General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 10th day of August, 2000.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits, Administration, U.S. Department of Labor.

[FR Doc. 00–20741 Filed 8–16–00; 8:45 am]

BILLING CODE 4510–29–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24596; 812–9618]

XSource, Inc.

August 11, 2000.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under sections 6(c), 17(b) and 23(c) of the Investment Company Act of 1940 (the ''Act'') granting an exemption from sections 17(a), 18(d), 21(b), 23(a) through (c), and 30 of the Act; and under section 17(d) of the Act and rule 17d-1 under the Act permitting certain joint transactions.

SUMMARY OF APPLICATION: Applicant proposes to operate as a managerial strategic investment company (''MSIC'').

FILING DATES: The application was filed on May 31, 1995, and amended on September 25, 1995, September 4, 1996, and January 20, 2000.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless to SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 5, 2000 and should be accompanied by proof of service on applicant, 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street N.W., Washington, D.C. 20549–0609. Applicant, 153 East 53rd Street, Suite 5900, New York, New York, 10022.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Branch Chief, (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 SEC's Public Reference Branch, 450 5th Street N.W., Washington, D.C. 20549 0102 (telephone 202–942–8090).

Applicant's Representations

1. Applicant, a Delaware corporation, is an indirect wholly-owned subsidiary of Millicom International Cellular, S.A. (''Millicom''), a Luxembourg corporation engaged in the cellular telephone business. Applicant currently holds majority equity interests in nine companies engaged in electronics, media, providing integrated network services for telecommunication data and internet network businesses.[1] The present business of applicant dates back to 1993, when Millicom transferred substantially all of its non-cellular operations to applicant (then known as American Satellite Network, Inc., and later known as Great Universal Incorporated).

2. In 2000, upon the exercise of certain warrants, applicant no longer will be a wholly-owned subsidiary of Millicom and will become a public company. At that time, applicant states that it plans to change its business to operate as an MSIC. As an MSIC, applicant states that it will provide a long-term source of financial support and managerial assistance to public companies seeking to improve their competitiveness. Applicant will acquire long-term substantial minority equity holdings in selected public companies (''strategic portfolio companies'') and then apply applicant's experience and resources to help manage those companies. Applicant plans to be actively involved in the management of the strategic portfolio companies through board representation; by having applicant's officers and employees serve as officers or consultants to the strategic portfolio companies; and by providing direct financial assistance to the companies.

3. Applicant states that, as an MSIC, it may come within the definition of investment company in section 3(a)(1)(C) of the Act because more than 40% of applicant's holdings may consist of minority interests that constitute ''investment securities,'' as that term is defined in section 3(a)(2) of the Act. If applicant comes within the definition of investment company in section 3(a)(1)(C) of the Act, and is unable to rely on an exemptive rule under the Act, applicant will register under the Act as a closed-end management investment company.

4. Applicant states that, although it would be registered under the Act,

[1] Currently, XSource's principal holdings include 100% ownership of Get.2.Net Corporation, Integrated Systems and Internet Solutions, Inc., Basset Telecom Solutions AB, Diator Netcom Consultants AB, Multinational Automated Clearing House U.S.A. Inc., Netcom Consultants (UK) Ltd., Netcom Latin America BV, Netcom Asia BV and Praesidium Incorporated as well as a 55% interest in Savera Systems Incorporated. XSource also holds a 45% interest in Modern Cartoons, Ltd. (together with wholly-owned and majority-owned subsidiaries, ''Current Holdings'').

applicant will not hold itself out as being engaged in the business of investing, reinvesting, owning, holding, or trading in securities. Rather, applicant will hold itself out as being engaged in the businesses of its portfolio companies. Applicant also states that at least 50% of its assets will consist of greater than 25% holdings in U.S. companies to which it makes available significant managerial assistance. As part of these holdings, at least 25% of applicant's assets will consist of greater than 25% holdings in its existing subsidiaries. These companies will be engaged in the types of businesses similar to applicant's current holdings. At least one officer, director, employee or other person designated by applicant will serve on the board of each company.

5. Applicant states that at least 40% of its assets will consist of (a) no more than five holdings, each greater than 10%, in publicly held U.S. companies to which applicant will make available significant managerial assistance and which applicant will hold for at least two years, and (b) other assets that are not investment securities. These companies also will be engaged in the types of businesses similar to applicant's current holdings. At least one officer, director, employee or other person designated by applicant will serve on the board of each company.

6. Applicant further states that no more than 10% of its assets will consist of investment securities other than those described above, and no more than 5% of its assets in this category will consist of equity securities. In addition, applicant will have acquired at least 50% of its holdings either in a private placement directly from the portfolio company or as a result of providing other financial assistance directly to the portfolio company.

Applicant's Legal Analysis

1. Applicant states that, when it registers under the Act as a closed-end investment company, it will need from various provisions of the Act in order to operate as an MSIC. Specifically, applicant seeks relief in order to be able to engage in certain transactions with its affiliates, provide financing to its portfolio companies, raise additional capital, and provide equity-based compensation to its employees. Thus, applicant requests an exemption under sections 6(c), 17(b) and 23(c) of the Act from sections 17(a), 18(d), 21(b), 23(a) through (c), and 30 of the Act; and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions. Applicant acknowledges that, if it does not register under the Act within three years of the date the requested order is issued, the order will terminate. Applicant also acknowledges that the Commission, as a matter of normal practice, does not grant exemptive relief under the Act unless there is shown a clear present need for the relief. Applicant asserts that granting it the requested relief at this time would be appropriate in light of the unique regulatory issues presented by its proposal to operate as an MSIC.

2. Applicant believes that its activities as an MSIC will resemble those of a business development company (''BDC''). BDCs, like applicant, are publicly offered closed-end investment companies. Applicant states that the Act includes a separate set of provisions for BDCs designed to enable them to engage in such activities. Applicant thus proposes to be governed by certain provisions of the Act applicable to BDCs.[2]

Transactions With Affiliates

3. 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 or other property to or purchasing any security or other property from the investment company. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Section 2(a)(3) of the Act defines ''affiliated person'' of another person to include any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; any person directly or indirectly controlling, controlled by, or under common control with, the other person; any officer, director, or employee of a person; and in the case of an investment company, is investment adviser.

4. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) if the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person, and the transaction is consistent with the policy of each investment company and the general purposes of the Act. Section 6(c) of the Act authorizes the Commission to exempt any class of transactions from any provision of the Act if the 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. Under rule 17d–1, in passing on applications for orders under section 17(d), the Commission considers whether the company's participation in the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

5. Applicant requests relief sections 6(c) and 17(b) from section 17(a) and an order pursuant to section 17(d) and rule 17d–1 to permit transactions with certain affiliated persons of applicant that would be permitted if applicant were a BDC. Applicant proposes to be governed by certain provisions of section 57 of the Act, which establishes a framework for transactions by BDCs with affiliates. Applicant believes that complying with the provisions of the Act applicable to BDCs will provide it with needed flexibility to operate as an MSIC consistent with the protection of investors and that purposes of the Act.

6. Under section 57(a) of the Act, transactions between a BDC and entities that control the BDC (''control affiliates''), as well as transactions in which a BDC participates jointly with its control affiliates, generally are prohibited. Under section 57(b) of the Act, control affiliates include the BDC's officers, directors, and employees, the BDC's investment adviser, principal underwriter, and any shareholder that owns more than 25% of the BDC's outstanding securities. Control affiliates also include persons that control any of these entities. A BDC must seek exemptive relief from the Commission to enter into a transaction with a control affiliate. Applicant will be subject to section 57(a) of the Act, and is not seeking any relief to be able to engage in transactions with its control affiliates.

7. Under section 57(d) of the Act, transactions between a BDC and certain entities that are affiliated with the BDC (''non-control affiliates''), as well as transactions in which a BDC participates jointly with its non-control affiliates, generally are prohibited. Under section 57(e) of the Act, non-control affiliates include any shareholder that owns between 5% and 25% of the BDC's outstanding voting securities (as well as executive officers,

[2] Applicant states that it would be unable to elect status as a BDC because the Act limits the extent to which BDCs may invest in large companies.

directors, and persons controlling, controlled by or under common control with that shareholder), and any non-control affiliate of a director, officer, employee, investment adviser, or principal underwriter of the BDC.

8. Under section 67(f) of the Act, transactions between a BDC and its non-control affiliates may be permitted, provided the BDC's board of directors, including a majority of the independent directors who have no financial interest in the transaction, approves the transaction. The board of directors must determine that the terms of a proposed transaction, including the consideration to be paid, are reasonable and fair, and do not involve overreaching, and that the transaction is consistent with the policies of the investment company and the interests of shareholders. Accordingly, applicant would be able to engage in transactions with its non-control affiliates upon approval by its board of directors. Applicant states that its board of directors thus would be able to approve, for example, a consulting arrangement between a strategic portfolio company and an entity that held more than 5% of applicant's outstanding voting securities but that does not control it.

9. Section 57 does not require approval for transactions between a BDC and its "downstream affiliates" (*i.e.,* the BDC's portfolio companies and their affiliates). Applicant proposes, as an additional safeguard against overreaching, that its transactions with "downstream affiliates" will be approved in accordance with section 57(f).

10. Applicant will comply with section 57(h) of the Act which requires the directors of a BDC to adopt, and periodically review and update as appropriate, procedures reasonably designed to ensure that reasonable inquiry is made, prior to consummation of any transaction in which the BDC or a company controlled by the BDC proposes to participate, with respect to the possible involvement in the transaction of the persons described in sections 57(b) and (e).

11. Under section 57(m) of the Act, an executive officer of applicant would be able to provide managerial assistance to a strategic portfolio company, provided that the officer does not receive any special compensation for providing these services.

12. Applicant also will comply with section 56 of the Act which requires, among other things, that a majority of applicant's board of directors be persons who are not interested persons of applicant.

Loans to Portfolio Companies

13. Section 21(b) of the Act prohibits a registered investment company from lending money or property to any person that controls or is under common control with the investment company. Section 21(b) would prevent applicant from lending to a company that applicant controls if applicant and the controlled company are deemed to be under the common control of a person or entity that controls applicant. Applicant will have controlling interests in certain of its current subsidiaries and may control other portfolio companies. Applicant states that an important means for it to improve the competitiveness of its strategic portfolio companies would be by making loans to these companies.

14. Section 62(2) of the Act permits a BDC to make a loan to a company controlled by the BDC that is deemed to be under common control with the BDC solely because a third person controls the BDC. Applicant states that section 62(2) would not permit, for example, a loan to a company that is controlled by a BDC's affiliate through the affiliate's own holdings in the company. Applicant requests an exemption under section 6(c) from section 21(b) to permit it to make loans to companies controlled by applicant to the extent permitted under section 62(2) as if applicant were a BDC.

Issuance of Common Stock Below Net Asset Value

15. Section 23(b) of the Act prohibits a registered closed-end investment company from selling its common stock at a price below the stock's current net asset value ("NAV"), except in certain limited circumstances. This prohibition is intended to protect the shareholders of the investment company from dilution when the company issues additional securities. Applicant states that because close-end funds often trade at a discount to NAV, a fund that is unable to issue shares at below NAV may be unable to raise additional equity capital subsequent to its initial public offering.

16. Section 63(2) of the Act permits a BDC to issue common stock at less than NAV, provided that the BDC's directors and shareholders give the necessary approvals. Applicant states that the nature of its proposed operations, like those of a BDC, likely will require the ability to raise additional capital in order to acquire additional strategic portfolio companies or to provide financial assistance to the companies. Applicant thus requests an exemption under section 6(c) from section 23(b) to permit it to issue and sell its common stock at below NAV to the extent it would be permitted to do so by section 63(2) of the Act.

Incentive Compensation to Management

17. Applicant states that its management will be involved in the affairs of its strategic portfolio companies through membership on the board of directors, and by serving as officers or as monitors of the portfolio companies. Applicant's management will be compensated for their skills in facilitating the management of the strategic portfolio companies. Applicant thus believes that it will be competing in the labor market for the services not of investment advisers but rather of operating company managers. Applicant asserts that these managers routinely receive equity-based compensation such as stock options. Applicant would like to attract talented managers by offering them equity-based incentive compensation in the form of options for its stock ("Options") and stock appreciation rights ("SARs"). Applicant believes that the use of such equity-based incentive compensation may benefit its shareholders by aligning the interests of management with the interests of shareholders.

18. Sections 18(d), 23(a) and (b) of the Act effectively prohibit a registered investment company from providing equity-based compensation to its management. Section 18(d) generally prohibits a fund from issuing rights to purchase fund shares. Section 23(a) generally prohibits a closed-end fund from issuing securities for services. Section 23(b), as noted above, prohibits a registered closed-end fund from selling common stock at below its current NAV.

19. Applicant requests an exemption under section 6(c) from sections 18(d) and 23(a) and (b) of the Act to the extent necessary to adopt an equity-based incentive compensation plan ("Plan") for its directors, officers and employees ("Participants") that will provide for the issuance of Options and SARs (collectively, "Awards").

20. Applicant states that the purpose of sections 18(d) and 23(a) and (b) is to prevent the dilution to shareholders that results from the issuance of Options or the issuance of securities for services. Applicant states that its shareholders will be protected because the Plan will have the following characteristics:

(a) The Plan would be implemented only if it is approved by applicant's board of directors, including a majority of the independent directors, and by applicant's shareholders. Proxy materials that would be submitted to applicant's shareholders would include a concise, ''plain English'' description of the plan, including its potential dilutive effect, and would comply with Item 10 of Schedule 14A under the Securities Exchange Act of 1934 (''Exchange Act'').

(b) The Plan would be administered by a committee of at least two independent directors (the ''Committee''). The issuance of Awards would be approved as in the best interests of applicant and its shareholders by a majority of applicant's independent directors and by a majority of the directors who have no financial interest in the Plan.

(c) Awards would be issuable to independent directors under the Plan. The issuance of Awards to independent directors would be approved as in the best interests of applicant and its shareholders by a majority of applicant's independent directors and by a majority of the directors who have no financial interest in the Awards.

(d) The maximum number of shares of applicant's common stock that would be issuable under the Plan would be 10% of applicant's outstanding shares at the time the Plan is adopted. No participant would receive Awards with respect to more than 35% of the shares that may be issued under the Plan.

(e) SARs would be issued only in tandem with Options so that the exercise of the SAR cancels the Option and vice versa. SARs would expire no later than the Options to which they relate.

(f) The price of an Option would equal at least 100% of the fair market value of applicant's common stock on the date the Option is granted. SARs would not be exercised for more than 100% of the appreciation of the underlying stock.

(g) Awards would be granted within 10 years of the date the Plan is adopted or approved by applicant's shareholders, whichever is earlier. Awards would expire within 10 years after the date of grant. Awards would be nontransferable except by gift or bequest or for estate planning purposes.

(h) A Participant would be able to pay for the stock to be received upon the exercise of an Option with applicant's common stock. The aggregate fair market value of the common stock would be equal to the aggregate exercise price of any stock purchased upon the exercise of an Option with such common stock, and the fair market value would be equal, per share, to the price at which applicant's shareholders could sell a share of applicant's common stock on an exchange or over the counter. The amount payable upon the exercise of an SAR may be payable in cash or applicant's stock or both, in the sole discretion of the Committee. Applicant would pay cash or issue shares of its common stock, or a combination of both, only if and to the extent that the payment or issuance would not result in greater dilution of the interests of existing shareholders than would occur if, instead of the SARs, the Options to which they relate were exercised.

21. Section 23(c) of the Act prohibits a registered closed-end investment company from purchasing any securities of which it is the issuer except in the open market, pursuant to tender offers, or under other circumstances as the SEC may permit to insure that the purchase is made on a basis which does not unfairly discriminate against any holders of the class or classes of securities to be purchased. Applicant states that section 23(c) effectively would prevent Participants from paying for stock to be received upon exercise of Options under the Plan with shares of applicant's common stock. Applicant thus requests an order under section 23(c) to permit it to purchase shares of its common stock from Participants in the Plan in connection with the exercise of an Option. Applicant states that the plan will be structured to prevent discrimination against applicant's shareholders because applicant will purchase its shares from a participant at the fair market value at which all other shareholders could sell their shares on an exchange or over the counter.

22. Applicant also requests an order pursuant to section 17(d) and rule 17d–1 to permit the Plan. Rule 17d–1(c) defines a joint enterprise to include any stock option or stock purchase plan. Applicant states that the Plan is in the best interests of applicant's shareholders because the Plan will help applicant attract and retain talented professionals and help align the interests of management with the interests of its shareholders.

Periodic Reporting Requirements

23. Section 30 of the Act requires each registered investment company to file certain periodic reports with the SEC in lieu of the reports required by Sections 13 or 15(d) of the Exchange Act. Section 30 reflects the determination that investors in investment companies require different types of information than investors in business corporations.

24. BDCs exempt from section 30. To qualify as a BDC, among other things, a company must have a class of its equity securities registered under Section 12 of the Exchange act or have filed a registration statement pursuant to Section 12 of the Exchange Act. As a condition to the requested order, applicant will have a class of its equity securities registered under Section 12 of the Exchange Act. Because applicant's operations will resemble those of a BDC, applicant asserts that the periodic reports required by the Exchange Act would be more useful to investors than the periodic reports required by section 30 of the Act. Therefore, applicant requests an exemption under section 6(c) from section 30 so that it may file its periodic reports as required under the Exchange Act.

Applicant's Conditions

Applicant agrees that the requested order will be subject to the following conditions:

Applicant's Assets

1. At least 50% of the value of applicant's assets will consist of greater than 25% holdings in companies to which applicant makes available significant managerial assistance (as defined in section 2(a)(47) of the Act) and which are organized under the laws of, and have their principal places of business in, any state or states; as part of such holdings, at least 25% of the value of applicant's assets will consist of greater than 25% holdings in the Current Holdings, and any other subsidiaries it held prior to its registration as an investment company under the Act.

2. No more than 10% of applicant's assets will consist of investment securities other than those described in conditions 1 and 3(a); the portion of such investment securities that will constitute equity securities will not exceed 5% of applicant's assets.

3. The remainder of applicant's assets will consist of (a) greater-than-10% investments in publicly held companies to which applicant makes available significant managerial assistance (as defined in section 2(a)(47)) and which are organized under the laws of, and have their principal places of business in, any state or states, and (b) other assets that are not investment securities. Applicant will hold no more than five such greater-than-10% investments, and will hold each such investment for a minimum of two years.

4. The companies described in conditions 1 and 3(a) (each a ''qualifying company'') will be engaged in types of businesses similar to applicant's holdings while applicant was not an investment company, and the expertise and focus of applicant's management will continue to be on such businesses.

5. At least one officer, director or employee of, or other person designated

by, applicant will serve on the board of directors of each qualifying company.

6. Applicant will have acquired at least 50% of its holdings either in private placement directly from the qualifying company or as a result of applicant providing other financial assistance directly to such qualifying company.

7. Any decision by applicant to dispose of all or a portion of its holdings in any qualifying company will not be based simply on the market value of such holdings but rather on strategic and operational considerations.

Applicant's Operations

8. Members of applicant's management will not be affiliated persons of registered investment advisers, and applicant will not be an affiliated person of a registered investment company.

9. Applicant will be engaged in the businesses of its portfolio companies and will not hold itself out as being engaged in the business of investing, reinvesting, owning, holding or trading in securities.

10. Applicant will have a class of its equity securities registered under Section 12 of the Exchange Act.

11. Applicant will comply with sections 56, 57(a) through (i), 57(m), 57(o), 62(2), and 63(2) of the Act as if applicant were a BDC.

Incentive Compensation Plan

12. Applicant's board of directors will review the Plan at least annually. In addition, the Committee periodically will review the potential impact that the grant, exercise, or vesting of Awards could have on applicant's earnings and NAV per share, such review to take place prior to any decisions to grant Awards, but in no event less frequently than annually. Adequate procedures and records will be maintained to permit such review, and the Committee will be authorized to take appropriate steps to ensure that neither the grant nor the exercise or vesting of Awards would have any effect contrary to the interests of applicant's shareholders. This authority will include, in addition to the authority to prevent or limit the grant of additional Awards, the authority to limit the number of Awards exercised in a given period of time should the Committee conclude that applicant's expenses, earnings or NAV might otherwise be excessively diluted. All records maintained pursuant to this condition will be subject to examination by the Commission and its staff.

13. The maximum number of shares of applicant's common stock available for issuance under the Plan will be 10% of applicant's outstanding common stock on the date the Plan is adopted. No Participant will be granted Awards relating to more than 35% of the shares reserved for issuance under the Plan.

14. Awards under the Plan will be issuable only to applicant's directors, officers and employees. Awards will not be transferable or assignable, except by will or the laws of descent and distribution, or as the Committee may specifically approve to facilitate estate planning.

15. The existence and nature of the Awards granted will be disclosed in accordance with standards or guidelines adopted by the Financial Accounting standards Board for operating companies and the requirements of the Commission under Item 402 of Regulation S–K, Item 8 of Schedule 14A under the Exchange Act and Item 18 of Form N–2.

16. Applicant will have amended the terms of any equity-based compensation plans adopted by applicant and grants made thereunder prior to its reliance on the requested order to bring such plans and grants into compliance with such order.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–20882 Filed 8–16–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43131; File No. SR–Amex–00–26]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange, Inc. Relating to Listing Additional Series of iShares MSCI Index Funds

August 8, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 4, 2000, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. On June 12, 2000, the Exchange filed Amendment No. 1 to the proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Amex proposes to list and trade a product called iShares MSCI Index Funds (formerly, ''WEBS Index Series''), under Amex rules 1000A *et seq.* (''Index Fund Shares'') based on the following Morgan Stanley Capital International (''MSCI'') Indices: Greece, Indonesia (Free), Portugal, Thailand (Free) and Turkey. The text of the proposed rule change and descriptions of the five specific indices referenced above are available at the Office of the Secretary, 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 Amex 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

On March 8, 1996, the Commission approved Amex's listing and trading of Index Fund Shares under Amex Rules 1000A *et seq.*[4] Index Fund Shares are shares issued by an open-end management investment company that seeks to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic equity market index. The first Index Fund Shares listed on the Exchange were seventeen series of World Equity Benchmark Shares™ (''WEBS™'') issued by Foreign Fund, Inc. based on the following MSCI indices: Australia, Austria, Belgium, Canada, France, Germany, Hong Kong, Italy, Japan, Malaysia (Free), Mexico (Free), Netherlands, Singapore (Free), Spain, Sweden, Switzerland and United Kingdom. The WEBS Index Series have

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Restated 19b–4 filing marked Amendment No. 1 (''Amendment No. 1''). Amendment No. 1 changed all ''WEBS Index Series'' references to ''iShares MSCI Index Funds.''

[4] *See* Securities Exchange Act Release No. 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996) (order approving File No. Amex–95–43).