



ML Strategies Alert

JUNE 18, 2012

Congress Proposes Expanding Master Limited Partnerships to Renewable Energy & Biofuel Projects

BY [JORDAN M. COLLINS](#) AND [DAVID J. LEITER](#)

On Friday, June 15, Senator Chris Coons (D-DE) introduced S.3275, the bipartisan “*MLP Parity Act*,” a bipartisan bill that would amend Section 7704 of the tax code by enabling Master Limited Partnerships (MLPs) to own and finance renewable energy and biofuel projects. Cosponsors of S.3275 include Senators Jerry Moran (R-KS), Jeanne Shaheen (D-NH), Sheldon Whitehouse (D-RI), Jon Tester (D-MT), Amy Klobuchar (D-MN), and Al Franken (D-MN).

As background, MLPs carry the fund-raising advantages of a corporation: ownership interests are publicly traded and offer investors the liquidity, limited liability, and dividends of classic corporations. MLP market capitalization exceeds \$350 billion. With average dividends of just 6 percent, proponents argue MLPs could substantially reduce the cost of financing renewables, which currently rely on the participation of the tax equity market, which primarily consists of a small set of large investment banks.

Over the last several decades, MLPs have proven to be highly effective at attracting private investment in energy projects through the public markets. However, under current law, MLPs have only been able to invest in oil, natural gas, coal extraction, and pipeline projects. Approximately \$290 billion (83 percent) of MLP investments have gone into qualifying energy and natural resources. Of that, just over 80 percent has gone into midstream oil and gas pipeline projects.

The MLP Parity Act expands the definition of “qualified” sources to include clean energy resources and infrastructure projects. Specifically included are those energy technologies that qualify under Sections 45 and 48 of the tax code, including wind, closed and open loop biomass, geothermal, solar, municipal solid waste, hydropower, marine and hydrokinetic, fuel cells, and combined heat and power. The legislation also allows for a range of transportation fuels to qualify, including cellulosic, biodiesel, and algae-based fuels. The MLP Parity Act does not affect any current MLP entity. All projects currently eligible to structure as MLPs would continue to qualify exactly as they would under existing law.

The MLP Parity Act has already gained significant, public support from various sectors of the renewable energy industry. A House companion bill is slated to be introduced shortly by Rep. Mike Thompson (D-CA).

For more information on The MLP Parity Act, see the whitepaper and website Sen. Chris Coons (D-DE) has created, located [here](#).

A helpful analysis on the benefits of expanding MLPs to renewables and biofuels was also recently published in a *New York Times* article authored by Stanford University’s Steyer-Taylor Center for Clean Energy Policy & Finance and entitled “[How to Make Renewable Energy Competitive](#).”

* * *

Copyright © 2012 ML Strategies.

This communication may be considered attorney advertising under the rules of some states. The information and materials contained herein have been provided as a service by the law firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.; however, the information and materials do not, and are not intended to, constitute legal advice. Neither transmission nor receipt of such information and materials will create an attorney-client relationship between the sender and receiver. The hiring of an attorney is an important decision that should not be based solely upon advertisements or solicitations. Users are advised not to take, or refrain from taking, any action based upon the information and materials contained herein without consulting legal counsel engaged for a particular matter. Furthermore, prior results do not guarantee a similar outcome.

2003-0612-NAT-MLS