

ERISA and “Disqualified Persons” under the Code). ERISA also imposes certain duties on persons who are fiduciaries of Plans subject to ERISA, and ERISA and Section 4975 of the Code prohibit certain transactions between a Plan and Parties in Interest or Disqualified Persons with respect to such Plan. Violations of these rules may result in the imposition of excise taxes and other penalties and liabilities under ERISA and the Code.

Section 3(42) of ERISA and regulations promulgated by the U.S. Department of Labor at 29 C.F.R. Section 2510.3-101, or any successor regulation (together, the “**Plan Asset Provisions**”), describe what constitutes the assets of a Plan with respect to the Plan’s investment in an entity for purposes of certain provisions of ERISA, including the fiduciary responsibility provisions of Title I of ERISA and Section 4975 of the Code. Under the Plan Asset Provisions, if a Plan invests in an “equity interest” of an entity that is neither a “publicly-offered security” nor a security issued by an investment company registered under the 1940 Act, the Plan’s assets include both the equity interest and a proportionate interest in each of the entity’s underlying assets, unless it is established that the entity is an “operating company” or that equity participation in the entity by Benefit Plan Investors is not “significant.” The term “**Benefit Plan Investor**” is defined in Section 3(42) of ERISA as (a) any employee benefit plan subject to Title I of ERISA, (b) any plan to which Section 4975(e)(1) of the Code applies and (c) any entity whose underlying assets include plan assets by reason of a plan’s investment in the entity.

Under the Plan Asset Provisions, equity participation in an entity by Benefit Plan Investors is “significant” on any date if, immediately after the most recent acquisition or disposition of any equity interest in the entity, 25% or more of the total value of any class of equity interests in the entity is held by Benefit Plan Investors. For purposes of this determination, the value of equity interests held by a person (other than a Benefit Plan Investor) who has discretionary authority or control with respect to the assets of the entity or who provides investment advice for a fee (direct or indirect) with respect to such assets, or any affiliate of such a person, is disregarded (any such person, a “**Controlling Person**”).

Each Investor will be required to make certain representations, warranties and covenants, that it is either not a Plan or if it is a Plan, certain additional representations and covenants to determine compliance with ERISA and the Code.

The Onshore Feeder Fund will use reasonable best efforts to limit the investment in the Onshore Feeder Fund by Benefit Plan Investors so that, at any given time, less than 25% of the value of the interests in the Onshore Feeder Fund (as calculated in accordance with the Plan Asset Provisions) is directly or indirectly beneficially owned by Benefit Plan Investors. Accordingly, the General Partner will not approve the purchase of an Interest by or proposed transfer of an Interest to a person that has represented that it is a Benefit Plan Investor or to a Controlling Person to the extent that such purchase or transfer would result in Benefit Plan Investors owning 25% or more of the value of the Interest immediately after such purchase or proposed transfer (such percentage determined in accordance with the Plan Asset Provisions).

It is anticipated that the assets of the Onshore Feeder Fund will not be deemed to constitute “plan assets” for purposes of the Plan Asset Provisions. If the Onshore Feeder Fund fails