

Verne, B. Michael

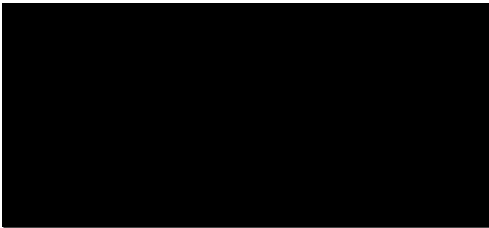
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From: [REDACTED]
Sent: Tuesday, September 13, 2011 12:17 PM
To: Verne, B. Michael; Walsh, Kathryn; Berg, Karen E.

Thanks for the heads up on the call yesterday. I found it quite helpful.

On the associate point, you suggested to start from the bottom up. If the acquiring entity is a partnership and its upe is a large corporation, one then needs to identify any associates of the upe—or any entity it controls—for purposes of items 6 and 7, correct?

I understand that your experience to date is that one does not get that far up the chain from the acquiring entity but I can see situations in which the associates of the acquiring entity include the top company in the chain—even if it is not a control person for HSR Act purposes—and one would then need to identify all associates of that top company for Item 6 and 7 purposes, correct?



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Correct on both points -

- 1) If the acquiring entity is an LP, then presumably the corporation is a limited partner. I would be surprised if that chain went any higher, because the corporation probably doesn't have its investment decisions managed by another entity. You still start at the bottom and go up. In this case you are starting with the LP at the bottom and going up to both the corporate UPE and the general partner (assuming the corporation is not the GP, because it controls the LP). It is the chain with the GP that probably will produce associates, if there are any, of the LP (e.g., other LPs that have the same GP as a general partner).

- 2) I have only heard of two structures so far where the chain goes all the way to a top entity. Kate encountered one where the same GP was at the top of an entire family of PE funds. I ran across a rather bizarre structure where a rich individual was at the top. Every time he wanted to acquire another company he created a new chain, with an LP at the bottom (the acquisition vehicle), which had a GP, whose investment decisions were managed by an LLC management company, which the individual held more than 50% of. Most of the structures we have been asked about look more like the "multiple silo" structure that we were talking about yesterday, where only one vertical segment of the family of funds came into play.

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