

801.1(b)
801.1(c)

Verne, B. Michael

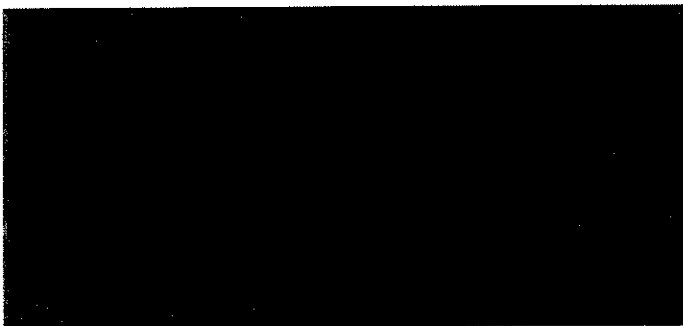
From: [REDACTED]
Sent: Friday, June 24, 2005 1:32 PM
To: Verne, B. Michael
Subject: HSR Compliance Question

Mike,

I have a compliance question regarding amended 16 C.F.R. Section 801.1(b)(2). It provides that control means "Having the contractual power presently to designate 50 percent or more of the directors of a for-profit or not-for-profit corporation, or in the case of trusts described in paragraphs (c) (3) through (5) of this section, the trustees of such a trust." (Italics are for emphasis.)

I'm somewhat unclear regarding the types of trusts brought into the purview of this rule by virtue of the reference to paragraphs (c)(3) through (5) of 16 C.F.R. Section 801.1. Those sections variously refer to collective investment funds, revocable trusts, irrevocable trusts in which the settlor has a reversionary interests, and other trusts, i.e., essentially all trusts. Are all such trusts deemed to be controlled by another entity under 16 C.F.R. Section 801.1(b)(2) if that entity has the present right to appoint 50% of more of its trustees? Thank you for any clarification that you can provide.

Best regards,



THESE TRUSTS ARE ALL TRUSTS EXCEPT BUSINESS TRUSTS. THE DISTINCTION IS THAT BUSINESS TRUSTS ISSUE UNITS THAT ENTITLE THE HOLDER TO ECONOMIC INTERESTS IN THE TRUST.

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THE TRUSTS IN 801.1(c)(3) - (5) HOLD ASSETS FOR THE ESSENTIAL BENEFIT OF BENEFICIARIES. BUSINESS TRUSTS ARE GOVERNED BY THE RULES COVERING NON-CORPORATE INTERESTS. THE 801.1(c)(3)-(5) TRUSTS ARE NOT.

B. Michael
6/24/05