

the substitution within five (5) days after the substitution. In 1966, the Commission, concerned with the high sales charges then common to most unit investment trusts and the disadvantageous position in which such charges placed investors who did not want to remain invested in the substituted security, recommended that section 26 be amended to require that a proposed substitution of the underlying investments of a unit investment trust receive prior Commission approval.

3. Applicants assert that the purposes, terms, and conditions of the Substitution are consistent with the principles and purposes of section 26(c) and do not entail any of the abuses that section 26(c) is designed to prevent. The Applicants state that the Contracts are designed with a number of features that provide adequate protection to Contract owners in the event of a substitution. These features include free partial withdrawal rights, transferability between investment options including 12 free transfers per year, and a significant number of investment options. In addition, Contract owners are free to transfer to any other option available under the relevant Contract for approximately 60 days prior to the date of the Substitution and 30 days after the Substitution ("Free Transfer Period") without any transfer fee and without that transfer counting as one of the twelve permitted each year free of charge. In addition, the Contracts provide reasonably diversified investment options. Contract owners will be assessed no charges whatsoever in connection with the Substitution, and their annual fund expense ratios are expected to decrease. Further, Contract owners will be substituted into the Dreyfus Fund, whose investment objectives and policies are substantially similar in all material respects to those of the Franklin Fund. In addition, expenses for the Dreyfus Fund are lower than those of the Franklin Fund.

4. Applicants submit that the Substitutions do not present the type of costly forced redemption or other harms that section 26(c) was intended to guard against and is consistent with the protection of investors and the purposes fairly intended by the 1940 Act. The Substitution will be in accordance with Contract owners' objectives and risk expectations because the investment objective of the Franklin Fund is nearly identical to that of the Dreyfus Fund. In addition, the Contracts provide adequate protection in the event of a substitution. Moreover, the Substitution will be subject to the following terms and conditions:

(a) After receipt of Notice informing a Contract owner of the Substitution, a Contract owner may request that his or her assets be reallocated to another subaccount at any time during the Free Transfer Period. The Free Transfer Period provides sufficient time for Contract owners to consider their reinvestment options;

(b) The Substitution will be at net asset value of the respective shares, without the imposition of any transfer, brokerage, or similar charge;

(c) Neither the Contract owners, the Franklin Fund, nor the Dreyfus Fund will bear any costs of the Substitution, and all legal costs and any brokerage or other costs incurred in the Substitution will be paid by the Insurance Company Applicants or Franklin Advisers, and accordingly, the Substitution will have no impact on the Contract owners' Contract values;

(d) The Substitution will in no way alter the contractual obligations of the respective Insurance Company Applicants or the rights and privileges of Contract owners under the Contracts, or alter insurance benefits to Contract owners; and

(e) The Substitution will in no way alter the tax benefits to Contract owners.

5. Applicants represent that the fees and expenses of the Dreyfus Fund have historically been less than those of the Franklin Fund. Accordingly, the proposed Substitution poses no concerns in connection with the fees and expenses that will arise therefrom.

Applicants' Conclusions

Applicants request an Order of the Commission pursuant to section 26(c) of the 1940 Act to permit them to effect the Substitution on the terms set forth in the Application. Applicants believe, for all of the reasons stated in the Application, that their request for approval meets the standards set forth in section 26(c).

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. 34-47489; File No. SR-Amex-2003-13]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC To Add iShares S&P 100 Index Fund to the List of Exchange Traded Funds for Which the Exchange Pays Non-Reimbursed Fees to Third Parties

March 12, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and rule 19b-4 thereunder,² notice is hereby given that on February 27, 2003, 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 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,³ 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 add the iShares S&P 100 Index Fund to the list of Exchange Traded Funds ("ETFs") for which the Exchange pays non-reimbursed fees to third parties, (included in Note 4 to the Amex Equity Fee Schedule). 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).