

From: [REDACTED]
To: [Walsh, Kathryn E.](#); [Berg, Karen E.](#); [Shaffer, Kristin](#); [Sheinberg, Samuel I.](#); [Whitehead, Nora](#); [Cummings, Stephanie](#)
Subject: FW: 4(c) Question
Date: Monday, June 11, 2018 10:37:33 AM

From: Carson, Timothy
Sent: Monday, June 11, 2018 10:37:32 AM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: 4(c) Question

[REDACTED]

These facts do not demonstrate definitively that the document was not used to evaluate or analyze the acquisition. The filer will need to determine if the document was used for such a purpose.

Regards,

Timothy (Ty) Carson

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From: [REDACTED]
Sent: Friday, June 8, 2018 7:15:36 PM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Subject: 4(c) Question

Hi All,

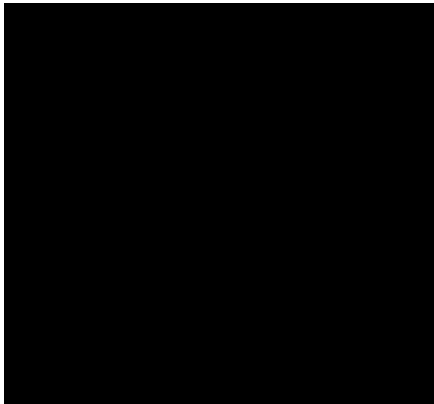
I have a question that I don't think has been directly answered by the interpretations that I've seen, but I'm sorry if I missed it.

Company A recently sold itself to Acquirer after an auction process. During the auction process, Company A's officers/directors created documents indicating that certain sales would increase as a result of a transaction with any buyer, but the documents do not relate to or refer to any specific buyer. (Sales would increase because the owners of Company A are prohibited from transacting with Company A, but once they no longer own Company A, the owners would be able to transact with Company A, increasing Company A's sales.) This sales growth would occur regardless of whether Company A were to be acquired by (i) the Acquirer; (ii) another participant in the auction process; or (iii) a company that did not participate in the auction process.

My question is whether this document would qualify as a 4(c) document for the transaction with Acquirer? I don't believe it does because it was not prepared for the specific transaction with Acquirer, and it was not created by third-party advisors and thus does not qualify as a 4(d)(ii) document. (Incidentally, there are similar documents created by bankers that are responsive to 4(d)(ii)).

It would be great to get your feedback as soon as possible. I'm available to answer any follow up questions you may have, and I appreciate your assistance, as always.

Best regards,



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[Redacted line of text]
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[Redacted line of text]