"employees' securities company" in section 2(a)(13) of the Act.

3. Interests in the Partnerships (the "Interests") will be offered only to "Eligible Employees," who are current employees of the ML Group that meet the income standards for "accredited investors" of rule 501(a)(6) under Regulation D promulgated under the Securities Act of 1933 (the "Securities Act''). Eligible Employees will be experienced professionals in the investment banking and securities business, or in related administrative, financial, accounting, legal, or operational activities, and will be sophisticated investors. Eligible Employees will be senior employees of the ML Group and will know or be known to, and have direct access to, other Eligible Employees.<sup>2</sup> Eligible Employees will be advised that the Interests will be sold in a transaction exempt under section 4(2) of the Securities Act and thus offered without the protections afforded by registration thereunder, and that the Partnerships will be exempt from most provisions of the Act. An Eligible Employee becomes a limited partner of a Partnership (a "Limited Partner") by investing in the Partnership.

4. The applicable partnership agreement may provide that a Limited Partner make a capital contribution in its entirety upon the formation of a Partnership or in installments. A Limited Partner who fails to pay an installment when due must pay interest on such installment, remain personally liable for the amount of the default and, to the extent permitted by law, will not be entitled to participate as a Limited

Partner when making approvals or decisions.

5. All of the Partnerships will have minimum capital contributions and restrictions with respect to transferability of Interests. Interests will be non-transferable except with the express consent of the General Partner and in any event will be transferable only to Eligible Employees and members of a Limited Partner's immediate family. Upon the death of a Limited Partner or such Limited Partner becoming incompetent, insolvent, incapacitated, or bankrupt, such Limited Partner's estate or legal representative may succeed to the Limited Partner's Interests as an assignee for the purpose of settling such Limited Partner's estate or administering such Limited Partner's property, but may not become a Limited Partner. Interests will not be redeemable, except that the estate of a deceased Limited Partner may elect to have the Limited Partner's Interests repurchased by the General Partner or the Partnership at a price equal to the value of the Interests determined at the next succeeding appraisal date.

6. The purchase price of an Interest acquired upon the termination of a Limited Partner's employment (other than termination for cause) or upon the Limited Partner's bankruptcy or adjudication of incompetence will equal the amount that the Limited Partner would have received had the Partnership been liquidated on the valuation date as of the end of the immediately preceding fiscal year. If termination is for cause, the General Partner has the right, but not the obligation, to acquire the Interest of the Limited Partner at the lesser of the amount equal to (a) what the Limited Partner would have received had the Partnership been liquidated on the valuation date as of the end of the immediately preceding fiscal year, less any distributions made after such valuation date, or (b) the cost of the Limited Partner's investment on such valuation date, plus any undistributed ordinary income.

7. The General Partner will be a registered investment adviser. The General Partner will manage, operate, and control the Partnerships and will have the authority to make all decisions regarding the acquisition, management, and disposition of the investments of the Partnerships (the "Investments"). All Investments and dispositions thereof will be approved by the General Partner's board of directors (the "Board"), which will consist of five members. When considering investments for the Partnerships, the

Board will receive the advice of members of a committee of advisers. The Board may consider investments proposed by unrelated third parties and investments offered by Merrill Lynch in public offerings or private placements and investments presented to the Partnership by affiliates of the General Partner. All investments selected by the General Partner will be evaluated independently of each other and chosen only if a majority of the Board determines that they are suitable for and in the best interest of the Partnerships.

8. Pending investment, Partnership funds will be invested in "Temporary Investments," which consists of: (a) U.S. Government obligations with maturities of not longer than one year and one day; (b) commercial paper with maturities not longer than six months and one day and having a rating assigned to it by Standard & Poor's Corporation or Moody's Investors Service, Inc. (or, if neither organization shall rate such commercial paper at such time, by any nationally recognized rating organization in the United States) equal to one of the two highest ratings assigned by such organization; (c) interest-bearing deposits in U.S. or Canadian banks with an unrestricted surplus of at least \$250 million, maturing within one year; and (d) any money market fund distributed and managed by ML&Co. or any affiliated person thereof or successor thereof. Consistent with section 12(d)(1)(A)(i), no Partnership making a Temporary Investment will acquire more than 3% of the total outstanding voting securities of an investment company.

9. The General Partner will make no cash contribution to the Partnerships other than a nominal contribution upon their formation. The General Partner will be allocated and receive 1% of the income, profit, loss, credit, expense, and deductions of the Partnership. Distributable cash generally will be allocated 1% to the General Partner and 99% to the Limited Partners. The General Partner is obligated to pay the operating expenses of the Partnerships and is entitled to receive from each Partnership annually up to 1½% of the Limited Partners' capital contribution to reimburse the General Partner for incurring such operating expenses. The General Partner's net worth will be adequate to meet the requirements of classifying the Partnerships as partnerships rather than as associations taxable as corporations for federal income tax purposes.

10. It is expected that new Partnerships would be formed on a periodic basis but would not be formed until the capital of the prior Partnership

<sup>&</sup>lt;sup>2</sup> Pursuant to Merrill Lynch KECALP Growth Investments L.P. 1983, Investment Company Act Release Nos. 12290 (Mar. 11, 1982) (notice) and 12363 (Apr. 8, 1982) (order), amended, Investment Company Act Release Nos. 20280 (May 5, 1994) (notice) and 20328 (June 1, 1994) (order), an indirect wholly-owned subsidiary of ML&Co. may establish limited partnerships (the "KECALF Partnerships") that meet the definition of "employees' securities companies" under the Act and are exempt from most provisions of the Act. Interests in the KECALP Partnerships are offered exclusively to certain employees of ML&Co. and its subsidiaries and to non-employee directors of ML&Co. It is expected that the number of persons eligible to invest in a Partnership will be significantly smaller than the number eligible to invest in a KECALP Partnership. All Eligible Employees are expected to be eligible to invest in KECALP Partnerships organized in the future. To avoid any conflicts of interests between the KECALP Partnerships and the Partnerships, ML&Co. had adopted a policy that, with respect to investment opportunities in which both a KECALP Partnership and a Partnership may invest, such opportunities will first be made available to the KECALP Partnership. In addition, no person may be a member of both the boards of directors of the General Partner and of KECALP Inc., the general partner of the KECALP Partnerships.