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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24394, 812-11600]

Barclays Global Fund Advisors, et al.; Notice of Application

April 17, 2000.

AGENCY: Securities and Exchange Commission (``Commission``).

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (``Act``) for an exemption from sections 2(a)(32), 5(a)(1), and 22(d) of the Act and rule 22c-1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit an open-end management investment company, whose portfolios will consist of the component securities of certain domestic indices, to issue shares of limited redeemability; permit secondary market transactions in the shares of the portfolios at negotiated prices on the American Stock Exchange LLC (``AMEX``); and permit affiliated persons of the portfolios to deposit securities into, and receive securities from, the portfolios in connection with the purchase and redemption of aggregations of the portfolios' shares.

Applicants: Barclays Global Fund Advisors (``Adviser``), iShares Trust (``Fund``) and its current index series (``Initial Index Series``) and future index series (``Future Index Series,`` and together with the Initial Index Series, the ``Index Series``), and SEI Investments Distribution Company (``Distributor``).

Filing Dates: The application was filed on April 30, 1999. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 5, 2000 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a

hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street, NW, Washington, D.C. 20549-0609. Adviser, 45 Fremont Street, San Francisco, CA 94105; Fund, c/o Investors Bank & Trust Company, 200 Clarendon Street, Boston, MA 02116; and Distributor, 1 Freedom Valley Drive, Oaks, PA 19456.

FOR FURTHER INFORMATION CONTACT: Anu Dubey, Senior Counsel, at (202) 942-0687, or Michael Mundt, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 5th Street, NW, Washington, D.C. 20549-0102 (tel. 202-942-8090).

Applicants' Representations

1. The Fund is an open-end management investment company registered under the Act and established in the state of Delaware. The Adviser, an investment adviser registered under the Investment Advisers Act of 1940, will serve as investment adviser to the Fund. The Distributor, a broker-dealer unaffiliated with the Adviser and registered under the Securities Exchange Act of 1934 ('`Exchange Act''), will serve as the principal underwriter of the Fund's shares on an agency basis.

Each Index Series will invest in a portfolio of securities ('`Portfolio Securities'') generally consisting of the component securities of a specified domestic securities index ('`Subject Index'').\1\ There are 42 Initial Index Series.\2\ No entity that creates, compiles, sponsors, or maintains a Subject Index will be an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person of the Fund, Adviser, any subadviser to an Index Series, or the Distributor.

\1\ At least 90% of each Index Series' assets will be invested in the component securities of its Subject Index. An Index Series may invest up to 10% of its assets in certain futures, option and swap contracts, cash and cash equivalents, as well as certain securities not included in the Subject Index under limited circumstances.

\2\ The Subject Indices for the Initial Index Series are the Standard & Poor's ('`S&P'') 500 Index; S&P 100 Index; S&P MidCap 400 Index; S&P SmallCap 600 Index; S&P Super Composite 1500 Index; S&P 500/BARRA Value Index; S&P 500/BARRA Growth Index; S&P MidCap 400/BARRA Value Index; S&P MidCap 400/BARRA Growth Index; S&P SmallCap 600/BARRA Value Index; S&P SmallCap 600/BARRA Growth Index; S&P Super Composite 1500/BARRA Value Index; S&P Super Composite 1500/BARRA Growth Index; Dow Jones US Total Market Index; Dow Jones US SmallCap Index; Dow Jones US Mid-Cap Index; Dow Jones US Large-Cap Index; Dow Jones US Basic Materials Sector Index; Dow Jones US Consumer Cyclical Sector Index; Dow Jones US Consumer Non-Cyclical Sector Index; Dow Jones US Energy Sector Index; Dow Jones US Financial Sector Index; Dow Jones US Industrial Sector Index; Dow Jones US Technology Sector Index; Dow Jones US Utilities Sector

index; Dow Jones US Telecommunications Sector Index; Dow Jones Internet Index; Dow Jones US Healthcare Sector Index; Dow Jones US Real Estate Index; Dow Jones US Financial Services Composite Index; Dow Jones US Chemicals Index; Russell 1000 Index; Russell 2000 Index; Russell Top 200 Index; Russell MidCap Index; Russell 3000 Index; Russell 3000 Growth Index; Russell 3000 Value Index; Russell 1000 Growth Index; Russell 1000 Value Index; Russell 2000 Growth Index; and Russell 2000 Value Index.

3. The investment objective of each Index Series will be to provide investment results that correspond generally to the price and yield performance of its relevant Subject Index. Intra-day values of each Subject Index will be disseminated every 15 seconds throughout the trading day. An Index Series will utilize as an investment approach either a replication strategy or a representative sampling strategy. An Index Series using a replication strategy generally will hold most of the component securities of its Subject Index, but may not hold all of the underlying securities that comprise a Subject Index in certain instances. This may be the case when, for example, a potential component security is illiquid or when there are practical difficulties or substantial costs involved in holding every security in a Subject Index. An Index Series using a representative sampling strategy seeks to hold a representative sample of the component securities of the Subject Index and will invest in some but not all of the component securities of its Subject Index.\3\ Applicants anticipate that an Index Series that utilizes the representative sampling technique will not track its Subject Index with the same degree of accuracy as an investment vehicle that invested in every component security of the Subject Index with the same weighting as the Subject Index. Applicants expect that each Index Series will have a tracking error relative to the performance of its respective Subject Index of no more than 5 percent.

\3\ The stocks selected for inclusion in an Index Series by the Adviser will have aggregate investment characteristics (based on market capitalization and industry weightings), fund characteristics (such as return variability, earnings valuation and yield) and liquidity measures similar to those of the Subject index taken in its entirety.

4. Shares of an Index Series ('`Shares'' will be sold in aggregations of 50,000 Shares ('`Creation Units'' as specified in the relevant prospectus. The price of a Creation Unit will range from \$1,000,000 to \$8,500,000. Creation Units may be purchased only by or through a participation in the Continuous Net Settlement ('`CNS'' System of the National Securities Clearing Corporation ('`NSCC'' (such process, the ``Shares Clearing Process''), or a Depository Trust Company ('`DTC'' participant. In either case, the participant must enter into a participant agreement with the Distributor. Creation Units generally will be issued in exchange for an in-kind deposit of securities and cash. The Index Series also may sell Creation Units on a ``cash only'' basis in limited circumstances. An investor wishing to make an in-kind purchase of a Creation Unit from an Index Series will have to transfer to the Fund a ``Portfolio Deposit'' consisting of (i)

a portfolio of securities that has been selected by the Adviser to correspond generally to the price and yield performance of the relevant Subject Index (``Deposit Securities''), and (ii) a cash payment to equalize any difference between (a) the total aggregate market value per Creation Unit of the Deposit Securities and (b) the net asset value (``NAV'') per Creation Unit of the Index Series (the ``Balancing Amount'').\4\ An investor purchasing a Creation Unit from an Index Series will be charged a fee (``Transaction Fee'') to prevent the dilution of the interests of the remaining shareholders resulting from the Index Series incurring costs in connection with the purchase of the Creation Units.\5\ Each Index Series will disclose

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the maximum Transaction Fees charged by the Index Series in its prospectus and the method of calculating the Transaction Fees in its statement of additional information (``SAI'').

\4\ On each business day, the Adviser will make available through NSCC, immediately prior to the opening of trading on the AMEX, the list of names and the required number of shares of each Deposit Security for each Index Series. The Portfolio Deposit will be applicable to purchases of Creation Units until the Portfolio Deposit composition is next announced. In addition, each Index Series reserves the right to permit or require the substitution of an amount of cash to be added to the Balancing Amount to replace any Deposit Security that may be unavailable or unavailable in sufficient quantity for delivery to the Fund upon the purchase of a Creation Unit, or which may be ineligible for transfer through the Shares Clearing Process or ineligible for trading by an NSCC participant or a DTC participant or the investor on whose behalf the participant is acting. In addition, the AMEX will disseminate every 15 seconds throughout the trading day via the facilities of the Consolidated Tape Association an amount representing on a per Share basis the sum of the Balancing Amount effective through and including the prior business day, plus the current value of the Deposit Securities.

\5\ In situations where an Index Series permits a purchaser to substitute cash for Deposit Securities, the purchaser may be assessed an additional fee to offset the Fund's brokerage and other transaction costs associated with using cash to purchase the requisite Deposit Securities. Brokerage commissions incurred by an Index Series in connection with the acquisition of any Deposit Securities ineligible for transfer through the systems of DTC and therefore ineligible for transfer through the Shares Clearing Process will be charged to the Index Series and will affect the value of all Shares of the Fund, unless the Adviser adjusts the Transaction Fee.

5. Orders to purchase Creation Units will be placed with the Distributor who will be responsible for transmitting the orders to the Fund. The Distributor will issue confirmations of acceptance, issue delivery instructions to the Fund to implement the delivery of Creation Units, and maintain records of the orders and confirmations. The Distributor also will be responsible for delivering prospectuses to

purchasers of Creation Units.

6. Persons purchasing Creation Units from an Index Series may hold the Shares or sell some or all of them in the secondary market. Shares will be listed on the AMEX and traded in the secondary market in the same manner as other equity securities. One or more AMEX specialists will be assigned to make a market in Shares. The price of Shares traded on the AMEX will be based on a current bid/offer market, and each Share is expected to have a market value of between \$20 and \$170. Transactions involving the sale of Shares in the secondary market will be subject to customary brokerage commissions and charges.

7. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs (which could include institutional investors). The AMEX Specialist, in providing for a fair and orderly secondary market for Shares, also may purchase Shares for use in its market-making activities on the AMEX. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors. Applicants believe that arbitrageurs and other institutional investors will purchase or redeem Creation Units to take advantage of discrepancies between Shares' market price and the Shares' underlying NAV. Applicants expect that this arbitrage activity will provide a market "discipline" that will result in a close correspondence between the price at which the Shares trade and their NAV. In other words, applicants do not expect the Shares to trade at a significant premium or discount to their NAV.

\6\ Shares will be registered in book-entry form only. DTC or its nominee will be the registered owner of all outstanding Shares. Records reflecting the beneficial owners of Shares will be maintained by DTC or its participants.

8. Shares will not be individually redeemable. Shares will only be redeemable in Creation Unit-size aggregations through each Index Series. To redeem, an investor will have to accumulate enough Shares to constitute a Creation Unit. An investor redeeming a Creation Unit generally will receive (i) a portfolio of Portfolio Securities in effect on the date the request for redemption is made ("Redemption Securities"), which may not be identical to the Deposit Securities applicable to the purchase of Creation Units, and (ii) a "Cash Redemption Payment," consisting of an amount calculated in the same manner as the Balancing Amount, although the actual amounts may differ if the Redemption Securities are not identical to the Deposit Securities on the same day. An investor also may receive the cash equivalent of a Redemption Security in unusual circumstances, such as a case in which the investor is constrained from effecting transactions in the Portfolio Security by regulation or policy. A redeeming investor will pay a Transaction Fee to offset the Fund's transaction costs, whether the redemption proceeds are in-kind or cash.

\7\ Creation Units may be redeemed through either NSCC or DTC. Investors who redeem through DTC will pay a higher Transaction Fee.

9. Because each Index Series will redeem Creation Units in-kind, an Index Series will not have to maintain cash reserves for

redemptions. This will allow the assets of each Index Series to be committed as fully as possible to tracking its Subject Index. Accordingly, applicants state that each Index Series will be able to track its Subject Index more closely than certain other investment products that must allocate a greater portion of their assets for cash redemptions.

10. Applicants state that neither the Fund nor any Index Series will be marketed or otherwise held out as an "open-end investment company" or a "mutual fund." Rather, the designation of the Fund and the Index Series in all marketing materials will be limited to the terms "exchange-traded fund," "investment company," "fund" or "trust" without reference to an "open-end fund" or "mutual fund," except to contrast the Fund and the Index Series with a conventional open-end management investment company. Any marketing materials that describe the purchase or sale of Creation Units, or refer to redeemability, will prominently disclose that shares are not individually redeemable and that owners of Shares may tender Shares for redemption to the Fund in Creation Unit aggregations only. The same type of disclosure will be provided in each Index Series' prospectus, SAI and all reports to shareholders. The Fund will provide copies of its annual and semi-annual shareholder reports to DTC participants for distribution to beneficial holders of Shares.

The Applicants state that persons purchasing Creation Units will be cautioned in the prospectus or SAI that some activities on their part may, depending on the circumstances, result in their being deemed statutory underwriters and subject them to the prospectus delivery and liability provisions of the Securities Act of 1933 ("Securities Act"). For example, a broker-dealer firm or its client may be deemed a statutory underwriter if it takes Creation Units after placing an order with the Distributor, breaks them down into the constituent Shares, and sells Shares directly to its customers; or if it chooses to couple the purchase of a supply of new Shares with an active selling effort involving solicitation of secondary market demand for Shares. The prospectus or SAI will state that whether a person is an underwriter depends upon all the facts and circumstances pertaining to that person's activities. The prospectus or SAI also will state that broker-dealer firms should also note that dealers who are not "underwriters" but are participating in a distribution (as contrasted to ordinary secondary trading transactions), and thus dealing with Shares that are part of an "unsold allotment" within the meaning of section 4(3)(C) of the Securities Act, would be unable to take advantage of the prospectus delivery exemption provided by section 4(3) of the Securities Act.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act granting an exemption from sections 2(a)(32), 5(a)(1), and 22(d) of the Act and rule 22c-1 under the Act; and under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and (a)(2) of the Act. Applicants request relief for the Initial Index Series as well as Future Index Series. Any Future Index Series relying on any order granted pursuant to this application will comply with the terms and conditions stated in this application.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction, or any class of persons, securities, or transactions, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an "open-end company" as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its

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presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order under section 6(c) of the Act that would permit the Fund to register and operate as an open-end management investment company and issue Shares that are redeemable in Creation Units. Applicants state that investors may purchase Shares in Creation Units from each Index Series and redeem Creation Units through each Index Series. Applicants further state that because the market price of Creation Units will be disciplined by arbitrage opportunities, investors generally should be able to sell Shares in the secondary market at approximately their NAV.

Section 22(d) of the Act and Rule 22c-1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is being currently offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c-1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in the prospectus, and not at a price based on NAV. Thus, purchases, and sales of Shares in the secondary market will not comply with section 22(d) and rule 22c-1. Applicants request an exemption under section 6(c) of the Act from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c-1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c-1, appear to have been designed to (i) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (ii) prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (iii) assure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the

published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state (i) that secondary market trading in Shares would not cause dilution for owners of Shares because such transactions do not directly involved Index Series assets, and (ii) to the extent different prices exist during a given trading day, or from day to day, these variances will occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity will ensure that the difference between the market price of Shares and their NAV remains narrow.

Section 17(a) of the Act

7. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such person, from selling any security to or purchasing any security from the company. Because purchases and redemptions of Creation Units may be ``in-kind'' rather than cash transactions, section 17(a) may prohibit affiliated persons of an Index Series from purchasing or redeeming Creation Units. Because the definition of ``affiliated person'' of another person in section 2(a)(3)(A) of the Act includes any person owning five percent or more of an issuer's outstanding voting securities, every purchaser of a Creation Unit will be affiliated with the Index Series so long as fewer than twenty Creation Units are in existence. In addition, any person owning more than 25% of the Shares of an Index Series may be deemed an affiliated person under section 2(a)(3)(C) of the Act. Applicants request an exemption from section 17(a) under sections 6(c) and 17(b), to permit these affiliated persons of the Index Series to purchase and redeem Creation Units.

8. Section 17(b) authorizes the Commission to exempt a proposed transaction from section 17(a) if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Applicants contend that no useful purpose would be served by prohibiting persons with the types of affiliations described above from purchasing or redeeming Creation Units. The deposit procedure for in-kind purchases and redemption procedures for in-kind redemptions will be the same for all purchases and redemptions, and Deposit Securities and Redemption Securities will be valued under the same objective standards applied to valuing the Portfolio Securities. Therefore, applicants state that in-kind purchases and redemptions will afford no opportunity for an affiliated person of an Index Series to effect a transaction detrimental to the other holders of Shares. Applicants also believe that in-kind purchases and redemptions will not result in abusive self-dealing or overreaching by affiliated persons of the Index Series.

Applicants' Conditions

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

1. Applicants will not register a Future Index Series by means of

filing a post-effective amendment to the Fund's registration statement or by any other means, unless (i) applicants have requested and received with respect to such Future Index Series, either exemptive relief from the Commission or a no-action letter from the Division of Investment Management of the Commission, or (ii) the Future Index Series will be listed on a national securities exchange without the need for a filing pursuant to rule 19b-4 under the Exchange Act.

2. Each Index Series' prospectus will clearly disclose that, for purposes of the Act, Shares are issued by the Index Series and that the acquisition of Shares by investment companies is subject to the restrictions of section 12(d)(1) of the Act.

3. As long as the Fund operates in reliance on the requested order, the Shares will be listed on a national securities exchange.

4. Neither the Fund nor any Index Series will be advertised or marketed as an open-end fund or mutual fund. Each Index Series' prospectus will prominently disclose that Shares are not individually redeemable shares and will disclose that the owners of Shares may acquire those Shares from the Index Series and tender those Shares for redemption to the Index Series in Creation Units only. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Index Series and tender those Shares for

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redemption to the Index Series in Creation Units only.

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

Margaret H. McFarland,
Deputy Secretary.

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