smith