

Verne, B. Michael

From: [REDACTED]
Sent: Thursday, June 14, 2007 6:23 AM
To: Verne, B. Michael
Subject: RE: Consolidation, JV,

Mike, hopefully my last question on this transaction. Here the shares of A and the shares of B are being contributed to a NewCo in exchange for NewCo stock and cash. A has one 50% shareholder, A1 (so one UPE), B has two entities each with the right to appoint 50% of the Board (two UPE's, one A1 and B1), so A1 is UPE of both. NewCo will be its own UPE (so far should be same as below).

Questions:

1. Minority shareholders - With respect to the minority shareholders is it correct that they would only have a filing obligation to the extent they received NewCo stock valued at 59.8 million or more?
2. The value of the NewCo stock for the A shareholders would be equal to the value of the B shares they will hold through their holding in NewCo, not to include the value of their previously held A shares, and the same for B only what they will hold in A.
3. Of course if this were a Newco LLC or a LP there wouldn't be an HSR filing because Newco would be its own UPE.
4. If an entity has control through the ability to appoint 50% of the Board is the same as control through share/profit/asset ownership, that is the information will always be the same on its form as if it was a shareholder, it is entitled to the intraperson exemption and treated the same in every way so if it just had control through appointment and acquired the entity no HSR.

Many thanks as always.

[REDACTED]

1. Yes
2. No - see answer to previous inquiry.
3. Correct
4. You would report on the form anything he controls, no matter how he controls it. The intraperson exemption does not extend to control through the contractual right to designate directors.

Bruc
6/15/07