

time available, depending upon the number of persons who register.

If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Ms. Bradford's attention no later than October 1, 2004, to provide NRC staff with adequate notice to determine whether the request can be accommodated.

FOR FURTHER INFORMATION CONTACT: For environmental review questions, please contact Anna Bradford at (301) 415-5228. For questions related to the safety review or overall licensing of the proposed NEF, please contact Timothy Johnson at (301) 415-7299.

Information and documents associated with the proposed NEF project, including the Environmental Report and the License Application, may be obtained from the Internet on NRC's LES Web page: <http://www.nrc.gov/materials/fuel-cycle-fac/lesfacility.html>. In addition, all documents, including the DEIS (ADAMS Accession Number: ML042510184), are available for public reading room: <http://www.nrc.gov/reading-rm.html>. Any comments of Federal, State and local agencies, Indian tribes or other interested persons will be made available for public inspection when received. Documents may also be obtained from NRC's Public Document Room located at U.S. Nuclear Regulatory Commission Headquarters, 11555 Rockville Pike (first floor), Rockville, Maryland. For those without access to the Internet, paper copies of any electronic documents may be obtained for a fee by contacting the NRC's Public Document Room at 1-800-397-4209.

SUPPLEMENTARY INFORMATION: The NRC staff has prepared a DEIS in response to an application submitted by LES for a license to construct, operate and decommission a gas centrifuge uranium enrichment facility in Lea County, New Mexico. The DEIS for the proposed NEF was prepared by the staff of the NRC and its contractor, Advanced Technologies and Laboratories, International, Inc. and Pacific Northwest National Laboratory, in compliance with the National Environmental Policy Act (NEPA) and the NRC's regulations for implementing NEPA (10 CFR part 51). The proposed action involves a decision by NRC of whether to issue a license to LES to construct, operate and decommission the proposed NEF.

The NRC staff published a Notice of Intent to prepare an EIS for the proposed NEF and to conduct a scoping

process, in the **Federal Register** on February 4, 2004 (69 FR 5374). The NRC staff accepted comments through March 18, 2004, and subsequently issued a Scoping Summary Report in April 2004 (ADAMS Accession Number: ML041050128).

The DEIS describes the proposed action and alternatives to the proposed action, including the no-action alternative. The NRC staff assesses the impacts of the proposed action and its alternatives on public and occupational health, air quality, water resources, waste management, geology and soils, noise, ecology resources, land use, transportation, historical and cultural resources, visual and scenic resources, socioeconomics, accidents and environmental justice. Additionally, the DEIS analyzes and compares the costs and benefits of the proposed action.

Based on the preliminary evaluation in the DEIS, the NRC environmental review staff has concluded that the proposed action should be approved, unless safety issues mandate otherwise, with implementation of the proposed mitigation measures that could eliminate or lessen the potential environmental impacts. The DEIS is a preliminary analysis of the environmental impacts of the proposed action and its alternatives. The Final EIS and any decision documentation regarding the proposed action will not be issued until public comments on the DEIS have been received and evaluated. Notice of the availability of the Final EIS will be published in the **Federal Register**.

Dated in Rockville, Maryland, this 2nd day of September, 2004.

For the Nuclear Regulatory Commission.

Scott C. Flanders,

Deputy Director, Environmental and Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards.

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BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 26597; 812-12936]

Barclays Global Fund Advisors, et al.; Notice of Application

September 14, 2004.

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

ACTION: Notice of an application to amend certain prior orders under section 6(c) of the Investment Company

Act of 1940 ("Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c-1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

SUMMARY OF APPLICATION: The order would amend a prior order to permit a registered open-end management investment company to offer additional series that operate as exchange-traded funds and that are based on specified foreign equity securities indices. The order also would amend the prior order and certain other prior orders to permit exchange-traded funds that principally invest in foreign equity securities to invest in depositary receipts.

APPLICANTS: Barclays Global Fund Advisors (the "Adviser"), iShares Trust (the "Trust"), iShares, Inc. (the "Corporation" and together with the Trust, the "iShares ETFs") and SEI Investments Distribution Co. (the "Distributor").

FILING DATES: The application was filed on February 28, 2003, and amended on March 3, 2004 and on September 8, 2004. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief 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 October 4, 2004 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 may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street, NW., Washington, DC 20549-0609. Applicants: Richard F. Morris, Esq., Barclays Global Fund Advisors, c/o Barclays Global Investors, 45 Fremont Street, San Francisco, CA 94105; Susan C. Mosher, Esq., iShares Trust and iShares, Inc., c/o Investors Bank & Trust Company, 200 Clarendon Street, Boston, MA 02116; and John Munch, Esq., SEI Investments Distribution Co., One Freedom Valley Drive, Oaks, PA 19456.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 942-0567, or Michael W. Mundt, Senior

Special Counsel, at (202) 942-0564 (Division of Investment Management).

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 5th Street, NW., Washington, DC 20549-0102 (tel. (202) 942-8090).

Applicants' Representations

1. The Trust, a Delaware business trust, and the Corporation, a Maryland corporation, are open-end management investment companies registered under the Act. Each iShares ETF consists of multiple series (each, an "Index ETF") that invest in portfolios of securities generally consisting of the component securities ("Component Securities") of various securities indices (each index, an "Underlying Index"). Certain Index ETFs principally invest in non-U.S. equity securities (each such series, an "International ETF"). The Adviser, which is registered as an investment adviser under the Investment Advisors Act of 1940, serves as investment adviser to the Index ETFs. The Distributor, a broker-dealer registered under the Securities Exchange Act of 1934, serves as the principal underwriter and distributor for the iShares ETFs.

2. The Trust is currently permitted to offer certain Index ETFs in reliance on a prior order (the "Prior Order").¹ Applicants seek to amend the Prior Order to permit the Trust to offer three new International ETFs (each, a "New ETF") that would operate in a manner identical to the existing International ETFs that are subject to the Prior Order. Applicants also seek to amend the Prior Order and certain other prior orders to permit International ETFs to invest in certain depository receipts ("Depository Receipts"), as described below.²

3. The investment objective of each New ETF will be to provide investment results that correspond generally to the

price and yield performance of its relevant Underlying Index. The Underlying Indices for the New ETFs are FTSE/Xinhua China 25 Index, MSCI EAFE Value Index and MSCI EAFE Growth Index.³ No entity that creates, compiles, sponsors, or maintains an Underlying Index is or will be an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of the Trust, the Adviser, the promoter of a New ETF, or the Distributor.

4. Each New ETF will utilize a representative sampling strategy where each New ETF will seek to hold a representative sample of the Component Securities of its Underlying Index. Each of the New ETFs that track the MSCI EAFE Value Index and the MSCI EAFE Growth Index, respectively, will invest at least 90% of its assets in Component Securities and in Depository Receipts representing such Component Securities. The New ETF that tracks the FTSE/Xinhua China 25 Index will invest at least 80% of its assets in Component Securities and in Depository Receipts representing such Component Securities, and at least half of the remaining 20% of its assets in such Component Securities or Depository Receipts or in stocks included in the Chinese market but not included in the Underlying Index that the Adviser believes will help the New ETF track its Underlying Index. Each New ETF may invest the remainder of its assets in certain futures, options and swap contracts, cash and cash equivalents, including money market mutual funds advised by the Adviser, other exchange-traded funds, including other Index ETFs, and in stocks not included in the Underlying Index but which the Adviser believes will help the New ETF track its Underlying Index. Applicants expect that each New ETF will have a tracking error relative to the performance of its respective Underlying Index of no more than 5 percent.

5. Each International ETF relying on the iShares Orders is subject to representations as to the percentage of its portfolio that will be invested in the Component Securities of its Underlying Index. Applicants seek to amend the respective iShares Orders so that any International ETF would be able to include Depository Receipts that represent Component Securities together with Component Securities for purposes of satisfying any requirements related to the percentage of an

International ETF's portfolio to be invested in Component Securities.

6. For purposes of this relief, "Depository Receipts" are American Depository Receipts ("ADRs"), Global Depository Receipts ("GDRs") and Euro Depository Receipts ("EDRs"). Applicants state that Depository Receipts are typically issued by a financial institution ("depository") and evidence ownership interests in a security or a pool of securities (the "underlying securities") that has been deposited with the depository. With respect to ADRs, the depository is typically a United States financial institution and the underlying securities are issued by a foreign issuer. With respect to other Depository Receipts, the depository may be a foreign or United States entity, and the underlying securities may have a foreign or a United States issuer.

7. To the extent that an International ETF invests in Depository Receipts, applicants state that the Depository Receipts will be listed on a national securities exchange, as defined in Section 2(a)(26) of the Act, NASDAQ, or a foreign exchange. An International ETF will not invest in any unlisted Depository Receipts. An International ETF will invest only in sponsored Depository Receipts, except for certain listed ADRs that remain unsponsored.⁴ Barclays Global Investors, N.A., the parent company of the Adviser, and its affiliated persons, will not serve as the depository bank for any Depository Receipts held by an International ETF. Generally, an International ETF would only hold Depository Receipts in situations where the Adviser believed that holding the Depository Receipts, rather than holding the underlying foreign Component Securities, would benefit the International ETF. This could occur where an investment in a Depository Receipt offers greater liquidity or would otherwise improve the liquidity, tradability or settlement of an International ETF's portfolio.

8. Applicants note that factors such as supply and demand and differences between the market-trading hours of the exchanges on which Depository

¹ iShares Trust, *et al.*, Investment Company Act Rel. No. 25111 (Aug. 15, 2001) (the "Original Order"), as amended by iShares, Inc., *et al.*, Investment Company Act Rel. No. 25623 (June 25, 2002) and iShares Trust, *et al.*, Investment Company Act Rel. No. 26006 (Apr. 15, 2003) (the Original Order, as amended, the "Prior Order").

² In addition to amending the Prior Order, the requested order would amend The Foreign Fund, Inc., *et al.*, Investment Company Act Rel. No. 21803 (Mar. 5, 1996); WEBS Index Fund, Inc., *et al.*, Investment Company Act Rel. No. 23890 (July 6, 1999); Barclays Global Fund Advisors, *et al.*, Investment Company Act Rel. No. 24452 (May 12, 2000); and iShares, Inc., *et al.*, Investment Company Act Rel. No. 25215 (Oct. 18, 2001); each as amended by iShares, Inc., *et al.*, Investment Company Act Rel. No. 25623 (June 25, 2002) and iShares Trust, *et al.*, Investment Company Act Rel. No. 26006 (April 15, 2003) (collectively, the "iShares Orders").

³ The two MSCI Underlying Indices are subsets of the MSCI EAFE Index, which serves as the Underlying Index for an existing Index ETF operating in reliance on the Prior Order.

⁴ Applicants understand that since 1984 all listed ADRs are required to be sponsored. Applicants also understand that a few listed, but unsponsored ADRs that existed prior to the 1984 requirement have been "grandfathered." Applicants do not believe these unsponsored listed ADRs pose any special pricing or liquidity issues. Although the Applicants have no present intention for an International ETF to invest in these unsponsored listed ADRs, Applicants seek to reserve the ability for an International ETF to hold these unsponsored listed ADRs in those situations where the use of these ADRs would otherwise benefit the International ETF.

Receipts and the underlying securities trade may cause Depositary Receipts to trade at premiums or discounts to the trading price of the underlying securities they represent. To the extent an International ETF is invested in Depositary Receipts and an Underlying Index contains local securities, any premium or discount between the price of the underlying security and the corresponding Depositary Receipt creates the potential for tracking error between the International ETF and its Underlying Index. Applicants expect any such impact to be insignificant as the Adviser monitors each International ETF's portfolio and Underlying Index on a daily basis and would take appropriate action as warranted (such as rebalancing the International ETF's portfolio) to reduce potential tracking error.

9. Applicants do not believe the potential for premiums and discounts between the price of Depositary Receipts and corresponding underlying securities will have any material negative impact on the efficiency of the creation and redemption process for shares of an International ETF because market participants have access to both the prices of the Depositary Receipts and the prices of the corresponding underlying securities. Applicants believe the pricing transparency for listed Depositary Receipts will be substantially equivalent to the pricing transparency of the corresponding underlying securities, since both are traded and priced intra-day on securities exchanges and markets. Applicants therefore expect that an International ETF's investment in Depositary Receipts will not have any material negative impact on the arbitrage efficiency of the International ETFs. Finally, applicants do not anticipate any liquidity issues with respect to any International ETF's use of Depositary Receipts. The Adviser does not intend to use Depositary Receipts unless they are liquid enough to facilitate efficient creations and redemptions and the use of Depositary Receipts would otherwise benefit the International ETF.

10. Applicants state that all discussions contained in the application for the Prior Order are equally applicable to the New ETFs. Accordingly, applicants believe that the requested relief to amend the Prior Order to permit the operations of the New ETFs continues to meet the necessary exemptive standards. Applicants agree that any iShares Order amended by the requested order will remain subject to the same conditions stated in the relevant iShares Order.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4-2232 Filed 9-16-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50347; File No. SR-NASD-2003-176]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendments Nos. 1 and 2 Thereto by the National Association of Securities Dealers, Inc. Relating to Chief Executive Officer Certification and Designation of Chief Compliance Officer

September 10, 2004.

I. Introduction

A. Background

On November 28, 2003, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change relating to Chief Executive Officer Certification and Designation of Chief Compliance Officer. The proposed rule change was published for comment in the **Federal Register** on December 31, 2003.³ The Commission received six comment letters in response to the proposed rule change.⁴

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Exchange Act Release No. 48961 (Dec. 23, 2003), 68 FR 75704 (December 31, 2003). Subsequently, the Commission designated a longer period for Commission action and extended the comment period. Exchange Act Release No. 49129 (January 27, 2004), 69 FR 5228 (February 3, 2004).

⁴ See letters to Jonathan G. Katz, Secretary, Commission from: Laura Singer, Vice President and General Counsel, E*Trade Brokerage Holdings, Inc. dated February 11, 2004 (E*Trade Letter); George R. Kramer, Vice President and Acting General Counsel, Securities Industry Association, Paul A. Merolla, Executive Vice President, SIA Compliance and Legal Division, and Paul Saltzman, Executive Vice President and General Counsel, The Bond Market Association dated February 6, 2004 ("SIA/TBMA Letter"); Joan Hinchman, Executive Director, President, and CEO, National Society of Compliance Professionals, Inc. dated February 5, 2004 ("NSCP Letter"); and Christiane G. Hyland, Senior Vice President and General Counsel, Empire Corporate FCU dated January 21, 2004 ("Empire Letter"); Stephen A. Batman, CEO, 1st Global Capital Corp. dated January 21, 2004 ("1st Global Letter"); and Herbert A. Pontzer, SVP/Chief Compliance Officer, NFP Securities, Inc. dated February 4, 2004 ("NFP Letter"). The comments are available online at <http://www.sec.gov/rules/sro/nasd/nasd2003176.shtml>.

On March 8, 2004, NASD filed Amendment No. 1 to the proposed rule change.⁵ On July 15, 2004, NASD filed Amendment No. 2 to the proposed rule change.⁶

On August 3, 2004, Amendments No. 1 and 2 were published for comment in the **Federal Register**.⁷ The Commission received eight comment letters in response to these amendments.⁸ For the reasons discussed below, the Commission is approving the proposal as amended.

B. NASD Notice to Members 03-29

In June 2003, NASD issued Notice to Members 03-29, seeking comment on a proposal to require members to designate a Chief Compliance Officer ("CCO") and have their CCOs and Chief Executive Officers ("CEOs") annually certify that the member "has in place adequate compliance and supervisory policies and procedures reasonably designed to comport with applicable NASD rules, MSRB rules and federal securities laws and rules."⁹ The proposal would have required, among other things, that the CCO and CEO

⁵ See letter from Philip A. Shaikun, Assistant General Counsel, NASD, to Catherine McGuire, Chief Counsel, Division of Market Regulation, Commission, dated March 8, 2004 ("Amendment No. 1"). In Amendment No. 1, NASD proposed to add a requirement that the mandated meetings between the CEO and CCO include discussion of compliance system deficiencies, risks and resources.

⁶ See letter from Philip A. Shaikun, Assistant General Counsel, NASD, to Catherine McGuire, Chief Counsel, Division of Market Regulation, Commission, dated July 15, 2004 ("Amendment No. 2"). In Amendment No. 2, NASD eliminated the CCO certification requirement and added to the accompanying interpretive material a description of the CCO's role in the member's compliance scheme and the CEO certification required under this proposed rule.

⁷ Exchange Act Release No. 50105 (July 28, 2004), 69 FR 46603 (August 3, 2004).

⁸ See Letters to Jonathan G. Katz, Secretary, Commission from: Pamela Fritz, CCO, MWA Financial Services, Inc. dated August 6, 2004 ("MWA Letter"); Stephen A. Batman, CEO, 1st Global, Inc. dated August 23, 2004 ("1st Global-2 Letter"); R. Bredt Norwood, General Counsel, NFP Securities, Inc. dated August 23, 2004 ("NFP-2 Letter"); Barry S. Augenbraun, Senior Vice President and Corporate Secretary, Raymond James Financial, Inc. dated August 24, 2004 ("Raymond James Letter"); S. Kendrick Dunn, Assistant Vice President, Pacific Select Distributors dated August 24, 2004 ("Pacific Select Letter"); John Polanin, Jr., Chairman, SIA Self-Regulation and Supervisory Practices Committee, and Paul A. Merolla, Executive Vice President, SIA Compliance and Legal Division dated August 24, 2004 ("SIA Letter"); Dale E. Brown, CAE Executive Director, CEO Financial Services Institute dated August 24, 2004 ("FSI Letter"); Gregory E. Smith, President, Sunset Financial Services, Inc. dated August 24, 2004 ("SFS Letter"). The comments are available online at <http://www.sec.gov/rules/sro/nasd/nasd2003176.shtml>.

⁹ NASD Notice to Members 03-29. Notice to Members 03-29 is available online at <http://www.nasdr.com/pdf-text/0329ntm.txt>.