

Moreover, the issuers of the underlying securities comprising the Nasdaq-100 are subject to reporting requirements under the Act, and all of the component stocks are either listed or traded on, or traded through the facilities of, U.S. securities markets.

The Commission also believes that any concerns that a broker-dealer, such as Morgan Stanley, or a subsidiary providing a hedge for the issuer, will incur undue position exposure are minimized by the size of the Notes issuance in relation to the net worth of Morgan Stanley.<sup>26</sup>

Finally, the Commission notes that the value of the Index will be calculated and disseminated by CBOE once every trading day after the close of trading. However, the Commission notes that the value of the Nasdaq-100 will be widely disseminated at least once every fifteen seconds throughout the trading day and that investors are able to obtain real-time call option pricing on the Nasdaq-100 Index during the trading day. Further, the Indicative Value, which will be calculated by the CBOE after the close of trading and after the CBOE calculates the BXN Index for use by investors the next trading day, is designed to provide investors with a daily reference value of the adjusted Index.

Further, the Commission notes that the Nasdaq has agreed to undertake to delist the Notes in the event that CBOE ceases to calculate and disseminate the Index, and Morgan Stanley is unable to arrange to have the BXN Index calculated and widely disseminated through a third party.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**. Nasdaq has requested accelerated approval because

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Additionally, the issuer discloses in the prospectus that the hedging activities of its affiliates, including selling call options on the Nasdaq-100, could affect the value of these call option during the half hour period in which their value is determined for purposes of inclusion in the BXN Index. Such hedging activity must, of course, be conducted in accordance with applicable regulatory requirements.

<sup>26</sup> See Securities Exchange Act Release Nos. 44913 (October 9, 2001), 66 FR 52469 (October 15, 2001) (order approving the listing and trading of notes whose return is based on the performance of the Nasdaq-100 Index) (SR-NASD-2001-73); 44483 (June 27, 2001), 66 FR 35677 (July 6, 2001) (order approving the listing and trading of notes whose return is based on a portfolio of 20 securities selected from the Amex Institutional Index) (File No. SR-Amex-2001-40); and 3774 (September 27, 1996), 61 FR 52480 (October 7, 1996) (order approving the listing and trading of notes whose return is based on a weighted portfolio of healthcare/biotechnology industry securities) (SR-Amex-96-27).

this product is similar to several other instruments currently listed and traded on the Nasdaq.<sup>27</sup> Additionally, the Notes will be listed pursuant to Nasdaq's existing hybrid security listing standards as described above. Therefore, the Commission finds good cause, consistent with section 19(b)(2) of the Act,<sup>28</sup> to approve the proposal on an accelerated basis.

Accordingly, the Commission believes there is good cause, consistent with Sections 15A(b)(6) and 19(b)(2) of the Act,<sup>29</sup> to approve the proposal, on an accelerated basis.

## V. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>30</sup> that the proposed rule change (SR-NASD-2005-119) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>31</sup>

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. E5-6386 Filed 11-17-05; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52761; File No. SR-NYSE-2005-76]

### Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to iShares® Index Funds of iShares Trust and iShares, Inc.

November 10, 2005.

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 October 28, 2005, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the NYSE. The Exchange filed the proposed rule change as a "non-controversial"<sup>3</sup> rule change under Rule 19b-4(f)(6) under the Act,<sup>3</sup> which renders the proposal effective upon filing with the Commission. The

<sup>27</sup> See supra note 10.

<sup>28</sup> 15 U.S.C. 78f(b)(5) and 78s(b)(2).

<sup>29</sup> 15 U.S.C. 78o3(b)(6) and 78s(b)(2).

<sup>30</sup> 15 U.S.C. 78s(b)(2).

<sup>31</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The NYSE proposes to list and trade the following iShares® Index Funds, which are Investment Company Units ("ICUs") under section 703.16 of the Exchange Listed Company Manual: iShares MSCI® Brazil Index Fund, iShares MSCI Hong Kong Index Fund, iShares MSCI Japan Index Fund, iShares MSCI Malaysia Index Fund, iShares MSCI Singapore Index Fund, iShares MSCI South Korea Index Fund, iShares MSCI Taiwan Index Fund, iShares MSCI United Kingdom Index Fund, and iShares S&P Europe 350 Index Fund.<sup>4</sup>

## 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 NYSE 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, Proposed Rule Change

#### 1. Purpose

The NYSE notes that it has adopted listing standards applicable to ICUs, which are consistent with the listing criteria currently used by other exchanges, and trading standards pursuant to which the Exchange may trade ICUs on the Exchange, including on an unlisted trading privileges ("UTP") basis.<sup>5</sup> The Exchange now proposes to list the following iShares Index Funds ("Funds"), which are ICUs, under section 703.16 of the Exchange

<sup>4</sup> MSCI and MSCI Indices are registered service marks of Morgan Stanley & Co., Incorporated.

<sup>5</sup> In 1996, the Commission approved section 703.16 of the Listed Company 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 (SR-NYSE-95-23). 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 Listed Company Manual and Exchange Rule 1100. See Securities Exchange Act Release No. 43679, December 5, 2000; 65 FR 77949, December 13, 2000 (SR-NYSE-00-46).

Listed Company Manual (“Manual”): iShares MSCI Brazil Index Fund, iShares MSCI Hong Kong Index Fund, iShares MSCI Japan Index Fund, iShares MSCI Malaysia Index Fund, iShares MSCI Singapore Index Fund, iShares MSCI South Korea Index Fund, iShares MSCI Taiwan Index Fund, iShares MSCI United Kingdom Index Fund, and iShares S&P Europe 350 Index Fund.

The Funds are currently listed and traded on the American Stock Exchange LLC (“Amex”)<sup>6</sup> and the issuer intends to move listing of the Funds to the NYSE. The Funds also trade on the NYSE<sup>7</sup> on a UTP basis and other securities exchanges<sup>8</sup> and in the over-the-counter market.<sup>9</sup>

<sup>6</sup> The Funds (with the exception of the S&P Europe 350 Fund) were formerly known as World Equity Benchmark Shares or WEBS, and an initial series of WEBS, including the Funds that are the subject of the instant filing were initially 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 (SR-Amex-95-43). The iShares S&P Europe 350 Fund was approved for listing and trading on the Amex in Securities Exchange Act Release No. 34-42786, May 15, 2000; 65 FR 33586, May 24, 2000 (SR-Amex-99-49). Collectively these Commission orders are subsequently referred to as the “Amex Listing Orders.”

<sup>7</sup> The Commission has previously approved trading on the Exchange on a UTP basis of the iShares MSCI Japan Index Fund. See Securities Exchange Act Release No. 46298, August 1, 2002; 67 FR 51614, August 8, 2002; (SR-NYSE-2002-27). The Commission also has approved trading on the Exchange of the following iShares Funds on a UTP basis: iShares MSCI EAFE; iShares S&P Europe 350; iShares MSCI Taiwan; iShares MSCI Pacific ex-Japan; iShares MSCI Brazil; iShares MSCI United Kingdom; iShares MSCI South Korea; iShares MSCI Singapore; iShares MSCI Germany; iShares MSCI Australia; iShares MSCI Mexico; iShares MSCI Hong Kong; iShares MSCI South Africa; iShares MSCI Emerging Markets Free; and iShares MSCI Malaysia. See Securities Exchange Act Release No. 50142, August 3, 2004; 69 FR 48539, August 10, 2004; (SR-NYSE-2004-27). Except as noted below, information relating to the Funds and the indexes underlying the Funds as described in SR-NYSE-2002-27 and SR-NYSE-2004-27 is incorporated by reference herein. Barclays Global Fund Advisors, Inc., the investment advisor for each Fund (“BGFA” or the “Advisor”), has represented to the Exchange that, except for the information referenced herein, the information included in the prospectuses and Statements of Additional Information upon which information in SR-NYSE-2002-27 and SR-NYSE-2004-27 was based has not materially changed since Commission approval of those filings. Telephone conversation by and between Michou Nguyen, Attorney, Division of Market Regulation (“Division”), Commission, and John Carey, Assistant General Counsel, NYSE, on November 1, 2005. Collectively, these Commission orders are subsequently referred to as the “NYSE UTP Orders.”

<sup>8</sup> See e.g., Securities Exchange Act Release No. 39117, September 22, 1997; 62 FR 50973, September 29, 1997 (SR-CHX-96-14) (approving the UTP trading of WEBS).

<sup>9</sup> Additional information regarding the Funds (except for the S&P Europe 350 Index Fund) is included in the Prospectus of iShares, Inc., dated January 1, 2005, as revised September 23, 2005, and Statement of Additional Information (“SAI”) of

The shares of the Funds are issued by iShares, Inc. and, for iShares S&P Europe 350 Index Fund, iShares Trust, which are open-ended management investment companies. Barclays Global Fund Advisors (“BGFA”), a subsidiary of Barclays Global Investors, N.A. (“BGI”), is the investment advisor (“Advisor”) for each Fund. BGI is a wholly owned indirect subsidiary of Barclays Bank PLC of the United Kingdom. BGFA and its affiliates are not affiliated with the index providers (MSCI and S&P). Investors Bank and Trust Company serves as administrator, custodian and transfer agent for the Funds and SEI Investments Distribution Co. is distributor for the Funds. The distributor is not affiliated with the NYSE or BGFA.

The number of shares of each Fund outstanding as of September 15, 2005 ranged from approximately 15 million shares (iShares S&P Europe 350) to approximately 698 million shares (iShares MSCI Japan). The NYSE notes that these numbers far exceed the minimum number of shares to be issued in connection with initial listing of the Funds on the Amex in 1996 and in 2000.<sup>10</sup> A minimum of two Creation Units of each MSCI Fund (ranging from 40,000 to 200,000 shares per Creation Unit) were required to be outstanding at the time of listing on the Amex, with the exception of iShares MSCI Japan Index Fund, for which one Creation Unit (600,000 shares) was required to be outstanding.

The NYSE notes that these number of shares outstanding also far exceed the 100,000 minimum number of shares required to be outstanding in connection with listing of ICUs under

iShares, Inc., dated January 1, 2005, as revised September 23, 2005. For iShares S&P Europe 350 Index Fund, additional information is included in the Prospectus of iShares Trust, dated August 1, 2005, as revised September 12, 2005, and SAI of iShares Trust, dated August 24, 2005, as revised September 12, 2005. Additional Information for the Funds is available on the iShares Web site (<http://www.iShares.com>). Fund information relating to NAV, returns, dividends, component stock holdings and other information is updated on a daily basis on the iShares Web site.

While the Advisor would manage the Funds, the Funds’ Board of Directors would have overall responsibility for the Funds’ operations. The composition of the Board is, and would be, in compliance with the requirements of section 10 of the Investment Company Act of 1940 (“1940 Act”). The Funds are subject to and must comply with section 303A.06 of the Manual, which requires that the Funds have an audit committee that complies with SEC Rule 10A-3.

<sup>10</sup> See Securities Exchange Act Release No. 36947, March 8, 1996, 61 FR 10606, March 14, 1996 (SR-Amex-95-43); Securities Exchange Act Release No. 42786, May 15, 2000, 65 FR 33586, May 24, 2000 (SR-Amex-99-49).

Rule 19b-4(e)<sup>11</sup> under the Act<sup>12</sup> pursuant to the Exchange’s generic listing standards in Section 703.16 of the Manual. In addition, the Exchange has required a minimum number of 100,000 shares of ICUs to be outstanding in connection with initial listing of iShares FTSE/Xinhua China 25 Index Fund, which the Commission noted is comparable to requirements previously applied to listed series of ICUs.<sup>13</sup> The operation of the Funds, specifically, the creation and redemption process, is described in more detail in the prior Amex Listing Orders and the NYSE UTP Orders and has not materially changed.<sup>14</sup>

#### Correlation

According to the Funds’ prospectus, BGFA expects that over time, the correlation between each Fund’s performance and that of its underlying index, before fees and expenses, will be 95% or better. A figure of 100% would indicate perfect correlation. Any correlation of less than 100% is called “tracking error.” A Fund using a representative sampling strategy (which all of the Funds utilize) can be expected to have a greater tracking error than a Fund using a replication strategy. Replication is a strategy in which a Fund invests in substantially all of the securities in its underlying index in approximately the same proportions as in the underlying index.

The Funds have chosen to pursue a representative sampling strategy which, by its very nature, entails some risk of tracking error. (It should also be noted that Fund expenses, the timing of cash flows, and other factors all contribute to tracking error.) The Web site for the Funds, <http://www.iShares.com>, contains detailed information on the performance and the tracking error for each Fund.<sup>15</sup>

#### Industry Concentration Policy

As disclosed in the applicable Fund prospectus, each of the iShares MSCI Singapore Index and iShares MSCI South Korea Index Funds has the

<sup>11</sup> 17 CFR 240.19b-4(e).

<sup>12</sup> U.S.C. 78a.

<sup>13</sup> See note 51 of Securities Exchange Act Release No. 50505, October 8, 2004; 69 FR 61280, October 15, 2004; (SR-NYSE-2004-55).

<sup>14</sup> Electronic mail exchange by and between Florence Harmon, Senior Special Counsel, Division, John Carey, Assistant General Counsel, NYSE, on November 9, 2005.

<sup>15</sup> The price at which the Funds’ shares trade should be disciplined by arbitrage opportunities created by the ability to purchase or redeem shares of the Funds in Creation Unit Aggregations throughout the trading day. This should help ensure that the Funds’ shares will not trade at a material discount or premium to their net asset value or redemption value.

following concentration policy: with respect to the two most heavily weighted industries or groups of industries in its underlying index, the Fund will invest in securities (consistent with its investment objective and other investment policies) so that the weighting of each such industry or group of industries in the Fund does not diverge by more than 10% from the respective weighting of such industry or group of industries in its underlying index. An exception to this policy is that if investment in the stock of a single issuer would account for more than 25% of the Fund, the Fund will invest less than 25% of its net assets in such stock and will reallocate the excess to stock(s) in the same industry or group of industries, and/or to stock(s) in another industry or group of industries, in its underlying index. Each Fund will evaluate these industry weightings at least weekly, and at the time of evaluation will adjust its portfolio composition to the extent necessary to maintain compliance with the above policy.

Each of the iShares MSCI Brazil Index, iShares MSCI Hong Kong Index, iShares MSCI Malaysia Index, iShares MSCI Japan Index, iShares MSCI Taiwan Index and iShares MSCI United Kingdom Index Funds will not concentrate its investments (*i.e.*, hold 25% or more of its total assets in the stocks of a particular industry or group of industries), except that, to the extent practicable, the Fund will concentrate to approximately the same extent that its underlying index concentrates in the stocks of such particular industry or group of industries.<sup>16</sup>

The iShares S&P Europe 350 Index Fund will not concentrate its investments (*i.e.*, hold 25% or more of its total assets) in a particular industry or group of industries, except that a Fund will concentrate its investments to approximately the same extent that its underlying index is so concentrated. For purposes of this limitation, securities of the U.S. Government (including its agencies and instrumentalities), repurchase agreements collateralized by U.S. Government securities, and securities of state or municipal governments and their political subdivisions are not considered to be issued by members of any industry.

BGI has represented that each of the following Funds will invest at all times at least ninety percent (90%) of its total assets in component securities that are

represented in the underlying index for such Fund and in ADRs representing the component securities in the underlying index for such Fund: iShares S&P Europe 350 Index Fund; iShares MSCI United Kingdom Index Fund; iShares MSCI Hong Kong Index Fund; iShares MSCI Singapore Index Fund; iShares MSCI Japan Index Fund; and iShares MSCI Malaysia Index Fund. Each of these Funds will invest not more than ten percent (10%) of fund assets in ADRs and other securities<sup>17</sup> that are not included in the component securities of their underlying index or representing the component securities of their underlying index.

BGI has further represented that each of the following Funds will invest at all times at least eighty percent (80%) of its total assets in component securities that are represented in the underlying index for such Fund and in ADRs and other securities<sup>18</sup> representing the component securities in the underlying index for such Fund, and at least half of the remaining twenty percent (20%) of its assets in such stocks or in stocks included in the relevant market but not in the index: iShares MSCI Brazil Index Fund; iShares MSCI South Korea Index Fund; and iShares MSCI Taiwan Index Fund. Each of these Funds will invest not more than twenty percent (20%) of fund assets in ADRs that are not included in the component securities of their underlying index or representing the component securities of their underlying index.

Finally, BGI has represented that each of the ADRs in which these Funds will invest shall be listed on a national securities exchange or the Nasdaq National Market.

The Exchange believes that these concentration requirements and policies prevent any Fund from being excessively weighted in any single security or small group of securities and significantly reduce concerns that trading in an Index Fund could become a surrogate for trading a single or a few unregistered securities.<sup>19</sup>

<sup>17</sup> Electronic mail exchange by and between Florence Harmon, Senior Special Counsel, Division, John Carey, Assistant General Counsel, NYSE, on November 9, 2005

<sup>18</sup> *Id.*

<sup>19</sup> <sup>19</sup> *Id.* Additionally, the MSCI and S&P index methodologies generally seek to have represented either 85% of the free float adjusted market capitalization of a country's stock market or (with the iShares S&P Europe 350 Index Fund) all securities comprising 95% of the eligible investable universe in fourteen European markets and the United Kingdom, which the Exchange notes makes it unlikely that the Funds will become surrogates for trading a single or a few unregistered stocks. Electronic mail exchange by and between Florence Harmon, Senior Special Counsel, Division, John

#### *Availability of Information Regarding iShares and the Underlying Indexes*

The MSCI and S&P Indexes are calculated by MSCI and S&P each trading day in the applicable foreign exchange markets based on official closing prices in such exchange markets. For each trading day, MSCI and S&P publicly disseminate the Index values for the previous day's close. The Index methodology for the MSCI Indexes, including weighting methodology, component selection criteria, calculation methodology, and changes to the Index, has been updated and is described in SR-NYSE 2005-70.<sup>20</sup> The Index methodology for the S&P 350 Europe Index has not materially changed from the description in the NYSE UTP Order.<sup>21</sup> The Indexes are reported periodically in major financial publications and also are available through vendors of financial information.<sup>22</sup> BGI now makes available every 60 seconds (through dissemination by vendors such as Bloomberg and Reuters) an updated index value for those Indices that are based on foreign trading markets whose hours overlap with the NYSE trading hours of 9:30 a.m. to 4:15 p.m. Eastern Time (*i.e.*, the iShares MSCI<sub>SM</sub> Brazil Index, iShares MSCI United Kingdom Index, and iShares S&P Europe 350 Index). Otherwise, if the foreign market is closed during NYSE trading hours, BGI provides closing index value on <http://www.ishares.com>.<sup>23</sup>

To provide current pricing information for the Funds, there will be disseminated through the facilities of the Consolidated Tape Association an amount per iShare representing the sum of the estimated Balancing Amount effective through and including the previous business day plus the current value of the Deposit Securities in U.S.

Carey, Assistant General Counsel, NYSE, on November 9, 2005.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> As the Commission has previously stated, when a broker-dealer, or a broker-dealer's affiliate such as MSCI, is involved in the development and maintenance of a stock index upon which a product such as iShares is based, the broker-dealer or its affiliate should have procedures designed specifically to address the improper sharing of information. See Securities Exchange Act Release No. 52178, July 29, 2005; 70 FR 46244, August 8, 2005; (SR-NYSE-2005-41). The Exchange notes that MSCI has implemented procedures to prevent the misuse of material, non-public information regarding changes to component stocks in the MSCI Indexes. The Commission has stated that it believes that the information barrier procedures put in place by MSCI address the unauthorized transfer and misuse of material, non-public information. *See Id.*

<sup>23</sup> Electronic mail exchange by and between Florence Harmon, Senior Special Counsel, Division, John Carey, Assistant General Counsel, NYSE, on November 9, 2005.

<sup>16</sup> Telephone conversation by and between Michou Nguyen, Attorney, Division, and John Carey, Assistant General Counsel, NYSE, on November 3, 2005.

Dollars, on a per iShare basis. This amount is referred to herein as the "indicative optimized portfolio value" (the "IOPV") and will be calculated by an independent third party such as Bloomberg L.P. The IOPV will be disseminated every fifteen seconds during regular NYSE trading hours of 9:30 a.m. to 4:15 p.m. (New York time). Because the Funds utilize a representative sampling strategy, the IOPV likely will not reflect the value of all securities included in the applicable indexes. In addition, the IOPV will not necessarily reflect the precise composition of the current portfolio of securities held by the Funds at a particular moment. The IOPV disseminated during NYSE trading hours should not be viewed as a real-time update of the NAV of the Funds, which is calculated only once a day.<sup>24</sup> It is expected, however, that during the trading day the IOPV will closely approximate the value per share of the portfolio of securities for the Funds except under unusual circumstances.

For each of the Funds for which there is an overlap in trading hours between the foreign and U.S. markets, the IOPV calculator will update the applicable IOPV every 15 seconds to reflect price changes in the applicable foreign market or markets, and convert such prices into U.S. dollars based on the currency exchange rate. For all Funds, (including Funds for which there is no overlap in trading hours between the foreign and U.S. markets), when the foreign market or markets are closed but U.S. markets are open, the IOPV will be updated every 15 seconds to reflect changes in currency exchange rates after the foreign market closes. The IOPV will also include the applicable cash component for each Fund.

The Exchange notes that, except as modified by this filing, all representations made by the Exchange in SR-NYSE-2002-27 and SR-NYSE-2004-27 relating to regulation of UTP trading of the Funds, including surveillance procedures, Information Memos and due diligence, among other matters, will be fully applicable to trading of the Funds upon Exchange listing.

<sup>24</sup> As of the date of NYSE's filing of SR-NYSE 2005-76, the NAV for each of the Funds is generally calculated at 4 p.m. (New York time) on each trading day, except that the NAV for each of the iShares MSCI Malaysia Index Fund, iShares MSCI South Korea Index Fund, and iShares MSCI Taiwan Index Fund is generally calculated at 11 a.m. (New York time) on each trading day. Electronic mail exchange by and between Florence Harmon, Senior Special Counsel, Division, John Carey, Assistant General Counsel, NYSE, on November 9, 2005.

### Stop and Stop Limit Orders

Commentary .30 to Exchange Rule 13 provides that stop and stop limit orders in an ICU shall be elected by a quotation, but specifies that if the electing bid or an offer is more than 0.10 points away from the last sale and is for the specialist's dealer account, prior Floor Official approval is required for the election to be effective. The Exchange states that this rule applies to ICUs generally.

### Rule 460.10

Rule 460.10 generally precludes certain business relationships between an issuer and the specialist (or its affiliate) in the issuer's securities. 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 net asset value of the ETF shares. A specialist (or its affiliate) may acquire a position in excess 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.

### Trading Halts

In order to halt the trading of the Funds, the Exchange may consider, among other things, factors such as the extent to which trading is not occurring in underlying security(s) and whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Fund shares is subject to trading halts caused by extraordinary market volatility pursuant to Exchange Rule 80B. The Exchange will suspend trading in a Fund if the Index value or IOPV applicable to such Fund is no longer calculated or disseminated.<sup>25</sup>

### Prospectus or Product Description Delivery

The Commission has granted iShares, Inc. an exemption from certain prospectus delivery requirements under

<sup>25</sup> In the event an Index value or IOPV is no longer calculated or disseminated, the Exchange would immediately contact the Commission to discuss alternative measures that may be appropriate under the circumstances.

section 24(d)<sup>26</sup> of the 1940 Act.<sup>27</sup> Any product description used in reliance on a section 24(d) exemptive order will comply with all representations made therein and all conditions thereto. The Exchange, in an Information Memo 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 the Funds and will refer members and member organizations to NYSE Rule 1100(b). The Information Memo will also advise members and member organizations that delivery of a prospectus to customers in lieu of a product description would satisfy the requirements of Rule 1100(b).

### Surveillance Procedures

The Exchange will utilize its existing surveillance procedures applicable to ICUs to monitor trading in the Funds. The Exchange believes that these procedures are adequate to monitor Exchange trading of the Funds.

The Exchange believes that surveillance procedures applicable to trading in iShares are comparable to those applicable to other ICUs currently trading on the Exchange. The Exchange believes that its surveillance procedures, which the Exchange has filed with the Commission, are adequate to properly monitor the trading of the Funds. The Exchange's current trading surveillances focus on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. The Exchange is able to obtain information regarding trading in both the Fund shares and the component securities through NYSE members, in connection with such members' proprietary or customer trades which they effect on any relevant market. In addition, the Exchange may obtain trading information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members or affiliates of the ISG.

### Original and Annual Listing Fees

The original listing fee applicable to each Fund for listing on the Exchange is \$5,000, and the continuing fee would be \$2,000 for each Fund, paid annually.

<sup>26</sup> 15 U.S.C. 80a-24.

<sup>27</sup> See, *In the Matter of iShares, Inc., et al.*, Investment Company Act Release No. 25623 (June 25, 2002).

### Trading Hours

The trading hours for the Funds on the Exchange will be 9:30 a.m. to 4:15 p.m.

### 2. Statutory Basis

The NYSE believes that its proposal is consistent with section 6(b) of the Act<sup>28</sup> in general, and furthers the objectives of section 6(b)(5) of the Act<sup>29</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and national market system and, in general, to protect investors and the public interest.

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

The NYSE does not believe that the proposed rule change will impose any inappropriate burden on competition 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 NYSE neither solicited nor received written comments on the proposed rule change.

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

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of filing (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest), the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>30</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>31</sup> As required under Rule 19b-4(f)(6)(iii),<sup>32</sup> the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change.

A proposed rule change filed under Rule 19b-4(f)(6) normally may not

become operative prior to 30 days after the date of filing.<sup>33</sup> However, Rule 19b-4(f)(6)(iii)<sup>34</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In addition, the Exchange has requested that the Commission waive the 30-day operative delay and render the proposed rule change to become operative immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Waiver of the 30-day operative delay would enable investors to avail themselves immediately to trading opportunities in the Funds. In addition, the Commission notes that the Funds have been previously approved for trading on the NYSE.<sup>35</sup> Therefore, the Commission does not believe that the proposed rule change raises new regulatory issues. For the reasons stated above, the Commission designates the proposal to become operative on November 18, 2005.<sup>36</sup>

At any time within 60 days of the filing of the 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 the 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. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR-NYSE-2005-76 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9309.

<sup>28</sup> 15 U.S.C. 78f(b).

<sup>29</sup> 15 U.S.C. 78f(b)(5).

<sup>30</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>31</sup> 17 CFR 240.19b-4(f)(6).

<sup>32</sup> 17 CFR 240.19b-4(f)(6)(iii).

All submissions should refer to File Number SR-NYSE-2005-76. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 Section. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2005-76 and should be submitted on or before December 9, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>37</sup>

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. E5-6375 Filed 11-17-05; 8:45 am]  
**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52768; File No. SR-NYSE-2005-64]

### Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change to Add Rules Regarding Time Tracking Requirements of Specialists and Specialist Organizations to Its Minor Rule Violation Plan

November 10, 2005.

On September 22, 2005, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act

<sup>33</sup> *Id.*

<sup>34</sup> *See supra*, footnote 7.

<sup>35</sup> For purposes of waiving the operative date of this proposal only, the Commission has considered the impact of the proposed rule on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>37</sup> 17 CFR 200.30-3(a)(12).