

Unincorporated Entities & Securities Law

Christine Hurt

Alan R. Bromberg Centennial Chair in Corporate, Partnership, Business and Securities Law



SMU

SMU

Dedman School of Law

1

Roadmap

Hypothetical: Can a Joint Venture Interest be a Security?

1. Walk through the Federal and State Statutory Law
2. Warn of the Consequences of Ignoring!
3. Apply the Law to Unincorporated Entity Interests

2

2

Federal Securities Law

Section 2(a)(1) of the Securities Act of 1933:

The term “security” means any note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a “security”, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

3

What Types of Interests in an Unincorporated Entity are Securities?

Limited Liability Company Interests

Limited Partnership Interests

General Partnership Interests

Joint Venture Interests

4

4

What is a security?

Section 2(a)(1) of the Securities Act of 1933:

The term “security” means any note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a “security”, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

5

What is a security?

Section 2(a)(1) of the Securities Act of 1933:

The term “security” means any note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, **investment contract**, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a “security”, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Unincorporated Interests and Securities Law

Also available as part of the eCourse

[2023 LLCs, LPs and Partnerships eConference](#)

First appeared as part of the conference materials for the
32nd Annual LLCs, LPs and Partnerships session

"Unincorporated Interests as Securities Under Federal Law and State Law"