

the roll-up transaction will trade in the securities markets at a price substantially below the value assigned to such securities in the roll-up transaction and/or the value of the assets of the successor, and the effects on investors of such a trading market discount.

(b) Quantify each risk or effect to the extent practicable.

(c) State whether any of such risks or effects may be different for investors in any partnership and, if so, identify such partnership(s) and describe such difference(s).

Instruction to Item 904. The requirement to quantify the effects of the roll-up transaction shall include, but not be limited to:

(i) If cost savings resulting from combined administration of the partnerships is identified as a potential benefit of the roll-up transaction, the amount of cost savings and a comparison of such amount to the costs of the roll-up transaction; and

(ii) If there may be a material conflict of interest of the sponsor or general partner arising from its receipt of payments or other consideration as a result of the roll-up transaction, the amount of such payments and other consideration to be obtained in the roll-up transaction and a comparison of such amounts to the amounts to which the sponsor or general partner would be entitled without the roll-up transaction.

§ 229.905 (Item 905) comparative information.

(a)(1) Describe the voting and other rights of investors in the successor under the successor's governing instruments and under applicable law. Compare such rights to the voting and other rights of investors in each partnership subject to the transaction under the partnerships' governing instruments and under applicable law. Describe the effects of the change(s) in such rights.

(2) Describe the duties owed by the general partner of the successor to investors in the successor under the successor's governing instruments and under applicable law. Compare such duties to the duties owed by the general partner of each partnership to investors in the partnership under the partnership's governing instruments and under applicable law. Describe the effects of the change(s) in such duties.

(b)(1) Describe each item of compensation (including reimbursement of expenses) payable by the successor

after the roll-up transaction to the general partner and its affiliates or to any affiliate of the successor. Compare such compensation to the compensation currently payable to the general partner and its affiliates by each partnership. Describe the effects of the change(s) in compensation arrangements.

(2) Describe each instance in which cash or other distributions may be made by the successor to the general partner and its affiliates or to any affiliate of the successor. Compare such distributions to the distributions currently paid or payable to the general partner and its affiliates by each partnership. Describe the effects of the change(s) in distribution arrangements. If distributions similar to those currently paid or payable by any partnership to the general partner or its affiliates will not be made by the successor, state whether or not other compensation arrangements with the successor described in response to paragraph (b)(1) of this Item (§229.905) (e.g., incentive fees payable upon sale of a property) will, in effect, replace such distributions.

(3) Provide a table demonstrating the changes in such compensation and distributions setting forth among other things:

(i) The actual amounts of compensation and distributions, separately identified, paid by the partnerships on a combined basis to the general partner and its affiliates for the partnerships' last three fiscal years and most recently ended interim periods; and

(ii) The amounts of compensation and distributions that would have been paid if the compensation and distributions structure to be in effect after the roll-up transaction had been in effect during such period.

(4) If any proposed change(s) in the business or operations of the successor after the roll-up transaction would change materially the compensation and distributions that would have been paid by the successor from that shown in the table provided in response to paragraph (b)(3)(ii) of this Item (§229.905) (e.g., if properties will be sold or purchased after the roll-up transaction and no properties were sold or purchased during the period covered by

§ 229.906

17 CFR Ch. II (4-1-03 Edition)

the table), describe such changes and the effects thereof on the compensation and distributions to be paid by the successor.

(5) Describe the material conflicts that may arise between the interests of the sponsor or general partner and the interests of investors in the successor as a result of the compensation and distribution arrangements described in response to paragraphs (b)(1) and (2) of this Item (§229.905) and describe any steps that will be taken to resolve any such conflicts.

(c) Describe any provisions in the governing instruments of the successor and any policies of the general partner of the successor relating to distributions to investors of cash from operations, proceeds from the sale, financing or refinancing of assets, and any other distributions. Compare such provisions and policies to those of each of the partnerships. Describe the effects of any change(s) in such provisions or policies.

(d)(1) Describe each material investment policy of the successor, including, without limitation, policies with respect to borrowings by the successor. Compare such investment policies to the investment policies of each of the partnerships. Describe the effects of any change(s) in such policies.

(2) Describe any plans of the general partner, sponsor or of any person who will be an affiliate of the successor with respect to:

(i) A sale of any material assets of the partnerships;

(ii) A purchase of any material assets; and

(iii) Borrowings.

(3)(i) State whether or not specific assets have been identified for sale, financing, refinancing or purchase following the roll-up transaction.

(ii) If specific assets have been so identified, describe the assets and the proposed transaction.

(e) Describe any other similar terms or policies of the successor that are material to an investment in the successor. Compare any such terms or policies to those of each of the partnerships. Describe the effects of any change(s) in any such terms or policies.

Instructions to Item 905: (1) The information provided in response to this Item (§229.905)

should be illustrated in tables or other readily understandable formats, which should be included together with the disclosures required by this Item.

(2) The information required by this Item (§229.905) shall be set forth in appropriate separate sections of the principal disclosure document.

§ 229.906 (Item 906) Allocation of roll-up consideration.

(a) Describe in reasonable detail the method used to allocate interests in the successor to investors in the partnerships and the reasons why such method was used.

(b) Provide a table showing the calculation of the valuation of each partnership and the allocation of interests in the successor to investors. Such table shall include for each partnership the following information (or other information of a comparable character necessary to an understanding of the calculation and allocation):

(1) The value assigned to each significant category of assets of the partnership and the total value assigned to the partnership;

(2) The total value assigned to all partnerships;

(3) The aggregate amount of interests in the successor to be allocated to each partnership and the percentage of the total amount of all such interests represented thereby; and

(4) The amount of interests of the successor to be issued to investors per interest held in each partnership (on an equivalent interest basis, such as per \$1,000 invested).

(c) If interests in the successor will be allocated to the general partner in exchange for its general partner interest or otherwise or if the general partner will receive other consideration in connection with the roll-up transaction:

(1) Describe in reasonable detail the method used to allocate interests in the successor to the general partner or to determine the amount of consideration payable to the general partner and the reasons such method(s) was used; and

(2) Identify the consideration paid by the general partner for interests in the partnerships that will be exchanged in the roll-up transaction.