

C. Prior Orders

Applicants also seek to amend a condition to certain prior exemptive orders ("Prior Orders") so that the condition is consistent with the relief requested from section 12(d)(1).⁴ Existing condition 2 to each of the Prior Orders currently provides that each iShares Fund prospectus and Product Description will clearly disclose that, for purposes of the Act, iShares are issued by the iShares Fund and that the acquisition of iShares by investment companies is subject to the restrictions of section 12(d)(1) of the Act.⁵ In light of the requested order to permit Investing Funds to invest in iShares Funds in excess of the limits of section 12(d)(1), applicants wish to replace this condition in the Prior Orders with condition 13, as stated below. Under the new condition, Investing Funds will be alerted that they may invest in iShares Funds in excess of the limits of section 12(d)(1) to the extent that they comply with the terms and conditions of the requested order granting relief from section 12(d)(1), including the requirement that they enter into a Participation Agreement with the iShares Fund regarding the terms of the investment.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. An Advisor, a Sponsor, any person controlling, controlled by, or under common control with an Advisor or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised by an Advisor or sponsored by a Sponsor, or any person controlling, controlled by, or under common control with an Advisor or Sponsor (collectively, the "Group") will not control (individually or in the aggregate) an iShares Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of an iShares Fund, the Group, in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of an iShares Fund, the Group will vote it shares of the iShares Fund in the same

proportion as the vote of all other holders of the iShares Fund's shares.

2. An Investing Fund and its investment adviser, sponsor, promoter, and principal underwriter, and any person controlling, controlled by, or under common control with any of those entities (each, an "Investing Fund Affiliate") will not cause any existing or potential investment by the Investing Fund in an iShares Fund to influence the terms of any services or transactions between the Investing Fund or Investing Fund Affiliate and the iShares Fund or its investment adviser, promoter, sponsor, principal underwriter, and any person controlling, controlled by, or under common control with any of those entities (each, an "iShares Fund Affiliate").

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to assure that the Advisor is conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or an Investing Fund Affiliate from an iShares Fund or an iShares Fund Affiliate in connection with any services or transactions.

4. The board of directors/trustees of an Open-End iShares Fund ("Board"), including a majority of the disinterested Board members, will determine that any consideration paid by an Open-End iShares Fund to an Investing Fund or an Investing Fund Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Open-End iShares Fund; (ii) is within the range of consideration that the Open-End iShares Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned.

5. An Advisor or a trustee or Sponsor of an Investing Trust will waive fees otherwise payable to it by the Investing Management Company or Investing Trust in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Open-End iShares Fund under rule 12b-1 under the Act) received by the Advisor or trustee or Sponsor to the Investing Trust or an affiliated person of the Advisor, trustee or Sponsor from the iShares Funds in connection with the investment by the Investing Management Company or Investing Trust in the iShares Funds.

6. No Investing Fund or Investing Fund Affiliate will cause an iShares Fund to purchase a security from any underwriting or selling syndicate in which a principal underwriter is an officer, director, member of an advisory board, investment adviser, employee or sponsor of the Investing Fund, or a person of which any such officer, director, member of an advisory board, investment adviser, employee or sponsor is an affiliated person (each, an "Underwriting Affiliate"). An offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate is considered an "Affiliated Underwriting."

7. The Board, including a majority of the disinterested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by an Open-End iShares Fund in an Affiliated Underwriting, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Investing Fund in an Open-End iShares Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Open-End iShares Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Open-End iShares Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities from Affiliated Underwritings are in the best interests of shareholders.

8. Each Open-End iShares Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period not less than six years from the end of the fiscal year in which any purchase from an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of

⁴ The Prior Orders are iShares, Inc., *et al.*, Investment Company Act Release Nos. 25595 (May 29, 2002) (notice) and 25623 (June 25, 2002) (order) and Barclays Global Fund Advisors, *et al.*, Investment Company Act Release Nos. 25594 (May 29, 2002) (notice) and 25622 (June 25, 2002) (order).

⁵ A "Product Description" is a document that accompanies secondary market trades of iShares and provides a plain English overview of the iShares Fund.