

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below.

Form F-3 is used by foreign issuers to register securities pursuant to the Securities Act of 1933. The information collected is intended to ensure that the information required to be filed by the Commission permits verification of compliance with securities law requirements and assures the public availability of such information. The information provided is mandatory and all information is made available to the public upon request. Form F-3 it takes approximately 166 hours per response and is filed by approximately 120 respondents for a total burden of 19,920 hours. It is estimated that 25% of the total burden hours (4,980 reporting burden hours) is prepared by the issuer.

Form F-7 may be used to register under the Securities Act securities offered for cash upon exercise of rights that are granted to its existing shareholders of the registrant to purchase or subscribe such securities. The information collected is intended to ensure that the information required to be filed by the Commission permits verification of compliance with securities law requirements and assures the public availability of such information. The information provided is mandatory and all information is made available to the public upon request. Approximately 5 respondents file Form F-7 and it takes approximately 4 hours per response for a total burden of 20 hours. It is estimated that 25% of the total burden hours (5 reporting burden hours) is prepared by the company.

Form F-8 may be used to register under the Securities Act securities of certain Canadian issuers to be used in exchange offers or business combinations. The information collected is intended to ensure that the information required to be filed by the Commission permits verification of compliance with securities law requirements and assures the public availability of such information. The information provided is mandatory and all information is made available to the public upon request. Approximately 10 respondents file Form F-8 and it takes approximately 1 hour per response for a total burden of 10 hours. It is estimated that 25% of the total burden hours (2.5 reporting burden hours) is prepared by the company.

Schedule 14D-1F may be used by any person making a cash tender or exchange offer (the "bidder") for securities of any issuer incorporated or organized under the laws of Canada or any Canadian province or territory that is a foreign private issuer, where less than 40% of the outstanding class of such issuer's securities that is the subject of the offer is held by U.S. holders. Schedule 14D-1F is designed to facilitate cross-border transactions in securities of Canadian issuers. The information required to be filed with the Commission is intended to permit verification of compliance with the securities law requirements and assures the public availability of such information. The information provided is mandatory and all information is made available to the public upon request. Approximately 5 respondents file Schedule 14D-1F and it takes approximately 2 hours per response for total burden of 10 hours.

Schedule 14D-9F is used by any issuer incorporated or organized under the laws of Canada or any Canadian province or territory that is foreign private issuer (the "subject company"), or by any director or officer of such issuer, where the issuer's is the subject of a cash tender or exchange offer for a class of securities filed on Schedule 14D-1F. The information required to be filed with the Commission is intended to permit verification of compliance with the securities law requirements and assures the public availability of such information. The information provided is mandatory and all information is made available to the public upon request. Approximately 5 respondents file Schedule 14D-9F and it takes approximately 2 hours per response for total burden of 10 hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, D.C. 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: August 8, 2003.

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

[FR Doc. 03-20818 Filed 8-14-03; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 26146; 812-12784]

### Nations Fund Trust, et al.; Notice of Application

August 11, 2003.

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

**ACTION:** Notice of application for an order under the Investment Company Act of 1940 (the "Act") under (i) section 6(c) of the Act granting an exemption from sections 18(f) and 21(b) of the Act; (ii) section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; (iii) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(3) of the Act; and (iv) section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint transactions.

**SUMMARY OF APPLICATION:** Applicants request an order that would permit certain registered investment companies to participate in a joint lending and borrowing facility.

**APPLICANTS:** Nations Funds Trust, Nations Separate Account Trust, Nations Master Investment Trust (collectively, the "Trusts"), and Banc of America Capital Management, LLC ("BACAP").

**FILING DATES:** The application was filed on February 26, 2002, and amended on August 4, 2003.

**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 September 4, 2003 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, Commission, 450 Fifth Street, NW., Washington, DC

20549-0609; Applicants, c/o Marco Adelfio, Esq., Morrison & Foerster LLP, 2000 Pennsylvania Avenue, NW., Suite 5500, Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** John L. Sullivan, Senior Counsel, at (202) 942-0681 or Todd F. Kuehl, Branch Chief, 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. Each Trust is organized as a Delaware statutory trust and registered under the Act as an open-end management investment company.<sup>1</sup> Responsibility for the overall management of the Trusts rests with each Trust's respective board of trustees (each, a "Board").

2. BACAP is registered as an investment adviser under the Investment Advisers Act of 1940. BACAP serves as investment adviser to each Fund. BACAP is a wholly owned subsidiary of Bank of America, N.A., which in turn is a wholly owned subsidiary of Bank of America Corporation, a bank holding company organized as a Delaware corporation.

3. Some Funds may lend money to banks or other entities by entering into repurchase agreements or purchasing other short-term instruments. Other Funds may need to borrow money from the same or similar banks or other entities for temporary purposes to

<sup>1</sup> Applicants ask that the requested relief apply to (i) The Trusts and their existing and future investment portfolios ("Funds"), (ii) BACAP and any successor entity to BACAP, and (iii) any other registered management investment company and its series advised by BACAP or a person controlling, controlled by or under common control with, BACAP in the future (included in the term "Funds"). The term "successor" is limited to entities that result from a reorganization into another jurisdiction or a change in the type of business organization or other type of restructuring within the group of entities controlled by Bank of America Corporation. All existing investment companies that currently intend to rely on the requested relief are named as applicants. Any other existing or future investment companies that subsequently rely on the requested order will comply with the terms and conditions in the application. Applicants represent that any registered open-end Fund (an "Open-End Fund") may participate in the proposed credit facility ("Proposed Credit Facility") as either a borrower or lender. Applicants further represent that any registered closed-end Fund ("Closed-End Fund") that participates in the Proposed Credit Facility would only participate as a lender (the Closed-End Funds together with the Open-End Funds are referred to as the "Funds").

satisfy redemption requests, to cover unanticipated cash shortfalls such as a trade "fail" in which cash payment for a security sold by a Fund has been delayed, or for other temporary purposes. Currently, the Funds have an uncommitted line of credit and overdraft protection with their custodian, which is designed to cover reasonably anticipated borrowing needs.

4. If the Funds were to borrow money under this line of credit, the Funds would pay interest on the borrowed cash at a rate that would be higher than the rate that would be earned by them on repurchase agreements and other short-term instruments of the same maturity as the bank loan.

5. Applicants request an order that would permit the Funds to enter into a master interfund lending agreement ("Interfund Lending Agreements") that would permit each Fund to lend money directly to, and each Open-End Fund to borrow directly from, other Funds for temporary purposes (an "Interfund Loan"). Applicants believe that the Proposed Credit Facility would substantially reduce the Funds' potential borrowing costs and enhance their ability to earn higher rates of interest on short-term lendings. Although the Proposed Credit Facility would substantially reduce the Funds' need to borrow from banks, it would not necessarily eliminate the need to maintain lines of credit or other borrowing arrangements with banks. The Funds also would continue to maintain their existing uncommitted line of credit and overdraft protection.

6. Applicants anticipate that the Proposed Credit Facility will provide a borrowing Fund with significant cost savings when the cash position of the Fund is insufficient to meet temporary cash requirements. This situation could arise when redemptions exceed anticipated volumes and the Fund has insufficient cash on hand to satisfy such redemptions. When a Fund liquidates portfolio securities to meet redemption requests, it often does not receive payment in settlement for up to three days (or longer for certain foreign transactions). The Proposed Credit Facility would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

7. Applicants also propose using the Proposed Credit Facility when a sale of portfolio securities fails due to circumstances beyond the Fund's control, such as a delay in the delivery of cash to the Fund's custodian or improper delivery instructions by the broker effecting the transaction. Sales fails may present a cash shortfall if the

Fund has undertaken to purchase a security with the proceeds from securities sold. When the Fund experiences a cash shortfall due to a sales fail, the custodian typically extends temporary credit to cover the shortfall and the Fund incurs overdraft charges. Alternatively, the Fund could fail on its intended purchase due to lack of funds from the previous sale, resulting in additional costs to the Fund, or sell a security on a same day settlement basis, earning a lower return on the investment. Use of the Proposed Credit Facility under these circumstances would enable the Fund to have access to immediate short-term liquidity without incurring custodian overdraft, line of credit or other costs.

8. While bank borrowings could generally supply needed cash to cover unanticipated redemptions and sales fails, under the Proposed Credit Facility, a borrowing Fund would pay lower interest rates than would be payable under the Fund's line of credit arrangements or the overdraft provisions of the custody contract. In addition, Funds making loans to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in repurchase agreements or other short-term investments. Thus, applicants believe that the Proposed Credit Facility would benefit both borrowing and lending Funds.

9. The interest rate charged to the Funds on any loan under the Proposed Credit Facility (the "Interfund Rate") would be determined daily and would be the average of the Repo Rate and the Bank Loan Rate, both as defined below. The Repo Rate on any day would be the highest current rate available to the Funds from investments in overnight repurchase agreements. The Bank Loan Rate would be calculated by the Cash Management Group (as defined below) on each day an Interfund Loan is made according to a formula approved by the Boards intended to approximate the lowest interest rate at which short-term bank loans would be available to the Funds. The formula would be based upon a publicly available rate (e.g., Federal funds plus 25 basis points) and would vary with this rate so as to reflect changing bank loan rates. Each Board periodically would review the continuing appropriateness of using the formula to determine the Bank Loan Rate, as well as the relationship between the Bank Loan Rate and current bank loan rates that would be available to the Funds. The initial formula and any subsequent modifications to the formula would be subject to the approval of each Fund's Board.

10. The Proposed Credit Facility would be administered by investment professionals and administrative personnel from BACAP, including a portfolio manager of the Nations Money Market Funds ("Cash Management Group").<sup>2</sup> Under the Proposed Credit Facility, the portfolio managers for each Fund could provide standing instructions to participate as a borrower or lender. The Cash Management Group would collect data on the uninvested cash and borrowing requirements of all participating Funds from the Funds' custodians. The Cash Management Group will determine the aggregate amount of cash available for loans and borrowing demand at least once and possibly twice a day. Then, the Cash Management Group will allocate loans among borrowing Funds without any further communication from portfolio managers (other than the Nations Money Market Funds portfolio manager acting in his or her capacity as a member of the Cash Management Group). It is expected that there typically will be far more available uninvested cash each day than borrowing demand. All allocations will require approval of at least one member of the Cash Management Group who is not a portfolio manager of a Nations Money Market Fund. After allocating cash for Interfund Loans, the Cash Management Group will invest any remaining cash in accordance with the standing instructions of the relevant portfolio managers or return remaining amounts for investment directly by such portfolio managers.

11. The Cash Management Group would allocate borrowing demand and cash available for lending among participating Funds on what the Cash Management Group believes to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate; minimum, maximum or preferable loan sizes; and efforts to minimize the number of transactions and associated administrative costs. To reduce administrative and custody costs, each loan normally would be allocated in a manner intended to minimize the number of participants necessary to complete the loan transaction. The method of allocation and related administrative procedures would be approved by each Board, including a majority of trustees who are not "interested persons," as defined in section 2(a)(19) of the Act

("Independent Trustees"), to ensure that both borrowing and lending Funds participate on an equitable basis.

12. The Cash Management Group would (a) Monitor the interest rates charged and the other terms and conditions of the loans, (b) limit the borrowings and loans entered into by each Fund to ensure that they comply with the Fund's investment policies and limitations, (c) ensure equitable treatment of each Fund, and (d) make quarterly reports to the Boards concerning any transactions by the Funds under the Proposed Credit Facility and the interest rates charged.

13. BACAP, through the members of the Cash Management Group, would administer the Proposed Credit Facility under its existing investment advisory agreement with each Fund and would receive no additional fees as compensation for these services. BACAP could, however, collect reimbursement for record keeping, book keeping, accounting, administrative and transactions fees or charges incurred in connection with any credit facilities. Fees for these services would be no higher than those applicable for comparable bank loan transactions.

14. No Fund will participate in the Proposed Credit Facility except to the extent such participation is consistent with its organizational documents and its investment policies and limitations. Also, no Fund will participate in the Proposed Credit Facility unless it has disclosed in its prospectus or statement of additional information ("SAI") all material facts about its intended participation.

15. In connection with the Proposed Credit Facility, applicants request an order under (a) section 6(c) of the Act granting relief from sections 18(f) and 21(b) of the Act; (b) section 12(d)(1)(J) of the Act granting relief from section 12(d)(1) of the Act; (c) sections 6(c) and 17(b) of the Act granting relief from sections 17(a)(1) and 17(a)(3) of the Act; and (d) section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint arrangements.

#### Applicants' Legal Analysis

1. Section 17(a)(3) of the Act generally prohibits any affiliated person, or affiliated person of an affiliated person, from borrowing money or other property from a registered investment company. Section 21(b) of the Act generally prohibits any registered management investment company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(C) of the Act defines "affiliated person" of another person, in

part, to be any person directly or indirectly controlling, controlled by, or under common control with, such other person. Applicants state that the Funds may be under common control by virtue of having BACAP as their common investment adviser, and/or by virtue of having common officers and trustees.

2. Section 6(c) of the Act provides that an exemptive order may be granted where an 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. Section 17(b) authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants submit that sections 17(a)(3) and 21(b) were intended to prevent a person with strong potential adverse interests to, and some influence over the investment decisions of, a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of that person and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the Proposed Credit Facility transactions do not raise these concerns because (a) BACAP would administer the program as a disinterested fiduciary; (b) all Interfund Loans would consist only of uninvested cash reserves that the Fund otherwise would invest in short-term repurchase agreements or other short-term instruments; (c) the Interfund Loans would not involve a greater risk than such other investments; (d) the lending Fund would receive interest at a rate higher than it could obtain through such other investments; and (e) the borrowing Fund would pay interest at a rate lower than otherwise available to it under its bank loan agreements, and any charges incurred would be no higher than those associated with comparable bank loan arrangements. Moreover, applicants believe that the other conditions in the application would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

<sup>2</sup> For purposes of the requested order, "Nations Money Market Funds" refers to money market Funds, each of which operates under rule 2a-7 under the Act.

4. Section 17(a)(1) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any securities or other property to the company. Section 12(d)(1) of the Act generally makes it unlawful for a registered investment company to purchase or otherwise acquire any security issued by any other investment company except in accordance with the limitations set forth in that section. Applicants state that the obligation of a borrowing Fund to repay a credit facility loan may constitute a security under sections 17(a)(1) and 12(d)(1). Section 12(d)(1)(f) provides that an exemptive order may be granted by the Commission from any provision of section 12(d)(1) if and to the extent such exemption is consistent with the public interest and the protection of investors. Applicants contend that the standards under sections 6(c), 17(b) and 12(d)(1)(f) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below.

5. Applicants state that section 12(d)(1) was intended to prevent the pyramiding of investment companies in order to avoid duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the Proposed Credit Facility does not involve these abuses. Applicants note that there would be no duplicative costs or fees to the Funds or shareholders, and that BACAP would administer the Proposed Credit Facility under its existing advisory agreements with the Funds, and other than the administrative and transactional charges described above, BACAP would receive no additional compensation for its services. Applicants also note that the purpose of Proposed Credit Facility is to provide economic benefits for all the participating Funds.

6. Section 18(f)(1) of the Act prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank; provided that, immediately after the borrowing, there is an asset coverage of at least 300 per centum for all borrowings of the company. Under section 18(g) of the Act, the term "senior security" includes any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief from section 18(f)(1) to the limited extent necessary to implement the credit facility (because the lending Funds are not banks).

7. Applicants believe that granting the relief under section 6(c) is appropriate

because the Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of the Fund, including combined interfund and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the Funds to borrow from other Funds pursuant to the Proposed Credit Facility is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) of the Act and rule 17d-1 thereunder generally prohibit any affiliated person of a registered investment company, or affiliated persons of an affiliated person, when acting as principal, from effecting any transaction in which the company is a joint or a joint and several participant unless permitted by Commission order upon application. Rule 17d-1(b) under the Act provides that in passing upon applications for exemptive relief, the Commission will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

9. Applicants submit that the purpose of section 17(d) is to avoid overreaching by and unfair advantage to investment company insiders. Applicants believe that the Proposed Credit Facility is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental investment limitations. Applicants therefore believe that each Fund's participation in the Proposed Credit Facility would be on terms which are no different from or less advantageous than that of other participating Funds.

#### Applicants' Conditions

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

1. The interest rates to be charged to the Funds under the Proposed Credit Facility will be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, the Cash Management Group will compare the Bank Loan Rate with the Repo Rate and will make cash available for Interfund Loans only if the Interfund Rate is (a)

More favorable to the lending Fund than the Repo Rate and (b) more favorable to the borrowing Fund than the Bank Loan Rate.

3. If a Fund has outstanding borrowings, any Interfund Loans to the Fund (a) Will be at an interest rate equal to or lower than any outstanding bank loan; (b) will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral; (c) will have a maturity no longer than any outstanding bank loan (and in any event not over seven days); and (d) will provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan to the Fund, the event of default will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Lending Agreement entitling the lending Fund to call the Interfund Loan (and exercise all rights with respect to any collateral) and that such call will be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

4. A Fund may make an unsecured borrowing through the Proposed Credit Facility if its outstanding borrowings from all sources immediately after the interfund borrowing total 10% or less of its total assets, provided that if the Fund has a secured loan outstanding from any other lender, including but not limited to another Fund, the Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after an interfund borrowing would be greater than 10% of its total assets, the Fund may borrow through the Proposed Credit Facility on a secured basis only. A Fund may not borrow through the Proposed Credit Facility or from any other source if its total outstanding borrowings immediately after such borrowing would be more than 33 1/3% of its total assets.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, the Fund must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans exceed 10% of its total assets for any other reason (such as a decline in net

asset value or because of shareholder redemptions), the Fund will within one business day thereafter (a) repay all of its outstanding Interfund Loans, (b) reduce its outstanding indebtedness to 10% or less of its total assets, or (c) secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition 5 shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings exceeds 10% is repaid or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of collateral to market each day and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the Interfund Loan.

6. No Fund may lend to another Fund through the Proposed Credit Facility if the loan would cause its aggregate outstanding loans through the Proposed Credit Facility to exceed 15% of the lending Fund's current net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund will not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. A Fund's borrowings through the Proposed Credit Facility, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the Fund's total net cash redemptions or 102% of sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

11. A Fund's participation in the Proposed Credit Facility must be consistent with its investment policies and limitations and organizational documents.

12. The Cash Management Group will calculate total Fund borrowing and lending demand through the Proposed Credit Facility, and allocate loans on an equitable basis among the Funds without the intervention of any portfolio managers of the Funds (other than the

Nations Money Market Funds portfolio manager acting in his or her capacity as a member of the Cash Management Group). All allocations will require approval of at least one member of the Cash Management Group who is not a portfolio manager of a Nations Money Market Fund. The Cash Management Group will not solicit cash for the Proposed Credit Facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers. The Cash Management Group will invest any amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions from portfolio managers or return remaining amounts for investment directly by the portfolio managers.

13. The Cash Management Group will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Boards concerning the participation of the Funds in the Proposed Credit Facility and the terms and other conditions of any extensions of credit under the facility.

14. The Boards of the Trusts, including a majority of the Independent Trustees, will (a) review no less frequently than quarterly each Fund's participation in the Proposed Credit Facility during the preceding quarter for compliance with the conditions of any order permitting the transactions; (b) establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans, approve any modifications thereto, and review no less frequently than annually the continuing appropriateness of the Bank Loan Rate formula; and (c) review no less frequently than annually the continuing appropriateness of the Fund's participation in the Proposed Credit Facility.

15. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, the Cash Management Group will promptly refer the loan for arbitration to an independent arbitrator, selected by the Board(s) whose Funds are involved in the loan, who will serve as arbitrator of disputes concerning Interfund Loans.<sup>3</sup> The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The

arbitrator will submit at least annually a written report to the Board(s) setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

16. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the Proposed Credit Facility occurred, the first two years in an easily accessible place, written records of all such transactions, setting forth a description of the terms of the transaction, including the amount, the maturity and the rate of interest on the loan, the rate of interest available at the time on short-term repurchase agreements and bank borrowings, and such other information presented to the Board in connection with the review required by conditions 13 and 14.

17. The Cash Management Group will prepare and submit to the Boards for review an initial report describing the operations of the Proposed Credit Facility and the procedures to be implemented to ensure that all the Funds are treated fairly. After the commencement of the operations of the Proposed Credit Facility, the Cash Management Group will report on the operations of the Proposed Credit Facility at each Board's quarterly meetings.

In addition, for two years following the commencement of the Proposed Credit Facility, the independent public accountant for each Trust shall prepare an annual report that evaluates the Cash Management Group's assertion that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 3 and it shall be filed pursuant to item 77Q3 of Form N-SAR. In particular, the report shall address procedures designed to achieve the following objectives: (a) That the Interfund Rate will be higher than the Repo Rate but lower than the Bank Loan Rate; (b) compliance with the collateral requirements as set forth in the application; (c) compliance with the percentage limitations on interfund borrowing and lending; (d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by each Board; and (e) that the interest rate on any Interfund Loan does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan.

After the final report is filed, the independent public accountant for the Trusts in connection with Fund audit

<sup>3</sup> If a dispute involves Funds with separate Boards, the respective Boards will agree on an independent arbitrator that is satisfactory to them.

examinations, will continue to review the operation of the Proposed Credit Facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N-SAR.

18. No Fund will participate in the Proposed Credit Facility unless it has fully disclosed in its prospectus or SAI all material facts about its intended participation.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-20904 Filed 8-14-03; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48304; File No. SR-Amex-2003-73]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC to Extend the Suspension of Transaction Charges for Certain iShares Funds

August 8, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 1, 2003, the American Stock Exchange LLC ("Amex" 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.

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

The Amex proposes to extend until August 31, 2003 the suspension of Exchange transaction charges for specialist, Registered Trader, and broker-dealer orders for the iShares Lehman 1-3 year Treasury Bond Fund and the iShares Lehman 7-10 year Treasury Bond Fund. Proposed new language is *italicized*; proposed deletions are in [brackets].

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#### AMEX EQUITY FEE SCHEDULE

#### I. Transaction Charges

No change.

#### II. Regulatory Fee

No Change.

#### Notes:

1. and 2. No change.

3. Customer transaction charges for the following Portfolio Depository Receipts, Index Fund Shares, and Trust Issued Receipts have been suspended:

DIA—DIAMONDS®  
 QQQ—Nasdaq-100® Index Tracking Stock  
 SPY—SPDRs®  
 IVV—iShares S&P 500  
 MDY—MidCap SPDRs  
 XLY—Select Sector SPDR-Consumer  
 Discretionary  
 XLP—Select Sector SPDR-Consumer Staples  
 XLE—Select Sector SPDR-Energy  
 XLF—Select Sector SPDR-Financial  
 XLV—Select Sector SPDR-Health Care  
 XLI—Select Sector SPDR-Industrial  
 XLB—Select Sector SPDR-Materials  
 XLK—Select Sector SPDR-Technology  
 XLU—Select Sector SPDR-Utilities

BHH—B2B Internet HOLDERS™.  
 BBH—Biotech HOLDERS.  
 BDH—Broadband HOLDERS.  
 EKH—Europe 2001 HOLDERS.  
 IAH—Internet Architecture HOLDERS.  
 HHH—Internet HOLDERS  
 IIH—Internet Infrastructure HOLDERS.  
 MKH—Market 2000+ HOLDERS.  
 OIH—Oil Service HOLDERS.  
 PPH—Pharmaceutical HOLDERS.  
 RKH—Regional Bank HOLDERS.  
 RTH—Retail HOLDERS.  
 SMH—Semiconductor HOLDERS.  
 SWH—Software HOLDERS  
 TTH—Telecom HOLDERS.  
 UTH—Utilities HOLDERS.  
 WMH—Wireless HOLDERS.  
 SHY—iShares Lehman 1-3 Year Treasury Bond Fund.  
 IEF—iShares Lehman 7-10 Year Treasury Bond Fund.  
 TLT—iShares Lehman 20+ Year Treasury Bond Fund.  
 LQD—iShares GS \$ InvesTop Corporate Bond Fund.

Customer transaction charges for the iShares S&P 100 Index Fund are \$.0015 per share (\$.15 per 100 shares), capped at \$100 per trade. Until [July 31] August 31, 2003, transaction charges also have been suspended in SHY and IEF for specialist, Registered Trader and broker dealer orders.

\* \* \* \* \*

#### 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 Amex 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 Exchange is extending until August 31, 2003 the suspension of transaction charges in iShares Lehman 1-3 year Treasury Bond Fund (Symbol: SHY) and iShares Lehman 7-10 year

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

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