7.A(c)(10)

From: [redacted]
To: HQ.DCMAIL2(RSMITH)
Date: Tue, Mar 16, 1999 10:41 am
Subject: Sec. 7A(c)(10) Question

Dick--

The issuer has a number of classes of stock, common and preferred; some vote and some do not. An existing shareholder is selling assets to the issuer (a/k/a the acquiring person) and will receive Class A Preferred as part of the [redacted]
stock will not be issued to anyone else, except under conditions that are not here relevant. The issuer's articles of incorporation provide that under [redacted]
class of voting stock of the issuer.

Because the additional shares of Class A Preferred will not permit the holder to vote for any directors other than the two it elects with its existing shares, I conclude that the acquisition of the additional shares is not reportable under the (c)(10) exemption, because the additional shares will not increase the shareholder's voting power in any way. If my math is correct, the result is supported by 801.12(b), because the number of shares in this situation is irrelevant. The first calculation under the Rule will always be [redacted]

Do you agree?

[redacted]

3/17/99 Called e-mail sender and advised that his conclusion was correct. Stock acquisition is exempt under 7A(c)(10). Stated that asset acquisition could be reportable, however. Writer agreed and, if reportable, [illegible] will be made. (MV, ND and JF agree.)