Haynes, Lanea

From: Gillis, Diana L.
Sent: Wednesday, September 20, 2017 2:23 PM
To: [redacted] Walsh, Kathryn E.; Whitehead, Nora; Berg, Karen E.; Shaffer, Kristin; Carson, Timothy; Sheinberg, Samuel I.
Subject: RE: Associate

Agree.

From: [redacted]
Sent: Tuesday, September 19, 2017 6:09 PM
To: Walsh, Kathryn E.; Gillis, Diana L.; Whitehead, Nora; Berg, Karen E.; Shaffer, Kristin; Carson, Timothy; Sheinberg, Samuel I.
Subject: Associate

Dear All:

I am writing on behalf of LP A in connection with an HSR Act filing it is preparing relating to the acquisition of voting securities of Corporation X.

My question concerns whether this filing should identify LP B as an "associate" of LP A—as LP B owns more than 5% of Corporation X and, if an associate, would need to be identified in the response to item 6(c)(ii).

LP A is a limited partner in LP B. It does not control LP B for HSR Act purposes and it does not own any interest in the GP of LP B. However, before purchasing or disposing of voting securities, the General Partner of LP B must obtain the written consent of the limited partners of LP B, including LP A.

Interpretation 207 of the Premerger Notification Practice Manual states that the definition of an associate includes the right to manage the operations or investment decisions of another entity. The Interpretation notes that " in the SBP to the 2011 amendments, the FTC clarified that this term is not intended to include entities that are under any other form of common management."

In this case, the operations and investment decisions of LP B are managed by its GP—in which LP A has no role at all. In my view, the fact that the GP needs to obtain written consent from the partners of LP B, including LP A, prior to certain actions does not make LP B an " associate" of LP A.

Do you agree?

[redacted]