

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56831; File No. SR-Amex-2007-98)

November 21, 2007

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, Relating to the Listing and Trading of Units of the United States 12 Month Oil Fund, LP and the United States 12 Month Natural Gas Fund, LP

I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4² thereunder, notice is hereby given that on August 23, 2007, the American Stock Exchange LLC (“Amex” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. On September 14, 2007, the Exchange submitted Amendment No. 1 to the proposed rule change. On October 25, 2007, the Exchange submitted Amendment No. 2 to the proposed rule change. The proposed rule change, as amended, was published for comment in the Federal Register on November 2, 2007 for a 15-day comment period.³ This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2 on an accelerated basis.

II. Description of Proposal

The Exchange proposes to list and trade units (each a “Unit” and, collectively, the “Units”) of each of the United States 12 Month Oil Fund, LP (“12 Month Oil Fund”) and the United States 12 Month Natural Gas Fund, LP (“12 Month Natural Gas Fund”) (each a

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 56719 (October 29, 2007), 72 FR 62277 (“Notice”).

“Partnership” and, collectively, the “Partnerships”) pursuant to Amex Rules 1500-AEMI and 1501 through 1505.⁴ The Exchange has represented that the Units will conform to the initial and continued listing criteria under Rule 1502,⁵ specialist prohibitions under Rule 1503 and the obligations of specialists under Rule 1504.

Ownership of a Partnership Unit represents a fractional undivided unit of a beneficial interest in the net assets of that Partnership.⁶ Each of the net assets of the 12 Month Oil Fund and the 12 Month Natural Gas Fund 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 New York Mercantile Exchange (“NYMEX”), Intercontinental Exchange (“ICE Futures”) or other U.S. and foreign exchanges (collectively, “Futures Contracts”). In the case of the 12 Month Oil Fund, the predominant investments are expected to be based on, or related to, crude oil. Similarly, for the 12 Month Natural Gas Fund, the predominant investments are expected to be based on, or related to, natural gas.

The 12 Month Oil Fund may also invest in other crude oil-related investments such as cash-settled options on Futures Contracts, forward contracts for crude oil, and over-the-counter (“OTC”) transactions based on the price of crude oil, heating oil, gasoline, natural gas, other

⁴ Amex Rule 1500-AEMI provides for the listing of Partnership Units, which are defined as securities, that are: (a) issued by a partnership that invests in any combination of futures contracts, options on futures contracts, forward contracts, commodities, and/or securities; and (b) that are issued and redeemed daily in specified aggregate amounts at net asset value. See Exchange Act Release No. 53582 (March 31, 2006), 71 FR 17510 (April 6, 2006) (SR-Amex-2005-127) (approving Amex Rules 1500-AEMI and 1501 through 1505 in conjunction with the listing and trading of Units of the United States Oil Fund, LP).

⁵ The Amex stated that it will require a minimum of 100,000 Units to be outstanding at the start of trading and expects that the initial price of a Unit will be \$50.00.

⁶ Each Partnership is a commodity pool that will issue Units that may be purchased and sold on the Exchange.

petroleum-based fuels, Futures Contracts, and indices based on the foregoing (collectively, “Other Crude Oil-Related Investments”). Futures Contracts and Other Crude Oil-Related Investments collectively are referred to as “Crude Oil Interests.” Similarly, the 12 Month Natural Gas Fund may also invest in other natural gas-related investments such as cash-settled options on Futures Contracts, forward contracts for natural gas, and OTC transactions based on the price of natural gas, crude oil and other petroleum-based fuels, Futures Contracts and indices based on the foregoing (collectively, “Other Natural Gas-Related Investments”). Futures Contracts and Other Natural Gas-Related Investments collectively are referred to as “Natural Gas Interests.”

Each of the 12 Month Oil Fund and the 12 Month Natural Gas Fund will invest in Crude Oil Interests and Natural Gas Interests, respectively, to the fullest extent possible without being leveraged or unable to satisfy its current or potential margin or collateral obligations. In pursuing this objective, the primary focus of each Partnership’s investment manager, Victoria Bay Asset Management, LLC (“General Partner”), will be the investment in Futures Contracts and the management of its investments in short-term obligations of the United States of two years or less (“Treasuries”) and cash and cash equivalents (collectively, “Cash”) for margining purposes and as collateral.

Each Fund seeks to track price changes in percentage terms of an underlying commodity as measured by a benchmark defined to be the average price of specified futures contracts.⁷ The

⁷ A detailed discussion of the underlying benchmark for each Fund, dissemination of the values thereof, investment objective of the Funds, portfolio investment methodology, investment techniques, availability of information and key values, creation and redemption of Units, dividends and distributions, Amex’s initial and continued listing standards, Amex trading rules and trading halts, information circular to Exchange members, and other related information regarding the Funds can be found in the Notice. See supra note 3.

investment objective of the 12 Month Oil Fund is for the changes in percentage terms of the Units' net asset value ("NAV") to reflect the changes in percentage terms of the price of light, sweet crude oil delivered to Cushing, Oklahoma, as measured by the changes in the average of the prices of twelve crude oil futures contracts traded on NYMEX (the "Oil Benchmark Futures Contracts"), less the 12 Month Oil Fund's expenses.⁸ Similarly, the investment objective of the 12 Month Natural Gas Fund is for the changes in percentage terms of the Units' NAV to reflect the changes in percentage terms of the price of natural gas delivered at the Henry Hub, Louisiana, as measured by the changes in the average of the prices of 12 futures contracts on natural gas traded on NYMEX (the "Natural Gas Benchmark Futures Contracts"), less the 12 Month Natural Gas Fund's expenses.⁹ With respect to both funds, when calculating the daily movement of the average price of the relevant twelve futures contracts, each contract month will be equally weighted.

⁸ The Oil Benchmark Futures Contracts consist of the near month contract to expire and the contracts for the following eleven months, for a total of twelve consecutive months' contracts, except when the near month contract is within two weeks of expiration, in which case it will be measured by the futures contracts that are the next month contract to expire and the contracts for the eleven consecutive months following that contract. The average price is determined by summing up the 12 individual monthly prices and dividing them by 12, and then comparing that result to the prior day's average price determined in the same fashion. The composition of the Oil Benchmark Futures Contracts will be changed or "rolled" over a one day period by selling the near month contract and buying the contract, which at that time is the thirteen month contract.

⁹ The Natural Gas Benchmark Futures Contracts consist of the near month contract to expire and the contracts for the following eleven months, for a total of twelve consecutive months' contracts, except when the near month contract is within two weeks of expiration, in which case it will be measured by the futures contracts that are the next month contract to expire and the contracts for the eleven consecutive months following that contract. The average price is determined by summing up the 12 individual monthly prices and dividing them by 12, and then comparing that result to the prior day's average price determined in the same fashion. The composition of the Natural Gas Benchmark Futures Contract will be changed or "rolled" over a one day period by selling the near month contract and buying the contract which at that time is the thirteen month contract on the same day.

The General Partner for the Funds will employ a “neutral” investment strategy intended to track the changes in the price of crude oil and natural gas, respectively, regardless of whether the price of those commodities goes up or goes down. The “neutral” investment strategy is designed to permit investors to purchase and sell the Funds’ Units for the purpose of investing indirectly in crude oil and natural gas in a cost-effective manner and/or to permit market participants to hedge the risk of losses in crude oil or natural gas investments.

III. Commission Findings and Accelerated Approval

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁰ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹¹ which requires that an exchange have rules designed, among other things, 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, and, in general to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purpose of the Act or the administration of the

¹⁰ In approving this proposed rule change, the Commission notes that it has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹¹ 15 U.S.C. 78f(b)(5).

Exchange. The Commission notes that it previously approved the original listing and trading of certain partnership units similar to the Units.¹²

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,¹³ which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. The Amex will disseminate for each Partnership every 15 seconds throughout Amex's trading day by means of the Consolidated Tape Association/Consolidated Quote High Speed Lines information with respect to the indicative partnership value ("IPV"). The Exchange will also make available on its Web site daily trading volume, the closing prices, and the NAV. Web site disclosure of portfolio holdings for both Funds will be made daily and will include, as applicable, the specific types, the name and value of each Crude Oil or Natural Gas Interest, the specific types of Crude Oil or Natural Gas Interests and characteristics of such Crude Oil or Natural Gas Interests, Treasuries, and amount of Cash held in the portfolio of the Funds. In addition, Amex represented that quotations and last-sale information regarding the Futures Contracts are widely disseminated through a variety of market data vendors worldwide, including Bloomberg and Reuters. In addition, the Exchange further represented that real-time futures data is available by subscription from Reuters and Bloomberg.

¹² See Securities Exchange Act Release Nos. 53582 (March 31, 2006), 71 FR 17510 (April 6, 2006) (SR-Amex-2005-127) (approving Amex Rules 1500-AEMI and 1501 through 1505 in conjunction with the listing and trading of Units of the United States Oil Fund, LP); and 55632 (April 13, 2007), 72 FR 19987 (April 20, 2007) (SR-Amex-2006-112) (approving the listing and trading of shares of the United States Natural Gas Fund, LP).

¹³ 15 U.S.C. 78k-1(a)(1)(C)(iii).

Furthermore, the Commission believes that the proposal to list and trade the Units is reasonably designed to promote fair disclosure of information that may be necessary to price the Units appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission also believes that the Exchange's trading halt rules are reasonably designed to prevent trading in the Units when transparency is impaired. Trading in the Units will be halted in the event the market volatility trading halt parameters set forth in Amex Rule 117 have been reached. In addition, Amex Rule 1502(b)(ii)-(iii) provides that, if the IPV or the underlying benchmark futures contract of a Fund is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination occurs. If the interruption to the dissemination of the IPV or the underlying benchmark futures contract 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.

The Commission further believes that the trading rules and procedures to which the Units will be subject pursuant to this proposal are consistent with the Act. The Exchange has represented that the Units will be traded on the Exchange similar to other equity securities.

In support of this proposal, the Exchange has made the following representations:

- (1) The Exchange will obtain a representation from each Partnership, prior to listing, that the NAV per Unit for each Fund will be calculated daily and made available to all market participants at the same time. In addition, the Exchange represents that disclosure of the portfolio composition for each Fund will be made to all market participants at the same time.
- (2) The Exchange's surveillance procedures are adequate to deter and detect violations of Exchange rules relating to trading of the Units. Specifically, the surveillance

procedures will be similar to those used for units of the United States Oil Fund, LP and the United States Natural Gas Fund, LP as well as other commodity-based trusts, trust issued receipts, and exchange-traded funds. In addition, the surveillance procedures will incorporate and rely upon existing Amex surveillance procedures governing options and equities. The Exchange currently has in place a comprehensive surveillance sharing agreement with each of NYMEX and ICE Futures for the purpose of providing information in connection with trading in, or related to, futures contracts traded on NYMEX and ICE Futures, respectively. To the extent that a Partnership invests in Crude Oil Interests or Natural Gas Interests traded on other exchanges, the Amex will enter into comprehensive surveillance sharing agreements with those particular exchanges. The Exchange has represented that each of the Partnerships will only invest in futures contracts on markets where the Exchange has entered into the appropriate comprehensive surveillance sharing agreements.

- (3) Prior to the commencement of trading, the Exchange will inform its members and member organizations in an Information Circular. The Information Circular will discuss the special characteristics, and risks, of trading in the Units. Specifically, the Information Circular, among other things, will discuss what the Units are, how a basket of Units is created and redeemed, the requirement that members and member firms deliver a prospectus to investors purchasing the Units prior to, or concurrently with, the confirmation of a transaction, applicable Amex rules, dissemination of information regarding the per-Unit IPV, trading information, and applicable suitability rules. The Information Circular will also reference the fact that there is no

regulated source of last sale information regarding physical commodities, and describe the regulatory framework relating to the trading of crude oil, natural gas, heating oil, gasoline, or other petroleum-based fuels and crude oil- and natural gas-based futures contracts and related options. The Information Circular will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

(4) The Trust is required to comply with Rule 10A-3 under the Act¹⁴ for the initial and continued listing of the Units.

This approval order is based on the Exchange's representations.

Acceleration

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,¹⁵ for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice in the Federal Register. The Commission notes that the present proposal is similar to prior proposals that the Commission has approved,¹⁶ is consistent with current Amex listing requirements, and received no comments following publication in the Federal Register. The Commission does not believe that the proposed rule change, as amended, raises novel regulatory issues. Consequently, the Commission believes that it is appropriate to permit investors to benefit from these additional investment choices without delay.

Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,¹⁷ to approve the proposal, as amended, on an accelerated basis.

¹⁴ 17 CFR 240.10A-3.

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ See supra, note 12.

¹⁷ 15 U.S.C. 78s(b)(5).

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁸ that the proposed rule change (SR-Amex-2007-98), as amended, be, and is hereby approved on an accelerated basis.

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

Florence E. Harmon
Deputy Secretary

¹⁸ 15 U.S.C. 78s(b)(2).

¹⁹ 17 CFR 200.30-3(a)(12).