

## Sheinberg, Samuel I.

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**From:** HSRHelp  
**Sent:** Tuesday, November 9, 2021 9:50 AM  
**To:** Walsh, Kathryn E.; Berg, Karen E.; Musick, Vesselina; Sheinberg, Samuel I.; Six, Anne; Whitehead, Nora  
**Subject:** FW: Item 6(b): Inquiring Regarding Trusts as Holder of Voting Securities

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**From:** Shaffer, Kristin <kshaffer@ftc.gov>  
**Sent:** Tuesday, November 9, 2021 9:50:24 AM (UTC-05:00) Eastern Time (US & Canada)  
**To:** [REDACTED]  
**Cc:** HSRHelp <HSRHelp@ftc.gov>  
**Subject:** RE: Item 6(b): Inquiring Regarding Trusts as Holder of Voting Securities

[REDACTED]

Yes, that is correct. Depending on whether or not the trusts are revocable, the grantor holds a reversionary interest, or someone has the right to remove and replace 50% or more of the trustees, you should either list the trusts, or the grantor of the trusts/person who can remove and replace the trustees.

Best regards,  
Kristin

**Kristin Shaffer**

Attorney  
Premerger Notification Office  
Federal Trade Commission  
202-326-2388 | kshaffer@ftc.gov

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**From:** [REDACTED]  
**Sent:** Friday, November 5, 2021 4:23 PM  
**To:** HSRHelp <HSRHelp@ftc.gov>  
**Subject:** Item 6(b): Inquiring Regarding Trusts as Holder of Voting Securities

Good afternoon,

I am seeking guidance in relation to Item 6(b) of the HSR Notice filing. The holders of the person filing notification in this instance are trusts that all hold between 5% and 50% of the person filing notification. I am trying to determine if I am taking the correct approach in reporting the "holders" based on beneficial ownership rather than voting interest.

I located 0603004 Information Interpretation (<https://www.ftc.gov/enforcement/premerger-notification-program/informal-interpretations/0603004>) which notes that in determining which parties should be listed in Item 6(b), that "you need to determine who actually has beneficial ownership of the shares," and list that party (if percentage held is within the applicable range).

I believe the question of who may have "beneficial ownership" may boil down to the type of trust that holds the shares, as the following provisions in Section 801.1(c)(3)-(5) describe: (<https://www.ftc.gov/enforcement/premerger-notification-program/hsr-resources/most-frequently-asked-hsr-questions/sec-1>)

(3) Except for a common trust fund or collective investment fund within the meaning of 12 CFR 9.18(a) (both of which are hereafter referred to in this paragraph as 'collective investment funds'), and any revocable trust or an irrevocable trust in which the settlor retains a reversionary interest in the corpus, a trust, including a pension trust, shall hold all assets and voting securities constituting the corpus of the trust.

The assets and voting securities constituting the corpus of a revocable trust or the corpus of an irrevocable trust in which the settlor(s) retain(s) a reversionary interest in the corpus shall be holdings of the settlor(s) of such trust. beneficiaries of a trust, including a pension trust or a collective investment fund, shall not hold any assets or voting securities constituting the corpus of such trust.

I would appreciate any guidance you may be able to offer on this matter. If possible, please confirm whether I am taking the correct approach in reporting the "holders" of the person filing notification based on beneficial ownership rather than voting interest. Thank you!

Sincerely,

[Redacted]

[Redacted]

[Redacted]

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[Redacted]

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