

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

Amex states that the proposed rule change will impose no burden on competition.

*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**

Amex states that, because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative for 30 days from the date on which it was filed (or such shorter time as the Commission may designate) it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6)<sup>8</sup> thereunder. 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 purposes of the Act.

Pursuant to Rule 19b-4(f)(6)(iii) under the Act,<sup>9</sup> the Commission may designate a shorter time period by which a proposed rule change filed under Rule 19b-4(f)(6) may become operative, if such action is consistent with the protection of investors and the public interest. Also pursuant to Rule 19b-4(f)(6)(iii), a self-regulatory organization that files a proposed rule change under rule 19b-4(f)(6) must provide the Commission with a written notice of its intent to file the proposed rule change at least five business days prior to the date of filing, or such shorter time as designated by the Commission. Amex has requested that the Commission waive the five-day notice and 30-day pre-operative periods.

The Commission finds that waiving the 30-day pre-operative periods is consistent with the protection of investors and the public interest. The Commission believes that the existing eQPriority pilot provides beneficial services to investors. Acceleration of the operative date will allow the pilot program to continue without

interruption and ensure that the benefits of the program do not lapse.

Accordingly, the Commission waives the 30-day pre-operative period, and the proposed rule change has become operative immediately.<sup>10</sup> For the same reasons, the Commission also waives the five-day notice period.

**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 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 Exchange. All submissions should refer to File No. SR-Amex-2001-62 and should be submitted by September 11, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Jonathan G. Katz,**

*Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-44698; File No. SR-Amex-2001-57]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange, LLC Relating to Suspension of Transaction Charges for Certain Exchange Traded Funds**

August 14, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 1, 2001, 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 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 suspend Exchange transaction charges for customer orders in the following Amex-listed Exchange Traded Funds: Nasdaq-100® Index Tracking Stock; Standard & Poor's Depository Receipts®; DIAMONDS®; and iShares S&P 500 Index Fund™.

**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 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 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 is proposing to suspend transaction charges for customer orders

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>10</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. See 15 U.S.C. 78c(f).

<sup>11</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.

for the following Amex-listed Exchange Traded Funds: Standard & Poor's Depository Receipts (Symbol: SPY); Nasdaq 100 Index Tracking Stock (QQQ); DIAMONDS (DIA); and iShares S&P 500 Index Fund (IVV).

Off-Floor orders (*i.e.*, customer and broker-dealer) in these securities currently are charged \$.006 per share (\$.60 per 100 shares), capped at \$100 per trade (16,667 shares). Orders entered electronically into the Amex Order File from off the Floor ("System Orders") for up to 5,009 shares are currently not assessed a transaction charge, while System Orders over 5,099 shares are subject to a \$.006 per share transaction charge, capped at \$100 per trade. Exchange transaction charges applicable to customer orders are now suspended. The Exchange will continue to impose, and is not suspending, existing transaction charges applicable to entities other than customers, including Exchange specialists, Registered Traders, and member organizations.

The Exchange believes a suspension of fees for these securities for customer orders 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 the Commission pursuant to section 19(b)(3)(A) of the Act.<sup>3</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act<sup>4</sup> in general, and furthers the objectives of section 6(b)(4)<sup>5</sup> in particular, in that it is intended to assure the equitable allocation of reasonable dues, fees, and other charges among its members and issuers 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 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*

Written comments on the proposed rule change were neither solicited nor received

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

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act<sup>6</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder<sup>7</sup> because it establishes or changes a due, fee, or other charge imposed by the Exchange. 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.

## 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 persons, 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 will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-2001-57 and should be submitted by September 11, 2001.

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

**Jonathan G. Katz,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44700; File No. SR-Amex-2001-34]

### **Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment Nos. 1, 2, 3, and 4 by the American Stock Exchange LLC, Relating to Funds of the iShares Trust Based on Foreign Stock Indexes**

August 14, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 25, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. On June 25, 2001, the Amex filed Amendment No. 1 to the proposal.<sup>3</sup> On July 18, 2001, the Amex filed Amendment No. 2 to the proposal.<sup>4</sup> On July 26, 2001, the Amex filed Amendment No. 3 to the proposal.<sup>5</sup> On

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

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

<sup>3</sup> See letter from Michael Cavalier, Associate General Counsel, Legal & Regulatory Department, Amex, to Yvonne Fraticelli, Division of Market Regulation ("Division"), Commission, dated June 20, 2001 ("Amendment No. 1"). Amendment No. 1 deleted the S&P Global 700 Index Fund from the new series of the iShares Trust that the Amex proposes to list and trade.

<sup>4</sup> See letter from Michael Cavalier, Associate General Counsel, Legal & Regulatory Division, Amex, to Yvonne Fraticelli, Division, Commission, dated July 17, 2001 ("Amendment No. 2"). Amendment No. 2 provided additional information concerning the proposal, including (1) the minimum price variation for the proposed new series of iShares; (2) a description of the "representative sample" strategy that the Funds will use; (3) a description of the requirements for a Fund to qualify for tax treatment as a regulated investment company; (4) a description of indicative portfolio value for each Fund that the Amex will disseminate during regular Amex trading hours; (5) a clarification regarding the Balancing Amount used in the purchase of Creation Unit Aggregations; and (6) a representation that Morgan Stanley Capital International's ("MSCI") has implemented procedures to prevent the misuse of material non-public information with regard to changes in the MSCI Europe, Australia, Far East ("EAFE") Index.

<sup>5</sup> See letter from Michael Cavalier, Associate General Counsel, Legal & Regulatory Division, Amex, to Yvonne Fraticelli, Division, Commission, dated July 25, 2001 ("Amendment No. 3"). In Amendment No. 3, the Amex revised its proposal to, among other things: (1) Amend Amex Rule 1000A, Commentary .04 to indicate that transactions in iShares Index Funds of the iShares Trust may be effected until 4 p.m. or 4:15 p.m. (New York time) each business day, as specified by the Amex; (2) indicate that the Funds do not intend to concentrate in any particular industry, except

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

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

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(12).