

period of 180 days, effective immediately.

By the Commission.

**Elizabeth M. Murphy,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60138; File No. SR-NYSE-2009-45]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Amending NYSE Rule 124 To Clarify the Pricing Methodology for the Odd-Lot Portion of a Part of a Round-Lot Order; Clarify the Systems Capable of Accepting PRL Orders; and Clarify the Systems Capable of Accepting a Good 'Til Cancelled Order During the Implementation of Exchange System Enhancements

June 18, 2009.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on June 8, 2009, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. NYSE filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>4</sup> and Rule 19b-4(f)(6) thereunder,<sup>5</sup> which renders it effective upon filing with the Commission. The 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 Exchange proposes to: (i) Amend NYSE Rule 124 (Odd-Lot Orders) to clarify the pricing methodology for the odd-lot portion of a part of a round-lot ("PRL") order; (ii) clarify the systems capable of accepting PRL orders; and (iii) clarify the systems capable of accepting a Good 'Til Cancelled Order ("GTC") during the implementation of Exchange system enhancements. The

text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those 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 parts of such statements.

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

###### 1. Purpose

New York Stock Exchange LLC ("NYSE" or the "Exchange") proposes to amend Exchange Rule 124 (Odd-Lot Orders) to clarify the: (i) Pricing methodology for the odd-lot portion of a part of a round-lot ("PRL")<sup>6</sup> order; and (ii) systems capable of accepting PRL orders during the implementation of Exchange system enhancements.

###### Background

Currently, odd-lot orders on the Exchange are processed and executed systemically by an Exchange system designated solely for odd-lot orders (the "Odd-lot System").<sup>7</sup> The Odd-lot System executes all odd-lot orders against the Designated Market Maker ("DMM") as the contra party.<sup>8</sup>

Pursuant to NYSE Rule 124(c), after odd-lot market orders and marketable odd-lot limit orders are received by the Odd-lot System, they are automatically executed at the price of the next round-lot transaction in the subject security on the Exchange. Specifically, marketable odd-lot orders and marketable odd-lot

limit orders are executed in time priority of receipt at the price of the next round-lot transaction, pursuant to the netting provision described in footnote 8. The imbalance of marketable odd-lot orders that do not receive an execution as a result of the netting provision are executed in time priority of receipt at the price of the National Best Bid or Offer ("NBBO"), subject to a volume limitation.<sup>9</sup> Any imbalances of odd-lot limit orders that were non-marketable upon receipt that subsequently become marketable receive an execution at their *limit price*.<sup>10</sup> Marketable odd-lot orders, which would otherwise receive a partial execution pursuant to the volume limitation, are executed in full.<sup>11</sup>

Any marketable odd-lot orders that do not receive an execution because of the volume limitation are executed, in time priority of receipt at the price of the next round-lot transaction, following pricing and execution procedures described above. Marketable odd-lot orders (including odd-lot limit orders that were non-marketable upon receipt and subsequently become marketable) that remain unexecuted within 30 seconds of receipt will be executed, in time priority of receipt, at the price of the NBBO (or at its limit price if the order is a non-marketable odd-lot limit order upon receipt that has become marketable). These orders are also subject to the volume limitation.

Marketable odd-lot orders and non-marketable odd-lot limit orders that have become marketable and remain unexecuted prior to the close of trading shall be executed, in time priority of receipt at the price of the closing transaction, subject to the netting provision and a volume restriction which is not to exceed the size of the closing transaction.

<sup>9</sup> The volume limitation in section (c) of the rule is defined as the lesser of either the number of shares in the last round-lot transaction or the number of shares available at the national best bid (in the case of an odd-lot order to sell), or the national best offer (in the case of an odd-lot order to buy).

<sup>10</sup> Pursuant to NYSE Rule 124(d) odd-lot limit orders that are non-marketable upon receipt that become marketable are eligible to be netted and executed at the price of the next round-lot transaction. If an odd-lot limit order does not receive an execution pursuant to the netting provision, then the order is eligible to be executed, at its *limit price*, subject to the volume limitation of section (c) of the rule.

<sup>11</sup> As with marketable odd-lot orders, non-marketable odd-lot limit orders which would otherwise receive a partial execution will be executed in full. A non-marketable odd-lot limit order that becomes marketable, that remains unexecuted within 30 seconds of receipt will be executed, in time priority of receipt, except that the order will be executed at its *limit price*.

<sup>6</sup> PRL orders are for a size within the standard unit (round-lot) of trading, which is 100 shares for most stocks, but contains a portion that is smaller than the standard unit of trading, e.g. 199 shares. It should be noted that for certain securities trading on the NYSE the standard unit of trading is 10 shares.

<sup>7</sup> See NYSE Rule 124(a).

<sup>8</sup> *Id.* Odd-lot orders are in effect netted against one another and executed; however, since the DMM is buying the same amount that he or she is selling, there is no economic consequence to the DMM in this type of pairing-off of orders. Any imbalance of buy or sell odd-lot market orders are executed against the DMM, up to the size of the round-lot transaction or the bid/offer size which ever is less.

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

PRL Pricing

The Exchange believes that the most appropriate way to execute odd-lot orders is to represent them in the round-lot auction market where they would interact with all other market interest and be priced in accordance with supply and demand dynamics. The Exchange is committed to the goal of integrating odd-lots into the round-lot market and eliminating the separate handling of odd-lot and PRL transactions. However, until the requisite technology changes can be completed, the Exchange is proposing these modifications in order to further streamline the handling performed by its current systems.

The Exchange amended the pricing methodology of NYSE Rule 124 as interim measures to accommodate the pricing and execution of odd-lot orders in a manner based on the prevailing market.<sup>12</sup> Most recently, significant upgrades to the Exchange's technology<sup>13</sup> made it possible for the Exchange systems that process orders sent to Display Book, the Exchange matching engine, to price odd-lot orders sent to the post that were consistent with the provisions NYSE Rule 124(c) and (d).

On March 11, 2009, the Exchange filed with the Commission to amend NYSE Rule 124.40 to allow the odd-lot portion of PRLs to be executed in the Odd-lot System pursuant to the pricing

provisions of NYSE Rule 124.<sup>14</sup> As modified, the odd-lot portion of the PRL retains the time stamp of its original entry as a PRL and is sequenced for execution based on the initial entry time of the PRL. Once all round lot components of the PRL are fully executed, the odd-lot portion of the order is executed at a price consistent with other odd-lot orders subject to the provisions of NYSE Rule 124(c) and (d).

*Example:* A marketable order to sell 399 shares of security XYZ is received by Exchange systems at 12:00:00. The 99 share portion of the order is eligible for execution only after the 300 share portion of the PRL order is sold. See table below.

Time of execution	Number of shares	Price of execution	Customer receives
12:00:01 .....	100	\$30.22	Report of Execution 100 shares at a price of \$30.22.
12:01:00 .....	100	\$30.21	Report of Execution 100 shares at a price of \$30.21.
12:01:47 .....	100	\$30.22	Report of Execution 100 shares at a price of \$30.22.
12:01:48 .....	99	<sup>15</sup> \$30.23	Report of Execution 99 shares at a price of \$30.23.

In the filing to amend the execution of PRL orders, the Exchange explained that the system enhancements to Display Book would be progressively implemented on a security by security basis. On March 16, 2009, the Exchange commenced migration of symbols to the enhanced systems. This migration is ongoing and PRL orders submitted to the Display Book in those migrated symbols are executed as described above. The list of securities that are operating on the enhanced systems are available on the Exchange's Web site at:

[http://www.nyse.com/attachment/SDBK\\_SecurityRolloutList.xls](http://www.nyse.com/attachment/SDBK_SecurityRolloutList.xls).

Systems that process orders sent to the Exchange to be executed by a Floor broker, collectively called Exchange Floor broker systems, are also being upgraded to provide improved functionality. The Exchange Floor broker systems can be divided into two categories—booth systems (Broker Booth Support Systems or "BBSS") and hand-held devices. As of yet, neither system has been provided with the newer PRL pricing functionality. As a result, PRLs sent to BBSS are processed

pursuant to the prior provisions of NYSE Rule 124, Supplemental Material .40, which requires the odd-lot portion of a PRL to be executed only where no round lot portion thereof is cancelled and at the same price of the last round lot execution that would complete the round lot portion of the PRL.

*Example:* An order to sell 399 shares of security XYZ is received by Exchange Floor broker systems at 12:00:00. The 99 share portion of the order is eligible for execution only after the 300 share portion of the PRL order is sold. See table below.

Time of execution	Number of shares	Price of execution	Customer receives
12:00:01 .....	100	\$30.22	Report of Execution 100 shares at a price of \$30.22.
12:01:00 .....	100	\$30.21	Report of Execution 100 shares at a price of \$30.22.
12:01:47 .....	100	\$30.22	Report of Execution 199 shares at a price of \$30.22.
12:01:47 .....	99	\$30.22	Report of Execution 199 shares at a price of \$30.22.

Until such time as the Exchange Floor broker systems can be enhanced to execute PRL orders pursuant NYSE Rule

124(c) and (d), the Exchange proposes to amend the provisions of NYSE Rule 124.40 to provide that the odd-lot

portion of PRL orders transmitted to a Floor broker via the Floor broker booth system for execution will be executed at

<sup>12</sup> See Securities Exchange Act Release No. 56551 (September 27, 2007), 72 FR 56415 (October 3, 2007) (SR-NYSE-2007-82); See also Securities Exchange Act Release No. 49536 (April 7, 2004), 69 FR 19890, 19893 (April 14, 2004) (SR-NYSE-2003-37); Securities Exchange Act Release No. 49745

(May 20, 2004), 69 FR 29998 (May, 26, 2004) (SR-NYSE-2003-37).

<sup>13</sup> See Securities Exchange Act Release No. 58184 (July 17, 2008), 73 FR 42853 (July 23, 2008)(SR-NYSE-2008-46) (Key changes in this filing served to enhance the Exchange technology).

<sup>14</sup> See Securities Exchange Act Release No. 59613 (March 20, 2009), 74 FR 13486 (March 27, 2009) (SR-NYSE-2009-27).

<sup>15</sup> This example assumes that the odd-lot portion of the PRL had priority of execution in the Odd-lot system because its original order entry time was 12:00:00.

the same price of the last round lot execution that would complete the round lot portion of the PRL.

The Exchange anticipates that the enhancements to the Exchange Floor broker systems will be completed no later than the end of the fourth quarter of 2009.

#### Systems Capable of Accepting PRL and GTC Orders

During the implementation of the Exchange Floor broker system enhancements, any PRL orders and GTC orders sent to a Floor broker's hand-held device will be rejected. Furthermore, GTC orders in symbols that have been migrated to the enhanced systems noted above will not be accepted in any broker system. PRL and GTC orders (in non-migrated symbols) must be transmitted to BBSS where the customer seeks to utilize a Floor broker's business expertise in the execution of such orders. Once the full migration has been completed, GTC orders will not be accepted by broker systems or broker hand-held devices and PRL orders will not be accepted by broker hand-held devices. Therefore, the Exchange proposes to amend NYSE Rule 13 (Definitions of Orders) to state that GTC orders will not be accepted by broker hand-held devices or broker systems. Similarly, the Exchange proposes to amend NYSE Rule 124.40 to state that PRL orders will not be accepted by broker hand-held devices.

#### 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>16</sup> that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The instant proposal is in keeping with these principles in that it seeks to clarify and temporarily modify the Exchange's pricing methodology for PRL orders to provide customers the benefit of the Floor broker's business expertise while the Exchange completes required system enhancements.

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

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

#### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>17</sup> and Rule 19b-4(f)(6) thereunder.<sup>18</sup> Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms does not become operative for 30 days of this 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>19</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>20</sup>

A proposed rule change filed under Rule 19b-4(f)(6) does not normally become operative prior to 30 days after the date of filing.<sup>21</sup> However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change seeks to avoid investor confusion by clarifying the systems capable of executing PRL and GTC orders and the pricing methodology for such orders. Therefore, the Commission designates the proposed rule change operative upon filing.<sup>22</sup>

<sup>17</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>18</sup> 17 CFR 240.19b-4(f)(6).

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>20</sup> 17 CFR 240.19b-4(f)(6).

<sup>21</sup> See *id.* In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide 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 filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>22</sup> For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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 furtherance 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2009-45 on the subject line.

##### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2009-45. 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 Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 1 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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

<sup>16</sup> 15 U.S.C. 78f(b)(5).

Number SR–NYSE–2009–45 and should be submitted on or before July 16, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60137; File No. SR–  
NYSEArca–2009–54]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Listing and Trading of Shares of the iShares® MSCI All Peru Capped Index Fund

June 18, 2009.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that on June 17, 2009, NYSE Arca, Inc. (“NYSE Arca” 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 Exchange. The 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 Exchange proposes to list and trade shares (“Shares”) of the following fund of the iShares® Trust (“Trust”): iShares® MSCI All Peru Capped Index Fund (“Fund”). The text of the proposed rule change is available on the Exchange’s Web site at <http://www.nyse.com>, at the Exchange’s principal office and at the Public Reference Room of the Commission.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those 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 parts 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 proposes to list and trade the Shares of the following fund under NYSE Arca Equities Rule 5.2(j)(3), the Exchange’s listing standards for Investment Company Units (“ICUs”):<sup>4</sup> iShares® MSCI All Peru Capped Index Fund.<sup>5</sup>

According to the Registration Statement, the Fund seeks investment results that correspond generally to the price and yield performance, before fees and expenses, of the MSCI All Peru Capped Index (the “Index”).

The Index is sponsored by MSCI, Inc., the Index Provider, that is independent of the Fund and Barclays Global Fund Advisors, the investment adviser to the Fund. The Index Provider determines the composition and relative weightings of the securities in the Index and publishes information regarding the market value of the Index.

The Index is a free float-adjusted market capitalization index with approximately 25 components. Any single security with a free float-adjusted market capitalization weight greater than 22.5% will have its weight capped in the Index at 22.5%. All single securities with a weight greater than 4.5% will have their weights capped such that, in the aggregate, these securities do not have a weight greater than 45% of the Index. The Index is designed to measure the performance of the “Broad Peru Equity Universe.” MSCI defines the Broad Peru Equity Universe by identifying Peruvian equity securities that are classified in Peru according to the MSCI Global Investable Market Indices Methodology (a methodology employed by MSCI to construct its Global Investable Market Indices, which classifies eligible securities according to their country of listing) as well as securities of

companies that are headquartered in Peru and have the majority of their operations based in Peru. As of May 31, 2009, the Index’s three largest constituents were Compania de Minas Buenaventura S.A., Southern Copper Corporation, and Credicorp Ltd.

The Exchange is submitting this proposed rule change because the Index for the Fund does not meet all of the “generic” listing requirements of Commentary .01(a)(B) to NYSE Arca Equities Rule 5.2(j)(3) applicable to listing of ICUs based on international or global indexes. The Index meets all such requirements except for those set forth in Commentary .01(a)(B)(2).<sup>6</sup> The Exchange represents that: (1) Except for the requirement under Commentary .01(a)(B)(2) to NYSE Arca Equities Rule 5.2(j)(3) that component stocks that in the aggregate account for at least 90% of the weight of the index each shall have a minimum monthly trading volume during each of the last six months of at least 250,000 shares, the Shares of the Fund currently satisfy all of the generic listing standards under NYSE Arca Equities Rule 5.2(j)(3); (2) the continued listing standards under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2) applicable to ICUs shall apply to the Shares; and (3) the Trust is required to comply with Rule 10A–3<sup>7</sup> under the Securities Exchange Act of 1934 (“Act”)<sup>8</sup> for the initial and continued listing of the Shares. In addition, the Exchange represents that the Shares will comply with all other requirements applicable to ICUs including, but not limited to, requirements relating to the dissemination of key information such as the Index value and Intraday Indicative Value, rules governing the trading of equity securities, trading hours, trading halts, surveillance,<sup>9</sup> and Information Bulletin to ETP Holders, as set forth in Exchange rules applicable to ICUs and in prior Commission orders

<sup>6</sup> The Exchange states that the Index fails to meet the requirement of Commentary .01(a)(B)(2) to NYSE Arca Equities Rule 5.2(j)(3) that component stocks that in the aggregate account for at least 90% of the weight of the index each shall have a minimum monthly trading volume of at least 250,000 shares. The Exchange states that, as of May 31, 2009, component stocks that in the aggregate account for 86.23% of the Index weight had a minimum monthly trading volume of at least 250,000 shares.

<sup>7</sup> 17 CFR 240.10A–3.

<sup>8</sup> 15 U.S.C. 78a.

<sup>9</sup> The Exchange may obtain information for surveillance purposes via the Intermarket Surveillance Group (“ISG”) from other exchanges who are members of ISG. The Exchange notes that the Index component stocks do not trade on markets that are ISG members and the Exchange does not have a comprehensive surveillance agreement with such markets. For a list of the current members of ISG, see <http://www.isgportal.org>.

<sup>23</sup> 17 CFR 200.30–3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

<sup>4</sup> An Investment Company Unit is a security that represents an interest in a registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities (or holds securities in another registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities). See NYSE Arca Equities Rule 5.2(j)(3)(A).

<sup>5</sup> See the Trust’s Registration Statement for the Fund on Form N–1A, dated June 17, 2009 (File Nos. 333–92935 and 811–09729).