

Competing Market Maker: a specialist or market-maker registered as such on a registered stock exchange (other than the NYSE), or a market-maker bidding and offering over-the-counter, in a New York Stock Exchange-traded security.

<sup>2</sup> This "fee holiday" is intended to be temporary. The Exchange expects to file a specific schedule of transaction charges at a future date.

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**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 NYSE 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 aspects of such statements.

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

1. Purpose

The Fresco<sup>SM</sup> Dow Jones STOXX 50<sup>SM</sup> Fund and Fresco<sup>SM</sup> Dow Jones EURO STOXX 50<sup>SM</sup> ("Fresco Funds") were listed and commenced trading on the Exchange on October 21, 2002.<sup>3</sup> At the time of listing, the Exchange implemented a temporary "fee holiday," constituting zero transaction charges, for Fresco Funds for trading them on the Exchange.<sup>4</sup> The Exchange now proposes that starting February 1, 2003, transaction fees will be charged for trading of Fresco Funds. The fees will be the same transaction fees charged for other exchange traded funds listed and traded on the Exchange.<sup>5</sup>

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of section 6(b)(4)<sup>7</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

*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.

<sup>3</sup> Securities Exchange Act Release No. 46686 (October 18, 2002), 67 FR 65388 (October 24, 2002).

<sup>4</sup> Securities Exchange Act Release No. 46786 (November 7, 2002), 67 FR 69280 (November 15, 2002).

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

*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 comments on the proposed rule change.

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

The proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act,<sup>8</sup> and rule 19b-4(f)(2) thereunder,<sup>9</sup> in that it establishes or changes a due, fee, or other charge imposed by the Exchange. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-NYSE-2003-03 and should be submitted by February 24, 2003.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFT 240.19b-4(f)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster #P005]**

**Federated States of Micronesia**

As a result of the President's major disaster declaration for Public Assistance on January 6, 2003, the U.S. Small Business Administration is activating its disaster loan program only for private non-profit businesses that provide essential services of a governmental nature. I find that the State of Chuuk within the Federated States of Micronesia constitutes a disaster area due to damages caused by Typhoon Pongsona occurring from December 5, 2002, and continuing through December 7, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on March 7, 2003 at the address listed below or other locally announced locations: Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853-4795.

The interest rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations Without Credit Available Elsewhere .....	3.324
Non-Profit Organizations With Credit Available Elsewhere .....	5.500

The number assigned to this disaster for physical damage is P00508.

(Catalog of Federal Domestic Assistance Program Nos. 59008)

Dated: January 23, 2003.

**Herbert L. Mitchell,**

*Associate Administrator For Disaster Assistance.*

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<sup>10</sup> 17 CFR 200.30-3(a)(12).