

Calendar No. 179

103D CONGRESS
1ST SESSION

S. 424

[Report No. 103-121]

A BILL

To amend the Securities Exchange Act of 1934
with respect to limited partnership rollups.

AUGUST 3 (legislative day, JUNE 30), 1993
Reported with an amendment

Calendar No. 179103^D CONGRESS
1ST SESSION**S. 424****[Report No. 103-121]**

To amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24 (legislative day, JANUARY 5), 1993

Mr. DODD (for himself, Mr. RIEGLE, Mr. D'AMATO, Mr. SARBANES, Mr. BOND, Mr. SASSER, Mr. SHELBY, Mr. KERRY, Mr. BRYAN, Mr. DOMENICI, Mrs. BOXER, Mrs. MURRAY, Ms. MIKULSKI, Mr. ROBB, Mr. LEAHY, Mr. INOUE, Mr. SIMON, Mr. KERREY, Mr. LEVIN, Mr. HOLLINGS, Mr. HARKIN, Mr. AKAKA, Mr. LAUTENBERG, Mr. BRADLEY, Mr. JEFFORDS, Mr. PRYOR, Mr. KOHL, Mr. GRAHAM, Mr. CONRAD, Mr. BOREN, Mr. BINGAMAN, Mr. WOFFORD, Mr. WARNER, Mr. COCHRAN, Mr. MCCONNELL, Mr. JOHNSTON, Mr. BUMPERS, and Mr. PRESSLER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

AUGUST 3 (legislative day, JUNE 30), 1993

Reported by Mr. RIEGLE, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Limited Partnership
3 Rollup Reform Act of 1993”.

4 **SEC. 2. REVISION OF PROXY SOLICITATION RULES WITH**
5 **RESPECT TO LIMITED PARTNERSHIP ROLLUP**
6 **TRANSACTIONS.**

7 (a) AMENDMENT.—Section 14 of the Securities and
8 Exchange Act of 1934 (15 U.S.C. 78n) is amended by
9 adding at the end the following new subsection:

10 “(h) PROXY SOLICITATIONS AND TENDER OFFERS
11 IN CONNECTION WITH LIMITED PARTNERSHIP ROLLUP
12 TRANSACTIONS.—

13 “(1) PROXY RULES TO CONTAIN SPECIAL PRO-
14 VISIONS.—It shall be unlawful for any person to so-
15 licit any proxy, consent, or authorization concerning
16 a limited partnership rollup transaction, or to make
17 any tender offer in furtherance of a limited partner-
18 ship rollup transaction, unless such transaction is
19 conducted in accordance with rules prescribed by the
20 Commission under sections 14(a) and 14(d), as re-
21 quired by this subsection. Such rules shall—

22 “(A) permit any holder of a security that
23 is the subject of the proposed limited partner-
24 ship rollup transaction to engage in preliminary
25 communications for the purposes of determining
26 whether to solicit proxies, consents, or author-

1 izations in opposition to the proposed trans-
2 action, without regard to whether any such
3 communication would otherwise be considered a
4 solicitation of proxies, and without being re-
5 quired to file soliciting material with the Com-
6 mission prior to making that determination, ex-
7 cept that nothing in this subparagraph shall be
8 construed to limit the application of any provi-
9 sion of this title prohibiting, or reasonably de-
10 signed to prevent, fraudulent, deceptive, or ma-
11 nipulative acts or practices under this title;

12 “~~(B)~~ require the issuer to provide to hold-
13 ers of the securities that are the subject of the
14 transaction such list of the holders of the issu-
15 er’s securities as the Commission may deter-
16 mine in such form and subject to such terms
17 and conditions as the Commission may specify;

18 “~~(C)~~ prohibit compensating any person so-
19 liciting proxies, consents, or authorizations di-
20 rectly from security holders concerning such a
21 transaction—

22 “~~(i)~~ on the basis of whether the solici-
23 ted proxies, consents, or authorizations ei-
24 ther approve or disapprove the proposed
25 transaction; or

1 “(ii) contingent on the transaction’s
2 approval, disapproval, or completion;

3 “(D) set forth disclosure requirements for
4 soliciting material distributed in connection
5 with a limited partnership rollup transaction,
6 including requirements for clear, concise, and
7 comprehensible disclosure, with respect to—

8 “(i) any changes in the business plan,
9 voting rights, form of ownership interest or
10 the general partner’s compensation in the
11 proposed limited partnership rollup trans-
12 action from each of the original limited
13 partnerships;

14 “(ii) the conflicts of interest, if any, of
15 the general partner;

16 “(iii) whether it is expected that there
17 will be a significant difference between the
18 exchange values of the limited partnerships
19 and the trading price of the securities to
20 be issued in the limited partnership rollup
21 transaction;

22 “(iv) the valuation of the limited part-
23 nerships and the method used to determine
24 the value of limited partners’ interests to

1 be exchanged for the securities in the lim-
2 ited partnership rollup transaction;

3 “(v) the differing risks and effects of
4 the transaction for investors in different
5 limited partnerships proposed to be in-
6 cluded, and the risks and effects of com-
7 pleting the transaction with less than all
8 limited partnerships;

9 “(vi) a statement by the general part-
10 ner as to whether the proposed limited
11 partnership rollup transaction is fair or
12 unfair to investors in each limited partner-
13 ship, a discussion of the basis for that con-
14 clusion, and the general partner’s evalua-
15 tion, and a description, of alternatives to
16 the limited partnership rollup transaction,
17 such as liquidation;

18 “(vii) any opinion (other than an
19 opinion of counsel), appraisal, or report re-
20 ceived by the general partner or sponsor
21 that is prepared by an outside party and
22 that is materially related to the limited
23 partnership rollup transaction and the
24 identity and qualifications of the party who
25 prepared the opinion, appraisal, or report,

1 the method of selection of such party, ma-
2 terial past, existing, or contemplated rela-
3 tionships between the party, or any of its
4 affiliates and the general partner, sponsor,
5 successor, or any other affiliate, compensa-
6 tion arrangements, and the basis for ren-
7 dering and methods used in developing the
8 opinion, appraisal, or report; and

9 “(viii) such other matters deemed nec-
10 essary or appropriate by the Commission;

11 “(E) provide that any solicitation or offer-
12 ing period with respect to any proxy solicita-
13 tion, tender offer, or information statement in
14 a limited partnership rollup transaction shall be
15 for not less than the lesser of 60 calendar days
16 or the maximum number of days permitted
17 under applicable State law; and

18 “(F) contain such other provisions as the
19 Commission determines to be necessary or ap-
20 propriate for the protection of investors in lim-
21 ited partnership rollup transactions.

22 The disclosure requirements under subparagraph
23 (D) shall also require that the soliciting material in-
24 clude a clear and concise summary of the limited
25 partnership rollup transaction (including a summary

1 of the matters referred to in clauses (i) through (vii)
2 of that subparagraph) with the risks of the limited
3 partnership rollup transaction set forth prominently
4 in the fore part thereof.

5 “(2) EXEMPTIONS.—The Commission may, con-
6 sistent with the public interest, the protection of in-
7 vestors, and the purposes of this title, exempt by
8 rule or order any security or class of securities, any
9 transaction or class of transactions, or any person or
10 class of persons, in whole or in part, conditionally or
11 unconditionally, from the requirements imposed pur-
12 suant to paragraph (1) or, from the definition con-
13 tained in paragraph (4).

14 “(3) EFFECT ON COMMISSION AUTHORITY.—
15 Nothing in this subsection limits the authority of the
16 Commission under subsection (a) or (d) or any other
17 provision of this title or precludes the Commission
18 from imposing, under subsection (a) or (d) or any
19 other provision of this title, a remedy or procedure
20 required to be imposed under this subsection.

21 “(4) DEFINITION.—As used in this subsection
22 the term ‘limited partnership rollup transaction’
23 means a transaction involving—

24 “(A) the combination or reorganization of
25 limited partnerships, directly or indirectly, in

1 which some or all investors in the limited part-
2 nerships receive new securities or securities in
3 another entity, other than a transaction—

4 “(i) in which—

5 “(I) the investors’ limited part-
6 nership securities are reported under
7 a transaction reporting plan declared
8 effective before January 1, 1991, by
9 the Commission under section 11A;
10 and

11 “(II) the investors receive new
12 securities or securities in another en-
13 tity that are reported under a trans-
14 action reporting plan declared effec-
15 tive before January 1, 1991, by the
16 Commission under section 11A;

17 “(ii) involving only issuers that are
18 not required to register or report under
19 section 12 both before and after the trans-
20 action;

21 “(iii) in which the securities to be is-
22 sued or exchanged are not required to be
23 and are not registered under the Securities
24 Act of 1933;

1 ~~“(iv) which will result in no signifi-~~
2 ~~cant adverse change to investors in any of~~
3 ~~the limited partnerships with respect to~~
4 ~~voting rights, the term of existence of the~~
5 ~~entity, management compensation, or in-~~
6 ~~vestment objectives; or~~

7 ~~“(v) where each investor is provided~~
8 ~~an option to receive or retain a security~~
9 ~~under substantially the same terms and~~
10 ~~conditions as the original issue; or~~

11 ~~“(B) the reorganization of a single limited~~
12 ~~partnership in which some or all investors in~~
13 ~~the limited partnership receive new securities or~~
14 ~~securities in another entity, and—~~

15 ~~“(i) transactions in the security issued~~
16 ~~are reported under a transaction reporting~~
17 ~~plan declared effective before January 1,~~
18 ~~1991, by the Commission under section~~
19 ~~11A;~~

20 ~~“(ii) the investors’ limited partnership~~
21 ~~securities are not reported under a trans-~~
22 ~~action reporting plan declared effective be-~~
23 ~~fore January 1, 1991, by the Commission~~
24 ~~under section 11A;~~

1 ~~“(iii) the issuer is required to register~~
2 ~~or report under section 12, both before and~~
3 ~~after the transaction, or the securities to~~
4 ~~be issued or exchanged are required to be~~
5 ~~or are registered under the Securities Act~~
6 ~~of 1933;~~

7 ~~“(iv) there are significant adverse~~
8 ~~changes to security holders in voting~~
9 ~~rights, the term of existence of the entity,~~
10 ~~management compensation, or investment~~
11 ~~objectives; and~~

12 ~~“(v) investors are not provided an op-~~
13 ~~tion to receive or retain a security under~~
14 ~~substantially the same terms and condi-~~
15 ~~tions as the original issue.~~

16 ~~“(5) EXCLUSION.—For purposes of this sub-~~
17 ~~section, a limited partnership rollup transaction does~~
18 ~~not include a transaction that involves only a limited~~
19 ~~partnership or partnerships having an operating pol-~~
20 ~~icy or practice of retaining cash available for dis-~~
21 ~~tribution and reinvesting proceeds from the sale, fi-~~
22 ~~nancing, or refinancing of assets in accordance with~~
23 ~~such criteria as the Commission determines appro-~~
24 ~~priate.”.~~

1 rights designed to protect dissenting limited
2 partners;

3 “(B) the right not to have their voting
4 power unfairly reduced or abridged;

5 “(C) the right not to bear an unfair por-
6 tion of the costs of a proposed rollup trans-
7 action that is rejected; and

8 “(D) restrictions on the conversion of con-
9 tingent interests or fees into non-contingent in-
10 terests or fees and restrictions on the receipt of
11 a non-contingent equity interest in exchange for
12 fees for services which have not yet been pro-
13 vided.

14 As used in this paragraph, the term ‘dissenting lim-
15 ited partner’ means a holder of a beneficial interest
16 in a limited partnership that is the subject of a lim-
17 ited partnership rollup transaction who casts a vote
18 against the transaction and complies with proce-
19 dures established by the association, except that for
20 purposes of an exchange or tender offer, such term
21 means any person who files an objection in writing
22 under the rules of the association during the period
23 in which the offer is outstanding and complies with
24 such other procedures established by the associa-
25 tion.”.

1 (b) LISTING STANDARDS OF NATIONAL SECURITIES
2 EXCHANGES.—Section 6(b) of the Securities Exchange
3 Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at
4 the end the following:

5 “(9) The rules of the exchange prohibit the list-
6 ing of any security issued in a limited partnership
7 rollup transaction (as such term is defined in para-
8 graphs (4) and (5) of section 14(h)), unless such
9 transaction was conducted in accordance with proce-
10 dures designed to protect the rights of limited part-
11 ners, including—

12 “(A) the right of dissenting limited part-
13 ners to an appraisal and compensation or other
14 rights designed to protect dissenting limited
15 partners;

16 “(B) the right not to have their voting
17 power unfairly reduced or abridged;

18 “(C) the right not to bear an unfair por-
19 tion of the costs of a proposed rollup trans-
20 action that is rejected; and

21 “(D) restrictions on the conversion of con-
22 tingent interests or fees into non-contingent in-
23 terests or fees and restrictions on the receipt of
24 a non-contingent equity interest in exchange for

1 fees for services which have not yet been pro-
2 vided.

3 As used in this paragraph, the term 'dissenting lim-
4 ited partner' means a holder of a beneficial interest
5 in a limited partnership that is the subject of a lim-
6 ited partnership transaction who casts a vote against
7 the transaction and complies with procedures estab-
8 lished by the exchange, except that for purposes of
9 an exchange or tender offer, such term means any
10 person who files an objection in writing under the
11 rules of the exchange during the period in which the
12 offer is outstanding."

13 (c) STANDARDS FOR AUTOMATED QUOTATION SYS-
14 TEMS.—Section 15A(b) of the Securities Exchange Act of
15 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the
16 end the following new paragraph:

17 "(13) The rules of the association prohibit the
18 authorization for quotation on an automated
19 interdealer quotation system sponsored by the asso-
20 ciation of any security designated by the Commis-
21 sion as a national market system security resulting
22 from a limited partnership rollup transaction (as
23 such term is defined in paragraphs (4) and (5) of
24 section 14(h)), unless such transaction was con-

1 ducted in accordance with procedures designed to
2 protect the rights of limited partners, including—

3 “(A) the right of dissenting limited part-
4 ners to an appraisal and compensation or other
5 rights designed to protect dissenting limited
6 partners;

7 “(B) the right not to have their voting
8 power unfairly reduced or abridged;

9 “(C) the right not to bear an unfair por-
10 tion of the costs of a proposed rollup trans-
11 action that is rejected; and

12 “(D) restrictions on the conversion of con-
13 tingent interests or fees into non-contingent in-
14 terests or fees and restrictions on the receipt of
15 a non-contingent equity interest in exchange for
16 fees for services which have not yet been pro-
17 vided.

18 As used in this paragraph, the term ‘dissenting lim-
19 ited partner’ means a holder of a beneficial interest
20 in a limited partnership that is the subject of a lim-
21 ited partnership transaction who casts a vote against
22 the transaction and complies with procedures estab-
23 lished by the association, except that for purposes of
24 an exchange or tender offer such term means any
25 person who files an objection in writing under the

1 rules of the association during the period during
2 which the offer is outstanding.”.

3 ~~(d) EFFECT ON EXISTING AUTHORITY.—The amend-~~
4 ~~ments made by this section shall not limit the authority~~
5 ~~of the Securities and Exchange Commission, a registered~~
6 ~~securities association, or a national securities exchange~~
7 ~~under any provision of the Securities Exchange Act of~~
8 ~~1934, or preclude the Commission or such association or~~
9 ~~exchange from imposing, under any other such provision,~~
10 ~~a remedy or procedure required to be imposed under such~~
11 ~~amendments.~~

12 ~~(e) EFFECTIVE DATE.—The amendments made by~~
13 ~~this section shall become effective 18 months after the~~
14 ~~date of enactment of this Act.~~

15 **SECTION 1. SHORT TITLE.**

16 *This Act may be cited as the “Limited Partnership*
17 *Rollup Reform Act of 1993”.*

18 **SEC. 2. REVISION OF PROXY SOLICITATION RULES WITH**
19 **RESPECT TO LIMITED PARTNERSHIP ROLLUP**
20 **TRANSACTIONS.**

21 *(a) AMENDMENT.—Section 14 of the Securities and*
22 *Exchange Act of 1934 (15 U.S.C. 78n) is amended by add-*
23 *ing at the end the following new subsection:*

1 “(h) *PROXY SOLICITATIONS AND TENDER OFFERS IN*
2 *CONNECTION WITH LIMITED PARTNERSHIP ROLLUP*
3 *TRANSACTIONS.*—

4 “(1) *PROXY RULES TO CONTAIN SPECIAL PROVI-*
5 *SIONS.*—*It shall be unlawful for any person to solicit*
6 *any proxy, consent, or authorization concerning a*
7 *limited partnership rollup transaction, or to make*
8 *any tender offer in furtherance of a limited partner-*
9 *ship rollup transaction, unless such transaction is*
10 *conducted in accordance with rules prescribed by the*
11 *Commission under subsections (a) and (d). Such rules*
12 *shall—*

13 “(A) *permit any holder of a security that is*
14 *the subject of the proposed limited partnership*
15 *rollup transaction to engage in preliminary*
16 *communications for the purpose of determining*
17 *whether to solicit proxies, consents, or authoriza-*
18 *tions in opposition to the proposed transaction,*
19 *without regard to whether any such communica-*
20 *tion would otherwise be considered a solicitation*
21 *of proxies, and without being required to file so-*
22 *liciting material with the Commission prior to*
23 *making that determination, except that—*

24 “(i) *nothing in this subparagraph shall*
25 *be construed to limit the application of any*

1 *provision of this title prohibiting, or reason-*
2 *ably designed to prevent, fraudulent, decep-*
3 *tive, or manipulative acts or practices*
4 *under this title; and*

5 “(ii) any holder of not less than 5 per-
6 cent of the outstanding securities that are
7 the subject of the proposed limited partner-
8 ship rollup transaction who engages in the
9 business of buying and selling limited part-
10 nership interests in the secondary market
11 shall be required to disclose such ownership
12 interests and any potential conflicts of in-
13 terests in such preliminary communica-
14 tions;

15 “(B) require the issuer to provide to holders
16 of the securities that are the subject of the trans-
17 action such list of the holders of the issuer’s secu-
18 rities as the Commission may determine in such
19 form and subject to such terms and conditions as
20 the Commission may specify;

21 “(C) prohibit compensating any person so-
22 liciting proxies, consents, or authorizations di-
23 rectly from security holders concerning such a
24 transaction—

1 “(i) on the basis of whether the solic-
2 ited proxy, consent, or authorization either
3 approves or disapproves the proposed lim-
4 ited partnership rollup transaction; or

5 “(ii) contingent on the approval, dis-
6 approval, or completion of the limited part-
7 nership rollup transaction;

8 “(D) set forth disclosure requirements for
9 soliciting material distributed in connection
10 with a limited partnership rollup transaction,
11 including requirements for clear, concise, and
12 comprehensible disclosure, with respect to—

13 “(i) any changes in the business plan,
14 voting rights, form of ownership interest, or
15 the compensation of the general partner in
16 the proposed limited partnership rollup
17 transaction from each of the original lim-
18 ited partnerships;

19 “(ii) the conflicts of interest, if any, of
20 the general partner;

21 “(iii) whether it is expected that there
22 will be a significant difference between the
23 exchange values of the limited partnerships
24 and the trading price of the securities to be

1 *issued in the limited partnership rollup*
2 *transaction;*

3 “(iv) *the valuation of the limited part-*
4 *nerships and the method used to determine*
5 *the value of the interests of the limited part-*
6 *ners to be exchanged for the securities in the*
7 *limited partnership rollup transaction;*

8 “(v) *the differing risks and effects of*
9 *the transaction for investors in different*
10 *limited partnerships proposed to be in-*
11 *cluded, and the risks and effects of complet-*
12 *ing the transaction with less than all lim-*
13 *ited partnerships;*

14 “(vi) *the statement by the general part-*
15 *ner required under subparagraph (E);*

16 “(vii) *any opinion (other than an*
17 *opinion of counsel), appraisal, or report re-*
18 *ceived by the general partner or sponsor*
19 *that is prepared by an outside party and*
20 *that is materially related to the limited*
21 *partnership rollup transaction and the*
22 *identity and qualifications of the party who*
23 *prepared the opinion, appraisal, or report,*
24 *the method of selection of such party, mate-*
25 *rial past, existing, or contemplated relation-*

1 *ships between the party or any of its affili-*
2 *ates and the general partner, sponsor, suc-*
3 *cessor, or any other affiliate, compensation*
4 *arrangements, and the basis for rendering*
5 *and methods used in developing the opin-*
6 *ion, appraisal, or report; and*

7 *“(viii) such other matters deemed nec-*
8 *essary or appropriate by the Commission;*

9 *“(E) require a statement by the general*
10 *partner as to whether the proposed limited part-*
11 *nership rollup transaction is fair or unfair to*
12 *investors in each limited partnership, a discus-*
13 *sion of the basis for that conclusion, and an eval-*
14 *uation and a description by the general partner*
15 *of alternatives to the limited partnership rollup*
16 *transaction, such as liquidation;*

17 *“(F) provide that any solicitation or offer-*
18 *ing period with respect to any proxy solicitation,*
19 *tender offer, or information statement in a lim-*
20 *ited partnership rollup transaction shall be for*
21 *not less than the lesser of 60 calendar days or the*
22 *maximum number of days permitted under ap-*
23 *plicable State law; and*

24 *“(G) contain such other provisions as the*
25 *Commission determines to be necessary or appro-*

1 *priate for the protection of investors in limited*
2 *partnership rollup transactions.*

3 “(2) *SUMMARY.—Disclosure requirements estab-*
4 *lished under paragraph (1)(D) shall require that so-*
5 *liciting material include a clear and concise sum-*
6 *mary of the limited partnership rollup transaction*
7 *(including a summary of the matters referred to in*
8 *clauses (i) through (viii) of that subparagraph) with*
9 *the risks of the limited partnership rollup transaction*
10 *set forth prominently in the forepart thereof.*

11 “(3) *EXEMPTIONS.—The Commission may, con-*
12 *sistent with the public interest, the protection of in-*
13 *vestors, and the purposes of this title, exempt by rule*
14 *or order any security or class of securities, any trans-*
15 *action or class of transactions, or any person or class*
16 *of persons, in whole or in part, conditionally or un-*
17 *conditionally, from the requirements imposed pursu-*
18 *ant to paragraphs (1) and (2) or, from the definition*
19 *contained in paragraph (5).*

20 “(4) *EFFECT ON COMMISSION AUTHORITY.—*
21 *Nothing in this subsection limits the authority of the*
22 *Commission under subsection (a) or (d) or any other*
23 *provision of this title or precludes the Commission*
24 *from imposing, under subsection (a) or (d) or any*

1 *other provision of this title, a remedy or procedure re-*
2 *quired to be imposed under this subsection.*

3 *“(5) DEFINITION.—As used in this subsection the*
4 *term ‘limited partnership rollup transaction’ means a*
5 *transaction involving—*

6 *“(A) the combination or reorganization of*
7 *limited partnerships, directly or indirectly, in*
8 *which some or all investors in the limited part-*
9 *nerships receive new securities or securities in*
10 *another entity, other than a transaction—*

11 *“(i) in which—*

12 *“(I) the investors’ limited part-*
13 *nership securities are reported under a*
14 *transaction reporting plan declared ef-*
15 *fective before the date of enactment of*
16 *this subsection by the Commission*
17 *under section 11A; and*

18 *“(II) the investors receive new se-*
19 *curities or securities in another entity*
20 *that are reported under a transaction*
21 *reporting plan declared effective before*
22 *the date of enactment of this subsection*
23 *by the Commission under section 11A;*

24 *“(ii) involving only issuers that are*
25 *not required to register or report under sec-*

1 *tion 12 both before and after the trans-*
2 *action;*

3 *“(iii) in which the securities to be is-*
4 *sued or exchanged are not required to be*
5 *and are not registered under the Securities*
6 *Act of 1933;*

7 *“(iv) which will result in no signifi-*
8 *cant adverse change to investors in any of*
9 *the limited partnerships with respect to vot-*
10 *ing rights, the term of existence of the en-*
11 *tity, management compensation, or invest-*
12 *ment objectives; or*

13 *“(v) where each investor is provided an*
14 *option to receive or retain a security under*
15 *substantially the same terms and conditions*
16 *as the original issue; or*

17 *“(B) the reorganization of a single limited*
18 *partnership, directly or indirectly, in which*
19 *some or all investors in the limited partnership*
20 *receive new securities or securities in another en-*
21 *tity, and—*

22 *“(i) transactions in the security issued*
23 *are reported under a transaction reporting*
24 *plan declared effective before the date of en-*

1 *actment of this subsection by the Commis-*
2 *sion under section 11A;*

3 *“(ii) the investors’ limited partnership*
4 *securities are not reported under a trans-*
5 *action reporting plan declared effective be-*
6 *fore the date of enactment of this subsection*
7 *by the Commission under section 11A;*

8 *“(iii) the issuer is required to register*
9 *or report under section 12, both before and*
10 *after the transaction, or the securities to be*
11 *issued or exchanged are required to be or*
12 *are registered under the Securities Act of*
13 *1933;*

14 *“(iv) there are significant adverse*
15 *changes to security holders in voting rights,*
16 *the term of existence of the entity, manage-*
17 *ment compensation, or investment objec-*
18 *tives; and*

19 *“(v) investors are not provided an op-*
20 *tion to receive or retain a security under*
21 *substantially the same terms and conditions*
22 *as the original issue.*

23 *“(6) EXCLUSIONS.—For purposes of this sub-*
24 *section, a limited partnership rollup transaction does*
25 *not include—*

1 “(A) a transaction that involves only a lim-
2 ited partnership or partnerships having an oper-
3 ating policy or practice of retaining cash avail-
4 able for distribution and reinvesting proceeds
5 from the sale, financing, or refinancing of assets
6 in accordance with such criteria as the Commis-
7 sion determines appropriate;

8 “(B) the combination or reorganization of
9 limited partnerships or the reorganization of a
10 single limited partnership—

11 “(i) in which a non-affiliated party
12 succeeds to the interests of a general partner
13 or sponsor, if—

14 “(I) such action is approved by
15 not less than $66\frac{2}{3}$ percent of the out-
16 standing units of each of the partici-
17 pating limited partnerships; and

18 “(II) as a result of the trans-
19 action, the existing general partners
20 are entitled to receive only compensa-
21 tion expressly provided for in the pre-
22 existing limited partnership agree-
23 ments; or

24 “(ii) involving only limited partner-
25 ships wherein the interests of the limited

1 *partners are repurchased, recalled, or ex-*
2 *changed pursuant to the terms of the pre-*
3 *existing limited partnership agreements for*
4 *securities in an operating company specifi-*
5 *cally identified at the time of the formation*
6 *of the original limited partnership; or*

7 “(C) a transaction in which the securities
8 offered to investors are securities of another en-
9 tity that are reported under a transaction re-
10 porting plan declared effective before the date of
11 enactment of this subsection by the Commission
12 under section 11A, if—

13 “(i) such other entity was formed, and
14 such class of securities was reported, not less
15 than 12 months before the date on which so-
16 liciting material is mailed to investors; and

17 “(ii) the securities of that entity issued
18 to investors in the transaction do not exceed
19 20 percent of the total outstanding securities
20 of the entity.”.

21 (b) *SCHEDULE FOR REGULATIONS.*—The Securities
22 and Exchange Commission shall promulgate final regula-
23 tions under the Securities Act of 1933 and the Securities
24 Exchange Act of 1934 which shall become effective not later
25 than 12 months after the date of enactment of this Act to

1 *implement the requirements of section 14(h) of the Securi-*
2 *ties Exchange Act of 1934, as added by subsection (a).*

3 **SEC. 3. RULES OF FAIR PRACTICE IN ROLLUP TRANS-**
4 **ACTIONS.**

5 (a) REGISTERED SECURITIES ASSOCIATION RULE.—
6 Section 15A(b) of the Securities Exchange Act of 1934 (15
7 U.S.C. 78o-3(b)) is amended by adding at the end the fol-
8 lowing new paragraph:

9 “(12) The rules of the association to promote just
10 and equitable principles of trade, as required by
11 paragraph (6), include rules to prevent members of
12 the association from participating in any limited
13 partnership rollup transaction (as such term is de-
14 fined in paragraphs (5) and (6) of section 14(h)) un-
15 less such transaction was conducted in accordance
16 with procedures designed to protect the rights of lim-
17 ited partners, including—

18 “(A) the right of dissenting limited partners
19 to one of the following—

20 “(i) an appraisal and compensation;

21 “(ii) retention of a security under sub-
22 stantially the same terms and conditions as
23 the original issue;

24 “(iii) approval of the limited partner-
25 ship rollup transaction by not less than 75

1 *percent of the outstanding units of each of*
2 *the participating limited partnerships; or*

3 *“(iv) other rights designed to protect*
4 *dissenting limited partners;*

5 *“(B) the right not to have their voting*
6 *power unfairly reduced or abridged;*

7 *“(C) the right not to bear an unfair portion*
8 *of the costs of a proposed rollup transaction that*
9 *is rejected; and*

10 *“(D) restrictions on the conversion of con-*
11 *tingent interests or fees into non-contingent in-*
12 *terests or fees and restrictions on the receipt of*
13 *a non-contingent equity interest in exchange for*
14 *fees for services which have not yet been pro-*
15 *vided.*

16 *As used in this paragraph, the term ‘dissenting lim-*
17 *ited partner’ means a person who, on the date on*
18 *which soliciting material is mailed to investors, is a*
19 *holder of a beneficial interest in a limited partnership*
20 *that is the subject of a limited partnership rollup*
21 *transaction, and who casts a vote against the trans-*
22 *action and complies with procedures established by*
23 *the association, except that for purposes of an ex-*
24 *change or tender offer, such person shall file an objec-*

1 *tion in writing under the rules of the association dur-*
2 *ing the period in which the offer is outstanding.”.*

3 *(b) LISTING STANDARDS OF NATIONAL SECURITIES*
4 *EXCHANGES.—Section 6(b) of the Securities Exchange Act*
5 *of 1934 (15 U.S.C. 78f(b)) is amended by adding at the*
6 *end the following:*

7 *“(9) The rules of the exchange prohibit the list-*
8 *ing of any security issued in a limited partnership*
9 *rollup transaction (as such term is defined in para-*
10 *graphs (5) and (6) of section 14(h)), unless such*
11 *transaction was conducted in accordance with proce-*
12 *dures designed to protect the rights of limited part-*
13 *ners, including—*

14 *“(A) the right of dissenting limited partners*
15 *to one of the following—*

16 *“(i) an appraisal and compensation;*

17 *“(ii) retention of a security under sub-*
18 *stantially the same terms and conditions as*
19 *the original issue;*

20 *“(iii) approval of the limited partner-*
21 *ship rollup transaction by not less than 75*
22 *percent of the outstanding units of each of*
23 *the participating limited partnerships; or*

24 *“(iv) other rights designed to protect*
25 *dissenting limited partners;*

1 “(B) the right not to have their voting
2 power unfairly reduced or abridged;

3 “(C) the right not to bear an unfair portion
4 of the costs of a proposed rollup transaction that
5 is rejected; and

6 “(D) restrictions on the conversion of con-
7 tingent interests or fees into non-contingent in-
8 terests or fees and restrictions on the receipt of
9 a non-contingent equity interest in exchange for
10 fees for services which have not yet been pro-
11 vided.

12 As used in this paragraph, the term ‘dissenting lim-
13 ited partner’ means a person who, on the date on
14 which soliciting material is mailed to investors, is a
15 holder of a beneficial interest in a limited partnership
16 that is the subject of a limited partnership rollup
17 transaction, and who casts a vote against the trans-
18 action and complies with procedures established by
19 the exchange, except that for purposes of an exchange
20 or tender offer, such person shall file an objection in
21 writing under the rules of the exchange during the pe-
22 riod in which the offer is outstanding.”.

23 (c) STANDARDS FOR AUTOMATED QUOTATION SYS-
24 TEMS.—Section 15A(b) of the Securities Exchange Act of

1 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end
2 the following new paragraph:

3 “(13) The rules of the association prohibit the
4 authorization for quotation on an automated
5 interdealer quotation system sponsored by the associa-
6 tion of any security designated by the Commission as
7 a national market system security resulting from a
8 limited partnership rollup transaction (as such term
9 is defined in paragraphs (5) and (6) of section 14(h)),
10 unless such transaction was conducted in accordance
11 with procedures designed to protect the rights of lim-
12 ited partners, including—

13 “(A) the right of dissenting limited partners
14 to one of the following—

15 “(i) an appraisal and compensation;

16 “(ii) retention of a security under sub-
17 stantially the same terms and conditions as
18 the original issue;

19 “(iii) approval of the limited partner-
20 ship rollup transaction by not less than 75
21 percent of the outstanding units of each of
22 the participating limited partnerships; or

23 “(iv) other rights designed to protect
24 dissenting limited partners;

1 “(B) the right not to have their voting
2 power unfairly reduced or abridged;

3 “(C) the right not to bear an unfair portion
4 of the costs of a proposed rollup transaction that
5 is rejected; and

6 “(D) restrictions on the conversion of con-
7 tingent interests or fees into non-contingent in-
8 terests or fees and restrictions on the receipt of
9 a non-contingent equity interest in exchange for
10 fees for services which have not yet been pro-
11 vided.

12 *As used in this paragraph, the term ‘dissenting lim-*
13 *ited partner’ means a person who, on the date on*
14 *which soliciting material is mailed to investors, is a*
15 *holder of a beneficial interest in a limited partnership*
16 *that is the subject of a limited partnership rollup*
17 *transaction, and who casts a vote against the trans-*
18 *action and complies with procedures established by*
19 *the association, except that for purposes of an ex-*
20 *change or tender offer such person shall file an objec-*
21 *tion in writing under the rules of the association dur-*
22 *ing the period during which the offer is outstanding.”.*

23 (d) *EFFECT ON EXISTING AUTHORITY.—The amend-*
24 *ments made by this section shall not limit the authority*
25 *of the Securities and Exchange Commission, a registered*

1 securities association, or a national securities exchange
2 under any provision of the Securities Exchange Act of 1934,
3 or preclude the Commission or such association or exchange
4 from imposing, under any other such provision, a remedy
5 or procedure required to be imposed under such amend-
6 ments.

7 (e) *EFFECTIVE DATE.*—The amendments made by this
8 section shall become effective 12 months after the date of
9 enactment of this Act.

10 **SEC. 4. REVIEW OF FILINGS PRIOR TO EFFECTIVE DATE.**

11 *Prior to the effective date of regulations adopted pursu-*
12 *ant to this Act, the Securities and Exchange Commission*
13 *shall continue to review and declare effective registration*
14 *statements and amendments thereto relating to limited*
15 *partnership rollup transactions in accordance with appli-*
16 *cable regulations then in effect.*

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