

should be submitted by August 27, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>2</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44622; File No. SR-NYSE-2001-20]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange Inc. Relating to Charges for Exchange Traded Funds Admitted to Dealings on a Unlisted Trading Privileges Basis

July 30, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on July 10, 2001, the New York Stock Exchange, Inc. ("NYSE" 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 NYSE. 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 NYSE proposes that at this time no transactions fees will be charged for investment company units (more commonly referred to as "exchange traded funds" or "ETFs") admitted to dealings on the Exchange on an unlisted trading privilege ("UTP") basis.

The text of the proposed rule change is available at the NYSE and at the Commission.

#### 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 Exchange 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 Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts 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 anticipates that it will shortly admit ETFs to dealings on the Exchange pursuant to UTP. The Exchange desires to garner experience in providing a market for these high-volume ETFs on a UTP basis before determining the transaction fee schedule to apply to these products. The current competitive environment includes payment for order flow made by certain other markets trading these securities. Accordingly, the Exchange proposes to implement a "fee holiday," constituting zero transactions charges, for the ETFs admitted to dealings on the Exchange on a UTP basis for the initial months of trading. The Exchange expects to file a specific schedule of transaction charges at a future date.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act<sup>3</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>4</sup> in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using its facilities.

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

NYSE does not believe that the proposed fee change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

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

No written comments were solicited or received with respect to the proposed rule change.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change is designated by the NYSE as establishing or changing a due, fee, or other charge, the proposed rule change has become effective pursuant to Section

19(b)(3)(A)(ii) or the Act<sup>5</sup> and Rule 19b-4(f)(2)<sup>6</sup> thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-2001-20 and should be submitted by August 27, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

#### Correction

In notice document 01-18453 appearing on page 38776, in the issue of Wednesday, July 25, 2001, under the

<sup>2</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78f.

<sup>4</sup> 15 U.S.C. 78f(b)(4).

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>6</sup> 17 CFR 240.19b-4(f)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(12).