

subject to the same conditions as the Utility Money Pool described above.

Applicants state that participation by a Nonutility Money Pool Participant in the Nonutility Money Pool would permit their available cash and/or short-term borrowing requirements to be matched on a daily basis with other Nonutility Money Pool Participants to minimize the need of the AEP system for external short-term borrowing. If the Nonutility Money Pool Participants are authorized to participate in the Nonutility Money Pool, funds will be loaned from the Nonutility Money Pool in the form of open account advances under the same terms and limitations as currently authorized for the Utility Money Pool. Participants in the Nonutility Money Pool will not engage in lending and borrowing transactions with Participants in the Utility Money Pool.

#### **Guarantee of Indebtedness and Obligations**

AEP requests authorization to enter into guarantees, obtain letters of credit, enter into support or expense agreements or otherwise provide credit support from time to time through March 31, 2006, on behalf of any of its direct or indirect Subsidiaries in amounts up to \$900,000,000. AEP also requests authority to guarantee the obligations of its direct or indirect Subsidiaries as may be appropriate or necessary to enable the subsidiaries to carry on the ordinary course of their businesses. Each of the Public Utility Subsidiaries seeks authorization to enter into guarantees and other credit support with respect to obligations of each of its subsidiaries. Nonutility Subsidiaries also request authority for each Nonutility Subsidiary to provide guarantees and other forms of credit support to other Nonutility Subsidiaries. Certain of the guarantees referred to above may be in support of the obligations of Subsidiaries that are not capable of exact quantification. In such cases, AEP will determine the exposure of the instrument for purposes of measuring compliance with the total guarantee limit. The aggregate amount of the guarantees will not exceed \$900 million (excluding obligations exempt under rule 45 and authorized under other Commission orders).

#### **Payments of Dividends Out of Capital or Unearned Surplus**

Section 12(c) of the Act and rule 46 under the Act generally prohibit the payment of dividends out of capital or unearned surplus, except according to an order of the Commission. AEP and the Nonutility Subsidiaries hereby

request authority for the direct and indirect Nonutility Subsidiaries to pay dividends out of capital or unearned surplus to the fullest extent of the law.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Jill M. Peterson,**  
*Assistant Secretary.*

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**BILLING CODE 8010-01-P**

### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. IC-25808; 812-12902]

#### **Alternative Investment Partners, LLC and Trust Advisors, LLC; Notice of Application**

November 20, 2002.

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

**ACTION:** Temporary order and notice of application under section 9(c) of the Investment Company Act of 1940 ("Act").

**SUMMARY OF APPLICATION:** Applicants have received a temporary order exempting them from section 9(a) of the Act, with respect to a securities-related preliminary injunction entered on November 13, 2002, until the Commission takes final action on an application for a permanent order. Applicants also have requested a permanent order.

**APPLICANTS:** Alternative Investment Partners, LLC ("AIP") and Trust Advisors, LLC ("TA").

**FILING DATE:** The application was filed on November 19, 2002.

**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. on December 17, 2002, 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, Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Applicants: AIP, 142

Hardscrabble Lake Drive, Chappaqua, NY 10514; TA, 1375 Kings Highway East, Ste. 400, Fairfield, CT 07663.

**FOR FURTHER INFORMATION CONTACT:** John L. Sullivan, Senior Counsel, at (202) 942-0681, or Michael W. Mundt, Senior Special Counsel, at (202) 942-0564 (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 Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549-0102 (tel. 202-942-8090).

#### **Applicants' Representations**

1. AIP is a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). AIP serves as the investment adviser to Alpha Strategies I Fund ("Fund"), which is a series of AIP Alternative Strategies Funds, an open-end management investment company registered under the Act. TA, a Delaware limited liability company, is registered as an investment adviser under the Advisers Act and serves as a research consultant to AIP and the Fund with respect to the selection and ongoing review of subadvisers for the Fund. Because the services provided by TA may be characterized as investment advisory services, applicants state that TA may be considered an investment adviser to the Fund under section 2(a)(20) of the Act. Asset Alliance Corporation ("AAC"), a Delaware corporation, states that it is a holding company primarily engaged in the business of owning significant interests in investment managers. AAC directly owns 50% of AIP and indirectly owns 50% of TA. AAC also indirectly owns 50% of Beacon Hill Asset Management LLC ("BHAM").

2. On November 13, 2002, the U.S. District Court for the Southern District of New York entered an order of Preliminary Injunction and Other Relief Against BHAM ("Preliminary Injunction") in a matter brought by the Commission (the "Action").<sup>1</sup> The transactions that are the subject of the Action involved the alleged improper valuations of certain unregistered investment funds managed by BHAM, resulting in BHAM's alleged violation of section 206(2) of the Advisers Act. The

<sup>1</sup> *Securities and Exchange Commission v. Beacon Hill Asset Management, LLC*, Stipulation of Order Granting Preliminary Injunction and Other Relief Against Beacon Hill Asset Management, Case No. 02cv8855 (S.D.N.Y., Nov. 13, 2002).

Preliminary Injunction enjoined BHAM, directly or through its officers, directors, agents and employees, from violating section 206(2).

#### Applicants' Legal Analysis

1. Section 9(a)(2) of the Act, in relevant part, prohibits a person who has been enjoined from engaging in or continuing any conduct or practice in connection with the purchase or sale of a security from acting, among other things, as an investment adviser or depositor of any registered investment company or a principal underwriter for any registered open-end investment company, registered unit investment trust, or registered face-amount certificate company. Section 9(a)(3) of the Act makes the prohibition in section 9(a)(2) applicable to a company any affiliated person of which has been disqualified under the provisions of section 9(a)(2). Section 2(a)(3) of the Act defines "affiliated person" to include any person directly or indirectly controlling, controlled by, or under common control, with the other person. Applicants state that BHAM is an affiliated person of the applicants because BHAM and the applicants are under the common control of AAC. Applicants state that, as a result of the Preliminary Injunction, applicants may be subject to the prohibitions of section 9(a).

2. Section 9(c) of the Act provides that the Commission shall grant an application for an exemption from the disqualification provisions of section 9(a) if it is established that these provisions, as applied to the applicants, are unduly or disproportionately severe or that the applicants' conduct has been such as not to make it against the public interest or the protection of investors to grant the application. Applicants have filed an application pursuant to section 9(c) of the Act seeking temporary and permanent orders exempting them from the provisions of section 9(a) of the Act that might otherwise be operative with respect to their provision of investment advisory services to the Fund as a result of the Preliminary Injunction.

3. Applicants state that the prohibitions of section 9(a) as applied to them would be unduly and disproportionately severe and that the conduct of applicants has been such as not to make it against the public interest or the protection of investors to grant the exemption from section 9(a). Applicants state that none of the current or former officers or employees of either of the applicants participated in or had any knowledge of the conduct alleged to have constituted the violations that resulted in the Action. In addition,

neither applicant has been the subject of any federal or state enforcement or other administrative or judicial disciplinary proceeding, nor has either been named as a defendant in any other action relating to the securities laws.

Applicants state that neither has ever previously applied for an exemption pursuant to section 9(c) of the Act.

4. Applicants state that their inability to continue providing advisory services to the Fund would result in the Fund and its shareholders facing potentially severe hardships. Additionally, applicants assert that if they were barred from providing investment advisory services to the Fund, the effect on their businesses and employees would be severe.

5. AIP and TA will distribute written materials, including an offer to meet in person to discuss the materials, to the board of directors of the Fund regarding the Action and the reasons they believe relief pursuant to section 9(c) is appropriate. AIP and TA will provide the Fund with all information concerning the Action and the exemptive application necessary for the Fund to fulfill its disclosure and other obligations under the federal securities laws.

#### Applicants' Condition

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

1. Any temporary exemption granted pursuant to the application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigation of, or administrative proceedings involving or against, applicants or their affiliated persons, including without limitation, the consideration by the Commission of a permanent exemption from section 9(a) of the Act requested pursuant to the application or the revocation or removal of any temporary exemptions granted under the Act in connection with the application.

#### Temporary Order

The Commission has considered the matter and finds that applicants have made the necessary showing to justify granting of a temporary exemption.

Accordingly, *it is hereby ordered*, pursuant to section 9(c) of the Act, on the basis of the representations contained in the application, that applicants be and hereby are temporarily exempted from the provisions of section 9(a) of the Act with respect to their investment advisory services to the Fund to the extent the provisions are operative

solely as a result of the Preliminary Injunction, subject to the condition in the application, until the Commission takes final action on an application for a permanent order.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 02-29944 Filed 11-25-02; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25805 /812-12562]

### AB Funds Trust and SBC Financial Services, Inc.; Notice of Application

November 19, 2002.

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

**ACTION:** Notice of an application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act and rule 18f-2 under the Act, as well as from certain disclosure requirements.

**APPLICANTS:** AB Funds Trust (the "Trust") and SBC Financial Services, Inc. (the "Adviser").

**SUMMARY OF APPLICATION:** Applicants request an order that would permit applicants to enter into and materially amend sub-advisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

**FILING DATES:** The application was filed on June 22, 2001, and amended on November, 8, 2002.

**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. on December 16, 2002, and should be accompanied by proof of service on the 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, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Applicants, c/o Rodney R. Miller, Esq.,