

Sheinberg, Samuel I.

From: HSRHelp
Sent: Tuesday, August 15, 2023 1:18 PM
To: Walsh, Kathryn E.; Borg, Karen E.; Musick, Vesselina; Shaffer, Kristin; Sheinberg, Samuel I.; Fetterman, Michelle
Subject: RE: Question Regarding Two-Step Merger

From: Whitehead, Nora <nwhitehead@ftc.gov>
Sent: Tuesday, August 15, 2023 1:17:32 PM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: HSRHelp <HSRHelp@ftc.gov>
Subject: RE: Question Regarding Two-Step Merger

Based on what you describe below, you can either file a non-801.30 (and submit the merger agreement) or under 801.30/as a CTO. If you decide to file under 801.30/as a CTO, please review both 801.30 and 803.5(a)(2).

From: HSRHelp <HSRHelp@ftc.gov>
Sent: Tuesday, August 15, 2023 12:05 PM
To: Walsh, Kathryn E. <kwalsh@ftc.gov>; Berg, Karen E. <BERG@ftc.gov>; Musick, Vesselina <vmusick@ftc.gov>; Shaffer, Kristin <kshaffer@ftc.gov>; Sheinberg, Samuel I. <SHEINBERG@ftc.gov>; Shaffer, Kristin <kshaffer@ftc.gov>; Fetterman, Michelle <mfetterman@ftc.gov>; Nora <nwhitehead@ftc.gov>; Fetterman, Michelle <mfetterman@ftc.gov>
Subject: RE: Question Regarding Two-Step Merger

From: [REDACTED]
Sent: Tuesday, August 15, 2023 12:05:00 PM (UTC-05:00) Eastern Time
To: HSRHelp <HSRHelp@ftc.gov>
Subject: Question Regarding Two-Step Merger

Good afternoon,
I have a potential transaction involving a two-step merger. Under the merger agreement, the parties anticipate that a merger sub will acquire all outstanding shares of Party A through a tender offer. Following the tender offer, the merger sub will then merge into Party A, with Party A continuing as the surviving corporation (and as a wholly owned subsidiary of Party B). It has been quite a while since I have dealt with a two-step merger and wanted to confirm the applicable waiting period and whether this will be treated as a non-801.30 merger. I have seen some guidance that the analysis may be different here but I am not sure of the correct interpretation. I would appreciate any guidance.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

