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Steven W. Williams,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53324; File No. SR–Amex–2005–127]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of a Proposed Rule Change, and Amendment Nos. 1 and 2 Thereto, Relating to the Listing and Trading of Units of the United States Oil Fund, LP

February 16, 2006.

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 December 6, 2005, 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, II and III below, which Items have been prepared by the Exchange. On January 20, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.[3] On February 15, 2006, the Exchange filed Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to add new Rules 1500 *et seq.* to permit the listing and trading of units in a partnership that is a commodity pool under the Commodity Exchange Act (''CEA'') [5] that are designed to track a specified commodity or index of commodities by holding any combination of investments (i) comprised of or based on futures contracts, options on futures contracts, forward contracts, swaps, and over-the-counter (''OTC'') contracts for commodities or based on price changes in commodities, and (ii) in securities that may be required to satisfy margin or collateral requirements associated with investments in the financial instruments listed in item (i) above. Pursuant to these proposed rules, the Amex proposes to list and trade units (the ''Units'') of the United States Oil Fund, LP (''USOF'' or the ''Partnership'').

The text of the proposed rule change is set forth below. Proposed new language is *italicized.*

* * * * *

Trading of Partnership Units

Rule 1500. (a) Applicability. The Rules in this Chapter (Trading of Partnership Units) are applicable only to Partnership Units. Except to the extent that specific Rules in this Chapter govern, or unless the context otherwise requires, the provisions of the Constitution and all other rules and policies of the Board of Governors shall be applicable to the trading on the Exchange of such securities. Pursuant to the provisions of Article I, Section 3(i) of the Constitution, Partnership Units are included within the definitions of ''security'' or ''securities'' as such terms are used in the Constitution and Rules of the Exchange.

(b) Definitions. The following terms as used in the Rules shall, unless the context otherwise requires, have the meanings herein specified:

(i) Commodity. The term ''commodity'' is defined in Section 1(a)(4) of the Commodity Exchange Act.

(ii) Partnership Units. The term ''Partnership Units'' for purposes of this Rule means a security (a) that is 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 is issued and redeemed daily in specified aggregate amounts at net asset value.

Commentary

.01 The Exchange requires that members and member organizations provide to all purchasers of newly issued Partnership Units a prospectus for the series of Partnership Units.

.02 Transactions in Partnership Units will occur between 9:30 a.m. and either 4 p.m. or 4:15 p.m. for each series, as specified by the Exchange.

.03 (a) Limit Orders—Members and member organizations shall not enter orders into the Exchange's order routing system, as principal or agent, limit orders in the same partnership, for the account or accounts of the same or related beneficial owner, in such a manner that the member or beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy and sell such Partnership Units on a regular or continuous basis. In determining whether a member or beneficial owner effectively is operating as a market maker, the Exchange will consider, among other things, the simultaneous or near-simultaneous entry of limit orders to buy and sell the same Partnership Units; the multiple acquisition and liquidation of positions in the same Partnership Units during the same day; and the entry of multiple limit orders at different prices in the same Partnership Units.

(b) Members and member organizations may not enter, nor permit the entry of, orders into the Exchange's order routing system if those orders are (i) created and communicated electronically without manual input (i.e., order entry by public customers or associated persons of members must involve manual input such as entering the terms of an order into an order-entry screen or manually selecting a displayed order against which an off-setting order should be sent) and (ii) eligible for execution through the Exchange's automatic execution system for Partnership Units. Nothing in this paragraph, however, prohibits members from electronically communicating to the Exchange orders manually entered by customers into front-end communication systems (e.g., Internet gateways, on-line networks, etc.).

Designation

Rule 1501. The Exchange may list and trade Partnership Units based on an underlying asset, commodity or security. Each issue of a Partnership Unit shall be designated as a separate series and shall be identified by a unique symbol.

Initial and Continued Listing

Rule 1502. Partnership Units will be listed and/or traded on the Exchange subject to application of the following criteria:

(a) Initial Listing—The Exchange will establish a minimum number of Partnership Units required to be outstanding at the time of commencement of trading on the Exchange.

(b) Continued Listing—The Exchange will remove from listing Partnership Units under any of the following circumstances:

(i) If following the initial twelve month period following the commencement of trading of Partnership Units, (A) the partnership has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Partnership Units for 30 or more consecutive trading days; (B) if the partnership has fewer than 50,000

[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240.19b–4.

[3] *See* Partial Amendment dated January 20, 2006 (''Amendment No. 1''). In Amendment No. 1, the Amex made clarifying changes to the purpose section.

[4] *See id.*

[5] The offering of the units of the partnership is registered with the Commission under the Securities Act of 1933 (''the 1933 Act'').

Partnership Units issued and outstanding; or (C) if the market value of all Partnership Units issued and outstanding is less than $1,000,000;

(ii) 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 the Exchange stops providing a hyperlink on its Web site to any such investment, commodity, or asset value;

(iii) If the Indicative Partnership Value is no longer made available on at least a 15-second delayed basis; or

(iv) If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

Upon termination of a partnership, the Exchange requires that Partnership Units issued in connection with such partnership be removed from Exchange listing. A partnership will terminate in accordance with the provisions of the partnership prospectus.

(c) Term—The stated term of the partnership shall be as stated in the prospectus. However, such entity may be terminated under such earlier circumstances as may be specified in the partnership prospectus.

(d) General Partner—The following requirements apply:

(i) The general partner of a partnership must be an entity having substantial capital and surplus and the experience and facilities for handling partnership business. In cases where, for any reason, an individual has been appointed as general partner, a qualified entity must also be appointed as general partner.

(ii) No change is to be made in the general partner of a listed issue without prior notice to and approval of the Exchange.

(e) Voting—Voting rights shall be as set forth in the applicable partnership prospectus.

Commentary

.01 The Exchange will file separate proposals under Section 19(b) of the Securities Exchange Act of 1934 before listing and trading separate and distinct Partnership Units designated on different underlying investments, commodities and/or assets.

Specialist Prohibitions

Rule 1503. Rule 175(c) shall be deemed to prohibit an equity specialist, his member organization, or any other member, limited partner, officer, or approved person thereof from acting as a market maker or functioning in any capacity involving market-making responsibilities in an underlying asset or commodity, related futures or options on futures, or any other related derivatives. However, an approved person of an equity specialist that has established and obtained Exchange approval of procedures restricting the flow of material, non-public market information between itself and the specialist member organization pursuant to Rule 193, and any member, officer, or employee associated therewith, may act in a market making capacity, other than as a specialist in Partnership Units on another market center, in the underlying asset or commodity, related futures or options on futures, or any other related derivatives.

Commentary

.01 In connection with the Partnership Units, Commentaries .01, .02 and .07 of Rule 170 shall not apply to the trading of Partnership Units for the purpose of bringing the price of the Partnership Units into parity with the value of the underlying investment, commodity or asset on which the Partnership Units are based, with the net asset value of the Partnership Units or with a futures contract on the underlying investment, commodity or asset on which the Partnership Units are based. Such transactions must be effected in a manner that is consistent with the maintenance of a fair and orderly market and with the other requirements of this rule and the supplementary material herein.

Securities Accounts and Orders of Specialists

Rule 1504. (a) The member organization acting as specialist in Partnership Units is obligated to conduct all trading in the Partnership Units in its specialist account, subject only to the ability to have one or more investment accounts, all of which must be reported to the Exchange (See Rule 170). In addition, the member organization acting as specialist in the Partnership Units must file, with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, which the member organization acting as specialist may have or over which it may exercise investment discretion. No member organization acting as specialist in the Partnership Units shall trade in the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, in an account in which a member organization acting as specialist, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule.

(b) In addition to the existing obligations under Exchange rules regarding the production of books and records (See, e.g. Rule 31), the member organization acting as a specialist in Partnership Units shall make available to the Exchange such books, records or other information pertaining to transactions by such entity or any member, member organization, limited partner, officer or approved person thereof, registered or non-registered employee affiliated with such entity for its or their own accounts in the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, as may be requested by the Exchange.

(c) In connection with trading the underlying physical asset or commodity, related futures or options on futures or any other related derivative (including Partnership Units), the specialist registered as such in Partnership Units shall not use any material nonpublic information received from any person associated with a member, member organization or employee of such person regarding trading by such person or employee in the physical asset or commodity, futures or options on futures, or any other related derivatives.

Limitation on Exchange Liability

Rule 1505. Neither the Exchange nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any underlying asset or commodity value, the current value of the underlying asset or commodity if required to be deposited to the partnership in connection with issuance of Partnership Units; net asset value; or other information relating to the purchase, redemption or trading of Partnership Units, resulting from any negligent act or omission by the Exchange or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange or its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in an underlying asset or commodity.

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The revision to Sections 140 and 141 of the Amex *Company Guide* is provided below. [Bracketing] indicates text to be deleted and *Italics* indicate new text.

Original Listing Fees

Section 140. Stock Issues—No Change.

Issues Listed Under Section 106 (Currency and Index Warrants) and Section 107

(Other Securities)—No Change.

Warrants—No Change.

Bonds—No Change.

Index Fund Shares, Trust Issued Receipts, Commodity-Based Trust Shares, Currency Trust Shares, *Partnership Units* and Closed-End Funds—The original listing fee for Index Fund Shares listed under Rule 1000A, Trust Issued Receipts listed under Rule 1200, Commodity-Based Trust Shares listed under Rule 1200A, Currency Trust Shares listed under Rule 1200B, *Partnership Units listed under Rule 1500* and Closed-End Funds listed under Section 101 of the Company Guide is $5,000 for each series or Fund, with no application processing fee. The Board of Governors or its designee may, in its discretion defer, waive or rebate all or any part of the initial listing fee applicable to Closed-End Funds when such funds transfer to the Amex from another marketplace.

Special Shareholder Rights Plans—No Change.

Annual Fees

Sec. 141. Stock Issues; Issues Listed Under Sections 106 and 107; Rules 1200 (Trust Issued Receipts) and 1200A (Commodity-Based Trust Shares); Rule 1200B (Currency Trust Shares); *Rule 1500 (Partnership Units);* and Closed-End Funds

Shares *or Units* outstanding	Fees
5,000,000 shares (*units*) or less.	$15,000 (minimum)
5,000,001 to 10,000,000 shares (*units*).	17,500
10,000,001 to 25,000,000 shares (*units*).	20,000
25,000,001 to 50,000,000 shares (*units*).	22,500
In excess of 50,000,000 shares (*units*).	30,000 (maximum)

[The Board of Governors or its designee may, in its discretion, defer, waive or rebate all or any part of the applicable annual listing fee specified above excluding the fees applicable to issues listed under Sections 106 and 107 and rule 1200 (Trust Issued Receipts); and Closed-End Funds.]

Issues Listed Under Rule 1000A (Index Fund Shares)—No Change.

The annual fee is payable in January of each year and is based on the total number of all classes of shares (excluding treasury shares) and warrants according to information available on Exchange records as of December 31 of the preceding year. (The above fee schedule also applies to companies whose securities are admitted to unlisted trading privileges.)

In the calendar year in which a company first lists, the annual fee will be prorated to reflect only that portion of the year during which the security has been admitted to dealings and will be payable within 30 days of the date the company receives the invoice, based on the total number of outstanding shares of all classes of stock at the time of original listing.

The annual fee for issues listed under Rule 1000A (Index Fund Shares), [and] Rule 1200 (Trust Issued Receipts), Rule 1200A (Commodity-Based Trust Shares), Rule 1200B (Currency Trust Shares), *and Rule 1500 (Partnership Units)* is based upon the number of shares of a series of Index Fund Shares, Trust Issued Receipts, [or] Commodity-Based Trust Shares, Currency Trust Shares *or Partnership Units* outstanding at the end of each calendar year. For multiple series of Index Fund Shares issued by an open-end management investment company, [or] for multiple series of Trust Issued Receipts and/or Commodity-Based Trust Shares, for multiple series of Currency Trust Shares *or for multiple series of Partnership Units,* the annual listing fee is based on the aggregate number of shares in all series outstanding at the end of each calendar year.

The annual fee for a Closed-End Fund listed under Section 101 of the Company Guide is based upon the number of shares outstanding of such Fund at the end of each calendar year. For multiple Closed-End Funds of the same sponsor, the annual listing fee is based on the aggregate number of shares outstanding of all such Funds at the end of each calendar year.

Bond Issues—No Change.

Late Fee—No Change.

Note: No Change.

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 Amex 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 these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to add new Rules 1500 *et seq.* so that it may list and/or trade units in a partnership that holds commodity-based or linked investments. The Amex initially proposes to list and trade the Units, which represent ownership of a fractional undivided beneficial interest in the net assets of USOF. The assets of USOF will consist of futures contracts for light, sweet crude oil and other petroleum based fuels that are traded on the New York Mercantile Exchange (''NYMEX'') or other U.S. and foreign exchanges (collectively, ''Oil Futures Contracts'') and other oil interests, such as cash-settled options on Oil Futures Contracts, forward contracts for oil, and OTC transactions that are based on the price of oil, other petroleum-based fuels, and indices based on the foregoing (collectively, ''Other Oil Interests'') (Oil Futures Contracts and Other Oil Interests are collectively referred to as ''Oil Interests''). USOF will also invest in short term obligations of the United States Government (''Treasuries'') to be used to satisfy its current or future margin and collateral requirements and to otherwise satisfy its obligations with respect to its investments in Oil Interests.

The investment objective of the USOF is for its net asset value (''NAV'')[6] to reflect the performance of the spot price of West Texas Intermediate light, sweet crude oil[7] delivered to Cushing, Oklahoma (the ''WTI light, sweet crude oil''),[8] less the expense of operation of

[6] NAV is the total assets, less total liabilities of USOF, determined on the basis of generally accepted accounting principles. NAV per Unit is the NAV of USOF divided by the number of outstanding Units.

[7] USOF will attempt to manage its investments so that its NAV closely tracks the price of the NYMEX traded near-month (*i.e.*, spot month) future contract for delivery of West Texas Intermediate light, sweet crude oil.

[8] The types of crude oil are typically described by a combination of their physical attributes and their place of origin. A few of these types of crude oil are widely traded and their prices serve as benchmarks in determining the spot and forward prices of the other types of crude oil. The three most important types of crude oil that are used as benchmarks are the light, sweet crude from the United States known as ''West Texas Intermediate,'' a light, sweet crude from Europe's North Sea known as ''Brent Crude,'' and a medium crude oil from the Middle East known as ''Dubai Crude.'' These three types of crude oil are the ones used most frequently in the trading of listed futures contracts, listed

USOF. This ''neutral'' investment strategy, as stated by the Exchange, is expected to cause the Unit price to track the price of WTI light, sweet crude oil.

The Exchange states that WTI light, sweet crude oil is the world's most actively-traded commodity, and the markets for oil and financial instruments based on WTI light, sweet crude oil are well-developed, liquid, and efficient. An investment in the Units will allow both retail and institutional investors to easily gain exposure to the crude oil market in a cost-effective manner. In addition, the Exchange states that the Units are also expected to provide additional means for diversifying an investor's investments or hedging exposure to changes in oil prices.

In January 2005, the Commission approved Exchange rules (Amex Rule 1200A *et seq.*) for the listing and trading of Commodity-Based Trust Shares.[9] Commodity-Based Trust Shares are trust issued receipts (''TIRs'') based on the value of an underlying commodity or index of commodities held by a trust.[10] Because of USOF's structure as a partnership and the nature of its investments, the current Commodity-Based Trust Shares rules (Amex Rules 1200A *et seq.*) do not specifically permit the Exchange to list this product.[11] This proposal seeks to expand the ability of the Exchange to list and/or trade securities based on a portfolio of underlying investments that may not be ''securities'' in circumstances where the issuer is a partnership, organized as a commodities pool under the CEA.

Under proposed Amex Rule 1501, the Exchange would be able to list and trade the Units issued by USOF. For units issued by other commodity-based partnerships or other types of units issued by USOF, if any, the Exchange will submit a filing pursuant to Section 19(b) of the Act, subject to the review and approval of the Commission. The Exchange submits that the Units will conform to the initial and continued listing criteria under proposed Amex Rule 1502.[12]

Description of the Oil Market

The Exchange states that crude oil is the world's most actively traded commodity. The Oil Futures Contracts for light, sweet crude oil that are traded on the NYMEX are the world's most liquid forum for crude oil trading, as well as the most liquid futures contracts on a physical commodity. Due to the liquidity and price transparency of Oil Futures Contracts, they are used as a principal international pricing benchmark. Oil Futures Contracts for WTI light, sweet crude oil trade on the NYMEX in units of 1,000 U.S. barrels (42,000 gallons) and, if not closed out before maturity, will result in delivery of the oil to Cushing, Oklahoma, which is also accessible to the world market by two major interstate petroleum pipeline systems.[13] USOF will primarily purchase WTI light, sweet crude Oil Futures Contracts traded on the NYMEX, but may also purchase Oil Futures Contracts on other exchanges, including the Intercontinental Exchange, formerly known as the International Petroleum Exchange (''ICE Futures'') and the Singapore Oil Exchange.[14] In total, therefore, Oil Futures Contracts for light, sweet crude oil provide for delivery of several grades of domestic and internationally traded foreign crude oils, which makes them a hedging and trading instrument for the international oil industry, and they serve the diverse needs of the physical market.

The price of crude oil is established by the supply and demand conditions in the global market overall, and more particularly, in the main refining centers: Singapore, Northwest Europe, and the U.S. Gulf Coast. These oil markets essentially constitute a global auction—the highest bidder will win the supply. When markets are ''strong'' (when demand is high and/or supply is low), a bidder must be willing to pay a higher premium to capture the supply. When markets are ''weak'' (demand low and/or supply high), a bidder may choose not to outbid competitors, waiting instead for later, possibly lower priced, supplies. NYMEX is the world's largest physical commodity futures exchange and the dominant market for the trading of energy and precious metals.

Demand for petroleum products by consumers, as well as agricultural, manufacturing and transportation industries, determines demand for crude oil by refiners. The Exchange states that since the precursors of product demand are linked to economic activity, crude oil demand will tend to reflect economic conditions. However, other factors such as weather also influence product and crude oil demand.

Crude oil supply is determined by both economic and political factors. Oil prices (along with drilling costs, availability of attractive prospects for drilling, taxes and technology) determine exploration and development spending, which influence output capacity with a lag. In the short run, production decisions by the Organization of Petroleum Exporting Countries (''OPEC'') also affect supply and prices. Oil export embargoes and the current conflicts in Iraq represent other routes through which political developments move the market.

Oil prices are a result of thousands of transactions taking place simultaneously around the world, at all levels of the distribution. Contract arrangements in the oil market cover most oil that changes hands. Oil is also sold in ''spot transactions,'' that is, cargo-by-cargo, transaction-by-transaction arrangements. In addition,

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options, and non-exchange listed derivative contracts based on crude oil.

[9] *See* Securities Exchange Act Release No. 51058 (January 19, 2005), 70 FR 3749 (January 26, 2005).

[10] *See* Securities Exchange Act Release No. 51446 (March 29, 2005), 70 FR 17272 (April 5, 2005). The Exchange listed and traded the iShares(r) COMEX Gold Trust under Amex Rule 1200A as the first Commodity Based Trust Share. Recently, the Exchange commenced the trading of shares of the streetTRACKS(r) Gold Trust (GLD) pursuant to Amex Rule 1000B on an unlisted trading privileges (''UTP'') basis. *See also* Securities Exchange Act Release No. 53105 (January 11, 2006), 71 FR 3129 (January 19, 2006) (order approving listing and trading of DB Commodity Index Tracking Fund).

[11] As noted above, the Commission has permitted the listing and trading of products linked to the performance of an underlying commodity or commodities. *See* Securities Exchange Act Release Nos. 51058 (January 19, 2005), 70 FR 3749 (January 26, 2005) (approving the listing and trading of iShares(r) COMEX Gold Trust); 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (approving the listing and trading of streetTRACKS(r) Gold Shares); 39402 (December 4, 1997), 62 FR 65459 (December 12, 1997) (approving the listing and trading of commodity index preferred or debt securities (ComPS) on various agricultural futures contracts and commodities indexes); 36885 (February 26, 1996), 61 FR 8315 (March 4, 1996) (approving the listing and trading of ComPS linked to the value of single commodity); 35518 (March 21, 1995), 60 FR 15804 (March 27, 1995) (approving the listing and trading of commodity indexed notes or COINs); and 43427 (October 10, 2000), 65 FR 62783 (October 19, 2000) (approving the listing and trading of inflation indexed securities). *See also* Central Fund of Canada (Registration No. 033–15180) (closed-end fund listed and traded on the Amex that invests in gold) and Salomon Phibro Oil Trust (Registration No. 033–33823) (trust units listed and traded on the Amex that held the right to a forward contract for the delivery of crude oil).

[12] Proposed Amex Rule 1502 for listing the Units is substantially similar to current Amex Rule 1202A relating to Commodity-Based Trust Shares. As set forth in the section ''Initial and Continued Listing'' of proposed Amex Rule 1502, the Exchange expects the minimum number of Units required to be outstanding at the time of trading to be 100,000. This section of the proposed rule specifically details the initial and continued listing standards for the Units.

[13] In practice, few Oil Futures Contracts result in delivery of the underlying oil.

[14] The Commission would expect the Exchange to have entered into the appropriate comprehensive surveillance sharing arrangements with such exchanges. Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 13, 2006.

oil is traded in the futures markets. Both spot markets and futures markets provide critical price information for contract markets.

The Exchange states that prices in spot markets send a clear signal about the supply/demand balance. Rising prices indicate that more supply is needed, and falling prices indicate that there is too much supply for the prevailing demand level. Furthermore, while most oil flows under contract, its price varies with the spot markets. Futures markets also provide information about the physical supply/demand balance as well as the market's expectations.

Additional underlying influences in the supply/demand balance, and hence in price fluctuations, include seasonal swings, level of inventories, regional cost differences, transportation and storage costs, and ease of refining. With regard to the refining process, light, sweet crude oil is preferred by refiners because of the low sulfur content and relatively high yields of high-value products such as gasoline, diesel fuel, heating oil and jet fuel. The denser crude oils require additional processing to produce the desired range of products.

Domestic Oil

The price of WTI light, sweet crude oil has historically exhibited periods of significant volatility. The spot price per barrel price of WTI light, sweet crude oil during the period January 1995 through November 2005, ranged from a high of $70.85 in August 2005 to a low of $10.35 in December 1998. As of December 2, 2005, the spot price per barrel was $59.32 per barrel.[15] The WTI light, sweet crude oil contract, listed and traded at the NYMEX trades in units of 42,000 gallons (1,000 barrels). Annual daily contract volume on the NYMEX from 2001 through October 2005 was 149,028, 182,718, 181,748, 212,382 and 242,262, respectively.

International Oil

In Europe, Brent crude oil is the standard for futures contracts traded on the ICE Futures, an electronic marketplace for energy trading and price discovery. Brent crude oil is the price reference for two-thirds of the world's traded oil. The spot price per barrel price of Brent crude oil during the period January 1995 through November 2005, ranged from a high of $68.89 in August 2005 to a low of $9.55 in December 1998. As of December 2, 2005, the spot price per barrel was $55.58. Annual daily contract volume on the ICE Futures from 2001 through October 2005 was 74,011, 86,499, 96,767, 102,361 and 120,695 respectively.[16]

Heating Oil

Heating oil, also known as No. 2 fuel oil, accounts for 25% of the yield of a barrel of crude oil, the second largest "cut" from oil after gasoline. The heating oil futures contracts, listed and traded at the NYMEX, trade in units of 42,000 gallons (1,000 barrels) and are based on delivery in New York harbor, the principal cash market center. The price of heating oil is volatile. The price of heating oil during the period January 1995 through November 2005, ranged from a high of $221.00 per barrel in September 2005 to a low of $29.20 in February 1999. As of December 2, 2005, the spot price per barrel was $166.47. Annual daily contract volume on the NYMEX from 2001 through October 2005 was 41,710, 42,781, 46,327, 51,745 and 52,334, respectively.[17]

Natural Gas

Natural gas accounts for almost a quarter of U.S. energy consumption. The natural gas futures contracts, listed and traded on the NYMEX, trade in units of 10,000 million British Thermal Units ("BTUs") and are based on delivery at the Henry Hub in Louisiana, the nexus of 16 intra- and inter-state natural gas pipeline systems that draw supplies from the region's prolific gas deposits. The pipelines serve markets throughout the U.S. East Coast, the Gulf Coast, the Midwest, and up to the Canadian border. The price of natural gas is volatile.

The price of natural gas (in BTUs) during the period January 1995 through November 2005, ranged from a high of $14.75 in October 2005 to a low of $1.25 in January 1995. As of December 2, 2005, the spot price per BTU was $12.56. Annual daily contract volume on the NYMEX from 2001 through October 2005 was 47,457, 97,431, 76,148, 70,048 and 77,149, respectively.

Gasoline

Gasoline is the largest single volume refined product sold in the U.S. and accounts for almost half of the national oil consumption. The natural gas futures contracts, listed and traded on the NYMEX, trade in units of 42,000 gallons (1,000 barrels) and are based on delivery at petroleum products terminals in the New York harbor, the major East Coast trading center for imports and domestic shipments from refineries in the New York harbor area or from the Gulf Coast refining centers. The price of gasoline is volatile.

The per gallon price of gasoline during the period January 1995 through November 2005, ranged from a high of $2.92 in August 2005 to a low of $0.3258 in November 1998. As of December 2, 2005, the spot price per gallon was $2.124. Annual daily contract volume on the NYMEX from 2001 through October 2005 was 38,033, 43,919, 44,688, 51,315 and 53,577, respectively.[18]

Futures Regulation

The CEA [19] governs the regulation of commodity interest transactions, markets, and intermediaries. The Exchange states that the CEA, as amended by the Commodity Futures Modernization Act of 2000 ("CFMA"),[20] requires commodity futures exchanges to have rules and procedures to prevent market manipulation, abusive trade practices, and fraud. The Commodity Futures Trading Commission ("CFTC") administers the CEA and conducts regular review and inspection of the futures exchanges' enforcement programs.

The CEA provides for varying degrees of regulation of commodity interest transactions, depending upon the variables of the transaction. In general, these variables include (1) the type of instrument being traded (*e.g.*, contracts for future delivery, options, swaps, or spot contracts); (2) the type of commodity underlying the instrument (distinctions are made between instruments based on agricultural commodities, energy and metals commodities, and financial commodities); (3) the nature of the parties to the transaction (retail, eligible contract participant, or eligible commercial entity); (4) whether the transaction is entered into on a principal-to-principal or intermediated basis; (5) the type of market on which the transaction occurs; and (6) whether the transaction is subject to clearing through a clearing organization.

The Exchange states that the function of the CFTC is to implement the objectives of the CEA of preventing price manipulation and other disruptions to market integrity, avoiding

[15] Amex clarified that quantitative references in this paragraph were intended to reflect the per barrel price. Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 8, 2006.

[16] *See supra* note 15.

[17] *See supra* note 15.

[18] *See supra* note 15.

[19] 7 U.S.C. 1 *et seq.*

[20] Pub. L. No. 106–554, 114 Stat. 2763 (2000).

systemic risk, preventing fraud, and promoting innovation, competition and financial integrity of transactions. Among other things, the CEA provides that the trading of commodity interest contracts generally must be upon exchanges designated as contract markets or derivatives transaction execution facilities and that all trading on those exchanges must be done by or through exchange members. Commodity interest trading between sophisticated persons may be traded on a trading facility not regulated by the CFTC. As a general matter, the Exchange states that trading in spot contracts, forward contracts, options on forward contracts or options on commodities, or swap contracts between eligible contract participants is not within the jurisdiction of the CFTC and may therefore be effectively unregulated.

Non-U.S. futures exchanges differ in certain respects from their U.S. counterparts. Importantly, non-U.S. futures exchanges are not subject to regulation by the CFTC, but rather are regulated by their home country regulator. In contrast to U.S. designated contract markets, some non-U.S. exchanges are principals' markets, where trades remain the liability of the traders involved, and the exchange or an affiliated clearing organization, if any, does not become substituted for any party. Due to the absence of a clearing system, the Exchange states that such exchanges are significantly more susceptible to disruptions. Further, participants in such markets must often satisfy themselves as to the individual creditworthiness of each entity with which they enter into a trade. Trading on non-U.S. exchanges is often in the currency of the exchange's home jurisdiction. Consequently, USOF may be subject to the additional risk of fluctuations in the exchange rate between such currencies and U.S. dollars and the possibility that exchange controls could be imposed in the future.

The CFTC and U.S. designated contract markets have established limits or position accountability rules (*i.e.*, speculative position limits or position limits) on the maximum net long or net short speculative position that any person or group of persons under common trading control (other than a hedger) may hold, own, or control in commodity interests. Among the purposes of speculative position limits is to prevent a corner or squeeze on a market or undue influence on prices by any single trader or group of traders.

Most U.S. futures exchanges limit the amount of fluctuation in some futures contracts or options on futures contract prices during a single trading session.[21] These regulations specify what are referred to as daily price fluctuation limits (*i.e.*, daily limits). The daily limits establish the maximum amount that the price of a futures contract or options on a futures contract may vary either up or down from the previous day's settlement price. Once the daily limit has been reached in a particular futures contract or options on a futures contract, no trades may be made at a price beyond the limit.

The Exchange states that commodity prices are volatile and, although ultimately determined by the interaction of supply and demand, are subject to many other influences, including the psychology of the marketplace and speculative assessments of future world and economic events. Political climate, interest rates, treaties, balance of payments, exchange controls and other governmental interventions, as well as numerous other variables, affect the commodity markets, and even with complete information it is impossible for any trader to reliably predict commodity prices.

The CFTC also possesses exclusive jurisdiction to regulate the activities of Commodity Pool Operators (''CPOs'') and has adopted regulations with respect to the activities of those persons and/or entities.[22]

A portion of USOF's assets may be employed to enter into OTC transactions based on oil. OTC transactions are subject to little, if any, regulation. OTC contracts are typically traded on a principal-to-principal basis through dealer markets that are dominated by the major money centers and investment banks and other institutions and are essentially unregulated by the CFTC. In connection with the trading of OTC instruments, USOF will not receive the protection of CFTC regulation or the CEA. The markets for OTC contracts rely upon the integrity of market participants, as well as contractual margin payments, collateral and/or credit supports in lieu of additional regulation that is imposed by the CFTC on the futures markets.

Structure and Regulation of USOF

USOF, a Delaware limited partnership formed in May of 2005, is a commodity pool that will invest in Oil Interests.[23] It is operated by Victoria Bay Asset Management, LLC, a single member Delaware limited liability company (the ''General Partner'' or ''Victoria Bay'') which is wholly owned by Wainwright Holdings, Inc. The General Partner was formed for the specific purpose of managing and controlling USOF and has registered as a CPO with the CFTC and has become a member of the National Futures Association (''NFA'').[24] As a CPO, the General Partner must comply with numerous provisions of the CEA and the rules and regulations thereunder, including provisions that require adequate disclosure to investors of the risks of investing in a commodity pool managed by the CPO, and provisions designed to protect investors from fraud. Both the CFTC and the NFA perform regular, periodic inspections of their members.

Information regarding USOF and the General Partner, as well as detailed descriptions of the manner in which the Units will be offered and sold, and the investment strategy of USOF, are included in the registration statement regarding the offering of the Units filed with the Commission under the 1933 Act.[25]

Clearing Broker

ABN AMRO, the clearing broker (''Clearing Broker''), is registered with the CFTC as a futures commission merchant (''FCM''). The Clearing Broker will execute and clear USOF's futures contract transactions, hold the margin related to its Oil Futures Contracts investments, and perform certain administrative services for USOF. USOF

[21] Amex clarified that this sentence was intended to reflect the limits on the amount of fluctuation during a single trading session. Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 8, 2006.

[22] *See* Part 4 of CFTC Regulation, 17 CFR Section 4.1 *et al.* A COP is any person engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility, except that the term does not include such persons not within the intent of the definition of the term as the CFTC may specify by rule, regulation, or order.

[23] The Exchange states that USOF is not an investment company as defined in Section 3(a) of the Investment Company Act of 1940.

[24] Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 15, 2006.

[25] *See* Pre-Effective Amendment No. 4 to Form S–1 filed with the Commission on January 19, 2006 (File No. 333–124950). Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 13, 2006 (changing reference from Amendment No. 3 to Amendment No. 4 to Form S–1).

may use other FCMs as its investments increase or as may be required to trade particular Oil Interests.

Administrator and Custodian

Under separate agreements with USOF, Brown Brothers Harriman & Co., a registered broker-dealer under the Act,[26] will serve as USOF's administrator, registrar, transfer agent, and custodian for USOF (the ''Administrator'' or ''Custodian''). The Administrator will perform or supervise the performance of services necessary for the operation and administration of USOF. These services include, but are not limited to, investment accounting, financial reporting, broker and trader reconciliation, calculation of the NAV, and valuation of Treasuries used to purchase or redeem Units and other USOF assets or liabilities. As Custodian, it will receive payments to USOF from purchasers of Creation Baskets and will make payments to Sellers for Redemption Baskets, as described below, and will hold the Treasuries and cash of USOF, as well as collateral posted by USOF's derivatives counterparties, and will make transfers of margin and collateral with respect to USOF's investments to and from its FCMs or counterparties.

Marketing Agent

ALPS Distributors, Inc., a registered broker-dealer under the Act,[27] will be the marketing agent for USOF (''Marketing Agent''). The Marketing Agent, on behalf of USOF, will continuously offer Creation and Redemption Baskets and will receive and process orders from Authorized Purchasers (as defined below) and coordinate the processing of orders for the creation or redemption of Units with the General Partner and the Depository Trust Company (''DTC'').

Investment Strategy

USOF will pursue its investment objective by investing its assets in 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 those investments. USOF will attempt to manage its investments so that its NAV closely tracks the price of a specified Oil Futures Contract (the ''Benchmark Oil Futures Contract'') that the General Partner believes has historically exhibited a close price correlation with the spot price of WTI light, sweet crude oil. Currently, the Benchmark Oil Futures Contract is the NYMEX traded near-month (*i.e.*, spot month) futures contract for delivery of WTI light, sweet crude oil.[28] In connection with tracking the price of the Benchmark Oil Futures contract, the General Partner will endeavor to place USOF's trades in Oil Futures Contracts and Other Oil Interests and otherwise manage USOF's investments so that ''A'' will be within +/−10 percent of ''B'', where:

- A is the average daily change in USOF's NAV for any period of 30 successive valuation days, *i.e.*, any day as of which USOF calculates its NAV; and
- B is the average daily change in the price of the Benchmark Oil Futures Contract over the same period.

Therefore, USOF's investment objective is to manage its assets so that the average daily change in the NAV for any period of 30 successive valuation days will be within 10% of the average daily change in the price of the Benchmark Oil Futures Contract over the same period.[29]

The Exchange believes that market arbitrage opportunities should cause USOF's Unit price to closely track USOF's per Unit NAV which is targeted at the current Benchmark Oil Futures Contract. The price of the Benchmark Oil Futures Contract has closely tracked the spot price of WTI light, sweet crude oil over time.[30] Accordingly, the General Partner expects that the price of USOF's Units on the Exchange will closely track the spot price of a barrel of WTI light, sweet crude oil, less USOF's expenses.

Investments

USOF believes that it will be able to use a combination of Oil Futures Contracts and Other Oil Interests to manage the portfolio to achieve its investment objective of tracking the price of the Benchmark Oil Futures Contract. USOF further anticipates that the exact mix of Oil Futures Contracts and Other Oil Interests held by the portfolio will vary over time depending on, among over things, the amount of invested assets in the portfolio, price movements of oil, the rules and regulations of the various futures and commodities exchanges and trading platforms that deal in Oil Interests, and innovations in the Oil Interests marketplace including both the creation of new Oil Interest investment vehicles and the creation of new trading venues that trade in Oil Interests. USOF's total portfolio composition will be disclosed, each business day that the Amex is open for trading, on its Web site at *http://www.unitedstatesoilfund.com* and/or the Exchange's Web site at *http://www.amex.com.* USOF expects that Web site disclosure of portfolio holdings will be made daily and will include, as applicable, the name and value of each Oil Interest, the specific types of Other Oil Interests and characteristics of such Other Oil Interests, Treasuries and amount of cash held in the portfolio of USOF.

Oil Futures Contracts

The principal Oil Interests to be invested in by USOF are Oil Futures Contracts. USOF expects to purchase Oil Futures Contracts traded on the NYMEX on the WTI light, sweet crude oil. USOF may also purchase Oil Futures Contracts traded on NYMEX based on Brent crude oil.[31] Brent crude oil futures contracts are also listed on the ICE Futures. In addition to the commodities and futures exchanges in New York and London, several other established futures exchanges currently offer, or have announced plans to offer, trading in futures contracts on light, medium, or heavy crude oils, including exchanges in Singapore, Tokyo, Shanghai and Dubai.[32]

As noted above, the NYMEX Oil Futures Contracts for WTI light, sweet crude oil have historically closely tracked the investment objective of USOF over both the short-term, medium-term, and the long-term. For that reason, USOF anticipates making significant investments in the current Benchmark Oil Futures Contract. The General Partner submits that Other Oil Futures Contracts, such as the Brent crude oil futures contract traded on the NYMEX and ICE Futures, the Dubai

[26] Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 15, 2006.

[27] *See id.*

[28] The Exchange will file a Form 19b–4 to obtain Commission approval for the continued listing and trading of the Units should the General Partner change the Benchmark Oil Futures Contract from this NYMEX WTI light, sweet crude oil futures contract. Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 13, 2006.

[29] Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Sepcial Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 13, 2006.

[30] *See* Exhibit A attached to the Form 19b–4 filed by the Exchange, showing the tracking of the Benchmark Oil Futures Contract and the WTI spot price.

[31] Brent crude oil is the price reference for two-thirds of the world's traded oil.

[32] *See* note 14, *supra.* The Exchange has represented that the USOF will only purchase Oil Futures Contracts on markets where the Exchange has entered into the appropriate comprehensive surveillance sharing arrangements. *See* note 49, *infra.*

crude oil futures contract traded in Singapore and elsewhere, and other NYMEX petroleum-based futures contracts such as heating oil and gasoline,[33] have also tended to track the investment objective of USOF, though not as closely as the NYMEX light, sweet crude (WTI) oil futures contract.[34]

Other Oil Interests

In addition to Oil Futures Contracts, there are also a number of listed options on Oil Futures Contracts on the principal commodities and futures exchanges. These option contracts offer investors and hedgers another vehicle for managing exposure to the crude oil market. USOF may purchase oil-related listed options on these exchanges in pursuing its investment objective.

In addition to the Oil Futures Contracts and related listed options, there also exists an active OTC market in derivatives linked to crude oil. These OTC derivative transactions are privately-negotiated agreements between two parties. Unlike most of the exchange-traded Oil Futures Contracts or related options, each party to an OTC contract bears the credit risk that the counterparty may not be able to perform its obligations.

Some oil-based derivatives transactions contain fairly generic terms and conditions and are available from a wide range of participants. Other oil-based derivatives have highly customized terms and conditions and are not as widely available. Many of these OTC contracts are cash-settled forwards for the future delivery of oil- or petroleum-based fuels that have terms similar to the Oil Futures Contracts. Others take the form of ''swaps'' in which the two parties exchange cash flows based on pre-determined formulas tied to the price of oil as determined by the spot, forward, or futures markets. USOF may enter into OTC derivative contracts whose value will be tied to changes in the difference between the WTI spot price, the price of Oil Futures Contracts traded on NYMEX, and the prices of non-NYMEX Oil Futures Contracts that may be invested in by USOF.

To protect itself from the credit risk that arises in connection with such contracts, USOF will enter into agreements with each counterparty that provide for the netting of its overall exposure to its counterparty and/or provide collateral or other credit support to address USOF's exposure.[35] The counterparties to an OTC contract will generally be major broker-dealers and banks or their affiliates, though certain institutions, such as large energy companies or other institutions active in oil commodities markets, may also be counterparties. The creditworthiness of each potential counterparty will be assessed by the General Partner. The General Partner will assess or review, as appropriate, the creditworthiness of each potential or existing counterparty to an OTC contract pursuant to guidelines approved by the General Partner's Board of Directors. Furthermore, the General Partner on behalf of USOF will only enter into OTC contracts with (a) members of the Federal Reserve System or foreign banks with branches regulated by the Federal Reserve Board; (b) primary dealers in U.S. government securities; (c) broker-dealers; (d) commodities futures merchants; or (e) affiliates of the foregoing. Existing counterparties will also be reviewed periodically by the General Partner.

USOF anticipates that the use of Other Oil Interests, together with its investments in Oil Futures Contracts, will produce price and total return results that closely track the investment objective of USOF.[36]

Treasuries and Cash

USOF will invest virtually all of its assets not invested in Oil Interests in Treasuries, currently anticipated to be those securities with a remaining maturity of two years or less. The Treasuries and any cash will be available to be used to meet USOF's current or potential margin and collateral requirements with respect to its investments in Oil Interests. USOF will not use Treasuries as margin for new investments unless it has a sufficient amount of Treasuries and cash to meet the margin or collateral requirements that may arise due to changes in the value of its currently held Oil Interests. Other than in connection with a redemption of Units, USOF does not intend to distribute cash or property to its Unit holders. Interest earned on Treasuries and cash held by USOF will be retained by it to pay its expenses, to make investments to satisfy its investment objectives, or to satisfy its margin or collateral requirements.

Impact of Speculative Position Limits

As stated above, the CFTC and U.S. designated contract markets such as the NYMEX have speculative position limits or position limits on the maximum net long or net short speculative position that any person or group of persons under common trading control (other than a hedger) may hold, own, or control in commodity interests.[37]

The foregoing speculative position limits will impact the mix of investments in Oil Interests by USOF, with such mix varying depending on the level of assets held by USOF. The following example illustrates how the mix will vary as assets increase, assuming the spot price of WTI light, sweet crude oil remains the same: Assuming the spot price for WTI light, sweet crude oil and the Unit price were each $60, USOF anticipates that it would invest the first $300 million of its daily net assets only in Oil Futures Contracts. The majority of those contracts will consist of the current Benchmark Oil Futures Contract. At this level, USOF could purchase 5,000 of such contacts or 25% of the NYMEX's speculative position limit for such contracts. When daily net assets exceed $300 million, USOF anticipates that it will invest the majority of its assets above that amount in the current Benchmark Oil Futures Contract with the balance of its net assets being invested in a mix of other Oil Futures Contracts, such as the Brent crude oil futures contract as traded on NYMEX or the ICE Futures, and other Oil Interests. At this level, USOF anticipates that it would also invest in various OTC derivative contracts to hedge the short-term price movements of Oil Futures Contracts against the current Benchmark Oil Futures Contract.

Once the daily net assets of the portfolio exceed approximately $1.2 billion, USOF anticipates that a majority of all further investments will be made in Oil Futures Contracts other than the current Benchmark Oil Futures Contract and in Other Oil Interests. Oil Futures

[33] USOF may also invest in futures contracts traded on the NYMEX that are based on gasoline and heating oil. Gasoline is the largest single volume refined product sold in the U.S. and accounts for almost half of national oil consumption. Heating oil accounts for 25% of the yield of a barrel of crude oil, the second largest ''cut'' from oil after gasoline.

[34] *See* Exhibit B attached to the Form 19b–4 filed by the Exchange, tracking the NYMEX futures contracts on light, sweet crude oil, heating oil, natural gas and gasoline from November 17, 1995 to November 11, 2005.

[35] The agreements published by the International Swap and Derivatives Association (''ISDA'') and used extensively in the OTC derivatives market provides ''netting'' provisions. As discussed above, USOF's total portfolio composition will be disclosed, each business day that the Amex is open for trading, on its Web site at *http://www.unitedstatesoilfund.com* and/or the Exchange's Web site at *http://www.amex.com*, with a valuation assigned to these instruments.

[36] *See* ''Investment Strategy,'' *supra.*

[37] Similarly, most U.S. futures exchanges also have ''daily limits'' to limit the amount of fluctuation in the prices of some futures contracts or options on futures contracts during a single trading day. *See* ''Futures Regulation,'' *supra.*

Contracts other than the current Benchmark Oil Futures Contract, would be purchased on the NYMEX and on other futures and commodities exchanges, including non-U.S. exchanges such as the ICE Futures.

USOF anticipates that once the daily net assets of the portfolio exceed approximately $2.4 billion, the ability of the portfolio to invest in additional current Benchmark Oil Futures Contracts may be sharply limited due to speculative position limit rules in effect on the NYMEX. Assuming the current Benchmark Oil Futures Contract is at the same price level and half of the USOF's assets were then fully invested in such contracts ($1.2 billion), the current NYMEX position limits for such contracts (20,000 contracts) would be met. Under that scenario, all additional investments above the $2.4 billion level would be required to be invested in other Oil Future Contracts and Other Oil Interests. USOF anticipates that at or above the $2.4 billion daily net asset level, the majority of the total portfolio holdings will be in other Oil Futures Contracts or Other Oil Interests.

The Markets for USOF Units

There will be two markets for investors to purchase and sell Units. New issuances of the Units will be made only in baskets of 100,000 Units or multiples thereof (a ''Basket''). USOF will issue and redeem Baskets of the Units on a continuous basis, by or through participants who have entered into authorized purchaser agreements (''Authorized Purchaser Agreement'' and each such participant, an ''Authorized Purchaser'')[38] with the General Partner, at the NAV per Unit next determined after an order to purchase the Units in a Basket is received in proper form. Baskets may be issued and redeemed on any Business day (defined as any day other than a day on which the Amex, the NYMEX or the New York Stock Exchange is closed for regular trading) through the Marketing Agent in exchange for cash and/or Treasuries, which the Custodian receives from Authorized Purchasers or transfers to Authorized Purchasers, in each case on behalf of USOF. Baskets are then separable upon issuance into identical Units that will be listed and traded on the Exchange.[39]

The Units will thereafter be traded on the Exchange similar to other equity securities. Units will be registered in book-entry form through DTC. Trading in the Units on the Exchange will be effected until 4:15 p.m. Eastern time (''ET'') each business day. The minimum trading increment for such units will be $.01.

Each Authorized Purchaser, and each distributor [40]offering and selling newly issued Units as part of the distribution of such Units, is required comply with the prospectus delivery and disclosure requirements of the 1933 Act, as well as the requirements under the CEA including, the requirement that prospective investors provide an acknowledgement of receipt of such disclosure materials prior to the payment for any newly issued Units.[41]

Calculation of the Basket Amount

Baskets will be issued in exchange for Treasuries and/or cash in an amount equal to the NAV per Unit times 100,000 Units (the ''Basket Amount''). Baskets will be delivered by the Marketing Agent to each Authorized Purchaser only after execution of the Authorized Purchaser Agreement. Units in a Basket are issued and redeemed in accordance with the Authorized Purchaser Agreement. Authorized Purchasers that wish to purchase a Basket must transfer the Basket Amount to the Administrator (the ''Deposit Amount''). Authorized Purchasers that wish to redeem a Basket will receive an amount of Treasuries and cash in exchange for each Basket surrendered in an amount equal to the NAV per Basket (the ''Redemption Amount'').

On each Business day, the Administrator will make available prior to the opening of trading on the Exchange, the estimated Basket Amount for the creation of a Basket based on the prior day's NAV.[42] The Exchange will disseminate at least every 15 seconds throughout the trading day, via the facilities of the Consolidated Tape Association (''CTA''), an amount representing, on a per Unit basis, the current indicative value of the Basket Amount (*See* ''Indicative Partnership Value'' below). Shortly after 4 p.m. ET, the Administrator will determine the NAV for USOF as described below. At or about 4 p.m. ET on each business day, the Administrator will determine the Actual Basket Amount (''Actual Basket Amount'') for orders placed by Authorized Purchasers received before 12 p.m. ET that day.[43] Thus, although Authorized Purchasers place orders to purchase Units during the trading day until 12 p.m. ET, the Actual Basket Amount is determined as of 4 p.m. ET

Shortly after 4 p.m. ET on each business day, the Administrator, Amex, and the General Partner will disseminate the NAV for the Units and the Actual Basket Amount (for orders placed during the day). The Basket Amount and the NAV are communicated by the Administrator to all Authorized Purchasers via facsimile or electronic mail message. The Amex will also disclose the NAV and the Actual Basket Amount on its Web site at *www.amex.com.*[44] The Basket Amount necessary for the creation of a Basket will change from day to day. On each day that the Amex is open for regular trading, the Administrator will adjust the Deposit Amount as appropriate to reflect the prior day's Partnership NAV and accrued expenses. The Administrator will then determine the Deposit Amount for a given business day.

Calculation of USOF's NAV

The Administrator will calculate NAV as follows: (1) Determine the current value of USOF assets and (2) subtract the liabilities of USOF. The NAV will be calculated at 4 p.m. ET using the

[38] An ''Authorized Purchaser'' is a person, who at the time of submitting to the General Partner an order to create or redeem one or more Baskets: (i) is a registered broker-dealer or other market participants, such as banks and other financial institutions, that are exempt from broker-dealer registration; (ii) is a DTC Participant; and (iii) has in effect a valid Authorized Participant Agreement Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 13, 2006 (clarifying that the reference to ''trustee'' in this sentence should be changed to ''General Partner'').

[39] The Exchange expects that the number of outstanding Units will increase and decrease as a result of creations and redemptions of Baskets.

[40] An Authorized Purchaser selling newly issued Units may be deemed a ''distributor''/underwriter under the 1933 Act.Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 16, 2006.

[41] USOF is seeking to obtain an exemption from this CFTC acknowledgement of receipt requirement. Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 15, 2006.

[42] Amex clarified that it intended for this sentence to indicate that the Administrator will make available an ''estimated'' Basket Amount prior to the opening of trading on the Exchange, rather than the Actual Basket Amount (as described below), which will not be available until shortly after the close of trading on each business day. Additionally, such information (NAV, Actual Basket Amount, Estimated Basket Amount, daily disclosure of portfolio holdings) will be available to all market participants at the same time. Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 8, 2006.

[43] *See* Amendment No. 2. *See also* ''Calculation and Payment of Deposit Amount'' and ''Calculation and Payment of Redemption Amount'' below.

[44] *See supra* note 42.

settlement value[45] of Oil Futures Contracts traded on the NYMEX as of the close of open-outcry trading on the NYMEX at 2:30 p.m. ET,[46] and for the value of other Oil Futures Interests and Treasuries, the value of such investments as of the earlier of 4 p.m. New York time or the close of trading on the New York Stock Exchange. The NAV is calculated by including any unrealized profit or loss on Oil Futures Contracts and other Oil Interests and any other credit or debit accruing to USOF but unpaid or not received by USOF. The NAV is then used to compute all fees (including the management and administrative fees) that are calculated from the value of Partnership assets. The Administrator will calculate the NAV per unit by dividing the NAV by the number of Units outstanding.

When calculating NAV for USOF, the Administrator will value Oil Futures Contracts based on the closing settlement prices quoted on the relevant commodities and futures exchange and obtained from various market data vendors such as Bloomberg or Reuters. The value of the Other Oil Interests for purposes of determining the NAV will be valued based upon the determination of the Administrator as to their fair market value. Certain types of Other Oil Interests, such as listed options on futures contracts, have closing prices that are available from the exchange upon which they are traded or from various market data vendors. If available from an exchange, Other Oil Interests will be valued based on the last sale price on the exchange or market where traded. If a contract fails to trade, the value shall be the most recent bid quotation from the third-party source.

Other types of Other Oil Interests, such as crude oil forward contracts do not trade on established exchanges, but typically have prices that are widely available from third-party sources. The Administrator may make use of such third-party sources in calculating a fair market value of these Other Oil Interests.

Certain types of Other Oil Interests, such as OTC derivative contracts such as ''swaps'' also do not have established exchanges upon which they trade and may not have readily available price quotes from third parties. Swaps and other similar derivative or contractual-type instruments will be first valued at a price provided by a single broker or dealer, typically the counterparty. If no such price is available, the contract will be valued at the price at which the counterparty to such contract would repurchase the instrument or terminate the contract. In determining the fair market value of such derivative contracts, the Administrator may make use of quotes from other providers of similar derivatives. If these are not available, the Administrator may calculate a fair market value of the derivative contract based on the terms of the contract and the movement of the underlying price factors of the contract.

Calculation and Payment of the Deposit Amount

The Deposit Amount of Treasuries and cash will be in the same proportion to the total net assets of USOF as the number of Units to be created is in proportion to the total number of Units outstanding. The General Partner will determine the requirements for the Treasuries that may be included in the Deposit Amount and will disseminate these requirements prior to the start of each business day. The amount of cash that is required is the difference between the aggregate market value of the Treasuries required to be included in the Deposit Amount as of 4 p.m. ET on the date of purchase and the total required deposit.

All purchase orders must be received by the Marketing Agent by 12 p.m. ET. Delivery of the Deposit Amount, *i.e.*, Treasuries and cash, to the Administrator must occur by the third Business day following the purchase order date.[47] Thus, the General Partner will disseminate shortly after 4 p.m. ET the amount of Treasuries and cash to be deposited with the Custodian for each Basket (100,000 Units) order properly submitted by Authorized Purchasers by 12 p.m. ET that business day, (*e.g.*, the Actual Basket Amount).

Calculation and Payment of the Redemption Amount

The Units will not be individually redeemable but will only be redeemable in Baskets. To redeem, an Authorized Purchaser will be required to accumulate enough Units to constitute a Basket (*i.e.*, 100,000 Units). An Authorized Purchaser redeeming a Basket will receive the Redemption Amount.

Upon the surrender of the Units and payment of applicable redemption transaction fee,[48] taxes or charges, the Custodian will deliver to the redeeming Authorized Purchaser the Redemption Amount. The Redemption Amount of Treasuries and cash will be in the same proportion to the total net assets of USOF as the number of Units to be redeemed is in proportion to the total number of Units outstanding. The General Partner will determine the Treasuries to be included in the Redemption Amount. The amount of cash that is required is the difference between the aggregate market value of the Treasuries required to be included in the Redemption Amount calculated as of 4 p.m. ET on the date of redemption and the total Redemption Amount. All redemption orders must be received by the Marketing Agent by 12 p.m. ET on the date redemption is requested. Delivery of the Basket to be redeemed to the Custodian and payment of Redemption Amount will occur by the third business day (T+3) following the redemption order date.

The Exchange believes that the Units will not trade at a material discount or premium to a Unit's NAV based on potential arbitrage opportunities. Due to the fact that the Units can be created and redeemed only in Baskets at the NAV, the Exchange submits that arbitrage opportunities should provide a mechanism to mitigate the effect of any premiums or discounts that may exist from time to time.

Dissemination and Availability of Information

Oil Futures Contracts

The daily settlement prices for the NYMEX traded Oil Futures Contracts held by USOF are publicly available on the NYMEX Web site at *http://www.nymex.com*. The Exchange's Web site at *http://www.amex.com* will also include a hyperlink to the NYMEX Web site for the purpose of disclosing futures contract pricing. In addition, various market data vendors and news publications publish futures prices and related data. The Exchange represents that quote and last sale information for the Oil Futures Contracts are widely disseminated through a variety of market data vendors worldwide, including Bloomberg and Reuters. In addition, the Exchange further represents that real-time futures data is available by subscription from Reuters and Bloomberg. The NYMEX also provides delayed futures information on current and past trading sessions and market news free of charge on its Web

[45] *See* Rule 6.52 of the NYMEX Rulebook.

[46] Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 8, 2006.

[47] Authorized Purchasers are required to pay a transaction fee of $1,000 for each order to create one or more Baskets.

[48] Authorized Purchasers are required to pay a transaction fee of $1,000 for each order to redeem one or more Baskets.

site. The specific contract specifications for the Oil Futures Contracts are also available on the NYMEX Web site and the ICE Futures Web site at *https://www.the ice.com*.[49]

USOF Units

The Web site for USOF, which will be publicly accessible at no charge, will contain the following information: (1) The prior business day's NAV and the reported closing price; (2) the mid-point of the bid-ask price[50] in relation to the NAV as of the time the NAV is calculated (the ''Bid-Ask Price''); (3) calculation of the premium or discount of such price against such NAV; (4) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four (4) previous calendar quarters; (5) the prospectus and the most recent periodic reports filed with the Commission or required by the CFTC; and (6) other applicable quantitative information. In addition, information on USOF's portfolio holdings will be available on its Web site at *http://www.unitedstatesoilfund.com* and will be equally accessible to investors and Authorized Purchasers.

As described above, the NAV for USOF will be calculated and disseminated daily. The Amex also intends to disseminate for USOF on a daily basis by means of CTA/CQ High Speed Lines information with respect to the Indicative Partnership Value (as discussed below), recent NAV, Units outstanding, the estimated Basket Amount and the Deposit Amount (*e.g.*, the Actual Basket Amount). The Exchange will also make available on its Web site daily trading volume, closing prices and the NAV. The closing price and settlement prices of the Oil Futures Contracts held by USOF are also readily available from the NYMEX, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. In addition, the Exchange will provide a hyperlink on its Web site at *http://www.amex.com* to USOF's Web site.

Indicative Partnership Value

In order to provide updated information relating to USOF for use by investors, professionals and persons wishing to create or redeem the Units, the Exchange will disseminate through the facilities of the CTA an updated Indicative Partnership Value (the ''Indicative Partnership Value''). The Indicative Partnership Value will be disseminated on a per Unit basis at least every 15 seconds during the regular Amex trading hours of 9:30 a.m. to 4:15 p.m. ET. The Indicative Partnership Value will be calculated based on the Treasuries and cash required for creations and redemptions (*i.e.*, NAV per limit x 100,000) adjusted to reflect the price changes of the current Benchmark Oil Futures Contract.

The Indicative Partnership Value will not reflect price changes to the price of the current Benchmark Oil Futures Contract between the close of open-outcry trading of these oil futures contract on the NYMEX at 2:30 p.m. ET and the open of trading on the NYMEX ACCESS market at 3:15 p.m. ET. The Indicative Partnership Value after 3:15 p.m. ET[51] will reflect changes to the current Benchmark Oil Futures Contract as provided for through NYMEX ACCESS. The value of a Unit may accordingly be influenced by non-concurrent trading hours between the Amex and NYMEX. While the Units will trade on the Amex from 9:30 a.m. to 4:15 p.m. ET, the current Benchmark Oil Futures Contract will trade, in open-outcry, on the NYMEX from 10 a.m. ET to 2:30 p.m. ET and NYMEX ACCESS from 3:15 p.m. ET through the following morning 9:30 a.m. ET.

While the NYMEX (open outcry) is open for trading, the Indicative Partnership Value can be expected to closely approximate the value per unit of the Basket Amount. However, during Amex trading hours when the Oil Futures Contracts have ceased trading, spreads and resulting premiums or discounts may widen, and therefore, increase the difference between the price of the Units and the NAV of the Units. The Exchange submits that the Indicative Partnership Value on a per Unit basis disseminated during Amex trading hours should not be viewed as a real-time update of the NAV, which is calculated only once a day. The Exchange believes that dissemination of the Indicative Partnership Value based on the cash amount required for a Basket provides additional information that is not otherwise available to the public and is useful to professionals and investors in connection with the Units trading on the Exchange or the creation or redemption of the Units.

Partnership Termination Events

USOF will continue in effect from the date of its formation in perpetuity, unless sooner terminated upon the occurrence of any one or more of the following circumstances: (1) The death, adjudication of incompetence, bankruptcy, dissolution, withdrawal, or removal of a general partner who is the sole remaining general partner, unless a majority in interest of limited partners within ninety (90) days after such event elects to continue USOF and appoints a successor general partner; or (2) the affirmative vote to terminate USOF by a majority in interest of the limited partners subject to certain conditions.

Upon termination of USOF, holders of the Units will surrender their Units and the assets of USOF shall be distributed to the Unit holders pro rata in accordance with the value of the Units, in cash or in kind, as determined by the General Partner.

Criteria for Initial and Continued Exchange Listing

USOF will be subject to the criteria in proposed Amex Rule 1502 for initial and continued listing of the Units. The proposed continued listing criteria provides for the delisting or removal from listing of the Units under any of the following circumstances:

- Following the initial twelve month period from the date of commencement of trading of the Units: (i) If USOF has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of the Units for 30 or more consecutive trading days; (ii) if USOF has fewer than 50,000 Units issued and outstanding; or (iii) if the market value of all Units issued and outstanding is less than $1,000,000.
- If the value of the underlying spot commodity or Oil Futures Contract is no longer calculated or available on at least a 15-second delayed basis or the Exchange stops providing a hyperlink on its Web site to any such investment commodity or asset value.
- The Indicative Partnership Value is no longer made available on at least a 15-second delayed basis.
- If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

[49] The Amex confirmed that the pricing for the NAV also will be derived from the NYMEX futures contract nearest to settlement (spot month) for WTI light, sweet crude. Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 8, 2006. The General Partner on behalf of USOF represents that it will not enter into futures contracts traded on or through ICE Futures until the proposed Information Sharing Arrangement between the Exchange and ICE Futures is adequate to the Commission staff. *See id.*

[50] The Bid-Ask Price of Units is determined using the highest bid and lowest offer as of the time of calculation of the NAV.

[51] NYMEX ACCESS®, an electronic trading system, is open for price discovery on the NYMEX light, sweet crude oil futures contract each Monday through Thursday at 3:15 p.m. ET through the following morning at 9:30 a.m. ET, and from 7 p.m. Sunday night until Monday morning 9:30 a.m. ET.

It is anticipated that a minimum of 100,000 Units will be required to be outstanding at the start of trading. It is anticipated that the initial price of a Unit will be approximately $59.22 based upon the WTI light, sweet crude oil spot price on December 2, 2005. USOF expects that the initial Authorized Purchaser will purchase the initial Basket of 100,000 Units at the initial offering price per Unit equal to the closing price of the expiration month light, sweet crude (WTI) oil futures contract listed on the NYMEX on the first Business day prior to the launch date. On the date of the public offering and thereafter, USOF will continuously issue Units in Baskets of 100,000 Units to Authorized Purchasers at NAV. The Exchange believes that the anticipated minimum number of Units outstanding at the start of trading is sufficient to provide adequate market liquidity and to further USOF's objective to seek to provide a simple and cost effective means of accessing the commodity futures markets.

The Exchange represents that it prohibits the initial and/or continued listing of any security that is not in compliance with Rule 10A–3 under the Act.[52]

Original and Annual Listing Fees

The Amex original listing fee applicable to the listing of USOF is $5,000. In addition, the annual listing fee applicable under Section 141 of the Amex *Company Guide* will be based on the year-end aggregate number of Units in all series of USOF outstanding at the end of each calendar year.

Disclosure

The Exchange, in an Information Circular (described below) to Exchange members and member organizations, will inform members and member organizations, prior to commencement of trading, of the prospectus delivery requirements applicable to USOF. The Exchange notes that investors purchasing Units directly from USOF (by delivery of the Deposit Amount) will receive a prospectus. Amex members purchasing Units from USOF for resale to investors will deliver a prospectus to such investors.

Purchase and Redemptions in Baskets

In the Information Circular (described below), members and member organizations will be informed that procedures for purchases and redemptions of Units in Baskets are described in the Prospectus and that Units are not individually redeemable but are redeemable only in Baskets or multiples thereof.

Trading Rules

The Units are equity securities subject to Amex Rules governing the trading of equity securities, including, among others, rules governing priority, parity and precedence of orders, specialist responsibilities and account opening and customer suitability (Amex Rule 411). Initial equity margin requirements of 50% will apply to transactions in the Units. Units will trade on the Amex until 4:15 p.m. ET each business day and will trade in a minimum price variation of $0.01 pursuant to Amex Rule 127. Trading rules pertaining to odd-lot trading in Amex equities (Amex Rule 205) will also apply.

Amex Rule 154, Commentary .04(c) provides that stop and stop limit orders to buy or sell a security (other than an option, which is covered by Amex Rule 950(f) and Commentary thereto) the price of which is derivatively priced based upon another security or index of securities, may with the prior approval of a Floor Official, be elected by a quotation, as set forth in Commentary .04(c)(i–v). The Exchange has designated the Units as eligible for this treatment.[53]

The Units will be deemed ''Eligible Securities'', as defined in Amex Rule 230, for purposes of the Intermarket Trading System Plan and therefore will be subject to the trade-through provisions of Amex Rule 236 which require that Amex members avoid initiating trade-throughs for ITS securities.

Specialist transactions of the Units made in connection with the creation and redemption of Units will not be subject to the prohibitions of Amex Rule 190.[54] Unless exemptive or no-action relief is available, the Units will be subject to the short sale rule, Rule 10a–1 under the Act.[55] If exemptive or no-action relief is provided, the Exchange will issue a notice detailing the terms of the exemption or relief. The Units will generally be subject to the Exchange's stabilization rule, Amex Rule 170, except that specialists may buy on ''plus ticks'' and sell on ''minus ticks,'' in order to bring the Units into parity with the underlying commodity or commodities and/or futures contract price. Proposed Commentary .01 to Amex Rule 1503 sets forth this limited exception to Amex Rule 170.

The adoption of Amex Rule 1503 relating to certain specialist prohibitions will address potential conflicts of interest in connection with acting as a specialist in the Units. Specifically, Amex Rule 1503 provides that the prohibitions in Amex Rule 175(c) apply to a specialist in the Units so that the specialist or affiliated person may not act or function as a market-maker in an underlying asset, related futures contract or option or any other related derivative. An affiliated person of the specialist consistent with Amex Rule 193 may be afforded an exemption to act in a market making capacity, other than as a specialist in the Units on another market center, in the underlying asset, related futures or options or any other related derivative. In particular, proposed Amex Rule 1503 provides that an approved person of an equity specialist that has established and obtained Exchange approval for procedures restricting the flow of material, non-public market information between itself and the specialist member organization, and any member, officer, or employee associated therewith, may act in a market making capacity, other than as a specialist in the Units on another market center, in the underlying asset or commodity, related futures or options on futures, or any other related derivatives.

Adoption of Amex Rule 1504 will also ensure that specialists handling the Units provide the Exchange with all the necessary information relating to their trading in physical assets or commodities, related futures contracts and options thereon or any other derivative. As a general matter, the Exchange has regulatory jurisdiction over its members, member organizations and approved persons of a member

[52] *See* Rule 10A–3(c)(7), 17 CFR 240.10A–3(c)(7) (stating that a listed issuer is not subject to the requirements of Rule 10A–3 if the issuer is organized as a trust that does not have a board of directors or other unincorporated association and the activities of the issuer are limited to passively owning or holding securities or other assets on behalf of or for the benefit of the holders of the listed securities).

[53] *See* Securities Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (April 17, 1991) at note 9, regarding the Exchange's designation of equity derivative securities as eligible for such treatment under Amex Rule 154, Commentary .04(c).

[54] *See* Commentary .05 to Amex Rule 190.

[55] USOF expects to seek relief, in the near future, from the Commission in connection with the trading of the Units from the operation of the short sale rule, Rule 10a–1 under the Act. If granted, the Units would be exempt from Rule 10a–1 permitting sales without regard to the ''tick'' requirements of Rule 10a–1. Rule 10a–1(a)(1)(i) provides that a short sale of an exchange-traded security may not be effected (i) below the last regular-way sale price (an ''uptick'') or (ii) at such price unless such price is above the next preceding different price at which a sale was reported (a ''zero-plus tick''). See also Regulation SHO, Securities Exchange Act Release No. 50103 (July 28, 2004), 69 FR 48008 (August 6, 2004) (adoption of Regulation SHO).

organization. The Exchange also has regulatory jurisdiction over any person or entity controlling a member organization as well as a subsidiary or affiliate of a member organization that is in the securities business. A subsidiary or affiliate of a member organization that does business only in commodities or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

Trading Halts

Prior to the commencement of trading, the Exchange will issue an Information Circular (described below) to members informing them of, among other things, Exchange policies regarding trading halts in the Units. First, the Information Circular will advise that trading will be halted in the event the market volatility trading halt parameters set forth in Amex Rule 117 have been reached. Second, the Information Circular will advise that, in addition to the parameters set forth in Amex Rule 117, the Exchange will halt trading in the Units if trading in the current Benchmark Oil Futures Contract is halted or suspended. Third, with respect to a halt in trading that is not specified above, the Exchange may also consider other relevant factors and the existence of unusual conditions or circumstances that may be detrimental to the maintenance of a fair and orderly market. Additionally, the Exchange represents that it will cease trading the Units if the conditions in Amex Rule 1202(d)(2)(ii) or (iii) exist (*i.e.*, if there is a halt or disruption in the dissemination of the Indicative Fund Value and/or underlying Benchmark Futures Contract (spot commodity) value).[56]

Suitability

The Information Circular (described below) will inform members and member organizations of the characteristics of USOF Units and of applicable Exchange rules, as well as of the requirements of Amex Rule 411 (Duty to Know and Approve Customers).

The Exchange notes that pursuant to Amex Rule 411, members and member organizations are required in connection with recommending transactions in the Units to have a reasonable basis to believe that a customer is suitable for the particular investment given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such member.

Information Circular

The Amex will distribute an Information Circular to its members in connection with the trading of the Units. The Information Circular, will discuss the special characteristics of and risks of trading in the Units. Specifically, Information the Circular, among other things, will discuss what the Units are, how a basket is created and redeemed, the requirement that members and member firms deliver a prospectus to investors purchasing newly issued Units prior to or concurrently with the confirmation of a transaction, applicable Amex rules, dissemination information regarding the per unit Indicative Partnership Value, trading information and applicable suitability rules. The Information Circular will also explain that USOF is subject to various fees and expenses described in the Registration Statement. The Information Circular 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 WTI light, sweet crude oil, Brent crude oil, heating oil, gasoline, natural gas or other petroleum-based fuels, and that the CFTC has regulatory jurisdiction over the trading of oil-based futures contracts and related options.

The Information Circular will also notify members and member organizations about the procedures for purchases and redemptions of Units in Baskets, and that Units are not individually redeemable but are redeemable only in Baskets or multiples thereof.

The Information Circular will advise members of their suitability obligations with respect to recommended transactions to customers in the Units. The Information Circular will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

The Information Circular will disclose that the NAV for Units will be calculated shortly after 4 p.m. ET each trading day.

Surveillance

The Exchange submits that its surveillance procedures are adequate to deter and detect violations of Exchange rules relating to the trading of the units. The surveillance procedures for the Units will be similar to those used for the iShares® COMEX Gold Trust and the streetTRACKS® Gold Trust Shares, as well as other TIRs and exchange-traded funds. In addition, the surveillance procedures will incorporate and rely on existing Amex surveillance procedures governing options and equities.[57]

The Exchange currently has in place an Information Sharing Agreement with the NYMEX for the purpose of providing information in connection with trading in or related to futures contracts traded on the NYMEX. In addition, the Exchange is also in the process of negotiating an Information Sharing Arrangement with ICE Futures for the purpose of providing information in connection with the trading in or related to futures contracts traded on the ICE Futures. To the extent that USOF invests in Oil Interests traded on other exchanges, the Amex will seek to enter into Information Sharing Arrangements, acceptable to the Commission staff, with those particular exchanges.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act[58] in general and furthers the objectives of Section 6(b)(5)[59] 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.

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

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

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

The Exchange has neither solicited nor received any written comments on the proposed rule change.

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[56] In the event the Benchmark Futures Contract value or Indicative Value is no longer calculated or disseminated, the Exchange would immediately contact the Commission to discuss measures that may be appropriate under the circumstances. Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission on February 8, 2006.

[57] Proposed Rule 1504 will aid the Exchange in conducting appropriate surveillance.

[58] 15 U.S.C. 78f(b).

[59] 15 U.S.C. 78f(b)(5).

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 the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's Internet comment form at *http://www.sec.gov/rules/sro.shtml* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–Amex–2005–127 on the subject line.

Paper Comments

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

All submissions should refer to File No. SR–Amex–2005–127. 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 at *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 inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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–Amex–2005–127 and should be submitted on or before March 17, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[60]

Nancy M. Morris,

Secretary.

[FR Doc. E6–2642 Filed 2–23–06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53328; File No. SR–Amex–2006–11]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Adoption of an Options Licensing Fee for Options on Certain SPDR ETFs

February 16, 2006.

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 February 3, 2006, the American Stock Exchange LLC (''Amex'' or ''Exchange'') submitted to 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 Amex. Amex has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the self-regulatory organization under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders it effective upon filing with the Commission. 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 modify its Options Fee Schedule by adopting a per contract license fee for the orders of specialists, registered options traders (''ROTs''), firms, non-member market makers, and broker-dealers in connection with options transactions in three new exchange-traded funds (''ETFs''): the SPDR Biotech ETF (symbol: XBI); the SPDR Homebuilders ETF (symbol: XHB); and the SPDR Semiconductor ETF (symbol: XSD).

The text of the proposed rule change is available on the Amex's Web site at *http://www.amex.com,* at the principal office of the Amex, and at the Commission's Public Reference Room.

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

In its filing with the Commission, Amex 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 these statements may be examined at the places specified in Item IV below. Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

Amex proposes to to adopt a per contract licensing fee for options on XBI, XHB, and XSD. These fee changes will be assessed on members commencing February 6, 2006. Amex also proposes to correct the Options Fee Schedule to reflect the elimination of the equity option fee discount for member firms facilitation customer orders.[5]

The Exchange has entered into numerous agreements with various index providers for the purpose of trading options on certain ETFs. This requirement to pay an index license fee to a third party is a condition to the listing and trading of these ETF options. In many cases, the Exchange is required to pay a significant licensing fee to the index provider that may not be reimbursed. In an effort to recoup the costs associated with certain index licenses, the Exchange has established a per contract licensing fee for the orders of specialists, ROTs, firms, non-member market makers and broker-dealers, which is collected on every option transaction in designated products in

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[60] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* Securities Exchange Act Release No. 52754 (November 9, 2005), 70 FR 69998 (November 18, 2005) (File No. SR–Amex–2005–113).