

requiring as much as 20 staff hours to complete.

In order to address, in part, the costs associated with the written interpretation process, Nasdaq is proposing to adopt a \$2,000 fee for interpretation letters. Nasdaq will generally respond to such requests in the order received, and responses require approximately four weeks from the date that Nasdaq receives all information necessary to respond to the request. However, Nasdaq recognizes that, due to business exigencies or other reasons, an issuer may require an interpretation letter in a shorter period of time. In such situations, an issuer can request that an interpretation letter be processed by a specific date that is less than four weeks, but at least one week, after the date Nasdaq receives all information necessary to respond to the request. Nasdaq will make all reasonable efforts to meet the date specified by the issuer. Nasdaq is proposing to adopt a \$10,000 fee for interpretation letters processed on an expedited basis.

Nasdaq will not assess fees for requests submitted by issuers with regard to initial listing on Nasdaq, because reviews of these matters are considered to be part of the processing of an issuer's application and a separate application fee is already charged in these situations. In addition, issuers will not be required to submit a fee in connection with requests for an exception from the Nasdaq shareholder approval rules pursuant to Rule 4350(i)(2), since requests for such exceptions involve issuers whose financial viability is in jeopardy. Lastly, in order to address other exceptional situations where the payment of a fee for an interpretation letter would be inequitable under the circumstances, Nasdaq is proposing to provide the Nasdaq Board of Directors or its designee the discretion to defer or waive all or any part of the written interpretation fee. Such discretion will not be used in generally applicable or frequently-replicated situations, but only in circumstances that are truly unique.<sup>5</sup>

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,<sup>6</sup> in general and with Section 15A(b)(5) of the Act,<sup>7</sup> in particular, in that the proposal provides for the equitable

allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. Specifically, the proposed fees will be imposed equally on all listed issuers that request written interpretations of Nasdaq's listing rules and will relieve issuers not availing themselves of this process from subsidizing its cost.

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

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Written comments were neither solicited nor received.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-2003-105 should be submitted by August 25, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority,<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-19666 Filed 8-1-03; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48240; File No. SR-Amex-2003-67]

### 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

July 28, 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 June 30, 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 July 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].

\* \* \* \* \*

<sup>5</sup> See letter from Annette L. Nazareth, Director, Division of Market Regulation, Commission, to T. Grant Callery, Executive Vice President and General Counsel, NASD (March 27, 2003).

<sup>6</sup> 15 U.S.C. 78o-3.

<sup>7</sup> 15 U.S.C. 78o-3(b)(5).

<sup>8</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.

## 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.

IHH—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 [June 30] July 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 July 31, 2003 the suspension of transaction charges in iShares Lehman 1—3 year Treasury Bond Fund (Symbol: SHY) and iShares Lehman 7—10 year Treasury Bond Fund (Symbol: IEF) for specialist, Registered Trader and broker-dealer orders. The Exchange previously filed a suspension of such charges until

November 30, 2002,<sup>3</sup> December 31, 2002,<sup>4</sup> January 31, 2003,<sup>5</sup> February 28, 2003,<sup>6</sup> March 31, 2003,<sup>7</sup> April 30, 2003,<sup>8</sup> May 31, 2003,<sup>9</sup> and June 30, 2003.<sup>10</sup>

The Exchange believes that a suspension of fees for the SHY and IEF is appropriate to enhance the competitiveness of executions in these securities on the Amex. The Exchange will reassess the fee suspension as appropriate, and will file any modification to the fee suspension with

<sup>3</sup> See Securities Exchange Act Release No. 46765 (November 1, 2002), 67 FR 68893 (November 13, 2002) (SR-Amex-2002-91).

<sup>4</sup> See Securities Exchange Act Release No. 46996 (December 13, 2002), 67 FR 78264 (December 23, 2002) (SR-Amex-2002-98).

<sup>5</sup> See Securities Exchange Act Release No. 47141 (January 8, 2003), 68 FR 2090 (January 15, 2003) (SR-Amex-2002-115).

<sup>6</sup> See Securities Exchange Act Release No. 47361 (February 13, 2003), 68 FR 8534 (February 21, 2003) (SR-Amex-2003-04).

<sup>7</sup> See Securities Exchange Act Release No. 47455 (March 6, 2003), 68 FR 12111 (March 13, 2003) (SR-Amex-2003-15).

<sup>8</sup> See Securities Exchange Act Release No. 47668 (April 11, 2003), 68 FR 19241 (April 18, 2003) (SR-Amex-2003-22).

<sup>9</sup> See Securities Exchange Act Release No. 47858 (May 14, 2003), 68 FR 27872 (May 21, 2003) (SR-Amex-2003-40).

<sup>10</sup> See Securities Exchange Act Release No. 47974 (June 4, 2003), 68 FR 35030 (June 11, 2003) (SR-Amex-2003-57).

the Commission pursuant to section 19(b)(3)(A) of the 1934 Act.<sup>11</sup>

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act<sup>12</sup> in general, and furthers the objectives of section 6(b)(4)<sup>13</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition.

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

The Exchange has neither solicited nor received comments on the proposed rule change.

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(4).

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)<sup>14</sup> thereunder because the proposal: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 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; provided that the Exchange has given the Commission 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. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

The Amex has requested that the Commission waive the five-day pre-filing notice and the 30-day operative delay. The Commission believes that waiving the five-day pre-filing notice and the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that fee suspensions for the exchange-traded funds that are the subject of this filing have been previously filed with the Commission.<sup>15</sup> Further, extension of the fee suspension for specialist, Registered Trader, and broker-dealer orders will permit the fee suspensions to continue uninterrupted. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>16</sup>

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-2003-57 and should be submitted by August 25, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48243; File No. SR-Amex-2003-68]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC To Remove the Six-Month Limitation on the Waiver of Transaction Fees Related to Nasdaq UTP Securities and To Expand the Cap on the Amount of Transaction Fees To Cover All Transactions Related to Nasdaq UTP Securities

July 29, 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 July 16, 2003, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Amex has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange

under section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b-4(f)(2)<sup>4</sup> thereunder which renders the proposal 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 Amex proposes to remove the six-month limitation on the waiver of transaction fees related to Nasdaq securities admitted to dealings on an unlisted trading privileges basis ("Nasdaq UTP securities"), and to expand the scope of the cap on the dollar amount of transaction fees to cover all transactions related to Nasdaq UTP securities, and not solely cross trades. The text of the proposed rule change is available at the Amex and at 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 Exchange included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The Amex 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 Amex proposes to implement two changes to its transaction fees for Nasdaq UTP securities. First, the Amex proposes to eliminate the six-month limitation on the waiver of transaction fees for specialist principal trades by specialist firms that do not charge any commission to customers in Nasdaq UTP securities. Second, the Amex proposes to expand the scope of the cap on the dollar amount of transaction fees to cover all transactions related to Nasdaq UTP securities. Currently, the cap of \$50 per side per trade only applies to cross trades. The Amex notes that the proposed fee changes are intended to reduce the cost of executing transactions on the Amex.

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

<sup>15</sup> See *supra* notes 3-10.

<sup>16</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

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