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Dated: October 26, 2006.

**R. Michelle Schroll,**

*Office of the Secretary.*

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Generalized System of Preferences (GSP): Import Statistics Relating to Competitive Need Limitations; 2006 Annual GSP Review; Petitions Requesting CNL Waivers

**AGENCY:** Office of the United States  
Trade Representative.

**ACTION:** Notice.

**SUMMARY:** This notice is to inform the public of the availability of eight-month 2006 import statistics relating to competitive need limitations (CNLs) under the Generalized System of Preferences (GSP) program. The eight-month 2006 import statistics identify those articles for which the 2006 trade levels may exceed statutory CNLs. The

interim trade data is available at: [http://www.ustr.gov/Trade\\_Development/Preference\\_Programs/GSP/Section\\_Index.html](http://www.ustr.gov/Trade_Development/Preference_Programs/GSP/Section_Index.html).

As previously announced in the **Federal Register** (71 FR 37129 (June 29, 2006)), the deadline for submission of product petitions to waive the CNLs for individual beneficiary developing countries with respect to GSP-eligible articles is 5 p.m., November 17, 2006. Petitions must conform to the requirements as set forth in the June 29, 2006 **Federal Register** notice. Public comments regarding possible *de minimis* waivers and possible GSP redesignations will be requested in a subsequent **Federal Register** notice.

#### **FOR FURTHER INFORMATION CONTACT:**

Contact the GSP Subcommittee of the Trade Policy Staff Committee, Office of the United States Trade Representative, 1724 F Street, NW., Room F-220, Washington, DC 20508. The telephone number is (202) 395-6971.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Competitive Need Limitations**

The GSP program provides for the duty-free importation of designated articles when imported from designated beneficiary developing countries (BDCs). The GSP program is authorized by title V of the Trade Act of 1974 (19 U.S.C. 2461, *et seq.*), as amended (the "1974 Act"), and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

Section 503(c)(2)(A) of the 1974 Act sets out the two competitive need limitations (CNLs). When the President determines that a BDC exported to the United States during a calendar year either (1) a quantity of a GSP-eligible article having a value in excess of the applicable amount for that year (\$125 million for 2006), or (2) a quantity of a GSP-eligible article having a value equal to or greater than 50 percent of the value of total U.S. imports of the article from all countries (the "50 percent CNL"), the President must terminate GSP duty-free treatment for that article from that BDC by no later than July 1 of the next calendar year.

Under section 503(c)(2)(F) of the 1974 Act, the President may also waive the 50 percent CNL with respect to an eligible article imported from a BDC if the value of total imports of that article from all countries during the calendar year did not exceed the applicable *de minimis* amount for that year (\$18 million for 2006). Further, under section 503(c)(2)(C) of the 1974 Act, if imports

of an eligible article from a BDC ceased to receive duty-free treatment due to exceeding a CNL in a prior year, the President may redesignate such an article for duty free treatment if imports in the most recently completed year did not exceed the CNLs. Comments on *de minimis* waivers and redesignations will be requested after publication of a separate **Federal Register** notice.

Section 505 of the 1974 Act states that duty-free treatment provided under the GSP shall not remain in effect after December 31, 2006. If the program expires without reauthorization on that date, the 2006 Annual GSP review will be conducted according to a schedule to be issued in the **Federal Register**, if and when the program is reauthorized.

##### **II. Implementation of Competitive Need Limitations**

Exclusions from GSP duty-free treatment where CNLs have been exceeded will be effective July 1, 2007, unless previously granted a waiver by the President. CNL exclusions will be based on full 2006 calendar year import statistics.

##### **III. Interim 2006 Import Statistics**

In order to provide advance notice of articles that may exceed the CNLs for 2006, "Interim 2006 Import Statistics Relating to Competitive Need Limitations" that cover the first eight months of 2006 can be viewed at:

[http://www.ustr.gov/Trade\\_Development/Preference\\_Program/GSP/Section\\_Index.html](http://www.ustr.gov/Trade_Development/Preference_Program/GSP/Section_Index.html). If unable to access these statistics, contact the GSP Subcommittee of the Trade Policy Staff Committee, which will make alternate arrangements to provide the lists. Full calendar-year 2006 data for individual tariff subheadings will be available in February 2007 on the Web site of the U.S. International Trade Commission at

<http://dataweb.usitc.gov/>.

The Interim 2006 Statistics are organized to show, for each article, the Harmonized Tariff Schedule of the United States (HTSUS) subheading and BDC of origin, the value of imports of the article for the first eight months of 2006, and the percentage of total imports of that article from all countries. The list includes the GSP-eligible articles from BDCs that have already exceeded the CNLs by their import levels amounting to more than \$125 million, or by an amount greater than 50% of the total value of U.S. imports of that product in 2006. The list also includes GSP-eligible articles that, based upon interim eight-month 2006 data, exceed \$95 million dollars, or an amount greater than 42 percent of the

total value of U.S. imports of that product. The "D" flag next to articles on the list indicates articles that, based on eight-month 2006 trade data, may be eligible for a *de minimis* waiver because the total value of imports of that article from all countries is below \$12 million.

The list published on the USTR Web site is provided for informational purposes only. The list is computer-generated and based on interim 2006 data, and may not include all articles that may be affected by the GSP CNLs. Regardless of whether or not an article is included on the list, all determinations and decisions regarding the CNLs of the GSP program will depend on full calendar year 2006 import data with respect to each GSP-eligible article. Each interested party is advised to conduct its own review of 2006 import data with regard to the possible application of GSP CNLs. Please see the notice announcing the 2006 GSP Review which was published in the **Federal Register** on June 29, 2006 for further details on submitting a petition for a CNL waiver.

**Marideth J. Sandler,**

*Executive Director for the GSP Program,  
Chairman, GSP Subcommittee of the Trade  
Policy Staff Committee.*

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**BILLING CODE 3190-W7-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-27523; 812-13056]

### Tactical Allocation Services, LLC, et al.; Notice of Application

October 24, 2006.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of application for an order under section 12(d)(1)(f) of the Investment Company Act of 1940 ("Act") for an exemption from sections 12(d)(1)(A) and (B) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

*Summary of Application:* The order would permit certain registered open-end management investment companies to acquire shares of other registered open-end management investment companies and unit investment trusts ("UITs") both within and outside the same group of investment companies.

*Applicants:* Agile Funds, Inc. (the "Company"), with respect to its portfolio series (each a "Fund" and collectively the "Funds"), and Tactical Allocation Services, LLC (the "Adviser").

*Filing Dates:* The application was filed on December 18, 2003 and amended on October 20, 2006.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. November 17, 2006, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090; Applicants, Tactical Allocation Services, LLC, and Agile Funds, Inc., 4909 Pearl East Circle, Suite 300, Boulder, Colorado 80301-6101.

**FOR FURTHER INFORMATION CONTACT:** Nadya Roytblat, Assistant Director, at (202) 551-6821 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the Public Reference Desk, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-0102 (telephone (202) 551-5850).

### Applicants' Representations

1. The Company is a Maryland corporation and an open-end management investment company registered under the Act. One Fund of the Company is the Agile Multi-Strategy Fund (the "Multi-Strategy Fund"). The Adviser, a Colorado limited liability company, serves as investment adviser to the Multi-Strategy Fund and is registered under the Investment Advisers Act of 1940.

2. Applicants request relief to permit: (1) One or more Funds (including the Multi-Strategy Fund, "Funds of Funds") to acquire shares of: (a) Registered open-end management investment companies or UITs that are not part of the same group of investment companies, as defined in section 12(d)(1)(G)(ii) of the Act, as the Fund of Funds ("Other Group Funds")<sup>1</sup> and the Other Group

Funds to sell such shares to the Fund of Funds; and (2) the Fund of Funds to acquire shares of certain Funds that are in the same group of investment companies, as defined in section 12(d)(1)(G)(ii) of the Act, as the Fund of Funds (the "Same Group Funds") (together with the Other Group Funds, the "Underlying Funds") and the Same Group Funds to sell such shares to the Fund of Funds. Applicants also apply for an order pursuant to section 6(c) and section 17(b) of the Act exempting Applicants from section 17(a) of the Act to the extent necessary to permit purchases and redemptions by a Fund of Funds of shares of the Underlying Funds and to permit the Underlying Funds to sell or redeem their shares in transactions with the Fund of Funds.<sup>2</sup> Applicants state that the requested relief will enable investors to achieve a diversified investment in a range of Underlying Funds through a single investment in a Fund of Funds.

### Applicants' Legal Analysis

#### A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any broker or dealer from selling shares of the investment company to any other investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

2. Section 12(d)(1)(f) of the Act provides that the Commission may exempt any person, security, or

investment companies ("Other Group Management Companies") that have received exemptive relief to sell their shares on a national securities exchange at negotiated prices ("ETFs"). Shares of an ETF also may be purchased from the ETF in large aggregations by delivering a basket of specified securities to the ETF, and large aggregations of shares may be redeemed from an ETF in exchange for a basket of specified securities ("In-kind EFT Purchases and Redemptions").

<sup>2</sup> All existing investment companies that currently intend to rely on the requested order are named as applicants. Any other investment company that relies on the order in the future will comply with the terms and conditions of the order.

<sup>1</sup> The Other Group Funds may include UITs ("Other Group Trusts") and open-end management