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SEPTEMBER 2018

# MARKET UPDATE: EVOLUTION OF MIDSTREAM IPO STRUCTURES

*Energy Series*

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## TODAY'S PANEL



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SAVE THE DATE

## ENERGY SERIES

Seminars & Continuing Legal Education Programs

### Preparing for and Managing Risks Involved with Cross-Border Investigations

**Thursday, September 20, 2018**

Speakers: Mike Dry; Jennifer Freel; Matt Jacobs

Moderator: Amy Riella

### Recent Trends in Renewable Energy Dealmaking

**Wednesday, October 10, 2018**

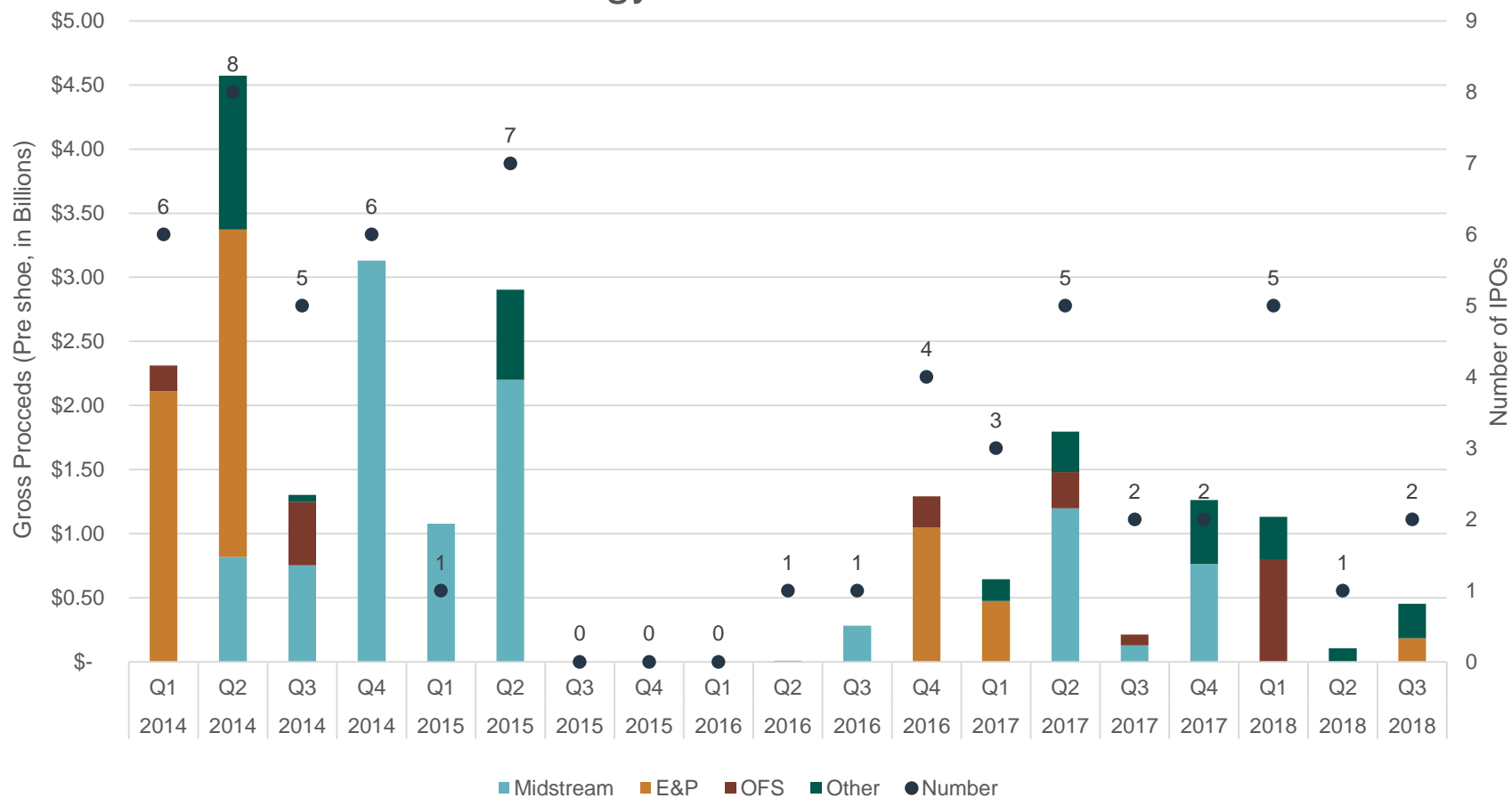
Speakers: Kaam Sahely; Peter Marshall; Danielle Patterson

## DISCUSSION TOPICS

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# SURVEY OF CURRENT LANDSCAPE

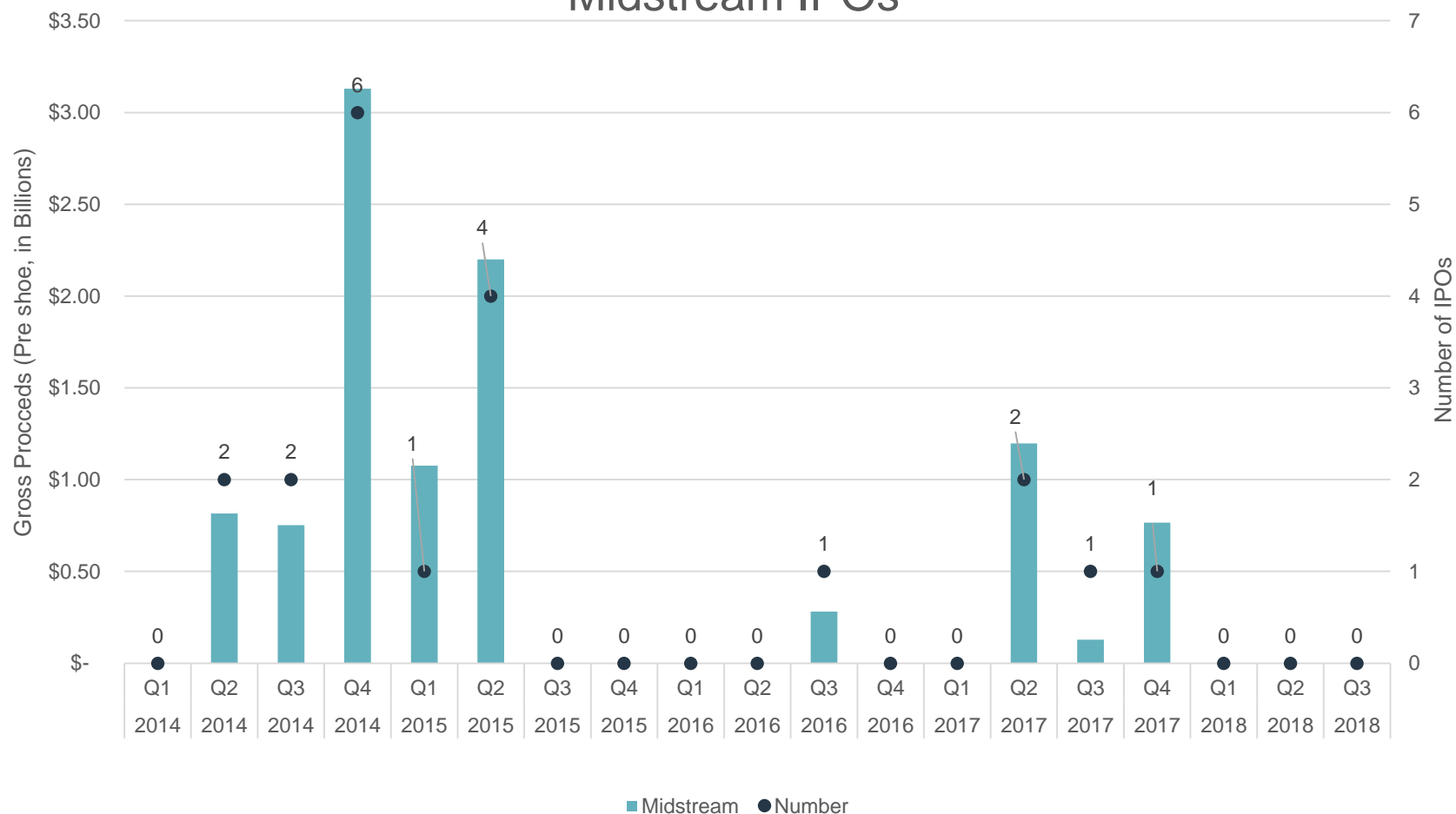
## Energy and Power IPOs



Source: IPOVitalSigns

# SURVEY OF CURRENT LANDSCAPE

## Midstream IPOs

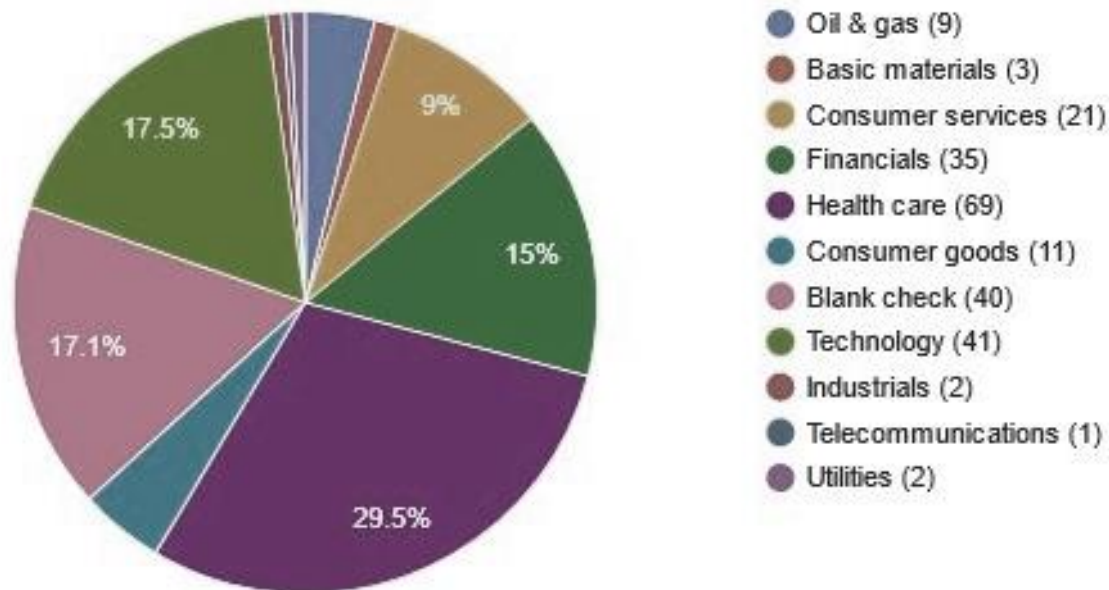


Source: IPOVitalSigns

# SURVEY OF CURRENT LANDSCAPE

## U.S. IPOs YEAR TO DATE

IPOs priced in the last 12 months sorted by Industry



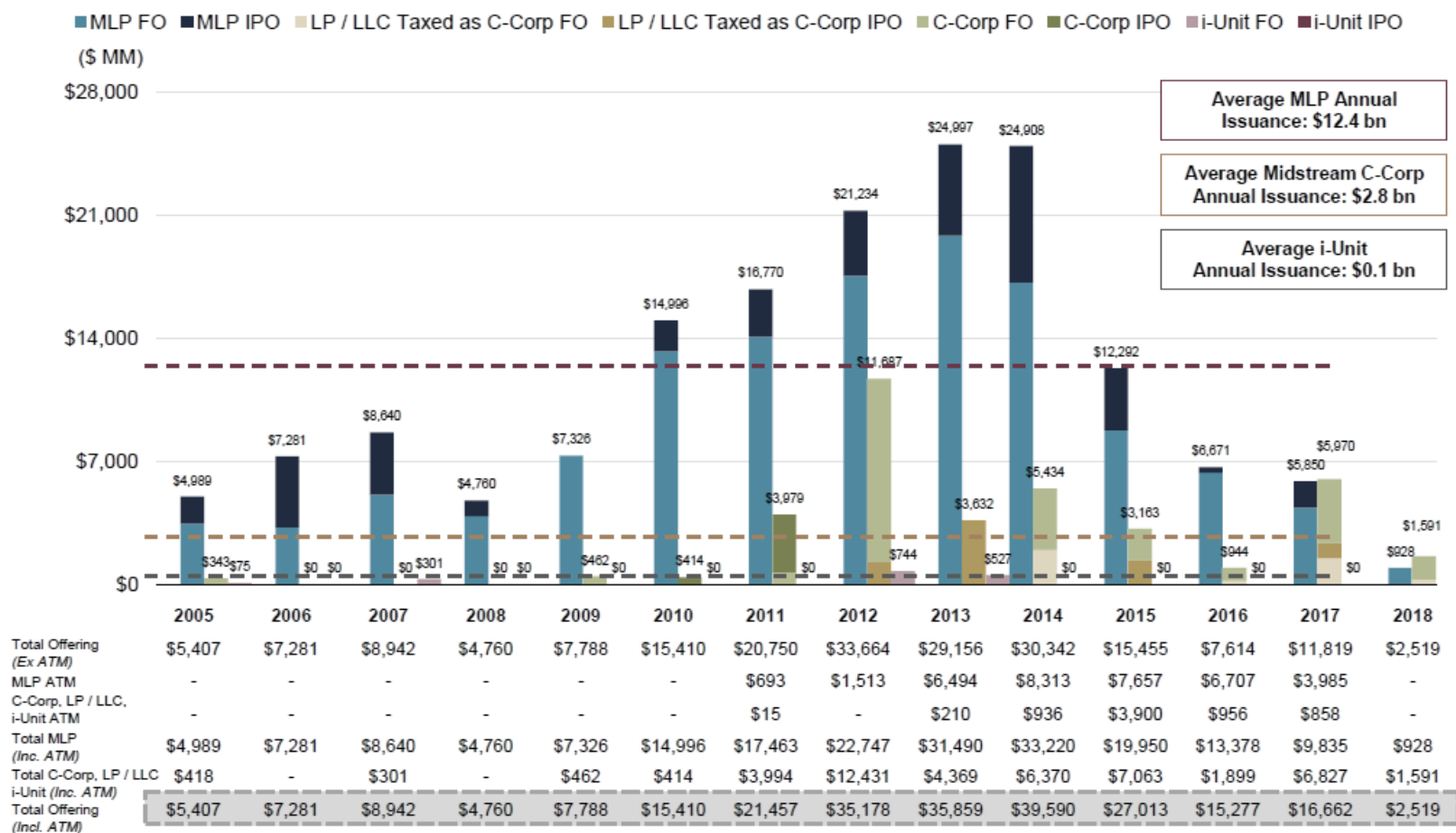
- Technology/Biotechnology: 50%
- SPACs: 17%
- Energy: 3.8%

Source: *IPOScoop.com*



# ANNUAL MLP VS. C-CORP ISSUANCE

Annual MLP and Midstream C-Corp Issuance Since 2005 <sup>(1)</sup>



Source: Bloomberg, Factset, partnership and company filings.

1. Includes SEC registered issuance >\$25 MM. Includes ATM issuance from 2010 onwards as noted.

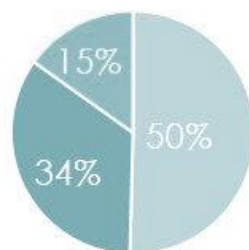
Source: Barclays MLP and Midstream Weekly



# SURVEY OF CURRENT LANDSCAPE

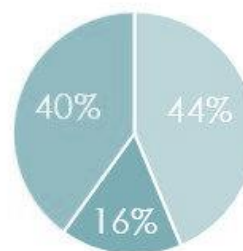
## EVOLVING MIDSTREAM CAPITAL MARKETS STRUCTURES

Energy Infrastructure Market Cap Breakdown (2014)



■ LP ■ GP ■ C-Corp

Energy Infrastructure Market Cap Breakdown (2018)



■ LP ■ GP ■ C-Corp

Distribution Cut	IDR Buy-In	C-Corp Roll-Up	Partnership Roll-Up
Plains All American	Plains All American	Kinder Morgan	Crestwood Equity Partners
Enbridge Energy Partners	Andeavor Logistics	Targa Resources	NuStar Energy LP
Williams Partners	Williams Partners	SemGroup	
Genesis Energy	MPLX	Oneok	
NuStar Energy LP	Holly Energy Partners	Tallgrass Energy GP LP	
TC Pipelines	Spectra Energy Partners	ArchRock Inc	
		Enbridge Inc	
		Williams Cos	

Source: Universe of midstream MLPs includes all constituents of Solactive MLP Infrastructure Index since index inception of 03/24/2015 through 5/23/18 and all constituents of Solactive MLP & Energy Infrastructure Index since 08/01/2014 when oil prices began dropping through 5/23/18. Consolidations do not include singular intra-family or inter-family mergers.

Source: Seeking Alpha, MLP Insights: Q2 2018, June 10, 2018; 2018 information assumes Tallgrass, Enbridge, Williams and Cheniere transactions are completed.

# PROJECTED ENERGY & INFRASTRUCTURE NEEDS

## Qualitative Near Term Factors

- Performance issues and commodity prices 2016 to 2017 stopped new cash inflows (44 MLP distribution cuts in universe of 110)
- E&P and Midstream performance improving, debt declining and equity values increasing
- Outperformance of technology and biotechnology cyclical

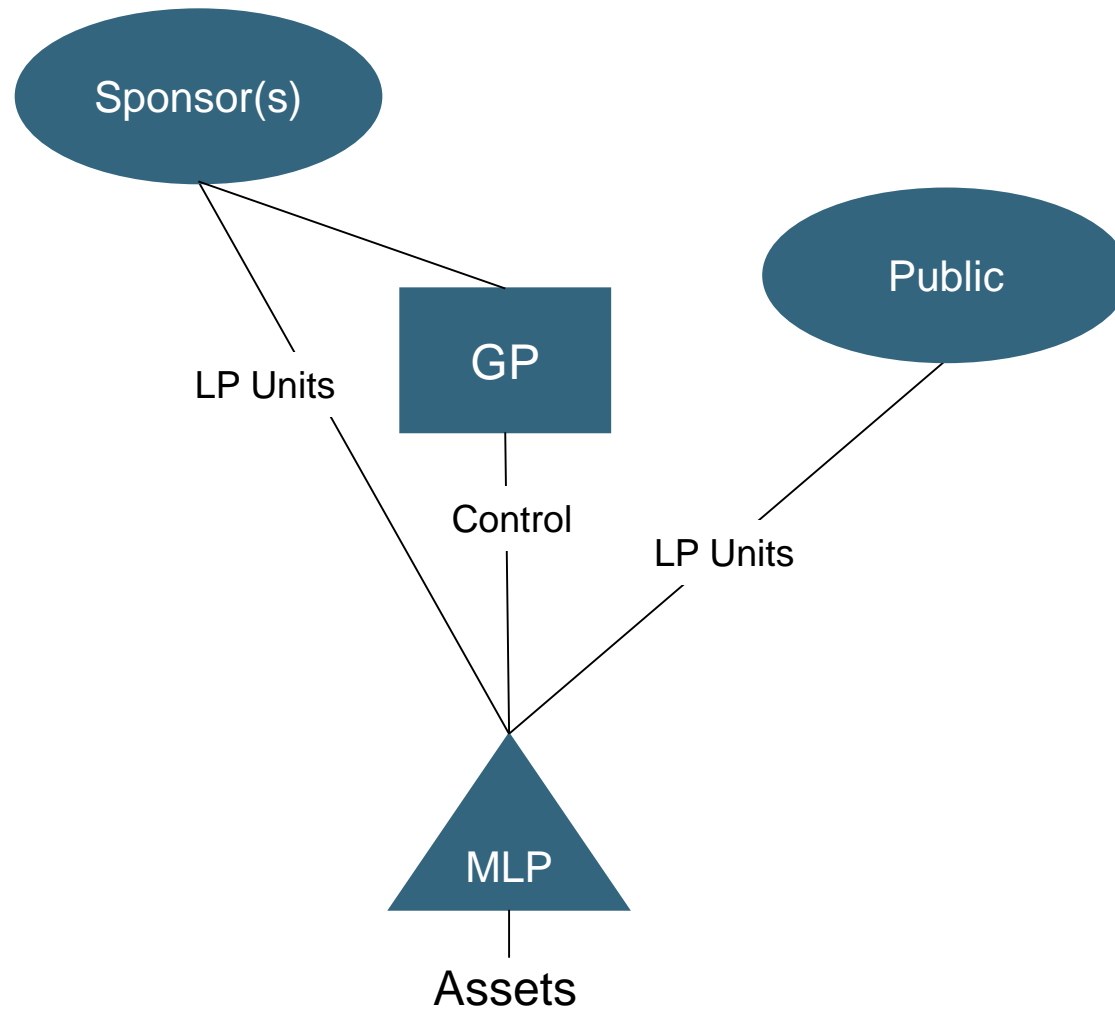
## Quantitative Long-Term Capital Investment Needs

- IEA projects \$22 trillion in investment required globally to develop oil and gas assets through 2035
- EIA projects U.S. oil, gas and liquids production will increase through 2050
- IHS projects \$590 billion – \$1.25 trillion investment in U.S. energy infrastructure through 2025
- INGAA projects \$450 – \$600 billion required for oil and gas midstream through 2035

# IPO STRUCTURE ALTERNATIVES

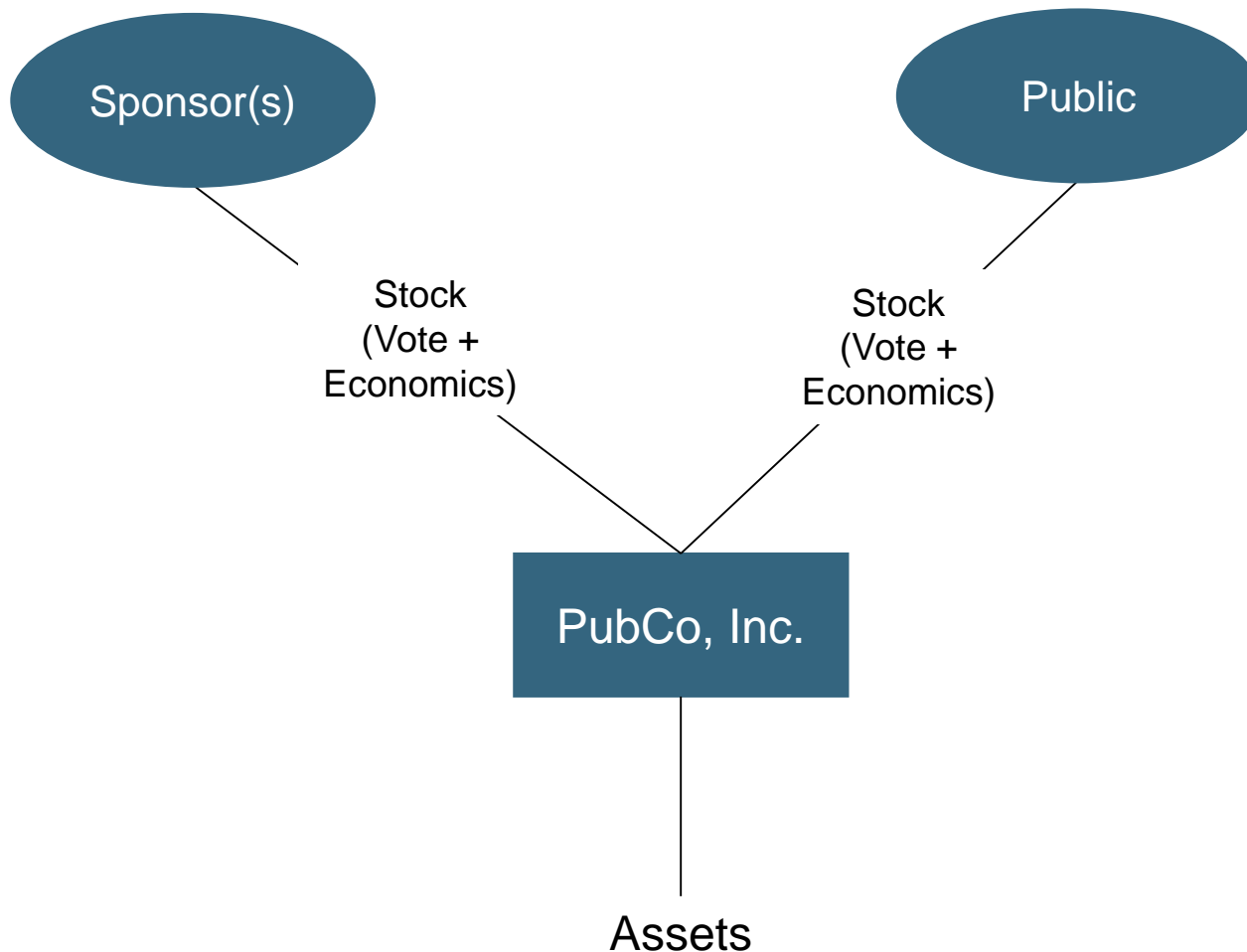
- Alternative Structures
  - MLP
  - Straight C
  - Up C w/ LP
  - Up C Corp
- Alternative to IPO
  - De-SPAC

# MLP STRUCTURE



- Investor Feedback on Structure
  - IDRs
  - Governance
  - Tax Reporting
  - Not eligible for major indices
- Simplifications Reinforce Feedback
- Extrinsic motivators for change - FERC ruling, tax reform, etc. – rumored to be motivating MLPs to evolve into C-Corp structure. However, examples (Williams, Enbridge and Boardwalk) are all take private transactions, not C-Corp conversions.
- Remains most efficient tax structure for qualifying business

## STRAIGHT C (INC.) STRUCTURE

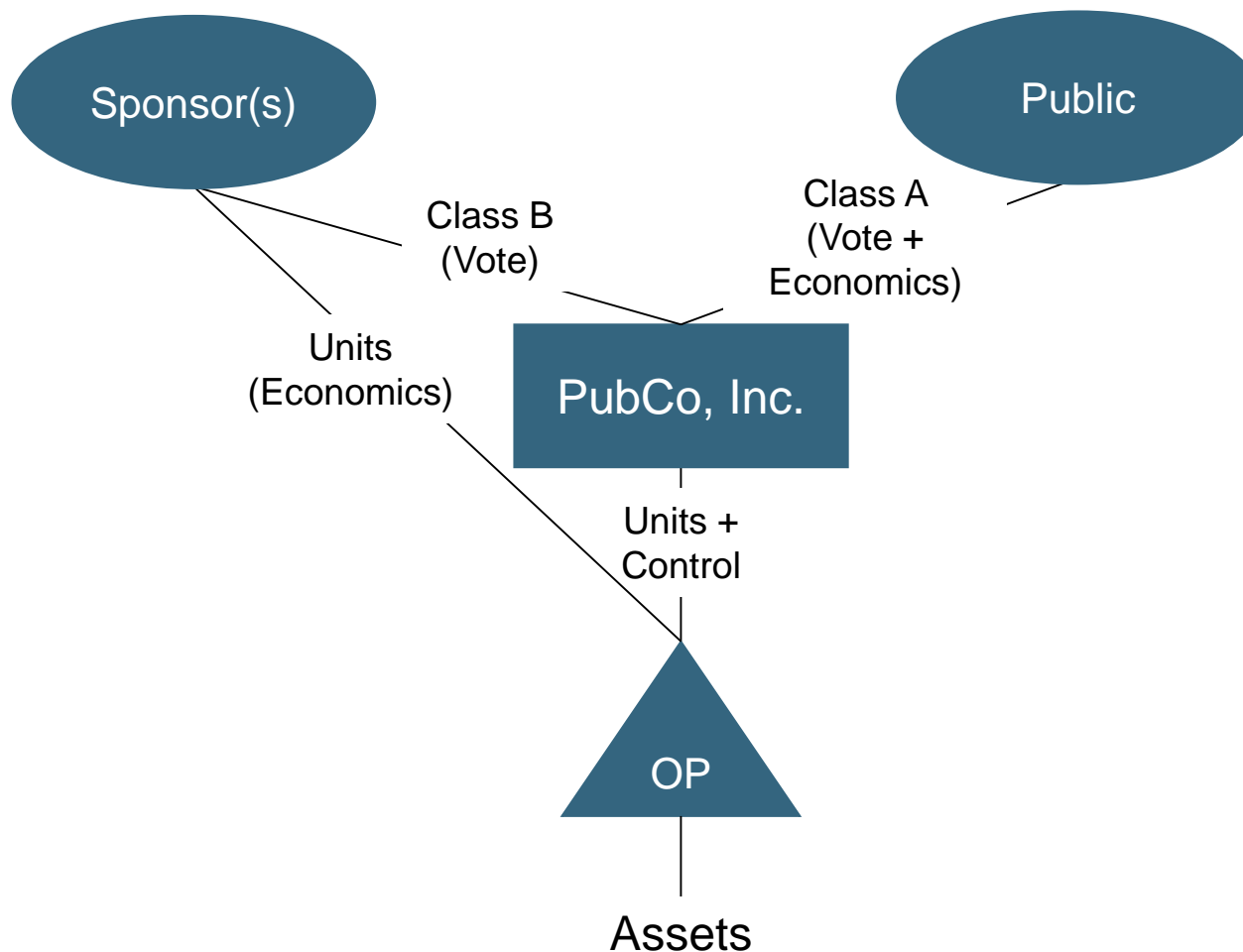


## STRAIGHT C (INC.) CONSIDERATIONS

- Examples
  - Kinder Morgan, Inc., Targa Resources Corp., Oneok Inc.
- Advantages
  - Access to broader range of institutional investors
  - Index eligibility (assuming one class of voting stock)
- Disadvantages
  - Tax liability at PubCo
    - And no “refreshing” of tax basis for PubCo
  - Inefficient tax structure for corporate sponsor(s) owning <80%
  - Dividends to shareholders taxable
  - Less flexible tax rules upon formation
  - Less flexible governance (elected board, fiduciary standards, annual proxy statements and meetings)



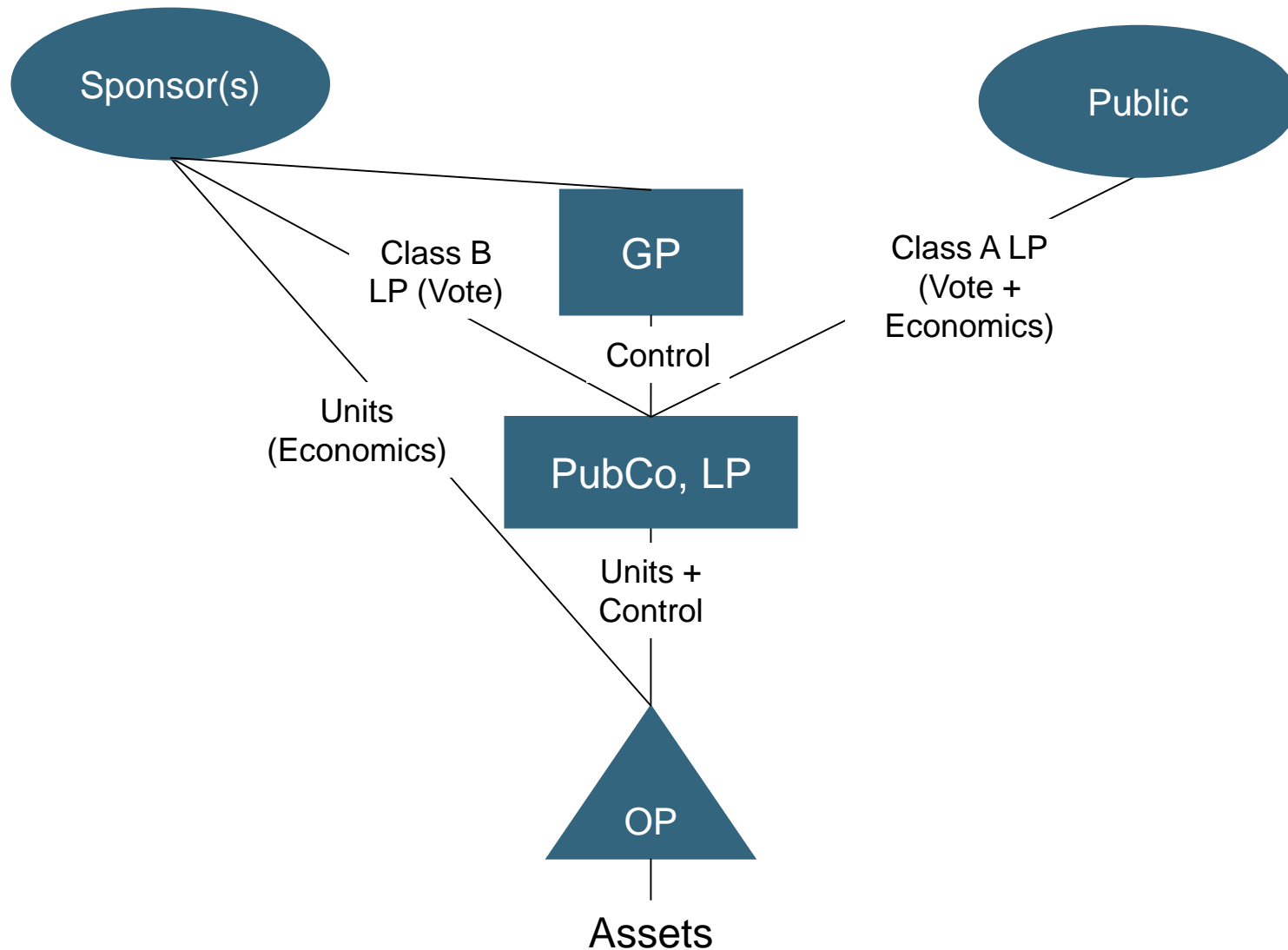
# UP-C C-CORP (INC.) STRUCTURE



## UP C CORP

- Examples
  - None in midstream; many among recent E&P and OFS IPOs
- Advantages
  - Sponsor(s) receive allocations of tax from OP (no 80% deconsolidation issue)
  - PubCo receives new basis on exchange of OP Units for PubCo stock
  - Access to broader range of institutional investors – same as straight C
- Disadvantages
  - Tax liability at PubCo
    - Same as straight C, but with ability to create shield for C-Corp through remedials/step-up
  - Phantom tax to OP LPs
    - Tax distributions or advances possible, but raise issues
  - Dividends to shareholders taxable – same as straight C
  - Not eligible for major indices (two classes of voting stock)
  - Less flexible governance (elected board, fiduciary standards, annual proxy statements and meetings) – same as straight C

## UP-C LP (OR LLC) STRUCTURE



## UP C LP (OR LLC)

- Examples
  - Plains GP Holdings (GP Holdco)
  - Tallgrass Energy GP, LP (GP Holdco)
  - Antero Midstream GP (with a mini up-C)
  - NextEra Energy Partners LP (Yieldco with IDRs)
  - 8point3 Energy Partners LP (Yieldco with IDRs)
  - Rattler Midstream Partners LP (in registration – yield-focused disclosure, no IDRs)
- Advantages
  - Governance flexibility
  - Otherwise same as Up-C Corp
- Disadvantages
  - Same as Up-C Corp

## STRUCTURE ALTERNATIVE COMPARISON

	MLP	UP-C LP/LLC	UP-C Corp	Straight C
Tax to entity	✓✓ (complete exclusion)	✓ (limited shield)	✓ (limited shield)	X
Tax to sponsor(s)	✓	✓	✓	X
Tax to investors	✓	X	X	X
Broader range of institutional investors	X	✓ (no K-1)	✓ (no K-1)	✓✓ (+ index eligibility)
Governance flexibility	✓	✓	X	X

- Examples
  - Historically more E&P (or OFS) than Midstream
  - Midstream examples
    - Kayne Anderson Acquisition Company + Alpine High (Apache) = Altus Midstream Company
      - Transaction pending (redemptions TBD)
      - Up-C Corp structure
      - No cash consideration
    - Harmony Merger Corp + NextDecade LLC = NextDecade Corporation
      - 68% redemptions
      - ~\$1 billion in equity consideration, plus up to \$0.2 billion in additional equity earn outs for operational milestones
      - No cash consideration
      - Resulting company owned 94% by sellers, 3% by SPAC founders and 3% by public.

## DE-SPAC

- Advantages
  - Ability for seller to take relatively high amount of cash proceeds (although Altus and NextDecade had/have zero cash consideration)
- Disadvantages
  - Effectively mandatory taxable structure (for SPAC investors)
  - Time-intensive/Shareholder approval/redemption





# THANK YOU

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