Investing in MLP and pipeline companies: structure matters

At Tortoise, we believe that when it comes to investing, particularly in master limited partnerships (MLPs) and pipeline companies, not all investment structures are created equal. Tortoise has been an innovator in the space, providing access across the energy sector to all types of investors. When developing products around these assets, we study the underlying companies and product structure. We look at the tax efficiency of the structure and how fund flows will affect the structure.

The structure and characteristics of MLP and pipeline investment products can vary greatly. Here, we compare and contrast the various products, their characteristics, benefits and drawbacks of each to provide clarity about investment alternatives for MLPs and pipeline companies.

Exchange-traded funds (ETFs)

Registered funds such as ETFs can be structured as either taxable C-corporations (C-corps) or regulated investment companies (RICs). We feel that the optimal structure for gaining exposure to the pipeline universe through an ETF is the RIC structure because there is no taxation at the fund level to affect its NAV. As a result, for passively-managed ETFs seeking to provide access to the asset class, it provides the potential for significantly less tracking error, an important distinction for the objective of any ETF. A pipeline ETF strategy structured as a RIC provides access to the broad North American pipeline universe with the ability to invest in both MLPs (up to 25%) and limited liability companies and corporations, some of which are MLP affiliates. Currently, there are approximately 100 total pipeline companies in the pipeline universe; roughly two thirds are MLPs and the remainder consists of MLP affiliates and pipeline corporations.

In contrast, MLP ETFs structured as C-corps can invest 100% in MLPs, bringing associated tax inefficiency and less pipeline exposure since not all MLPs are pipeline companies. This gives them a much different risk/return profile than a purely pipeline-focused fund, as they often invest in other parts of the energy value chain. Pure-play MLP ETFs may not be the optimal vehicles by which to access the asset class because:

- Due to their necessary C-corp structure, pure-play MLP ETFs are therefore taxed at the fund level, which can cause a deferred tax liability to accrue at the fund level, which in turn can put a significant tax drag on the performance of the fund.
  - This can create a tax drag of up to nearly 40% from what the total return would have been without such a deferred tax liability.[1]
  - This tax drag translates to increased tracking error risk, causing the potential for the ETF returns to deviate significantly from the index they seek to track.

Open-end mutual funds

We believe the best option for an open-end investment solution is a RIC structure for similar reasons listed previously for the RIC ETF, particularly the benefits of the traditional mutual fund tax flow-through structure.

Similar to MLP ETFs, we believe that MLP open-end funds structured as C-corp funds face some challenges, including:

- Daily inflows and outflows of capital make managing taxes within the fund difficult.
- Unforeseen and uncontrollable fund flows can trigger fund-level tax events at undesirable times, which are borne by all shareholders.
- An open-end fund's only "price" is its NAV, which reflects a deferred tax asset/liability assuming its entire portfolio is liquidated today.
  - Again, similar to the ETF, this can create a tax drag of up to nearly 40% from what the total return would have been without such a deferred tax liability.[1]

Exchange-traded notes (ETNs)

MLP ETNs provide investors passive index exposure through an exchange-traded product.

As unsecured debt securities tracking the total return of an index, the ETN structure:

- Offers passive, index-based exposure to total return;
- Has virtually no tracking error risk;
- Is subject to the credit risk of the issuing bank;
- MLP ETNs may pay distributions based on the coupon of the underlying assets. These are taxed as ordinary income (currently subject to individual income tax rates of up to 39.6%, thus losing the ability for tax-deferred or qualified dividend/long-term capital gain treatment (currently 20%);
- ETNs are complex and are not suitable for all investors;
- ETNs are subject to significant liquidity risk as they may not be traded on a liquid market.

Closed-end funds

We believe a fund that is solely focused on MLPs (and hence a tax-paying entity) is best structured as a closed-end fund for the following reasons:

- It is a permanent capital vehicle, meaning that it does not have to fund redemptions of shareholder capital.
- The permanent nature of its capital provides multiple tax-related benefits, including the ability to manage a tax liability through detailed tax planning integrated into the portfolio management process.
- It may take action to maximize tax efficiency without the risk of large inflows or outflows of capital.

[1] The current combined effective federal and state income tax rate reflects the sum of the (i) maximum 35% effective federal income tax rate for corporations and (ii) average state tax rate (net of federal benefit) that have historically ranged from 2% to 5%.

Separately managed accounts

For investors who are comfortable with certain tax complexities, such as K-1s, multi-state tax filings and unrelated business taxable income (UBTI), direct ownership of a portfolio of MLPs through a separately managed account structure is likely the best option. A separately managed account provides the opportunity for professional management and diversification.

The table below summarizes some of the key differences between MLP and other pipeline-company-focused investment products. Because the various products can have tax nuances at the fund level that may not be apparent at a glance, it is important to understand the specific characteristics of any strategy before making an investment.

	Traditional flow-through ETF/ mutual fund	**C-corp ETF/ mutual fund**	**Exchange traded note**	**C-corp closed-end fund**	**MLP separate account**
Primary portfolio	MLPs & pipeline companies	MLPs	MLPs	MLPs	MLPs
Portfolio management	Passive or active	Passive or active	Passive	Active	Active
Invested capital	Fluctuates	Fluctuates	N/A	Permanent	Fluctuates
Entity taxation	No	Yes	No	Yes	N/A
Tax planning control	N/A	No	N/A	Yes	N/A
Deferred tax impact	N/A	100%	N/A	Significantly delayed	N/A
Leverage	Not typically*	Not typically	Possible/ product dependent	Yes	N/A
Counterparty risk	N/A	N/A	Yes	N/A	N/A
Redemption liquidity	Market price/NAV	Market price/ NAV	Market price	Market price	N/A
Unrelated business taxable income	No	No	No	No	Yes
Tax reporting	1099	1099	1099	1099	Multiple K-1s

Note: The risks of investing vary depending on an investor's particular situation. Investment objectives, risks and fees/expenses within particular MLP-related product alternatives vary. All investments involve risk. Principal risk is possible. Nothing contained in this communication constitutes tax, legal or investment advice. Investors must consult their tax adviser or legal counsel for advice and information concerning their particular situation and should carefully read specific fund documentation for particular situations.

ETFs, ETNs and closed-end funds trade throughout the day on exchanges and open-end mutual funds are priced daily. Closed-end funds raise capital through an initial public offering or follow-on offerings. ETFs and closed-end funds can trade at a premium or a discount to the value of their underlying securities. Trading of securities on exchanges generally involve additional fees. In a separately managed account, an investor owns individual securities and in a mutual fund an investor owns a share of a pool of securities. There are generally no guarantees or insurance related to any of the above products.

ETNs are unsecured unsubordinated debt and can be traded or redeemed at maturity, with no guarantee of principal repayment. The value of an ETN can be positively or negatively affected by the credit rating of the issuer.
*Utilization of borrowings would generally be short term in nature to satisfy redemption requests.

Conclusion

Investing in energy pipelines can be an attractive investment as they are essentially tollroads transporting essential energy from areas of supply to areas of demand. But when choosing that investment, it's important to look under the hood to ensure you choose the best vehicle to meet your investment objectives. When choosing an index to gain passive access to a specific asset class, understand the impact of its structure on tracking error to get the best representation of that asset class.

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