3. A and B form a 50/50 partnership. A contributes a plant valued at $100 million and B contributes a plant valued at $40 million and $60 million in cash. Because with respect to A, the new partnership has non-exempt assets of $40 million (the plant contributed by B), A’s acquisition of non-corporate interests is exempt under § 802.4. With respect to B, the new partnership holds in excess of $50 million (as adjusted) in non-exempt assets (the plant contributed by A), therefore B’s acquisition of non-corporate interests would not be exempt under § 802.4.

§ 802.40 Exempt formation of corporations or unincorporated entities.

The formation of an entity is exempt from the requirements of the Act if the entity will be not-for-profit within the meaning of sections 501(c)(1)–(4), (6)–(15), (17)–(20) or (d) of the Internal Revenue Code.

(70 FR 11514, Mar. 8, 2005)

§ 802.42 Partial exemption for acquisitions in connection with the formation of certain joint ventures or other corporations.

(a) Whenever one or more of the contributors in the formation of a joint venture or other corporation which otherwise would be subject to the requirements of the Act by reason of

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§ 802.50 Acquisitions of foreign assets.

(a) The acquisition of assets located outside the United States shall be exempt from the requirements of the act unless the foreign assets the acquiring person would hold as a result of the acquisition generated sales in or into the United States during the most recent fiscal year exceeding $50 million (as adjusted) during the acquired person’s most recent fiscal year.

(b) Where the foreign assets being acquired exceed the threshold in paragraph (a) of this section, the acquisition nevertheless shall be exempt where:

1. Both acquiring and acquired persons are foreign;

2. The aggregate sales of the acquiring and acquired persons in or into the United States are less than $110 million (as adjusted) in their respective most recent fiscal years;

3. The aggregate total assets of the acquiring and acquired persons located in the United States (other than investment assets, voting or nonvoting securities of another person, and assets included pursuant to §801.40(d)(2) of this chapter) are less than $110 million (as adjusted); and

4. The transaction does not meet the criteria of Section 7A(a)(2)(A).

Example to §802.50: Assume that “A” and “B” are both U.S. persons. “A” proposes selling to “B” a manufacturing plant located abroad. Sales in or into the United States attributable to the plant totaled $13 million in the most recent fiscal year. The transaction is exempt under this paragraph (a) of this section.

2. Sixty days after the transaction in example 1, “A” proposes to sell to “B” a second manufacturing plant located abroad; sales in or into the United States attributable to this plant, when combined with the sales into the United States of the first plant, totaled in excess of $50 million (as adjusted) in the most recent fiscal year. Since “B” would be acquiring the second plant within 180 days of the first plant, both plants would be considered assets of “A” held by “B” as a result of the second acquisition (see §801.13(b)(2) of this chapter). Since the total sales in or into the United States exceed $50 million (as adjusted), the acquisition of the second plant would not be exempt under this paragraph (a) of this section.

3. Assume that “A” and “B” are foreign persons with aggregate sales in or into the United States of in excess of $110 million (as adjusted). If “A” acquires only foreign assets of “B,” and if those assets generated $50 million (as adjusted) or less in sales in or into the United States, the transaction is exempt.

4. Assume that “A” and “B” are foreign persons with aggregate sales in or into the United States and assets located in the United States of less than $110 million (as adjusted). If “A” acquires only foreign assets of “B,” and if those assets generated $50 million (as adjusted) in sales in or into the United States during the most recent fiscal year, the transaction is exempt from reporting if the assets are valued at $200 million (as adjusted) or less, but is reportable if valued at greater than $200 million (as adjusted).


§ 802.51 Acquisitions of voting securities of a foreign issuer.

(a) By U.S. persons. (1) The acquisition of voting securities of a foreign issuer by a U.S. person shall be exempt from the requirements of the act unless the issuer (including all entities controlled by the issuer) either: holds assets located in the United States (other than investment assets, voting or nonvoting securities of another person, and assets included pursuant to §801.40(d)(2) of this chapter) having an aggregate total value of over $50 million (as adjusted); or made aggregate sales in or into the United States of over $50 million (as adjusted) in its most recent fiscal year.

(2) If interests in multiple foreign issuers are being acquired from the