

801.1 (b)

November 18, 2004

Mr. B. Michael Verne
Premerger Notification Office
Bureau of Competition - Room 303
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Investment Fund Structure

Dear Mike:

I am writing to memorialize advice you provided to [REDACTED] and me during our conference call earlier today about the treatment of the investment fund structure described below under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), and regulations promulgated thereunder (the "Rules"). The relevant facts are described below and a diagram illustrating the proposed structure is attached as Exhibit A to this letter.

1. The proposed investment fund will be a Cayman Islands exempted company ("Fund Co") and will "check-the-box" to be treated as a partnership for U.S. federal tax purposes.
2. The share capital of Fund Co will be divided into three classes of shares. There will be two separate classes of non-voting shares and one class of voting shares.
 - (a) Several pension funds whose ultimate parent entity ("UPE") is Company A will own all of the Class A Shares of Fund Co and will provide slightly less than 90% of Fund Co's capital. The Class A Shares will be non-voting.

[REDACTED]

- (b) Investor B, an entity whose UPE is Company B, will own all of the Class B Shares of Fund Co and will provide slightly less than 10% of Fund Co's capital. The Class B Shares will be non-voting.
 - (c) A U.S. limited liability company formed by Company B and members of the team that will manage the investment activities of Fund Co (the "Management LLC") will own all of the Class C Shares of Fund Co and will provide less than 1% of Fund Co's capital. The Class C Shares will be voting shares.
3. The three classes of shares will have different economic rights.
- (a) The Class A Shares will be entitled to receive a percentage of dividends or other distributions (other than return of capital) that is less than their percentage of the total capital contributions.
 - (b) The Class B Shares will be entitled to receive a percentage of such dividends or distributions that is somewhat greater than their percentage of the total capital contributions.
 - (c) The Class C Shares will be entitled to receive a percentage of such dividends or distributions that is significantly greater than their percentage of the total capital contributions.
4. Fund Co will have a Board of Directors that will make all of Fund Co's investment decisions with the approval of Management LLC as the holder of the voting Class C Shares. All of the directors of Fund Co will be elected by the Management LLC. Consent of the holders of the Class A Shares will be required in certain limited circumstances. For example, no more than 25% of Fund Co's capital may be invested in non-US portfolio companies without the consent of the holders of the Class A Shares.
5. Company B will be the managing member of the Management LLC and members of the investment management team will be non-managing members of the Management LLC. The members of such management team may be entitled to receive a small percentage of the dividends or distributions paid with respect to the Class B Shares.
6. None of the members of the Management LLC will be entitled to receive 50% or more of the capital or profits of the Management LLC. Thus, the Management LLC will be its own UPE and, because it will hold 100% of the voting shares of Fund Co, the Management LLC will be the UPE of Fund Co. As a result, Management LLC would be the party responsible for making any necessary HSR filings in connection with Fund Co's investments.

[REDACTED]
Mr. B. Michael Verne

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7. The capital of Fund Co is largely funded by pension plans that have no role in managing Fund Co or making any of Fund Co's investment decisions. We have proposed this structure so that the pension plans are not considered to have "control" of Fund Co for any purpose, including HSR.
8. Based on the facts presented, you advised that:
 - (a) Under current interpretations of the HSR Act and Rules, the Staff will treat Fund Co's voting and non-voting shares as securities of a corporate entity and not as partnership interests for purposes of the HSR Act's definition of "control".
 - (b) The Staff will not deem the proposed structure to be a device for avoidance subject to Rule 801.90.

Please let me know if you think the above does not accurately reflect your advice.

Very truly yours,

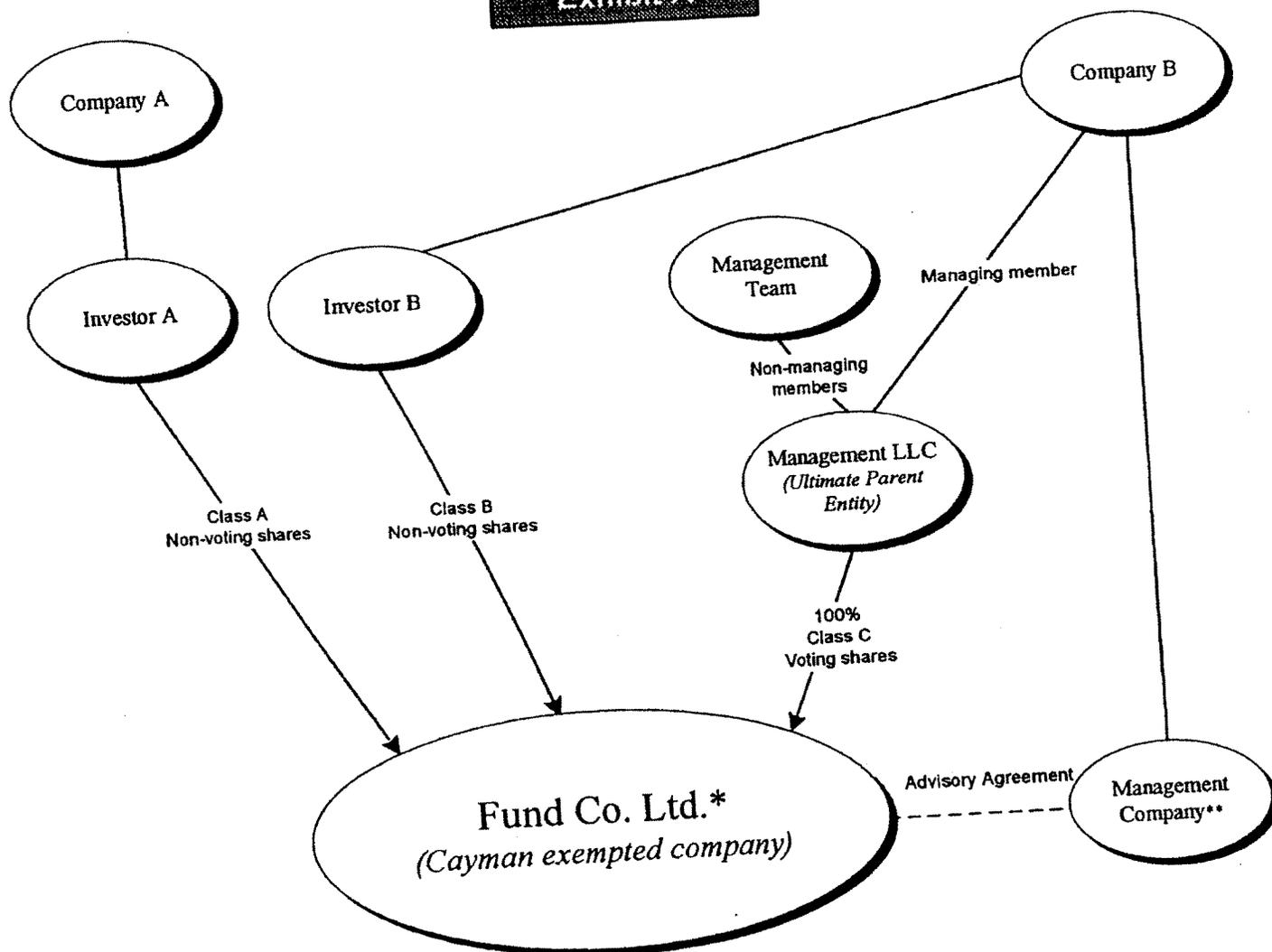
[REDACTED]

Attachment.

AGREE -
B. Verne
12/2/09

Proposed Structure

Exhibit A



* Will check the box to be treated as a partnership for U.S. federal income tax purposes.

** Will be operated by the Management Team. Will provide administrative services to Fund Co. Ltd. but will not make investment decisions.