

own, directly or indirectly (other than through a pooled investment vehicle that is not controlled by any such director, trustee, or officer), any interest in a Subadviser except for: (a) ownership of interests in the Adviser or any entity that controls, is controlled by, or under common control with the Adviser, or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt securities of any publicly traded company that is either a Subadviser or an entity that controls, is controlled by, or is under common control with a Subadviser.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46765; File No. SR-Amex-2002-91]

### 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

November 1, 2002.

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 November 1, 2002, 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 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

Amex proposes to suspend until November 30, 2002 Exchange transaction charges for specialist, Registered Trader and broker-dealer orders for the iShares Lehman 1-3 year Treasury Bond Fund; iShares Lehman 7-10 year Treasury Bond Fund; Treasury 10 FITR ETF; Treasury 5 FITR ETF; Treasury 2 FITR ETF; and Treasury

1 FITR ETF; and to suspend customer transaction charges for an indefinite period for Treasury 10 FITR ETF; Treasury 5 FITR ETF; Treasury 2 FITR ETF; and Treasury 1 FITR ETF.

#### 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 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 the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange has suspended transaction charges for transactions in the iShares Lehman 1-3 year Treasury Bond Fund (Symbol: SHY); iShares Lehman 7-10 year Treasury Bond Fund (Symbol: IEF); iShares Lehman 20+ year Treasury Bond Fund (Symbol: TLT); and iShares GS \$ InvesTop™ Corporate Bond Fund (Symbol: LQD) ("Funds") for specialist, Registered Trader and broker-dealer orders until October 31, 2002.<sup>3</sup> The Exchange proposes to extend until November 30, 2002 the suspension of transaction charges in SHY and IEF for specialist, Registered Trader and broker-dealer orders. The Exchange will not suspend transaction charges for TLT and LQD beyond October 31, 2002 for specialist, Registered Trader and broker-dealer orders.

In addition, the Exchange proposes to waive transaction charges for transactions in Treasury 10 FITR ETF (Symbol: TTE); Treasury 5 FITR ETF (TFI); Treasury 2 FITR ETF (TOU); and Treasury 1 FITR ETF (TFT) until November 30, 2002 for specialist, Registered Trader and broker-dealer orders; and proposes to waive customer transaction charges in these securities for an indefinite time period.

The Exchange believes a suspension of fees for these securities 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>4</sup>

###### 2. Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(4) of the Act in particular because 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 believes that the proposed rule change will not impose a burden on competition.

##### C. Self-Regulatory Organization's Statement on Comments 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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>5</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>6</sup> The proposed rule change effects a change that (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 the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission 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.<sup>7</sup>

The Exchange requests that the Commission waive the provision in Rule 19b-4(f)(6)<sup>8</sup> that the proposed rule

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

<sup>5</sup> *Id.*

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

<sup>7</sup> As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter time as designated by the Commission.

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

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

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

<sup>3</sup> See Securities Exchange Act Release No. 46618 (October 8, 2002), 67 FR 63714 (October 15, 2002).

change does not become operative for 30 days after the date of the filing. Trading in the iShares Funds that are the subject of this filing began trading on the Exchange on July 26, 2002, and as noted above, fee suspensions have been previously filed with the Commission pursuant to Rule 19b-4.<sup>9</sup> Extension of the fee suspension for specialist, Registered Trader and broker-dealer orders will result in beneficial cost savings for members and other market participants. In addition, trading in the FITRs ETFs will begin on November 1, 2002 and implementation of the fee suspensions by that date will result in the same beneficial cost savings. The Exchange will reassess the waiver for specialist, Registered Trader and broker-dealer orders beyond November 30, 2002, and will make any required filing pursuant to Rule 19b-4 prior to that date.

The Commission has determined to designate that the proposed rule change become operative on November 1, 2002. The Commission believes that this operative date is consistent with the protection of investors and the public interest because it will permit the fee suspensions to continue for the iShares products on an uninterrupted basis and will provide all market participants with the fee suspension for the new FITR ETFs immediately upon the launch of trading.<sup>10</sup>

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 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. 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 Amex. All submissions should refer to File No. SR-Amex-2002-91 and should be submitted by December 4, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46776; File No. SR-CBOE-2002-50]

#### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to the Retail Automatic Execution System Log-On Requirements for Market-Makers

November 6, 2002.

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 28, 2002, the Chicago Board Options Exchange ("CBOE" 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 CBOE. On October 25, 2002, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

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

The Exchange proposes to amend Exchange Rule 8.16 to eliminate the current Retail Automatic Execution System ("RAES") log on requirements for market-makers. Below is the text of

the proposed rule change. Proposed new text is italicized and proposed deleted text is [bracketed].

\* \* \* \* \*

#### RAES Eligibility in Option Classes Other Than DJX, OEX and SPX

RULE 8.16 (a). No Change

[(b) In option classes designated by the appropriate Market Performance Committee, any Market-Maker who has logged on RAES at any time during an expiration month must log on the RAES system in that option class whenever he is present in that trading crowd until the next expiration.]

[(c)](b) Notwithstanding the limitations in Paragraphs (a)(iii) and (a)(iv) above, if there is inadequate RAES participation in a particular options class, Floor Officials of the appropriate Market Performance Committee may require Market-Makers who are members of the trading crowd, as defined in Rule 8.50 to log on RAES absent reasonable justification or excuse for non-participation or may allow Market-Makers in other classes of options to log on RAES in such classes.

[(d)] (c) Members who fail to abide by the foregoing requirements may be subject to disciplinary action under, among others, Rule 6.20 and Chapter XVII of the Exchange Rules. Such failure may also be the subject of remedial action by the appropriate Market Performance Committee, including but not limited to suspending a member's eligibility for participation on RAES and such other remedies as may be appropriate and allowed under Chapter VIII of the Exchange Rules.

\* \* \* Interpretations and Policies:

.01 No Change.

.02 No Change.

\* \* \* \* \*

#### 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 CBOE 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 CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

<sup>9</sup> See note *supra*.

<sup>10</sup> For purposes only of accelerating the operative date of this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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

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

<sup>3</sup> The Exchange submitted a new Form 19b-4, which replaces and supersedes the original filing in its entirety.