

Sheinberg, Samuel I.

From: HSRHelp
Sent: Wednesday, January 18, 2023 1:24 PM
To: Walsh, Kathryn E.; Berg, Karen E.; Musick, Vesselina; Sheinberg, Samuel I.; Six, Anne; Whitehead, Nora; Fetterman, Michelle
Subject: FW: Question re: HSR Filing

From: Shaffer, Kristin <kshaffer@ftc.gov>
Sent: Wednesday, January 18, 2023 1:24:13 PM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: HSRHelp <HSRHelp@ftc.gov>
Subject: RE: Question re: HSR Filing

[REDACTED]
Thank you for checking in. We believe that there are some issues with the analysis:

Trustees are not generally ultimate parent entities. Since this is a revocable trust, the grantor(s) would be deemed to hold the corpus of the trust. See 801.1(c)(4). Please let us know if this changes your analysis.

If the target is a US entity, the form of the entity is definitive. Acquisition of an LLC should be reported as the acquisition of non-corporate interests.

Best regards,

Kristin

Kristin Shaffer

Attorney

Premerger Notification Office

Federal Trade Commission

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From: [REDACTED]
Sent: Wednesday, January 18, 2023 11:37:07 AM (UTC-05:00) Eastern Time (US & Canada)
To: HSRHelp <HSRHelp@ftc.gov>
Subject: Question re: HSR Filing

Hello,

First, thank you for your help. You are an amazing resource for HSR questions.

I have the following questions:

1. We have a potential filing where the UPE is an individual. He is trustee of a revocable trust. The transaction as proposed is reportable. We want to confirm that Item 4(b) on the HSR form would allow the individual UPE to submit the annual reports and/or annual audit reports for the trust, and that the individual UPE does not need submit personal financial information. We understand that if the target's financials are not consolidated in the trust's annual reports and/or annual audit reports, the target must provide its annual reports and/or annual audit reports.
2. The acquisition is of an LLC, but it has voting shares. We were going to report the acquisition of voting securities rather than non-corporate interests. Is this correct? We understand this may not be enough information for you to answer, but if it is possible, could you please confirm our understanding is correct?

Thank you again!

Sincerely,

