Energy Infrastructure Council

EXPLORING MLPS AS A FINANCING TOOL FOR ADVANCED NUCLEAR

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Agenda

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- A. Structure and Governance
- B. Formation Transactions
- C. Qualifying Income
- D. OBBB QI Addition of Advanced Nuclear
- E. History and Asset Classes
- F. Role of MLPs in Infrastructure Investment

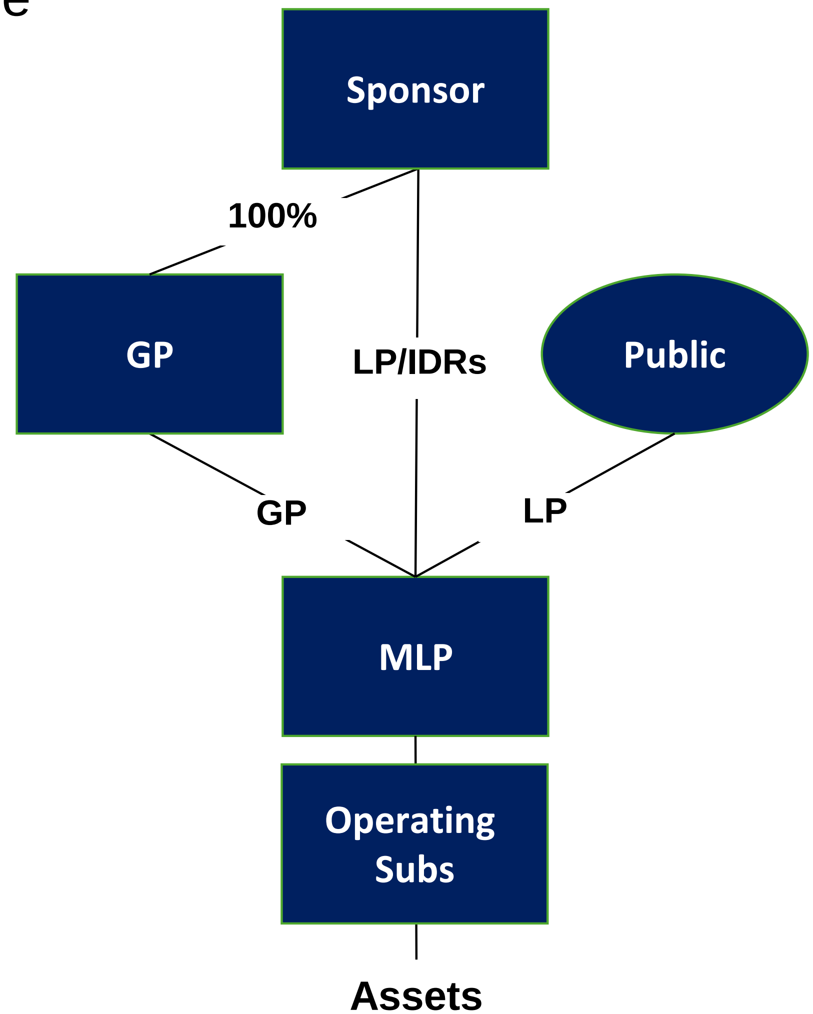
II. MLP Tax & Accounting

- A. Tax Benefits to Unitholders
- B. Tax Benefits to Sponsors
- C. Investor Compliance Timeline
- D. Investor Compliance Ecosystem
- E. Additional Investor Considerations

I. MLP Basics

A. Structure and Governance

Organizational Structure



———	=	Ownership
GP	=	General Partner
LP	=	Limited Partner
IDR	=	Incentive Distribution Rights

A. Structure and Governance

Economic Structure

- Generate stable (and increasing) cash distributions to unitholders
- Distributions are not a tax requirement, but the expectation of distributions (yield) is a marketing requirement
- In IPO prospectus, the MLP makes a statement as to its intention to distribute a specified MQD per unit basis
  - Basis for yield at which the MLP is marketed
  - Sponsor subordinates a portion of its equity to payment of the MQD on the Common Units (class of equity sold to the public)
  - Sponsor receives IDRs, a special class of equity entitled to a disproportionate share of quarterly distributions in excess of targets above the MQD

A. Structure and Governance

Economic Structure (Continued)

- Common Units and Minimum Quarterly Distribution (“MQD”)
  - Common Units are essentially preferred
    - Common Units get MQD first
    - Failure to pay results in an arrearage
- Subordinated Units
  - Subordinated Units convert to common at the end of Subordination Period
    - After three four-quarter periods of “earning” and “paying” the MQD on all outstanding units, and there being no existing arrearages on the Common Units
    - First tested approximately three years after IPO, rolls from quarter to quarter thereafter
  - Early conversion (bullet test) of the Subordinated Units
    - After one four-quarter period where the MLP has “earned” and “paid” 150% of the MQD on all outstanding units and the corresponding payment on the IDRs

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A. Structure and Governance

Economic Structure (Continued)

- Incentive Distribution Rights (“IDRs”)
  - MLP’s version of carried interest / profits interests
  - Incentive to sponsor to grow the common unit distribution
  - As distributions grow, IDRs share in marginal distribution growth
    - 15% to IDR between 1.15x-1.25x MQD
    - 25% to IDR between 1.25x-1.5x MQD
    - 50% to IDR over 1.5x MQD

A. Structure and Governance

Governance Summary

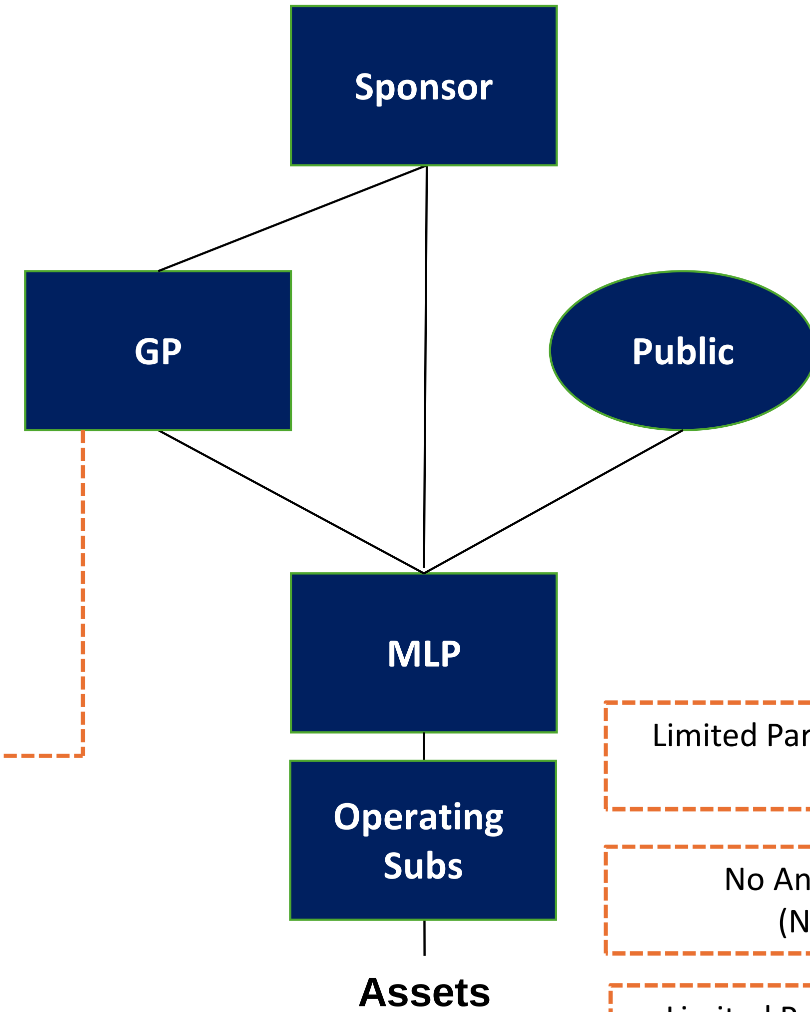
GP Controls the MLP

GP is 100% Owned by Sponsor

GP Board of Directors Appointed by Sponsor
(Not Required to be Majority Independent)

GP Officers Will Likely Overlap with Sponsor Officers

3-Member Independent Audit Committee Required
(May Include Independent Directors from Sponsor's Board)



Limited Partners Do Not Elect Directors

No Annual Meeting Required
(No Proxy Statement)

Limited Partners Vote Only on Limited Items

B. Formation Transactions

- Potential deferral of gain upon contribution of assets to an MLP, even where Sponsor receives a distribution or is relieved of debt
- General Rule: Assets In + Cash Out = Sale
- Exceptions to Sale Treatment:
  - Working capital retention
  - Cap-ex reimbursement (prior 24 months)
  - Distributions of operating cash flow
  - Assumption of qualified liabilities
  - Leveraged distributions
- Basis limitation may also cause gain
- Tax Deferral
  - Sponsor recognizes the built-in-gain on public's portion under Section 704(c) over the tax life of the assets or upon disposition (must use "remedial method")

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C. Qualifying Income

Partnership Treatment

- Treatment as a partnership for U.S. federal income tax purposes is a fundamental aspect of PTP MLPs
  - PTP MLPs do not pay U.S. federal income tax
  - Unitholders receive cash distributions and pay tax on their share of the MLP's taxable income
- Pre-1987 any business could qualify
- Post-1987 most publicly traded partnerships are treated as corporations
- Marketing efforts/underwriters require certainty – "will" level opinions

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C. Qualifying Income

Statutory Requirement for Partnership Treatment

- Qualifying Income Test: 90% or More of Gross Income
  - Services (*e.g.*, pipeline transportation): Gross revenue
    - No reduction for cost of services
  - Products (*e.g.*, E&P): Gross margin
    - Gross revenue less costs of goods sold
- Measured each tax year
- Failure results in corporate tax treatment for that tax year and all tax years going forward
- Mechanisms to handle Non-Qualifying Income
  - Keep below 5% of gross income
  - Put operations in a corporate subsidiary

C. Qualifying Income

Natural Resource Qualifying Income

- Qualifying **Products**: Natural Resources and “Green” Fuels
  - Naturally occurring deposits (gas, oil, depletable minerals)
  - Oil and gas products (refinery tailgate or gas processing tailgate) – includes gasoline, kerosene, number 2 fuel oil, refined lubricating oils and diesel fuel
  - Fertilizer
  - Geothermal energy
  - Timber
  - Industrial source CO2
  - Biodiesel/ethanol (transport and storage only)

C. Qualifying Income

Natural Resource Qualifying Income

- Qualifying **Activities**: Natural Resources
  - Exploration
  - Development
  - Mining
  - Production
  - Processing
  - Refining
  - Transportation
  - Storage
  - Marketing

C. Qualifying Income

Other Types of Qualifying Income

- Real property income
  - Rents from real property (excluding (i) rents for personal property in excess of 15% associated real property and (ii) related party rents)
  - Income from sale of real property (including inventory)
- Gain from sale of assets generating qualifying income
- Interest (not from financial/insurance business)
- Dividends (from qualifying or non-qualifying activities)
- Gain from sale of stock
- Gain from commodities, futures, forwards and options with respect to commodities

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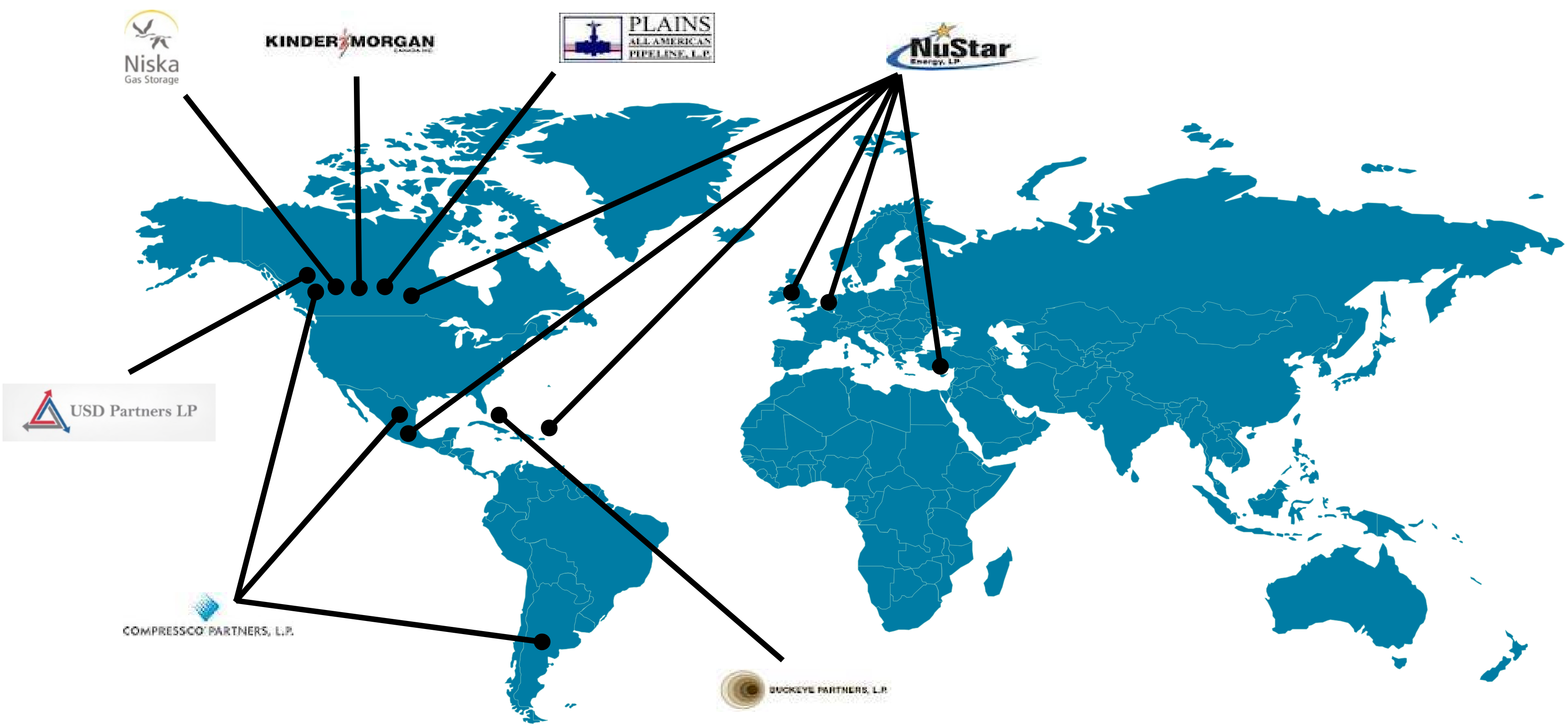
C. Qualifying Income

No geographical limitation to qualifying income



D. OBBB QI Addition of Advanced Nuclear

- OBBB expanded the definition of Qualifying Income to include income and gains with respect to the production of electricity from any "advanced nuclear facility"
  - For taxable years beginning after December 31, 2025
  - Section 45J(d)(2) provides that "advanced nuclear facility" means any nuclear facility the reactor design for which is approved after December 31, 1993, by the Nuclear Regulatory Commission (and such design or a substantially similar design of comparable capacity was not approved on or before such date).
    - Notice 2013-68 and Notice 2023-24 require that the Department of Energy (DOE) provides a certification that the facility qualifies as an advanced nuclear facility.
      - Notice 2013-68 provided a process whereby taxpayers applied to the IRS for a Section 45J credit allocation which then forwarded the application to the DOE for certification that the facility qualified as an advanced nuclear facility.
      - Guidance anticipated on how PTPs can apply for certification of their facilities
  - Executive Orders
    - EO 14300 - Ordering the Reform of the Nuclear Regulatory Commission
    - EO 14301 - Reforming Nuclear Reactor Testing at the Department of Energy
    - EO 14302 - Reinvigorating the Nuclear Industrial Base

E. History and Asset Classes

- 1981
  - Apache is credited as first “MLP”
    - E&P roll up of various drilling funds into a “Master Limited Partnership”
- 1983
  - Transco is the first MLP IPO
    - Carveout of undervalued asset to increase sum of the parts
- 1986
  - Buckeye Partners develops the IDRs
  - Tax Reform Act of 1986
- 1987
  - Section 7704 - Qualifying Income Test
- 1997
  - Enron Liquids becomes Kinder Morgan and develops the MLP growth model

E. History and Asset Classes

- Expansion over years to new asset classes as the structure developed and matured
  - Oil and Gas
    - Exploration and production
    - Midstream
      - Gathering and processing
      - Long haul transmission
      - Natural gas storage
      - Natural gas compression
      - Terminals and blending
    - Refining
    - Refinery logistics
    - Propane
    - Wholesale fuel distribution
    - Chemicals
    - LNG
    - Royalties
  - Other Minerals
    - Coal mining
    - Coal royalties
    - Sand and trona
  - Fertilizer
  - Shipping
  - Timber Products
  - Real Property
    - Cemetery
    - Billboards and cell towers

F. Role of MLPs in Infrastructure Investment

- MLPs are an ideal source of capital for long-term infrastructure
  - Investors are looking for steady and stable cash flow
  - Tax efficient method of investment with only one layer of tax
  - MLPs are designed to maximize distributions and provide an attractive tax profile for individual investors
  - Lowering capital cost drives growth

- Between 2008 and 2023, MLPs and midstream companies raised approximately $750 billion through debt and equity issuances, and a majority of those dollars built the infrastructure that facilitated the shale revolution

F. Role of MLPs in Infrastructure Investment

- Primarily utilized to finance – or refinance – operating assets once cash flow positive and backed by long-term contracts
  - E.g., BP, Shell, El Paso, Spectra

- Have been used to finance construction
  - E.g., Cheniere to develop, own and operate the Sabine Pass LNG import terminal

- Typical Transactions
  - Initial Public Offerings
  - Drop Down Transactions
  - Mergers and Acquisitions

II. MLP Tax & Accounting

A. Tax Benefits of MLP Structure - Unitholders

- Unitholders
  - In general, unitholders are taxed on their share of the partnership's taxable income.
    - Income and expenses (including depreciation, amortization, and interest expense) are passed through to unitholders.
    - Distributions of cash to unitholders are first a return of basis and then gain
  - Tax shield
    - In general, deductions of the MLP, such as depreciation, amortization, and interest expense may "shield" a portion of a unitholder's cash distributions, allowing them to be treated as a return of basis
    - Tax rules (section 743(b)) allow depreciation and amortization deductions to be "refreshed" for each new purchaser, giving the purchaser cost recovery deductions as if each asset had tax basis equal to its value at the time of purchase.
  - Rate benefit
    - To the extent a unitholder receives and allocation of ordinary income rather than ordinary loss from the MLP, such ordinary income often qualifies for the 20% small business income deduction (section 199A), bringing the top taxable rate for such income allocated to a U.S. individual from 37% down to 29.6%

B. Tax Benefits of MLP Structure - Sponsor

- Sponsor
  - In general, property may be contributed to an MLP in exchange for equity on a tax-deferred basis
  - In general, the MLP can reimburse a contributing sponsor for capital expenditures incurred with respect to contributed property in the two years before the contribution. Such reimbursements can be tax deferred.
  - In addition, it may be possible for the MLP to assume and repay certain qualified liabilities associated with contributed property.
  - The ”cost” for for deferring any built-in gain is generally a requirement to fund deductions to public unitholders over time (the deductions they would have received if the contributed property had value equal to its tax basis).
  - For the sponsor, the tax effect is similar to an installment sale.
  - Sponsor may consider incentive rights with respect to distributions such that it would be entitled to an increasing share of distributions as the MLP grows and increases its distributable cash flow.

C. Investor Compliance Timeline

9/1 – 11/30

Requirements meeting

- Partnership events
- Current year tax issues
- Workplan review
- Tax package modifications
- K-1 support policies

1/1 – 2/18

Tax calculations

- Transaction information
- Other income/exp.
- Group prices

2/25– 2/26

Sample K-1s

- Selected review
- Final printer tests
- Review/signoff

1/1 – 2/20

Investor processing

- Street name data
- Investor updates
- Special investors
- Data analysis

2/29 – 3/4

Production

3/11– 3/16

Print/Mail

3/16 – 8/15

Federal/State filings
projections
what if scenarios
modeling

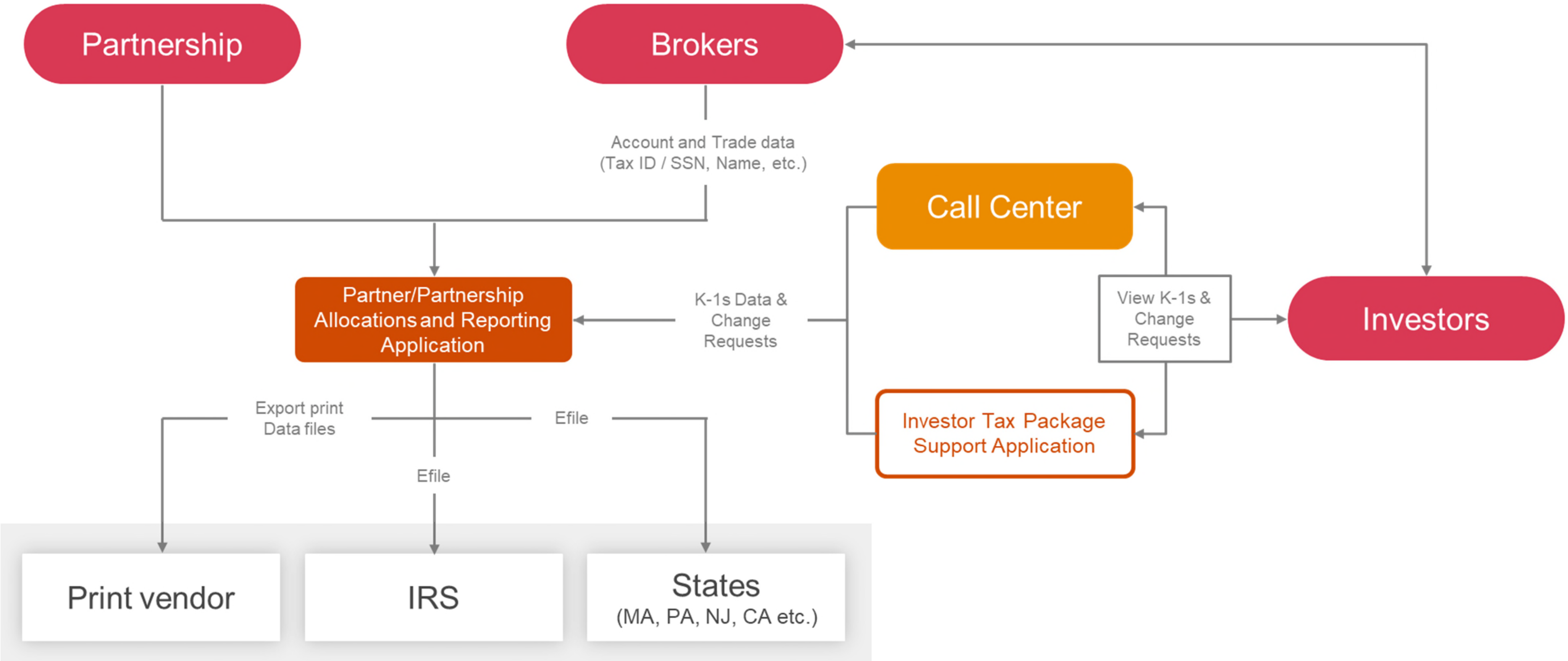
3/10

Tax Package Support

Year Round

Application enhancements - · - · - · - · - · - · - · - · - · - · - · - · - ***Investor call center*** - · - · - · - · - · - · - · - · - · - · - · - · - · -

D. MLP Compliance Ecosystem



E. Additional Investor Considerations

- Swaps on MLP Interests
  - Swap dealers are obligated to withhold on offshore MLP swap customers as if the swaps paid withholdable dividend equivalent amounts (DEAs).
    - Banks writing Swaps generally request this information from MLPs throughout the year.
- IRAs and UBTI Reporting
  - When an IRA holds a MLP, it becomes a partner in the partnership, and the income generated by the MLP may be treated as UBTI.
    - Specifically, if the UBTI generated by the MLP in a given year exceeds $1,000, then the IRA has an obligation to file IRS Form 990-T, Exempt Organization Business Income Tax Return, and pay taxes on that income.
- Withholding
  - Generally, the partnership is exempt from federal and state withholding obligations on MLP distributions by transferring this requirement to DTC and brokerages holding investor units as a result of providing the market "qualified notice" with respect to ECI and components of distributable cash.
- Investor Insights
  - Clear insight into investor demographics including location, size of investment, type of investor (e.g., corporate, individual, IRA), etc.
    - Useful in a number of executive decision-making capacities including geographic focus for marketing and investor road shows, political engagement based on concentration of investors in certain congressional districts and states etc.

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QUESTIONS