

related to the operator within the meaning of section 267(b) or section 707(b)(1) loans, advances, or otherwise arranged for funds to be available to the seller in anticipation of the payment of the purchase price.

(4) *Optional features.* A qualified matching service may be sponsored or operated by a partner of the partnership (either formally or informally), the underwriter that handled the issuance of the partnership interests, or an unrelated third party. In addition, a qualified matching service may offer the following features—

(i) The matching service may provide prior pricing information, including information regarding resales of interests and actual prices paid for interests; a description of the business of the partnership; financial and reporting information from the partnership's financial statements and reports; and information regarding material events involving the partnership, including special distributions, capital distributions, and refinancings or sales of significant portions of partnership assets;

(ii) The operator may assist with the transfer documentation necessary to transfer the partnership interest;

(iii) The operator may receive and deliver funds for completed transactions; and

(iv) The operator's fee may consist of a flat fee for use of the service, a fee based on completed transactions, or any combination thereof.

(g) *Private placements—(1) In general.* For purposes of section 7704(b) and this section, interests in a partnership are not readily tradable on the substantial equivalent of a secondary market if—

(i) All interests in the partnership were issued in a transaction (or transactions) that was not required to be registered under the Securities Act of 1933;

(ii) Either—

(A) The partnership does not have more than 500 partners at any time during the taxable year of the partnership; or

(B) The initial offering price of each unit of partnership interest is at least \$20,000 and the partnership agreement provides that no unit of partnership interest may be subdivided for resale into units smaller than a unit the initial offering price of which would have been at least \$20,000; and

(iii) If the partnership has more than 50 partners at any time during the taxable year of the partnership, the sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership (other than in private

transfers described in paragraph (d) of this section) does not exceed 10 percent of the total interests in partnership capital or profits.

(2) *Number of partners.* For purposes of determining the number of partners under paragraph (g)(1) of this section—

(i) Each person indirectly owning an interest in the partnership through another partnership, a grantor trust, or an S corporation (but not through a regulated investment company, as defined in section 851, or a real estate investment trust, as defined in section 865) is treated as a partner; and

(ii) Partnerships are aggregated when they jointly operate one or more businesses, or the operations of the partnerships are interrelated, and a principal purpose for the use of multiple partnerships is to permit any of the partnerships to qualify for the rule provided under this paragraph (g).

(h) *Lack of actual trading—(1)*

*General rule.* For purposes of section 7704(b) and this section, interests in a partnership are not readily tradable on the substantial equivalent of a secondary market if the sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership (other than in transfers described in paragraph (d), (e), or (f) of this section) does not exceed 2 percent of the total interests in partnership capital or profits.

(2) *Examples.* The following examples illustrate the rules of this paragraph (h).

*Example 1. Calculation of percentage interest transferred.* (i) ABC, a calendar year limited partnership formed in 1995, has 9,000 units of limited partnership interests outstanding at all times during 1996, representing in the aggregate 95 percent of the total interests in capital and profits of ABC.

(ii) During 1996, the following transactions occur with respect to the units of ABC's limited partnership interests—

(A) 800 units are sold through the use of a qualified matching service that meets the requirements of paragraph (f) of this section;

(B) 50 units are sold through the use of a matching service that does not meet the requirements of paragraph (f) of this section; and

(C) 500 units are transferred as a result of private transfers described in paragraph (d) of this section.

(iii) The private transfers of 500 units and the sale of 800 units through a qualified matching service are disregarded under paragraph (h)(1) of this section for purposes of applying the 2 percent rule. As a result, the total percentage interests in partnership capital and profits transferred for purposes of the 2 percent rule is .528 percent, determined by—

(A) Dividing the number of units sold through a matching service that did not meet the requirements of paragraph (f) of this section (50) by the total number of

outstanding limited partnership units (9,000); and

(B) Multiplying the result by the percentage of total interests represented by limited partnership units (95 percent)  $(\{50/9,000\} \times .95 = .528 \text{ percent})$ .

*Example 2. Application of the 2 percent rule.* (i) ABC operates a service consisting of computerized video display screens on which subscribers view and publish quotes that do not commit any person to buy or sell a partnership interest and quotes that express interest in a partnership interest without an accompanying price. The ABC service does not provide two-sided quotes or quotes at which any person (including the operator of the service) is committed to buy or sell a partnership interest. Subscribers are limited to broker-dealers registered with the National Association of Securities Dealers.

(ii) The ABC service is not an established securities market for purposes of section 7704(b)(1) and this section because the service does not satisfy any of the definitions of an established securities market in paragraph (b) of this section. The ABC service also is not a secondary market because the service does not provide two-sided quotes or quotes at which any person (including the operator of the service) is committed to buy or sell a partnership interest. Therefore, partnerships whose interests are listed and transferred on the ABC service are not publicly traded for purposes of section 7704(b) and this section as a result of such listing or transfers if the sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership (other than in transfers described in paragraph (d), (e), or (f)) does not exceed 2 percent of the total interests in partnership capital or profits. In addition, assuming the ABC service complies with the necessary requirements, the service may qualify as a matching service described in paragraph (f) of this section.

*Example 3. Effect of firm quotes.* Assume the same facts as in *Example 2*, except that, in addition to operating the matching service, ABC regularly quotes prices at which it stands ready to buy interests in certain partnerships listed on the service. As a result of the regular quotes, interests in the quoted partnerships are readily tradable on a secondary market under paragraph (c)(2) of this section. The quoted partnerships are therefore publicly traded partnerships for purposes of section 7704 and this section, regardless of whether the sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership exceeds 2 percent of the total interests in partnership capital or profits.

(i) [Reserved].

(j) *Percentage interests in partnership capital or profits—(1) Interests considered—(i) General rule.* Except as otherwise provided in this paragraph (j), for purposes of this section, the total interests in partnership capital or profits are determined by reference to all outstanding interests in the partnership.

(ii) *Exceptions—(A) General partner with greater than 10 percent interest.* If