

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61721; File No. SR-NYSEArca-2010-14)

March 16, 2010

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change
Relating to the Listing of the United States Brent Oil Fund, LP

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that, on March 3, 2010, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade pursuant to NYSE Arca Equities Rule 8.300 units (“Units”) of the United States Brent Oil Fund, LP (“USBO” or “Partnership”). The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, and www.nyse.com.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Under NYSE Arca Equities Rule 8.300, the Exchange may propose to list and/or trade pursuant to unlisted trading privileges (“UTP”) Partnership Units.³ The Exchange proposes to list and trade the Units of United States Brent Oil Fund, LP pursuant to NYSE Arca Equities Rule 8.300.⁴ The Commission has previously approved listing of similar limited partnerships on the American Stock Exchange LLC (“Amex”) (now known as NYSE Amex LLC),⁵ trading of such securities on the Exchange pursuant to UTP,⁶ and, subsequently, their listing on the

³ On May 25, 2006, the Commission approved NYSE Arca Equities Rule 8.300, which sets forth the rules related to listing and trading criteria for Partnership Units. See Securities Exchange Act Release No. 53875 (May 25, 2006), 71 FR 32164 (June 2, 2006) (SR-NYSEArca-2006-11) (approving trading pursuant to UTP of Partnership Units of the United States Oil Fund, LP). On July 11, 2007, the Commission approved the Exchange’s proposal to trade pursuant to UTP Partnership Units of the United States Natural Gas Fund, LP. Securities Exchange Act Release No. 56042 (July 11, 2007), 72 FR 39118 (July 17, 2007) (SR-NYSEArca-2007-45).

⁴ USBO has filed with the Commission Amendment No. 2 to Form S-1, dated January 22, 2010 (File No. 333-162015) (the “Registration Statement”). Unless otherwise noted, descriptions herein relating to USBO are based on the Registration Statement.

⁵ See Securities Exchange Act Release Nos. 53582 (March 31, 2006), 71 FR 17510 (April 6, 2006) (SR-Amex-2005-127) (order approving Amex listing of United States Oil Fund, LP); 56831 (November 21, 2007), 72 FR 67612 (November 29, 2007) (SR-Amex-2007-98) (order approving Amex listing of United States 12 Month Oil Fund, LP and United States 12 Month Natural Gas Fund, LP); 55632 (April 13, 2007), 72 FR 19987 (April 20, 2007) (SR-Amex-2006-112) (order approving Amex listing of United States Natural Gas Fund, LP); 57188 (January 23, 2008), 73 FR 5607 (January 30, 2008) (SR-Amex-2007-70) (order approving Amex listing of United States Heating Oil Fund, LP and United States Gasoline Fund, LP).

⁶ See Securities Exchange Act Release No. 56832 (November 21, 2007), 72 FR 67328 (November 28, 2007) (SR-NYSEArca-2007-102) (order approving UTP trading of United States 12 Month Oil Fund, LP and United States 12 Month Natural Gas Fund, LP); Securities Exchange Act Release No. 56042 (July 11, 2007), 72 FR 39118 (July 17, 2007) (SR-NYSEArca-2007-45) (order approving UTP trading of United States Natural Gas Fund, LP); Securities Exchange Act Release No. 57294 (February 8, 2008), 73 FR 8917 (February 15, 2008) (SR-NYSEArca-2007-78) (order approving UTP trading of

Exchange.⁷ The Commission has also approved listing on the Exchange of the United States Short Oil Fund, LP.⁸

The Exchange proposes to list and trade pursuant to NYSE Arca Equities Rule 8.300 Units of USBO. According to the Registration Statement, the net assets of USBO will consist primarily of investments in futures contracts for crude oil, heating oil, gasoline, natural gas and other petroleum-based fuels that are traded on the ICE Futures Exchange, New York Mercantile Exchange (the “NYMEX”), or other U.S. and foreign exchanges (collectively, “Futures Contracts”). USBO may also invest in other crude oil-related investments such as cash-settled options on Futures Contracts, forward contracts for crude oil, cleared swap contracts and over-the-counter transactions that are based on the price of crude oil and other petroleum-based fuels, Futures Contracts and indices based on the foregoing (“Other Crude Oil-Related Investments” and, together with Futures Contracts, “Crude Oil Interests”).

USBO will invest in Crude Oil Interests to the fullest extent possible without being leveraged or unable to satisfy its current or potential margin or collateral obligations with respect to its investments in Futures Contracts and Other Crude Oil-Related Investments. The primary focus of the General Partner will be investing in Futures Contracts and the management of investments in short-term obligations of the United States of two years or less (“Treasuries”), cash and/or cash equivalents for margining purposes and as collateral.

United States Heating Oil Fund, LP and United States Gasoline Fund, LP).

⁷ See Securities Exchange Act Release No. 58965 (November 17, 2008), 73 FR 71078 (November 24, 2008) (order approving listing on the Exchange of United States Oil Fund, LP, United States 12 Month Oil Fund, LP, United States Heating Oil Fund, LP, United States Gasoline Fund, LP, United States 12 Month Natural Gas Fund, LP and United States Natural Gas Fund, LP).

⁸ See Securities Exchange Act Release No. 59173 (December 29, 2008), 74 FR 490 (January 6, 2009) (SR-NYSEArca-2008-125) (order approving listing and trading of United States Short Oil Fund, LP).

USBO will comply with the requirements of Rule 10A-3⁹ under the Securities Exchange Act of 1934 (“Act”)¹⁰ as it applies to limited partnerships. In addition, USBO will comply with the requirements of NYSE Arca Equities Rule 8.300. A minimum of 100,000 Units will be outstanding at the commencement of trading on the Exchange.

Overview of USBO¹¹

United States Brent Oil Fund, LP, a Delaware limited partnership, is a commodity pool that will issue Units. It is managed and controlled by its general partner, United States Commodity Funds LLC (“General Partner”). The General Partner is a single member limited liability company formed in Delaware on May 10, 2005, that is registered as a commodity pool operator (“CPO”) with the Commodity Futures Trading Commission (“CFTC”) and is a member of the National Futures Association (“NFA”). Prior to June 13, 2008, the General Partner’s name was Victoria Bay Asset Management, LLC. USBO will pay the General Partner a management fee of 0.75% of NAV on its average net assets.

The General Partner is not affiliated with a broker-dealer.

USBO Investment Objective and Policies

According to the Registration Statement, the investment objective of USBO is intended to have the daily changes in percentage terms of its Units’ net asset value (“NAV”) reflect the daily changes in percentage terms of the spot price of Brent crude oil as measured by the changes in the price of the futures contract on Brent crude oil as traded on ICE Futures Exchange that is the near month contract to expire, except when the near month contract is within two weeks of

⁹ 17 CFR 240.10A-3.

¹⁰ 15 U.S.C. 78a.

¹¹ Terms relating to USBO referred to, but not defined, herein are defined in the Registration Statement.

expiration, in which case the futures contract will be the next month contract to expire (the “Benchmark Futures Contract”), less USBO’s expenses. It is not the intent of USBO to be operated in a fashion such that its NAV will equal, in dollar terms, the spot price of crude oil or any particular futures contract based on crude oil. USBO may invest in Crude Oil Interests other than the Benchmark Futures Contract, including to comply with accountability levels and position limits.

As a specific benchmark, the General Partner will endeavor to place USBO’s trades in Futures Contracts and Other Crude Oil-Related-Investments and otherwise manage USBO’s investments so that “A” will be within plus/minus 10 percent of “B”, where:

- A is the average daily change in USBO’s NAV for any period of 30 successive valuation days, i.e., any NYSE Arca trading day as of which USBO calculates its NAV, and
- B is the average daily change in the price of the Benchmark Futures Contract over the same period.

An investment in the Units is intended to allow both retail and institutional investors to easily gain exposure to the crude oil market in a cost-effective manner. The Units are also expected to provide additional means for diversifying an investor’s investments or hedging exposure to changes in crude oil prices.

The Benchmark Futures Contract will be changed from the near month contract to the next month contract over a four-day period. Each month, the Benchmark Futures Contract will change starting at the end of the day on the date two weeks prior to expiration of the near month contract for that month. During the first three days of the period, the applicable value of the Benchmark Futures Contract will be based on a combination of the near month contract and the

next month contract as follows: (1) day 1 will consist of 75% of the then near month contract’s total return for the day, plus 25% of the total return for the day of the next month contract, (2) day 2 will consist of 50% of the then near month contract’s total return for the day, plus 50% of the total return for the day of the next month contract, and (3) day 3 will consist of 25% of the then near month contract’s total return for the day, plus 75% of the total return for the day of the next month contract. On day 4, the Benchmark Futures Contract will be the next month contract to expire at that time and that contract will remain the Benchmark Futures Contract until the beginning of the following month’s change in the Benchmark Futures Contract over a four-day period.

On each day during the four-day period, the General Partner anticipates it will “roll” USBO’s positions in oil investments by closing, or selling, a percentage of USBO’s positions in Crude Oil Interests and reinvesting the proceeds from closing those positions in new Crude Oil Interests that reflect the change in the Benchmark Futures Contract. The anticipated monthly dates on which the Benchmark Futures Contract will be changed and the Crude Oil Interests will be “rolled” in 2010 and subsequent years will be posted on USBO’s Web site at www.unitedstatesbrentoilfund.com, and are subject to change without notice.

According to the Registration Statement, the General Partner will employ a “neutral” investment strategy intended to track the changes in the price of the Benchmark Futures Contract regardless of whether the price goes up or goes down. USBO’s “neutral” investment strategy is designed to permit investors generally to purchase and sell USBO’s Units for the purpose of investing indirectly in crude oil in a cost-effective manner, and/or to permit participants in the crude oil or other industries to hedge the risk of losses in their crude oil-related transactions. This and certain risk factors discussed in the Registration Statement may cause a lack of

correlation between the changes in USBO's NAV and the changes in the price of Brent crude oil. For example, USBO (i) may not be able to sell/buy the exact amount of positions in Futures Contracts and Other Crude Oil-Related Investments to have a perfect correlation with NAV; (ii) may not always be able to buy and sell Futures Contracts or Other Crude Oil-Related Investments at the market price; (iii) may not experience a perfect correlation between the Benchmark Futures Contract and the investments in Futures Contracts, Other Crude Oil-Related Investments and U.S. Treasuries, cash and cash equivalents; and (iv) will be required to pay brokerage fees and the management fee, which will have an effect on the correlation with NAV. Additional factors that may impact correlation with NAV are discussed in the Registration Statement.

USBO will create and redeem Units only in blocks of 100,000 Units called Creation Baskets and Redemption Baskets, respectively. Only Authorized Purchasers may purchase or redeem Creation Baskets or Redemption Baskets.

Clearing Broker. UBS Securities will act as a futures clearing broker for USBO. UBS Securities is registered in the U.S. with FINRA as a Broker-Dealer and with the CFTC as a Futures Commission Merchant. The clearing arrangements between the clearing broker and USBO generally are terminable by the clearing broker once the clearing broker has given USBO notice. Upon termination, the General Partner may be required to renegotiate or make other arrangements for obtaining similar services if USBO intends to continue trading in Futures Contracts or Other Crude Oil-Related Investments at its level of capacity at such time.

Administrator and Custodian. Brown Brothers Harriman & Co. is anticipated to be the registrar and transfer agent for the Units. Brown Brothers Harriman & Co. is also anticipated to be the Custodian for USBO. In this capacity, Brown Brothers Harriman & Co. will hold

USBO's Treasuries, cash and cash equivalents pursuant to a custodial agreement. In addition, Brown Brothers Harriman & Co. will perform certain administrative and accounting services for USBO and will prepare certain SEC and CFTC reports on behalf of USBO.

Marketing Agent. USBO also plans to employ ALPS Distributors, Inc. as the marketing agent. USBO, through its marketing agent, will continuously offer Creation Baskets to and redeem Redemption Baskets from Authorized Purchasers and will receive and process creation and redemption orders from Authorized Purchasers.

Investment Strategy of USBO

According to the Registration Statement, USBO anticipates that the use of Futures Contracts, together with Other Crude Oil-Related Investments, as necessary, will produce price and total return results that closely track the investment goals of USBO.

USBO may employ spreads or straddles in its trading to mitigate the differences in its investment portfolio and its goal of tracking changes in the price of the Benchmark Futures Contract. USBO would use a spread when it chooses to take simultaneous long and short positions in futures written on the same underlying asset, but with different delivery months. The effect of holding such combined positions is to adjust the sensitivity of USBO to changes in the price relationship between futures contracts that will expire sooner and those that will expire later. USBO would use such a spread if the General Partner felt that taking such long and short positions, when combined with the rest of its holdings, would more closely track the investment goals of USBO, or if the General Partner felt it would lead to an overall lower cost of trading to achieve a given level of economic exposure to movements in Brent crude oil prices.

USBO will invest only in Futures Contracts and Other Crude Oil-Related Investments that are traded in sufficient volume to permit, in the opinion of the General Partner, ease of

taking and liquidating positions in these financial interests. While Brent crude oil Futures Contracts traded on the ICE Futures Exchange can be physically settled, USBO does not intend to take or make physical delivery. However, USBO may from time to time trade in Other Crude Oil-Related Investments, including contracts based on the spot price of crude oil.

While USBO expects its ratio of margin and collateral posted to total assets to generally range from 10% to 20%, the General Partner endeavors to have the value of USBO's Treasuries, cash and cash equivalents, whether held by USBO or posted as margin or collateral, at all times approximate the aggregate market value of USBO's obligations under its Futures Contracts and Other Crude Oil-Related Investments. Borrowings will not be used by USBO, unless USBO is required to borrow money in the event of physical delivery, USBO trades in cash commodities, or for short-term needs created by unexpected redemptions. USBO does not plan to establish credit lines.

According to the Registration Statement, as part of its Other Crude Oil-Related Investments, USBO may purchase options on crude oil Futures Contracts on principal futures exchanges in pursuing its investment objective. USBO may enter into cleared swaps and non-exchange-traded derivatives transactions (also known as over-the-counter contracts), which are usually entered into between two parties. Each party to such contract bears the credit risk that the other party may not be able to perform its obligations under its contract.

Some crude oil-based derivatives transactions contain fairly generic terms and conditions and are available from a wide range of participants. Other crude oil-based derivatives have highly customized terms and conditions and are not as widely available. Many of these over-the-counter contracts are cash-settled forwards for the future delivery of crude oil- or petroleum-based fuels that have terms similar to the Futures Contracts. Others take the form of "swaps" in

which the two parties exchange cash flows based on pre-determined formulas tied to the crude oil spot price, forward crude oil price, the Benchmark Futures Contract price, or other crude oil futures contract price. Certain of these swaps may be cleared through clearinghouses and have margin and other requirements akin to those found in futures contracts. USBO may also enter into over-the-counter derivative contracts such as swaps or cash-settled forwards for the future delivery of crude oil- or petroleum-based fuels that are not cleared. For example, USBO may enter into over-the-counter derivative contracts whose value will be tied to changes in the difference between the crude oil spot price, the Benchmark Futures Contract price, or some other futures contract price traded on New York Mercantile Exchange or ICE Futures Exchange and the price of other Futures Contracts that may be invested in by USBO.

According to the Registration Statement, to protect itself from the credit risk that arises in connection with such over-the-counter Other Crude Oil-Related Investments, USBO will enter into agreements with each counterparty that provide for the netting of its overall exposure to its counterparty, such as the agreements published by the International Swaps and Derivatives Association, Inc. USBO will also require that the counterparty be highly rated and/or provide collateral or other credit support to address USBO's exposure to the counterparty. The creditworthiness of each potential counterparty will be assessed by the General Partner, as described in the Registration Statement.

USBO's Units

According to the Registration Statement, the offering of USBO's Units is a best efforts offering. USBO will continuously offer Creation Baskets consisting of 100,000 Units through the Marketing Agent, to Authorized Purchasers. It is expected that on the effective date, the initial Authorized Purchaser will, subject to conditions, purchase one or more initial Creation

Baskets of 100,000 Units at a price per unit equal to \$50. It is expected that the proceeds from that purchase will be invested on that day and that USBO's initial per Unit net asset value will be established as of 4:00 p.m. Eastern time ("E.T.") that day. Authorized Purchasers will pay a \$1,000 fee for each order to create one or more Creation Baskets or redeem one or more Redemption Baskets. The Marketing Agent will receive, for its services as marketing agent to USBO, a marketing fee of 0.06% on assets up to the first \$3 billion and 0.04% on assets in excess of \$3 billion, provided, however, that in no event may the aggregate compensation paid to the Marketing Agent and any affiliate of the General Partner for distribution-related services in connection with the offering of Units exceed ten percent (10%) of the gross proceeds of the offering.

The total deposit required to create each basket ("Creation Basket Deposit") will be an amount of Treasuries and/or cash that is in the same proportion to the total assets of USBO (net of estimated accrued but unpaid fees, expenses and other liabilities) on the date the order to purchase is accepted as the number of Units to be created under the purchase order is in proportion to the total number of Units outstanding on the date the order is received. The General Partner determines, directly in its sole discretion or in consultation with the Administrator, the requirements for Treasuries and the amount of cash, including the maximum permitted remaining maturity of a Treasury and proportions of Treasuries and cash that may be included in deposits to create baskets. The Marketing Agent will publish such requirements at the beginning of each business day. The amount of cash deposit required will be the difference between the aggregate market value of the Treasuries required to be included in a Creation Basket Deposit as of 4:00 p.m. E.T. on the date the order to purchase is properly received and the total required deposit.

Impact of Accountability Levels and Position Limits

According to the Registration Statement, the Benchmark Futures Contract is currently traded on the ICE Futures Exchange without specific accountability levels or position limits. However, the ICE Futures Exchange's daily position management regime requires that any position greater than 500 contracts in the nearest two months to expire must be reported to the ICE Futures Exchange on a daily basis. According to the Registration Statement, the ICE Futures Exchange has powers to prevent the development of excessive positions or unwarranted speculation or any other undesirable situation and may take any steps necessary to resolve such situations including the ability to mandate limitations on the size of such positions or to reduce positions where appropriate.

If USBO is required to limit or reduce the size of its positions in Brent crude oil contracts on the ICE Futures Exchange, it may then, if permitted under applicable regulatory requirements, purchase Futures Contracts on the NYMEX or other exchanges that trade listed crude oil futures. According to the Registration Statement, the Futures Contracts available on the NYMEX are comparable to the contracts on the ICE Futures Exchange, but they may have different underlying commodities, sizes, deliveries, and prices. The Futures Contracts available on the NYMEX are subject to accountability levels and position limits. In addition, USBO may invest in Other Crude Oil-Related Investments, as described above.

Calculation of NAV

USBO's NAV is calculated by (1) taking the current market value of its total assets, and (2) subtracting any liabilities. Brown Brothers Harriman & Co., the Administrator, will calculate the NAV of USBO once each New York Stock Exchange ("NYSE") trading day. The NAV for a particular trading day will be released after 4:00 p.m. E.T. Trading during the Core Trading

Session on the NYSE Arca typically closes at 4:00 p.m. E.T. The Administrator will use the ICE Futures Exchange settlement price (a weighted average price of trades during a three minute settlement period from 2:27 p.m., E.T.) for the contracts traded on the ICE Futures Exchange, but will calculate or determine the value of all other USBO investments, as of the earlier of the close of the NYSE Arca or 4:00 p.m. E.T. in accordance with the Administrative Agency Agreement among Brown Brothers Harriman & Co., USBO and the General Partner.

In addition, Futures Contracts, Other Crude Oil-Related Investments and Treasuries held by USBO will be valued by the Administrator, using rates and points received from client-approved third party vendors (such as Reuters and WM Company) and advisor quotes. These investments will not be included in the Indicative Partnership Value (“IPV”, as discussed below). The IPV is based on the prior day’s NAV and moves up and down solely according to changes in the Benchmark Futures Contracts for Brent crude oil traded on the ICE Futures Exchange.

As discussed above, USBO will create and redeem Units only in blocks of 100,000 Units called Creation Baskets and Redemption Baskets, respectively. The price of each Unit offered in Creation Baskets on any day will be the total NAV of USBO calculated as of the close of the NYSE on that day divided by the number of issued and outstanding Units.

The creation and redemption of baskets will only be made in exchange for delivery to USBO or the distribution by USBO of the amount of Treasuries and any cash represented by the baskets being created or redeemed, the amount of which will be based on the combined NAV of the number of Units included in the baskets being created or redeemed as of 4:00 p.m. E.T. on the day the order to create or redeem baskets is properly accepted. Additional procedures relating to the creation and redemption of Units are described in the Registration Statement.

Dissemination and Availability of Information

Price of Futures Contracts. The applicable Futures Contracts are the underlying benchmark investment, commodity or asset, as applicable, for purposes of NYSE Arca Equities Rule 8.300(d)(2)(ii).¹²

The ICE Futures Exchange disseminates price information on the Futures Contracts traded on the ICE Futures Exchange on a real-time basis during normal trading hours on the ICE Futures Exchange from 8:00 p.m. E.T. to 6:00 p.m. E.T. With respect to any Futures Contracts that are traded on NYMEX, NYMEX disseminates price information on a real-time basis during normal trading hours on NYMEX from 10:00 a.m. to 2:30 p.m., E.T.

Portfolio Disclosure. USBO's total portfolio composition will be disclosed each business day that the NYSE Arca is open for trading on USBO's Web site. The Web site disclosure of portfolio holdings will be made daily and will include, as applicable, the name and value of each Crude Oil Interest, the specific types of Other Crude Oil-Related Investments, Treasuries, and the amount of cash and cash equivalents held in USBO's portfolio. USBO's Web site is publicly accessible at no charge.

Indicative Partnership Value. In order to provide updated information relating to USBO for use by investors and market professionals, an updated IPV, as described below, will be calculated and disseminated by one or more major market data vendors during the NYSE Arca Core Trading Session. The IPV is based on the prior day's NAV and moves up and down solely according to changes in the Benchmark Futures Contracts for Brent crude oil traded on the ICE

¹² NYSE Arca Equities Rule 8.300(d)(2)(ii) provides that NYSE Arca Equities will consider removing from listing Partnership Units if the value of the underlying benchmark investment, commodity or asset is no longer calculated or available on at least a 15-second delayed basis or NYSE Arca Equities stops providing a hyperlink on its Web site to any such investment, commodity or asset value.

Futures Exchange.¹³ The prices reported for the active Futures Contract month will be adjusted based on the prior day's spread differential between settlement values for that contract and the spot month contract. In the event that the spot month contract is also the active contract, the last sale price for the active contract will not be adjusted. The IPV disseminated during the Core Trading Session should not be viewed as an actual real time update of the NAV, because NAV is calculated only once at the end of each trading day.

The IPV will be disseminated on a per Unit basis every 15 seconds during the NYSE Arca Core Trading Session from 9:30 a.m. E.T. to 4:00 p.m. E.T. The normal trading hours of ICE Futures Exchange are 8:00 p.m. E.T. to 6:00 p.m. E.T.¹⁴

Dissemination of the IPV provides additional information that is not otherwise available to the public and is useful to investors and market professionals in connection with the trading of USBO Units on the NYSE Arca. Investors and market professionals will be able throughout the trading day to compare the market price of USBO and the IPV. If the market price of USBO Units diverges significantly from the IPV, market professionals will have an incentive to execute arbitrage trades. For example, if USBO appears to be trading at a discount compared to the IPV, a market professional could buy USBO Units on the NYSE Arca and sell short futures contracts. Such arbitrage trades can tighten the tracking between the market price of USBO and the IPV and thus can be beneficial to all market participants.

In addition, quotation and last-sale information regarding the Units will be disseminated through the facilities of the Consolidated Tape Association.

¹³ See e-mail from Tim Malinowski, Senior Director, NYSE Euronext LLC, to Edward Cho, Special Counsel, Commission, dated March 15, 2010.

¹⁴ Id.

Trading Rules

The Exchange deems the Units to be equity securities, thus rendering trading in the Units subject to the Exchange's existing rules governing the trading of equity securities. The Units will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. E.T. The Exchange has appropriate rules to facilitate transactions in the Units during all trading sessions. The minimum trading increment for the Units on the Exchange will be \$0.01.

NYSE Arca Equities Rule 8.300(e) sets forth certain restrictions on ETP Holders acting as registered Market Makers in Partnership Units to facilitate surveillance. NYSE Arca Equities Rule 8.300(e)(2)-(3) requires that the ETP Holder acting as a registered Market Maker in Partnership Units provide the Exchange with necessary information relating to its trading in the underlying asset or commodity, related futures or options on futures, or any other related derivatives. NYSE Arca Equities Rule 8.300(e)(4) prohibits the ETP Holder acting as a registered Market Maker in Partnership Units from using any material nonpublic information received from any person associated with an ETP Holder or employee of such person regarding trading by such person or employee in the underlying asset or commodity, related futures or options on futures or any other related derivative (including the Partnership Units). In addition, NYSE Arca Equities Rule 8.300(e)(1) provides that an ETP Holder acting as a registered Market Maker in the Units is obligated to comply with NYSE Arca Equities Rule 7.26 pertaining to limitations on dealings when such Market Maker, or affiliate of such Market Maker, engages in certain business activities, as described in such rules.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Units. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Units

inadvisable. These may include: (1) the extent to which trading is not occurring in the underlying Futures Contracts, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in the Units could be halted pursuant to the Exchange's "circuit breaker" rule.¹⁵ Under Rule 7.34(a)(5), if the Exchange becomes aware that the NAV for the Units is not being disseminated to all market participants at the same time, it will halt trading in the Units on the Exchange until such time as the NAV is available to all market participants. In addition, if the portfolio composition applicable to the Units, as disseminated on the Web site for the Units, is not disseminated to all market participants at the same time, the Exchange will halt trading in the affected Units.

If the value of the IPV or the underlying benchmark investment, commodity or asset applicable to the Units is not being disseminated as required, the Exchange may halt trading in the Units during the day on which the interruption first occurs. If such interruption persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products, including Partnership Units, to monitor trading in the Units. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Units in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

¹⁵ See NYSE Arca Equities Rule 7.12.

The Exchange's current trading surveillances focus on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. The Exchange is able to obtain information regarding trading in the Units, the applicable physical commodities included in, or options, futures or options on futures on, or any other derivatives based on such commodities, through ETP Holders, in connection with such ETP Holders' proprietary or customer trades which they effect on any relevant market. With regard to the Futures Contracts, the Exchange can obtain market surveillance information, including customer identity information, with respect to transactions occurring on ICE Futures Exchange pursuant to its comprehensive information sharing agreements with that exchange. NYMEX is a member of the Intermarket Surveillance Group ("ISG") and the Exchange therefore has access to all relevant trading information with respect to those contracts without any further action being required on the part of the Exchange. A list of ISG members is available at www.isgportal.org.¹⁶

In addition, to the extent that the Partnership invests in Futures Contracts traded on other exchanges, not more than 10% of the weight of the Partnership assets in the aggregate shall consist of Crude Oil Interests whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

The Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

¹⁶ The Exchange notes that not all of the Crude Oil Interests held by the Fund may trade on exchanges that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin (“Bulletin”) of the special characteristics and risks associated with trading the Units. Specifically, the Bulletin will discuss the following: (1) the risks involved in trading the Units during the Opening and Late Trading Sessions (for Futures Contracts traded on ICE Futures), or, in addition, part of the Core Trading Session (for Futures Contracts traded on NYMEX) when an updated IPV will not be calculated or publicly disseminated; (2) the procedures for purchases and redemptions of Units (and that Units are not individually redeemable); (3) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Units; (4) how information regarding the IPV is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Units prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Partnership is subject to various fees and expenses described in the Registration Statement.

The Bulletin will also reference the fact that there is no regulated source of last sale information regarding physical commodities, that the Commission has no jurisdiction over the trading of crude oil, heating oil, gasoline, natural gas or other petroleum-based fuels, and that the CFTC has regulatory jurisdiction over the trading of futures contracts traded on U.S. exchanges and related options.

The Bulletin will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

The Bulletin will also disclose that the NAV for the Units will be calculated after 4:00

p.m. E.T. each trading day.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,¹⁷ in general, and furthers the objectives of Section 6(b)(5),¹⁸ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that the proposed rule change will allow the listing of the Units on the Exchange, which the Exchange believes will benefit both investors and the marketplace. In addition, the listing and trading criteria set forth in Rule 8.300 are intended to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

the self-regulatory organization consents, the Commission will:

- (A) by order approve the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

The Exchange has requested accelerated approval of this proposed rule change prior to the 30th day after the date of publication of notice in the Federal Register. The Commission is considering granting accelerated approval of the proposed rule change at the end of a 15-day comment period.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-NYSEArca-2010-14 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File No. SR-NYSEArca-2010-14. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all

comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of NYSE Arca. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-NYSEArca-2010-14 and should be submitted on or before [insert date 15 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Florence E. Harmon
Deputy Secretary

¹⁹ 17 CFR 200.30-3(a)(12).