

is based.²⁶ The Exchange notes that the Commission previously made a finding that Lehman and Goldman each have sufficient policies and procedures in place to prevent the misuse of material non-public information.²⁷ The Exchange believes that these provisions should help to address concerns raised by Goldman and Lehman's involvement in the management of the indices.

10. Hours of Trading/Minimum Price Variation

The Funds will be eligible to trade on the Exchange during each of the three trading sessions available each day the Exchange is open for business.²⁸ The minimum price variation for quoting will be \$.01.²⁹

Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act,³⁰ in general, and furthers the objectives of Section 6(b)(5),³¹ in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange 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. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Exchange 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 PCX. All submissions should refer to File No. SR-PCX-2003-41 and should be submitted by [insert date 21 days from date of publication].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful review, the Commission finds that implementation of the proposed rule change, as amended, is consistent with the requirements of Section 6 of the Exchange Act,³² and the rules and regulations thereunder applicable to a national securities exchange.³³ Specifically, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Exchange Act.³⁴ The Commission believes that the Exchange's proposal to list and trade fixed income ETFs (including the trading thereof on a UTP basis)³⁵ will provide investors with a convenient way of participating in the U.S. government, corporate and non-corporate (other than U.S. government) fixed income markets. The Exchange's proposal should help to provide investors with increased flexibility in satisfying their investment needs by allowing them to purchase and sell securities at negotiated prices throughout the business day that replicate the performance of several portfolios of stocks. The Commission believes that the availability of the Funds will provide an instrument for investors to achieve desired investment results that correspond generally to the price and yield performance of the

underlying U.S. Treasury, Government/Credit, or Corporate Bond Index. The investment objective of each Fund will be to provide investment results that correspond generally to the price and yield performance of the underlying index based on fixed income securities. Accordingly, the Commission finds that the Exchange's proposal will facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.³⁶

iShares Trust and iShares, Inc. are each registered in the 1940 Act as an open-ended management investment company with multiple series. iShares Trust has created (or identified for creation) over 50 separate series, while iShares, Inc. has created (or identified for creation) over 20 separate series. All of these series operate (or will operate) as ETFs pursuant to six prior exemptive orders from the 1940 Act, and each of the ETFs seeks to match the return of an equity securities index. Additionally, the Commission has granted the Funds appropriate relief under various sections of the 1940 Act, including sections 6(c) and 17(b), so that each Fund may register under the 1940 Act as an open-end fund and issue shares that are redeemable in Creation Units, shares of Funds may trade in the secondary market at negotiated prices, and certain persons affiliated with a Fund by reason of owning 5% or more, and in some cases more than 25%, of its outstanding securities may do in-kind purchases and redemptions of Creation Units.³⁷

Barclays is registered as an investment adviser under the 1940 Act and serves as the investment adviser to the series of iShares Trust and iShares, Inc. The Distributor acts as the principal underwriter and distributor for iShares Trust and iShares, Inc.

iShares Trust created seven new series each of which operates as an ETF seeking to match the performance of a fixed income securities index. Four of the seven indices are the following:

³² 15 U.S.C. 78f.

³³ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

³⁴ 15 U.S.C. 78f(b)(5).

³⁵ The Commission notes that, pursuant to Rule 12f-5 under the Exchange Act, prior to trading a particular class or type of security pursuant to UTP, PCX must have listing standards comparable to those of the primary market on which the security is listed. 17 CFR 240.12f-5. The Commission finds that adequate rules and procedures exist to govern the trading of the Funds on PCX, pursuant to UTP.

³⁶ Pursuant to Section 6(b)(5) of the Exchange Act, the Commission must predicate approval of exchange trading for new products upon a finding that the introduction of the product is in the public interest. Such a finding would be difficult with respect to a product that served no investment, hedging or other economic functions, because any benefits that might be derived by market participants would likely be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

³⁷ Investment Company Act Release No. 25622 (June 25, 2002).

²⁶ PCX changed this sentence from the original filing to refer to a stock or bond index. Telephone call between Tania J. Cho, Staff Attorney, PCX, and Jennifer Lewis, Special Counsel, Division of Market Regulation, Commission, on October 16, 2003.

²⁷ See Amex Approval Order, *supra* note 6.

²⁸ See *supra*, note 8.

²⁹ See Commentary .03 to PCXE Rule 7.6(a).

³⁰ 15 U.S.C. 78f(b).

³¹ 15 U.S.C. 78f(b)(5).