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Verne, B. Michael

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**From:** [REDACTED]  
**Sent:** Sunday, May 06, 2007 10:10 PM  
**To:** Verne, B. Michael  
**Subject:** \*please disregard my 2 emails sent Friday afternoon\*

Dear Mike,

With my apologies, please ignore the two emails I sent last Friday as I am still getting to the bottom of some complicated facts, and don't want to pose my questions until I'm as sure as possible of the exact situation.

At the moment, I have only the following question:

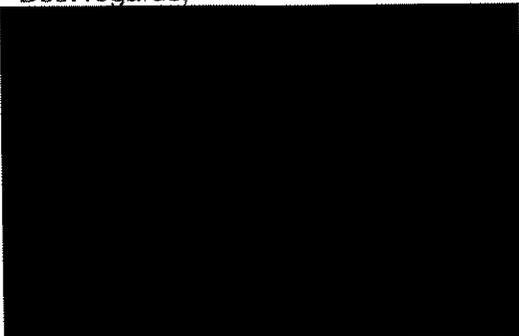
Is an Australian unit trust considered a trust for HSR purposes? Recently you advised me that an Australian stapled unit trust listed on the Australian stock exchange would be considered a non-corporate entity for HSR purposes, but I am not sure if the same answer applies here. I am told the following (by an Australian lawyer) about Australian unit trusts as applied to the entity I'm looking at, which is an investment vehicle with a trustee, "unitholders" (investors) and an investment advisor/manager:

An Australian unit trust is not an entity for Australian legal purposes. The trustee of the trust is the person, who under Australian law, is bound by relevant legal obligations etc and hold the legal powers with regard to the assets of the trust (eg the power to dispose of the assets, exercise any voting rights attached to the assets etc). I would expect in your case that you would look to the trustee of the trust. The investment manager will be a person who advises that trustee. Often an investment manager will have the power to advise the trustee as to disposals and voting of assets but it is the trustee who then implements the decision of the investment manager.

Seems to me that would be a trust for HSR purposes, please let me know if you agree.

As always, thanks so much for your advice.

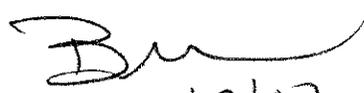
Best regards,



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When looking at US "trusts" to determine if they should be treated as non-corporate entities, the key is whether the trust has units that entitle the holder to a right to profits of the trust or a share of its assets upon dissolution. If this is the case, the trust should be treated as a non-corporate entity (these are generally considered business trusts). By contrast, a true trust (for HSR purposes) does not have units that confer economic benefits, but rather has a beneficiary that is entitled to the corpus of the trust at the time of some triggering event. I think the same analysis would apply to foreign trusts.

  
5/7/07