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Verne, B. Michael

From: [REDACTED]
Sent: Friday, March 23, 2012 2:10 PM
To: Verne, B. Michael
Subject: HSR Question

Mike,

I have a question related to the "solely for purposes of investment" exemption. Acquiring Person A plans to acquire less than 10% of the outstanding voting securities of Company B. Assume that the acquisition would be reportable unless the "solely for purposes of investment" exemption applies.

Acquiring Person A has requested the right to have a non-voting board observer present at board meetings of Company B. The non-voting board observer would have the following rights:

- Company B must provide notice of meetings of the Board and its committees to the Board observer;
- Company B must provide all information delivered to the Board and its committees to the Board observer;
- Company B may exclude an observer for portions of a meeting if the observer's presence would likely result in the waiver of attorney-client privilege;
- The board observer does not vote at meetings of the Board and its committees.

I know that the PNO has taken the position in the past that requesting information from management about a company is not inconsistent with an investment "solely for purposes of investment." It seems as if the request for a board observer seat is similar to a request for information from management, and should be treated in the same manner. Is a request for a non-voting board observer with the rights described above consistent with the "solely for purposes of investment" exemption?

THE EXEMPTION IS STILL AVAILABLE

I look forward to your reply.

Sincerely,

[Handwritten Signature]
3/26/12

[REDACTED]

[REDACTED]

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