

public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR-CHX-2002-25 and should be submitted by August 29, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Release No. 34-46298; File No. SR-NYSE-2002-27

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the iShares MSCI Japan Index Fund

August 1, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, the "1934 Act"¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 24, 2002, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in items I, II, and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

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

The NYSE proposes to trade, on an unlisted trading privileges ("UTP") basis, the iShares MSCI Japan Index Fund ("Fund"), which is a type of Investment Company Unit ("ICU") and is considered an Exchange Traded ("ETF").

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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in item IV below and is set forth in Sections A, B, and C below.

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

1. Purpose

The Exchange has adopted listing standards applicable to ICUs, which the Exchange states are consistent with the listing criteria currently used by the American Stock Exchange LLC ("Amex") and other exchanges, and trading standards pursuant to which the Exchange may trade ICUs on the Exchange on a UTP basis.³ The Exchange now proposes to trade the Fund on a UTP basis. The Fund has been listed and actively traded on the Amex since 1996⁴ and trades on other securities exchanges⁵ and in the over-the-counter market. The information below is intended to provide a description of how the Fund was created and is traded.⁶

Barclays Global Fund Advisors (the "Advisor" or "BGFA") is the investment adviser to the Fund. The Advisor is registered under the Investment Advisers Act of 1940. The Advisor is a

³ In 1996, the Commission approved Section 703.16 of the NYSE's *Listed Company Manual* ("Manual"), which sets forth the rules related to the listing of ICUs. See Securities Exchange Act Release No. 36923 (March 5, 1996), 61 FR 10410 (March 13, 1996). In 2000, the Commission also approved the Exchange's generic listing standards for the listing and trading, or the trading pursuant to UTP, of ICUs under Section 703.16 of the *Manual* and Exchange Rule 1100. See Securities Exchange Act Release No. 43679 (December 5, 2000), 65 FR 77949 (December 13, 2000).

⁴ The Fund and other MSCI funds similar in nature were formerly known as World Equity Benchmark Securities ("WEBS") and were approved for listing and trading on the Amex in 1996. See Securities Exchange Act Release No. 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996) ("Amex WEBS Approval Order").

⁵ See, e.g., Securities Exchange Act Release No. 39117 (September 22, 1997), 62 FR 50973 (September 29, 1997) (approving the trading of WEBS on a UTP basis on the Chicago Stock Exchange, Inc.).

⁶ Much of the information in this filing was taken from the Prospectus of iShares, Inc., dated as of January 1, 2002, as supplemented, and from the Web sites of the Amex (www.Amex.com) and iShares (www.iShares.com). Fund information relating to Net Asset Value ("NAV"), returns, dividends component stock holdings and the like is updated on a daily basis of the Web sites.

wholly owned subsidiary of Barclays Global Investors, N.A. ("BGI"). BGI is a wholly owned indirect subsidiary of Barclays Bank PLC of the United Kingdom.⁷

SEI Investments Distribution Co. (the "Distributor"), a Pennsylvania corporation and broker-dealer registered under the Exchange Act, is the principal underwriter and distributor of Creation Unit Aggregations (as defined below) of iShares. The distributor is not affiliated with the Exchange or the Advisor.⁸

The shares of the Fund are issued by iShares, Inc., and are based on the Morgan Stanley Capital International ("MSCI") Japan Index. iShares, Inc. is an open-ended management investment company operating 22 separate investment portfolios or "index funds." The MSCI Japan Index (the "Index") is intended to represent the Japanese market. The Index consists of stocks traded primarily on the Tokyo Stock Exchange. As of July 16, 2002, the three largest stocks in the Index were Toyota Motor Corp., Sony Corp., and NTT DoCoMo Inc. The investment objective of the Fund is to seek investment results similar to the performance of the stock markets in Japan, as represented by the Index. The Fund uses a "passive," or indexing, approach to attempt to produce investment results that approximate the investment performance of the Index. The Fund will normally invest at least 95% of its total assets in stock that are represented in the Index, and will, at all times, invest at least 90% of its total assets in such stocks. The Fund will not hold all of the stocks that comprise the Index, but will attempt to hold a representative sampling of the securities in the Index in a technique known as "portfolio sampling." iShares, Inc. will issue and redeem the shares of the Fund only in aggregations of 600,000 shares (each aggregation a "Creation Unit"), which had an estimated value of approximately \$5 million as of January 1, 2002. On July 16, 2002, the NAV of the Fund was \$8.36, and the Fund traded at a price of \$8.25 per share. As of the same day, the Fund had total net assets of approximately \$732,548,000 and 87,600,000 shares outstanding. MSCI generally seeks to have 85% of the free float-adjusted market capitalization of a country's stock

⁷ Telephone conversation between Janet M. Kissane, Office of General Counsel, NYSE, and Florence E. Harmon, Senior Special Counsel, Division of Market Regulation ("Division"), Commission on August 1, 2002.

⁸ Telephone conversation between Janet M. Kissane, Office of General Counsel, NYSE, and Florence E. Harmon, Senior Special Counsel, Division, Commission, on August 1, 2002.

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

market reflected in the MSCI Index for such country. Thus, MSCI seeks to balance the inclusiveness of an "all share" index against the replicability of a "blue chip" index. The Index, as with all of the MSCI indices, is market capitalization weighted. The Index is calculated daily. The calculation method weights stocks in the index by their beginning-of-period market capitalization. Shares prices are "swept clean" daily and adjusted for any rights issues, stock dividends, or splits. The Index is calculated in local currency and in U.S. dollars, without dividends and with gross dividends reinvested. Prices used to calculate the Index are the official exchange closing prices. All prices are taken from the dominant exchange in the Japanese market. To calculate the applicable foreign currency exchange rate, MSCI uses WM/Reuters Closing Spot Rates. Under exceptional circumstances, MSCI may elect to use an alternative exchange rate for any country if the WM/Reuters rate is believed not to be representative for the given currency on a particular day.

The Index is calculated by MSCI for each trading day in the Japanese foreign exchange market based on official closing prices in such exchange market. For each trading day, MSCI publicly disseminates the Index value for the previous day's close. The Index is reported periodically in major financial publications and also is available through vendors of financial information. iShares, Inc. will cause to be made available daily the names and required number of shares of each of the securities to be deposited in connection with the issuance of the Fund shares in Creation Unit size aggregations for the fund, as well as information relating to the required cash payment representing, in part, the amount of accrued dividends for the Fund. This information will be made available to the Fund Advisor to any National Securities Clearing Corporation ("NSCC") participant requesting such information. In addition, other investors can request such information directly from the Fund distributor. The NAV for the fund will be calculated directly by the Fund administrator, PFPC, Inc. The NAV will also be made available to the public from the Fund distributor by means of a toll-free number and to NSCC participants through data made available from the NSCC.

To provide current Fund pricing information, Amex disseminates through the facilities of the Consolidated Tape Association as "indicative optimized portfolio value" (the "Value") for the Fund, as calculated by Bloomberg, L.P. The Value will be

disseminated every fifteen seconds during regular Amex trading hours of 9:30 a.m. to 4 p.m. Eastern Standard Time. The Value likely will not reflect the value of all securities included in the Index. In addition, the Value will not necessarily reflect the precise composition of the current portfolio of securities held by the Fund at a particular moment. The Value disseminated during Amex trading hours should not be viewed as a real-time update of the NAV of the Fund, which is calculated only once a day. It is expected, however, that during the trading day the Value will closely approximate the value per share of the portfolio of securities for the Fund except under unusual circumstances.

The Exchange will distribute an information circular to its members in connection with the trading of the Fund. The circular will discuss the special characteristics and risks of trading this type of security. Specifically, the circular, among other things, will discuss what the Fund is, how it is created and redeemed, the requirement that members and member firms deliver a prospectus to investors purchasing shares of the Fund prior to or concurrently with the confirmation of a transaction,⁹ applicable Exchange rules, dissemination information, trading information and the applicability of suitability rules. The Exchange also intends to utilize its existing surveillance procedures to monitor trading in the Fund, including surveilling specialist compliance with Exchange Rule 460.10, which contemplates specialists engaging in transactions with iShares, Inc. under certain circumstances.¹⁰

⁹ The Commission has granted the Fund an exemption from section 24(d) of the Investment Company Act of 1940. See Investment Company Act Release No. 25623 (June 25, 2002). Thus, the Exchange, in an Informational Circular to Exchange members and member organizations, will inform members and member organizations, prior to commencement of trading, of the prospectus or Product Description delivery requirements applicable to iShares. Any product description used in reliance on the Section 24(d) exemptive order will comply with all representations made and all conditions contained in the Application for the Order. Telephone conversation between Janet M. Kissane, Office of General Counsel, NYSE, and Florence E. Harmon, Senior Special Counsel, Division, Commission, on August 1, 2002.

¹⁰ The Exchange represents that Exchange Rule 460.10 generally precludes certain business relationships between an issuer and the specialist in the issuer's securities. The Exchange further represents that exceptions in the Rule permit specialists in ETF shares, to enter into Creation Unit transactions through the Distributor to facilitate the maintenance of a fair and orderly market. A specialist Creation Unit transaction may only be effected on the same terms and conditions as any other investor, and only at the NAV of the ETF shares. A specialist may acquire a position in excess

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act¹¹ in general, and furthers the objectives of section 6(b)(5) of the Act¹² in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

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

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

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 written comments on the proposed rule change.

III. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5).¹³ The Commission believes that the Exchange's proposal to trade the Fund pursuant to UTP will provide investors with a convenient way of participating in foreign securities markets and can produce added benefits to investors through the increased competition between other markets trading the produce. Specifically, the Commission believes that NYSE's proposal should help provide investors with increased flexibility in satisfying their investment needs, by allowing them to purchase and sell at negotiated prices throughout the trading day securities that replicate the performance of several portfolios of

of 10% of the outstanding issue of the ETF shares, provided, however, that a specialist registered in a security issued by an investment company may purchase and redeem the investment company unit or securities that can be subdivided or converted into such unit, from the investment company as appropriate to facilitate the maintenance of a fair and orderly market in the subject security.

¹¹ 14 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

¹³ 15 U.S.C. 78f(b)(5).

stock,¹⁴ and by increasing the availability of the Fund as an investment tool. Accordingly, as discussed below, the rule proposal is consistent with the requirements of Section 6(b)(5) that Exchange rules facilitate transactions in securities, remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.¹⁵

As the Commission noted in greater detail in the order approving iShares (formally "World Equity Benchmark Securities" or "WEBS") for listing and trading on Amex,¹⁶ the estimated cost of an individual iShares, such as the Fund, should make it attractive to individual retail investors who wish to hold a security replicating the performance of a portfolio of foreign stocks. The Commission also notes that the Fund should provide investors with several advantages over standard open-end investment companies; in particular, investors can trade the Fund continuously throughout the day in secondary markets at negotiated prices.¹⁷ In contrast, Investment Company Act of 1940 ("Investment Company Act") Rule 22c-1¹⁸ limits holders and prospectus holders of open-

end management investment company shares to purchasing or redeeming securities of the fund based on the net asset value of the securities held by the fund as designated by the board of directors. Thus, the Fund should allow investors to respond quickly to market changes through intra-day trading opportunities, expand the opportunity for retail investors to engage in hedging strategies, and reduce transaction costs for trading a portfolio of stocks. The Commission notes that, under the proposed rule change, the benefits of the Fund will now be available to investors trading on NYSE, and believes that the addition of their trading on NYSE pursuant to UTP could produce added benefits to investors through the increased competition.

The Commission notes that, although the value of the Fund is based on the value of the securities and cash held in the Fund, Fund shares are not leveraged instruments. Fund shares are essentially equity securities that represent an interest in a portfolio of stocks designed to reflect substantially the applicable MSCI Index. Accordingly, it is appropriate to regulate the Fund in a manner similar to other equity securities. Nonetheless, the Commission believes that the unique nature of the Fund raises certain disclosure, trading, and other issues that need to be addressed. The remainder of this section addresses these issues, although they are discussed in greater detail in the Amex WEBS Approval Order, where the Commission initially approved WEBS for trading as a new product.

A. Trading of the Fund on NYSE Pursuant to UTP

The Commission notes that, pursuant to Rule 12f-5 under the Act,¹⁹ prior to trading a particular class or type of security pursuant to UTP, NYSE must have listing standards comparable to those of the primary market on which the security is listed. The Commission finds that adequate rules and procedures exist to govern the trading of the Fund on NYSE, pursuant to UTP. Fund shares will be deemed equity securities subject to NYSE's rules governing the trading of equity securities. Accordingly, the Exchange's existing general rules that currently apply to the trading of equity securities will also apply to the Fund. In addition, Section 703.16 of the NYSE's *Manual* and Exchange Rule 1100²⁰ which

contain specific listing and delisting criteria to accommodate the trading of Units, will apply to the trading of the Fund.²¹ These criteria should help to ensure that a minimum level of liquidity will exist in each iShares series to allow for the maintenance of fair and orderly markets. The delisting criteria allow the Exchange to consider the suspension of trading and the delisting of a series of Units, including suspending trading in the Fund traded on the Exchange pursuant to UTP, if an event were to occur that made further dealings in such securities inadvisable. This will give the Exchange flexibility to suspend trading in the Fund if circumstances warrant such action. Accordingly, the Commission believes that NYSE's equity rules in general, and Section 703.16 of the *Manual* and Exchange Rule 1100 in particular, provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest.²²

B. Disclosure

The Commission believes that NYSE's proposal should provide for adequate disclosure to investors relating to the terms, characteristics, and risks of trading the Fund. All investors in the Fund, including those purchasing the Fund on NYSE pursuant to UTP, will receive a prospectus or a Product Description²³ regarding the product. The prospectus or Product Description will address the special characteristics of the Fund, including a statement regarding their redeemability and method of creation, and that Fund shares are not individually redeemable.

The Commission notes that the Exchange has represented that it will also distribute an information circular to all NYSE members prior to the commencement of trading of the Fund explaining the unique characteristics and risks of the Fund. The circular will note, for example, Exchange member responsibilities, including that, before an Exchange member undertakes to recommend a transaction in the Fund, it should make a determination that it is in compliance with applicable rules of other self-regulatory organizations of which it is a member, including

²¹ The Commission notes the listing and delisting criteria is similar to those adopted by Amex to trade WEBS/iShares.

²² The Commission also believes that the proposed rule change should help protect investors and the public interest, and help perfect the mechanisms of a national market system, in that it will allow for the trading of the Fund on NYSE pursuant to UTP, making the Fund more broadly available to the investing public.

²³ See Investment Company Release No. 25623 (June 25, 2002).

¹⁴ The Commission notes that unlike typical open-end investment companies, where investors have the right to redeem their fund shares on a daily basis, investors in the Fund can redeem them in creation unit size aggregations only.

¹⁵ In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁶ See Amex WEBS Approval Order, *supra* note 4. The Commission hereby incorporates by reference the discussion and rationale for approving WEBS provided in the Amex WEBS Approval Order.

¹⁷ The Commission believes that the Fund will not trade at a material discount or premium in relation to their NAV, because of potential arbitrage opportunities. See Amex WEBS Approval Order, *supra* note 4. The mere potential for arbitrage should keep the market price of Fund shares comparable to their NAVs; therefore, arbitrage activity likely will not be significant. In addition, the Fund will redeem in-kind, thereby enabling the Fund to invest virtually all of its assets in securities comprising the MSCI Index.

¹⁸ 17 CFR 270.22c-1. Investment Company Act Rule 22c-1 generally provides that a registered investment company issuing a redeemable security, its principal underwriter, and dealers in that security may sell, redeem, or repurchase the security only at a price based on the NAV next computed after receipt of an investor's request to purchase, redeem, or resell. The NAV of an open-end management investment company generally is computed once daily Monday to Friday as designated by the investment company's board of directors. The Commission granted WEBS an exemption from this provision to allow them to trade in the secondary market at negotiated prices. See Amex WEBS Approval Order, *supra* note 4.

¹⁹ 17 CFR 240.12f-5.

²⁰ The Commission approval generic rules for the listing and trading of ICUs on NYSE in 2000. See Securities Exchange Act Release No. 43679 (December 5, 2000), 65 FR 77949 (December 13, 2000).

suitability rules.²⁴ The circular will also address members' responsibility to deliver a prospectus or product description to all investors purchasing the Fund, as well as highlight the characteristics of the Fund, including that Fund shares are only redeemable in Creation Unit size aggregation.²⁵

C. Dissemination of the Fund Portfolio Information

The Commission believes that since Amex is disseminating the Values for the various WEBS/iShares series, investors will be provided with timely and useful information concerning the value of iShares, on a per iShares basis. The Commission notes that the information is disseminated through facilities of the CTA and reflects the currently available information concerning the value of the assets comprising the deposit securities. The information is disseminated every fifteen seconds during the hours of 9:30 a.m. to 4 p.m. Eastern Standard Time and will be available to all investors, irrespective of where the transaction is executed. In addition, because the value is expected to closely track the applicable iShares series, the Commission believes the Values will provide investors with adequate information to determine the intra-day value of a given iShares series, such as the Fund.²⁶ In the Amex WEBS Approval Order, the Commission noted that it expected Amex to monitor the disseminated Value, and if Amex determines that the Value does not closely track applicable WEBS/iShares series, it will arrange to disseminate an adequate alternative.

D. Surveillance

The Commission notes that NYSE has submitted surveillance procedures for the Fund and believes that those procedures are adequate to address concerns associated with the listing and trading of such securities, including any

concerns associated with specialists purchasing and redeeming Creation Units. The Exchange has represented that its surveillance procedures should allow it to identify situations where specialists purchase or redeem Creation Units to ensure compliance with NYSE Rule 460.10, which requires that such purchases or redemptions facilitate the maintenance of a fair and orderly market in the subject security.²⁷

E. Specialists

The Commission finds that it is consistent with the Act to allow a specialist registered in a security issued by an Investment Company to purchase or redeem the listed security from the issuer as appropriate to facilitate the maintenance of a fair and orderly market in that security. The Commission believes that such market activities should enhance liquidity in such security and facilitate a specialist's market making responsibilities. In addition, because the specialist only will be able to purchase and redeem Fund shares on the same terms and conditions as any other investor (and only at the NAV), and Creation transactions must occur through the distributor and not directly with the issuer, the Commission believes that concerns regarding potential abuse are minimized. As noted above, the Exchange's surveillance procedures also should ensure that such purchases are only for the purpose of maintaining fair and orderly markets, and not for any other improper or speculative purposes. Finally, the Commission notes that its approval of this aspect of the Exchange's rule proposal does not address any other requirements or obligations under the federal securities laws that may be applicable.²⁸

F. Accelerated Approval

After careful review, the Commission finds good cause for approving the proposed rule change prior to the

thirtieth day after the date of publication of notice thereof in the **Federal Register** pursuant to section 19(b)(2) of the Act.²⁹ The Commission finds that this proposal is similar to several approved instruments currently listed and traded on the Exchange. Accordingly, the Commission finds that the listing and trading of the Fund on a UTP basis is consistent with the Act, and promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, protect investors and the public interest.³⁰ The Commission further finds that accelerated approval will enable the Exchange to begin listing and trading the Fund on the Exchange on a UTP basis immediately. The Commission therefore approves this proposal on an accelerated basis.

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. 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 the file number SR-NYSE-2002-27 and should be submitted by August 29, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³¹

Margaret H. McFarland,

Deputy Secretary.

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²⁴ Telephone conversation between Janet M. Kissane, Office of General Counsel, NYSE, and Sapna C. Patel, Attorney, Division, Commission, on July 29, 2002.

²⁵ The Commission notes that the information circular should also discuss exemptive relief granted by the Commission from certain rules under the Act. The applicable rules are: Rule 10a-1; Rule 10b-10; Rule 14e-5; Rule 10b-17; Rule 11d1-2; Rules 15c1-5 and 15c1-6; and Rules 101 and 102 of Regulation M under the Exchange Act.

²⁶ In addition, the Amex WEBS Approval Order states that the statement of additional information ("SAI") to the preliminary prospectus states that each series will calculate its NAV per share at the close of the regular trading session for the Amex on each day that the Amex is open for business. NAV generally will be based on the last quoted sales price on the exchange where the security primarily is traded. See Amex WEBS Approval Order, *supra* note 4.

²⁷ The Commission notes that, in the Amex WEBS Approval Order, it discussed the concerns raised when a broker-dealer is involved in the development, maintenance, and calculation of a stock index upon which a product such as WEBS is based. Adequate procedures to prevent the misuse of material, non-public information regarding changes to component stocks in an MSCI Index have been adopted and should help to address concerns raised by Morgan Stanley's involvement in the management of the Indices. See also the "firewall" requirements under Section 703.16 of the NYSE's *Manual*.

²⁸ The Commission notes that with respect to iShares, broker-dealers and other persons are cautioned in the prospectus and/or the Fund's SAI that some activities on their part may, depending on the circumstances, result in their being deemed statutory underwriters and subject them to the prospectus delivery and liability provision of the Securities Act of 1933.

²⁹ 15 U.S.C. 78s(b)(2).

³⁰ 15 U.S.C. 78f(b)(5).

³¹ 17 CFR 200.30-3(a)(12).