

Funds' assets for shares in the Acquiring Funds will be based on the Funds' relative net asset values.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24269; 812-11630]

Salomon Smith Barney Inc., et al.; Notice of Application

January 28, 2000.

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

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 12(d)(3) 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: Applicants request an order that would permit (a) certain series of unit investment trusts to invest up to 10.5%, certain other series to invest up to 15.5%, and certain other series to invest up to 20.5% of their respective total assets in securities of issuers that derived more than 15% of their gross revenues in their most recent fiscal year from securities related activities; and (b) certain series to sell portfolio securities to certain new series. **APPLICANTS:** Salomon Smith Barney Inc. (the "Sponsor"), The Uncommon Values Trust, Equity Focus Trusts, Angels with Dirty Faces Trust, The CountryFund Opportunity Trust, Robinson-Humphrey Annual Themes Series and certain other future unit investment trusts sponsored by the Sponsor (collectively, the "Trusts" and the various series of the Trusts, each a "Series").

FILING DATES: The application was filed on May 26, 1999. Applicants have agreed to file an amendment to the application during this notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 22, 2000; 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549-0609. Applicants, 7 World Trade Center, 36th Floor, New York, NY 10048.

FOR FURTHER INFORMATION CONTACT: Michael W. Mundt, Branch Chief, at (202) 942-0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, DC 20549-0102 (tel. 202-942-8090).

Applicants' Representations

1. Each Trust is a unit investment trust registered under the Act with multiple series. Each Trust is created by a trust indenture between the Trust, the Sponsor, and the Chase Manhattan Bank, which is a bank within the meaning of section 2(a)(5) of the Act that satisfies the criteria in section 26(a) of the Act and is unaffiliated with the Sponsor (the "Trustee"). Applicants also request belief for any future Trust sponsored by the Sponsor.¹

2. Certain Series of the Trusts will hold a portfolio of common stocks of growth companies (each such Series, a "Growth Series"). The investment objective of each Growth Series is to seek capital appreciation. Other Series (each an "Index Series") will hold a portfolio of common stocks which represent a portion of a specific index. The investment objective of each Index Series is to seek a greater total return than that achieved by the stocks comprising the entire related index over the life of the Index Series.

3. Certain of the Index Series (each, a "Ten Series") will invest approximately 10%, but no more than 10.5% of their total assets in each of the ten common stocks in the Dow Jones Industrial Average ("DJIA"), the Financial Times Industrial Ordinary Share Index ("FT Index"), the Nikkei 225 Index (the "Nikkei Index"), or the Hang Seng Index (each an "Index," and together the

"Indexes"), as the case may be, having the highest dividend yields no more than three business days prior to the Ten Series' initial date of deposit. Certain other Index Series (each, a "Five Series") will invest approximately 20%, but in no event more than 20.5%, of their total assets in each of the five lowest dollar price per share stocks of the ten common stocks in one of the Indexes, as the case may be, having the highest dividend yields no more than three business days prior to the Five Series' initial date of deposit. The other Index Series (each a "Ten/A+ Series") will invest approximately 50% of their total assets in the ten common stocks contained in the DJIA having the highest dividend yields and 50% in the common stocks contained in the DJIA having a quality ranking of A+ by Standard & Poor's ("S&P") no more than three business days prior to the Ten/A+ Series initial date of deposit.²

4. Applicants state that each of the Indexes is a recognized indicator of the stock market in its respective country, and that S&P has been ranking common stock for quality since 1956.³ The publishers of the Indexes and S&P are not affiliated with any Index Series or the Sponsor, and do not participate in any way in the creation of any Index Series or the selection of its stocks. The common stocks included in the Indexes may include stocks of issuers that derive more than 15% of their gross revenues from securities related activities, as that term is defined in rule 12d3-1 under the Act, as discussed below ("Securities Related Issuers").

5. The securities deposited in each Index Series will be chosen solely according to the formulas described below, and will not necessarily reflect the research opinions or buy or sell recommendations of the Sponsor. The Sponsor is authorized to determine the date of deposit, to purchase securities for deposit in the Index Series, and to

² Applicants state that the number of common stocks listed on the DJIA that have received S&P ratings of A+ has ranged from six to eleven stocks over the past 25 years.

³ The DJIA, which is owned by Dow Jones & Company, Inc., comprises 30 widely-held common stocks listed on the New York Stock Exchange, which are chosen by the editors of The Wall Street Journal. The FT Index comprises 30 widely-held common stocks listed on the London Stock Exchange, which are chosen by the editors of The Financial Times. The Nikkei Index comprises 225 common stocks listed on the Tokyo Stock Exchange. The Hang Seng index comprises 33 common stocks listed on the Stock Exchange of Hong Kong, Ltd. "A+" is the highest S&P ranking for earning and dividends of common stock and is based on per-share earnings and dividend records of the most recent ten years.

¹ All existing Trusts that intend to rely on the order are named as applicants. Any existing of future Trust that relies on the order in the future will comply with the terms and conditions of the application.

supervise each Index Series' portfolio. The Sponsor will have no discretion as to which securities are purchased.

6. The Index Series' portfolios will not be actively managed. Sales of portfolio securities will be made in connection with redemptions of units, payment of expenses, and the termination of an Index Series. The Sponsor has no discretion as to when securities will be sold except that it is authorized to sell securities in extremely limited circumstances, such as when an issuer defaults on the payment of any outstanding obligations, or when the price of a security has declined to such an extent or other credit factors exist so that in the opinion of the Sponsor, it would be detrimental to the Index Series to retain the securities. The adverse financial condition of an issuer will not necessarily require the sale of its securities from an Index Series' portfolio.

7. Certain Series have either (i) a contemplated date ("Rollover Date") on which unitholders in a terminating Series ("Terminating Series") may at their option redeem their units and receive units of a subsequent Series of the same type ("New Series"), which will be created on or about the Rollover Date or (ii) a contemplated date or dates (an "Exchange Date") on which unitholders in an existing series (the "Exchange Series") may at their option redeem their units and receive units of a New Series which is created on or about the Exchange Date (the Terminating Series and Exchange Series collectively, the "Rollover Series").

8. Certain Rollover Series may have a portfolio containing equity securities many, if not all, of which are either (i) listed by the Sponsor on a "top picks" list disseminated to customers and the general public as securities recommended for purchase ("Top Picks Securities") and that have (a) a minimum market capitalization of U.S. \$1 billion and (b) had an average daily trading volume in the preceding 60 trading days of at least 50,000 shares equal in value to at least U.S. \$250,000 on a Qualified Exchange (defined below), or (ii) are not Top Picks Securities and are actively traded (*i.e.*, have had an average daily trading volume in the preceding six months of at least 500 shares equal in value to at least U.S. \$25,000) on an exchange (a "Qualified Exchange") which is either (a) a national securities exchange which meets the qualifications of Section 6 of the Securities Exchange Act of 1934, (b) a foreign securities exchange (a "Qualified Exchange") which meets the qualifications set out in the proposed

amendment to Rule 12d3-1(d)(6) under the Act as proposed by the SEC⁴ and which releases daily closing prices or (c) the Nasdaq-National Market System ("Nasdaq-NMS") (securities meeting the preceding tests in (i) and (ii) above are referred to as "Qualified Securities").

9. Applicants state that there is normally some overlap from one year to the next in the stocks having the highest dividend yields in each of the Indexes, as well as the DJIA stocks rated A+ by S&P. The Sponsor anticipates that there will be some overlap from one year to the next in the stocks selected for the portfolios of a Growth Series that is a Rollover Series and a Growth Series that is a New Series. Absent the requested relief, each Rollover Series would sell all of its securities and each New Series investing in any of these securities would acquire them on the applicable Qualified Exchange. This procedure would result in the unitholders of both the Rollover Series and the New Series incurring brokerage commissions on the same securities.

Applicants' Legal Analysis

A. Purchases of Stocks of Securities Related Issuers in Excess of Rule 12d3-1 Limits

1. Section 12(d)(3) of the Act, with limited exceptions, prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3-1 under the Act exempts the purchase of securities of a Securities Related Issuer, provided that, among other things, immediately after the acquisition, the acquiring company has invested not more than five percent of the value of its total assets in securities of the Securities Related Issuer.⁵

2. As noted above, applicants state that some of the stocks comprising the Indexes include securities of Securities

⁴ Investment Company Act Release No. 17096 (Aug. 3, 1989) (proposing amendments to rule 12d3-1). The proposed amended rule defined a "Qualified Foreign Exchange" to mean a stock exchange in a country other than the United States where (a) trading generally occurred at least four days a week; (b) there were limited restrictions on the ability of acquiring companies to trade their holdings on the exchange; (c) the exchange had a trading volume in stocks for the previous year of at least U.S. \$7.5 billion; and (d) the exchange had a turnover ratio for the preceding year of least 20% of its market capitalization. The version of the amended rule that was adopted did not include the part of the proposed amendment defining the term "Qualified Foreign Exchange."

⁵ Under rule 12d3-1, a Securities Related Issuer is a person that derives more than 15% of its gross revenues from activities as a broker, dealer, underwriter, investment adviser registered under the Investment Advisers Act of 1940, or investment adviser to a registered investment company.

Related Issuers. Applicants assert that, in order to comply with rule 12d3-1, absent the requested relief, each Index Series may be precluded from most effectively implementing its investment objective.

3. Under section 6(c), SEC may exempt classes of transactions, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants request an exemption under section 6(c) from section 12(d)(3) to permit a Ten Series to invest up to approximately 10%, but in no event more than 10.5%, of the value of its total assets in securities of a Securities Related Issuer, to permit a Ten/A+ series to invest up to 15%, but in no event more than 15.5% of the value of its total assets in securities of a Securities Related Issuer, and to permit a Five Series to invest up to approximately 20%, but in no event more than 20.5%, of the value of its total assets in securities of a Securities Related Issuer.

5. Applicants state that the proposed transactions satisfy the requirements of section 6(c). Applicants state that section 12(d)(3) was intended to prevent investment companies from exposing their assets to the entrepreneurial risks of securities related businesses, to prevent potential conflict of interest, and to eliminate certain reciprocal practices between investment companies and securities related businesses. One potential conflict could occur if an investment company purchased securities or other interests in a broker-dealer to reward that broker-dealer for selling fund shares, rather than solely on investment merit.

Applicants state that this concern does not arise in connection with the Index Series because the selection of securities is based on certain set formulas, and neither the Index Series nor the Sponsor has discretion in choosing the securities of a Securities Related Issuer or the amount purchased.

6. Applicants also state that the effect of an Index Series' purchase on the stock of a Securities Related Issuer would be de minimis. Applicants assert that the Securities Related Issuers represented in the Indexes are widely held and have active markets, and that potential purchases by any Index Series would represent an insignificant amount of the outstanding common stock and trading volume of any of these Securities Related Issuers.

7. Another potential conflict of interest could occur if an investment

company directed brokerage to a broker-dealer in which the company has invested to enhance the broker-dealer's profitability or to assist it during financial difficulty, even though that broker-dealer may not offer the best price and execution. To preclude this type of conflict, applicants agree, as a condition to the order, that no company held in a portfolio of an Index Series, nor any affiliated person of the company, will act as a broker for any Index Series in the purchase or sale of any security for such Series' portfolio.

B. Purchases and Sales Between Series

1. Section 17(a) of the Act prohibits an affiliated person of a registered investment company from selling securities to, or purchasing securities from, the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include, in pertinent part, any person directly or indirectly controlling, controlled by, or under common control with, the other person. Each Series will have a common sponsor. Since the Sponsor of a series may be deemed to control the Series, all of the series may be deemed to be under common control and affiliated persons of each other.

2. Rule 17a-7 under the Act permits registered investment advisers, directors, and/or officers, to purchase securities from, or sell securities to, one another at an independently determined price, provided certain conditions are met. Applicants represent that they will comply with all of the provisions of rule 17a-7, other than paragraph (e).

3. Paragraph (e) of the rule requires an investment company's board of directors to adopt and monitor certain procedures to assure compliance with the rule. Since a unit investment trust does not have a board of directors, the Series would be unable to comply with this requirement.

4. Section 17(b) of the Act provides that the SEC will exempt a proposed transaction from section 17(a) if evidence establishes that: (a) that terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. As noted above, section 6(c) of the Act provides that the SEC may exempt classes of transactions if the exemption is necessary or appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants

request relief under sections 6(c) and 17(b) to permit any Rollover Series to sell Qualified Securities to a New Series, and to permit the New Series to purchase the Qualified Securities.

5. Applicants state that the proposed transactions satisfy the standards of sections 6(c) and 17(b). Applicants represent that purchases and sales between Series will be consistent with the policy of each Series. Applicants state that the Qualified Securities to be sold to a New Series will be Qualified Securities that are available from a Rollover Series by reason of units tendered for redemption that day or termination of the Rollover Series. Applicants note that the Trustee will continue its general practice of redeeming units of an Exchange Series by selling securities in a manner that maintains the same portfolio composition, and in the same proportions, as prior to the sale. Applicants further state that permitting the proposed transactions would result in savings on brokerage fees for the Series.

6. Applicants state that the condition that the Qualified Securities must be actively traded on a Qualified Exchange protects against overreaching. In addition, applicants state that the Sponsor will make an initial determination that the Rollover Series and the New Series are on the opposite side of a transaction in Qualified Securities. The Sponsor then will certify to the Trustee, no later than the close of business on the business day following each sale from a Rollover series to a New Series: (a) that the transaction is consistent with the investment objective and policies of both the Rollover Series and the New Series, as recited in their respective registration statements and reports filed under the Act, (b) the reason that the Rollover Series is selling the Qualified Securities, (c) the date of the transaction, (d) how the securities being sold meet the definition of Qualified Securities set forth in the requested order, and (e) the closing sale price of the Qualified Securities on the Qualified Exchange for the date the Qualified Securities are sold to the New Series ("Sale Date"). The Trustee will then countersign the certificate, unless, in the event that the Trustee disagrees with the closing sales price listed on the certificate, the Trustee immediately informs the Sponsor orally of any such disagreement and returns the certificate within five days to the Sponsor with corrections duly noted. Upon the Sponsor's receipt of a corrected certificate, if the Sponsor can verify the corrected price by reference to an independently published list of closing

sales prices for the date of the transaction, the Sponsor will ensure that the price of the units of the New Series, and distributions to holders of the Rollover Series with regard to redemption of their units or termination of the Rollover Series, accurately reflect the corrected price. To the extent that the Sponsor disagrees with the Trustee's corrected price by reference to a mutually agreeable, independently published list of closing sales prices for the date of the transaction.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

A. Purchases of Stocks of Securities Related Issuers in Excess of Rule 12d3-1 Limits

No company held in a Ten Series portfolio, a Five Series portfolio, or a Ten/A+Series portfolio, nor any affiliated person of the company, will act as broker for any Ten Series, any Five Series or any Ten/A+Series in the purchase or sale of any security for such Series' portfolio.

B. Purchases and Sales Between Series

1. Each sale of Qualified Securities by a Rollover to a New Series will be effected at the closing price of the Qualified Securities sold on a Qualified Exchange on the Sale Date, without any brokerage charges or other remuneration except customary transfer fees, if any.

2. The nature and conditions of such transactions will be fully disclosed to investors in the prospectus of each Rollover Series and New Series.

3. The Trustee of each Rollover Series and New Series will review the procedures relating to the sale of securities from a Rollover Series and the purchase of those securities for deposit in a New Series, and make such changes to the procedures as the Trustee deems necessary to ensure compliance with paragraphs (s) through (d) of rule 17a-7.

4. A written copy of these procedures and a written record of each transaction effected pursuant to the order will be maintained as provided in rule 17a-7(f).

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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