

who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice of order issued in the matter. After September 22, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### **Dominion Resources, et al. [70-9679]**

Dominion Resources, Inc. ("Dominion"), 120 Tredegar Street, Richmond, Virginia 23219, a registered holding company, and its wholly owned subsidiary Consolidated Natural Gas Company ("CNG"), CNG Tower, 625 Liberty Avenue, Pittsburgh, PA 15222-3199, also a registered holding company (together, "Applicants"), have filed an application-declaration under section 12(c) of the Act and rules 46 and 54 under the Act.

On January 28, 2000, CNG became a wholly owned subsidiary of Dominion ("Merger").<sup>1</sup> As a result of the accounting treatment of the Merger, the retained earnings of CNG were recharacterized as paid-in-capital. Dominion now requests authorization to pay dividends out of the additional paid-in-capital account up to the amount of its aggregate retained earnings just prior to the Merger.

Applicants also seeks the ability to reorganize and restructure their nonutility businesses so that all nonutility subsidiaries engaged in similar activities can be part of the same intra-corporate grouping.

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**

[Rel. No. IC-24631; 812-11882]

#### **State Street Bank and Trust Company, et al.; Notice of Application**

September 1, 2000.

**AGENCY:** Securities and Exchange Commission ("Commission" or "SEC").

**ACTION:** Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the "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 17(a)(2) of the Act.

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

**APPLICANTS:** State Street Bank and Trust Company (the "Adviser"), ALPS Mutual Funds Services, Inc. and State Street Capital Markets, LLC, (each a "Distributor" and together the "Distributors"), The Select Sector SPDR Trust and The Index Exchange Listed Securities Trust (each a "Trust" and together the "Trusts").

**FILING DATES:** The application was filed on December 8, 1999 and amended on August 1, 2000. 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 application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants 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 22, 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 issue contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Michael E. Gillespie, Vice President and Associate Counsel, State Street Bank and Trust Company, P.O. Box 1713, Boston, MA 02105-1713.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Mann, Senior Counsel, at (202) 942-0582, or Mary Kay Frech, 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 from the SEC's

Public Reference Branch, 450 5th Street, NW., Washington DC 20549-0102 (telephone (202) 942-8090).

#### **Applicants' Representations**

1. Each Trust is an open-end management investment company organized as a Massachusetts business trust and registered under the Act. Each Trust has separate investment portfolios (each, a "Fund"). The Adviser acts as investment adviser and custodian for each Fund. ALPS Mutual Fund Services, Inc., a broker-dealer registered under the Securities Exchange Act of 1934 (the "Exchange Act"), serves as the principal underwriter of each Fund in The Select Sector SPDR Trust. State Street Capital Markets, LLC, a broker-dealer registered under the Exchange Act, serves as the principal underwriter for each Fund in The Index Exchange Listed Securities Trust. Each Distributor will distribute Fund shares on an agency basis.

2. The Trusts currently have 10 Funds operating under the terms of a prior order<sup>1</sup> and are now requesting to supersede the prior order to add 10 new Funds, each of which will be a series of The Index Exchange Listed Securities Trust, and to add certain conditions. Each Fund will invest in a portfolio of equity securities ("Portfolio Securities") generally consisting of the component securities of a specified equity securities index ("Index").<sup>2</sup> The proposed Indices are the Morgan Stanley High-Tech 35 Index, the Morgan Stanley Internet Index (the "Morgan Stanley Indices"), the Dow Jones U.S. Small-cap Growth Stock Index, the Dow Jones U.S. Small-cap Value Stock Index, the Dow Jones U.S. Large-cap Growth Stock Index, the Dow Jones U.S. Large-cap Value Stock Index, the Dow Jones Global Titans Index (collectively, the "Dow Jones Equity Indices"), the Wilshire Real Estate Investment Trust Index (the "Real Estate Investment Trust Index"), the

<sup>1</sup> See The Select Sector SPDR Trust, Investment Company Act Release Nos. 23492 (Oct. 20, 1998) (notice) and 23534 (Nov. 13, 1998) (order).

<sup>2</sup> Each Fund will invest at least 90% of its total assets in common stocks that comprise the relevant Index. A Fund may invest up to 10% of its total assets in securities, options and futures not included in the relevant Index but which the Adviser believes will help the Fund track the Index. A Fund may accept as Deposit Securities (as defined below) stocks that are publicly announced as additions to the relevant Index prior to their actual date of inclusion in the index. A Fund also may hold Portfolio Securities that have recently been deleted from the Index. In addition, this 10% portion of the Fund's assets may be invested in securities not included in the Index to comply with the registered investment company diversification requirements of the Internal Revenue Code. This portion of the Fund's assets also may be invested in money market instruments and money market funds (subject to the Act's limitations).

<sup>1</sup> Holding Co. Act Release No. 27113 (Dec. 15, 1999).

Fortune 500 Index and the Fortune e-50 Index (the "Fortune Indices").<sup>3</sup>

3. In the future, the applicants may offer additional Funds ("Future Funds") based on other Indices. Applicants request that the order apply to any Future Funds. Any Future Funds will (a) be advised by the Adviser or an entity controlled by or under common control with the Adviser and (b) comply with the terms and conditions of the order. References in the application to "Funds" include the existing Funds, the proposed Funds and any Future Funds. No entity that creates, compiles, sponsors or maintains an Index is or 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 Trust, the Adviser, the Distributors or any sub-adviser to a Fund.

4. The investment objective of each Fund will be to provide investment results that correspond, before expenses, generally to the price and yield performance of its relevant Index. A Fund may not hold all of the underlying securities that comprise an Index in certain instances. When a potential component security is illiquid or when there are substantial costs involved in matching an Index with hundreds of component securities, a Fund may hold a representative sample of the component securities of the Index determined using a technique known as "portfolio optimization."<sup>4</sup> Applicants

<sup>3</sup> The Morgan Stanley High-Tech 35 Index is comprised of 35 actively traded stocks of U.S. companies in the computer and technology industries with large market capitalization. The Morgan Stanley Internet Index is comprised of the common stocks of leading U.S. public companies that are driving the growth of Internet usage. The Morgan Stanley Indices will be calculated by Morgan Stanley Inc. The Dow Jones U.S. Small-cap Growth Stock Index consists of typical growth stocks in the Dow Jones U.S. Small-cap Index. The Dow Jones U.S. Small-cap Value Stock Index consists of typical value stocks in the Dow Jones U.S. Small-cap Index. The Dow Jones U.S. Large-cap Growth Stock Index consists of typical growth stocks in the Dow Jones U.S. Large-cap Index. The Dow Jones U.S. Large-cap Value Stock Index consists of typical value stocks in the Dow Jones U.S. Large-cap Index. The Dow Jones Global Titans Index consists of 50 common stocks that meet certain criteria and are drawn from the Dow Jones Global Indices. The Dow Jones Equity Indices will be calculated by the Dow Jones Company. The Real Estate Investment Trust Index is a market capitalization weighted index of publicly traded Real Estate Investment Trusts. It will be calculated by Wilshire Associates. The Fortune 500 Index is based on *Fortune's* list of America's 500 largest companies, ranked by revenue. The Fortune e-50 Index tracks the performance of companies shaping the internet economy. The Fortune Indices will be calculated by the Fortune Group. Each Index's value will be disseminated every 15 seconds through the facilities of the Consolidated Tape Association.

<sup>4</sup> The Adviser will consider each component security in an Index for inclusion in a Fund based

anticipate that a Fund that utilizes the portfolio optimization technique will not track its Index with the same degree of accuracy as an investment vehicle that invested in every component security of the Index with the same weighting as the Index. Applicants also state that over time the Adviser will be able to employ the portfolio optimization technique so that the expected tracking error of a Fund relative to the performance of its Index will be less than 5 percent.

5. Shares of a Fund ("Shares") will be issued in aggregations of at least 50,000 Shares ("Creation Units"). The price of a Creation Unit will be approximately \$3,800,000 to \$6,300,000 (based on the values of the Indices as of June 30, 2000). Orders to purchase Creation Units must be placed by or through an "Authorized Participant," which is either (a) a "Participating Party," (*i.e.*, a broker-dealer or other participant in the Shares Clearing Process through the Continuous Net Settlement System of the National Securities Clearing Corporation ("NSCC"), a clearing agency that is registered with the SEC), or (b) a participant in the Depository Trust Company ("DTC") system, which in either case has executed an agreement with the Trust and with the Distributor with respect to creations and redemptions of Creation Units ("Participant Agreement"). A Creation Unit purchase or redemption can only be placed by or through an Authorized Participant that has signed a Participant Agreement. An investor wishing to purchase a Creation Unit from a Fund will have to transfer to the Fund a "Fund Deposit" consisting of: (a) A portfolio of securities that has been selected by the Adviser to correspond to the returns on the Index ("Deposit Securities"),<sup>5</sup> and (b) a cash payment to equalize any differences between the market value per Creation Unit of the Deposit Securities and the net asset value ("NAV") per Creation Unit ("Cash Component"). Certain of the Funds may include as part of the Cash Component a "Dividend Equivalent Payment," which is an amount equal per Creation

on the security's contribution to certain capitalization, industry, and fundamental investment characteristics. The Adviser will seek to construct the portfolio of a Fund so that, in the aggregate, its capitalization, industry, and fundamental investment characteristics perform like those in the corresponding Index.

<sup>5</sup> The identity and number of shares of the Deposit Securities required for a Fund Deposit for each Fund will change as rebalancing adjustments and corporate events are reflected from time to time by the Adviser. The composition of the Deposit Securities may also change in response to adjustments to the weighting or composition of the securities constituting an Index.

Unit to the dividends accrued on the Deposit Securities of a Fund since the last dividend payment by the Fund, net of expenses and liabilities.<sup>6</sup> An investor purchasing a Creation Unit from a Fund will be charged a purchase fee ("Transaction Fee") to prevent the dilution of the interests of the remaining shareholders resulting from the Fund incurring costs in connection with the purchase of the Creation Units.<sup>7</sup> Each Fund will disclose the Transaction Fees charged by the Fund in its prospectus and the method of calculating the Transaction Fees in its statement of additional information ("SAI").

6. Orders to purchase Creation Units will be placed with the Distributor who will be responsible for transmitting the orders to each 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 the confirmations. The Distributor also will be responsible for delivering prospectuses to purchasers of Creation Units.

7. Persons purchasing Creation Unit-size aggregations of Shares from a Fund 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. An AMEX specialist will be assigned to

<sup>6</sup> On each business day, the custodian in consultation with the Adviser will make available, immediately prior to the opening of trading on the AMEX, a list of the names and the required number of shares of each Deposit Security included in the current Fund Deposit. The Fund Deposit will be applicable to effect purchases of Creation Units until the Fund Deposit composition is next announced. The custodian also makes available the previous day's Cash Component, as well as the estimated Cash Component for the current day. In addition, each Fund reserves the right to permit or require a cash in lieu amount or the substitution of any security to replace any Deposit Security that may be 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 DTC system and therefore ineligible for transfer through the Shares Clearing Process or ineligible for trading by an Authorized Participant or the investor on whose behalf it is acting. In cases in which cash is substituted, the Adviser will adjust the Transaction Fee to cover the brokerage costs a Fund will incur in connection with the acquisition of a Deposit Security.

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 current value of the Deposit Securities and, when applicable to the Fund, the Dividend Equivalent Payment effective through and including the prior business day.

<sup>7</sup> The Transaction Fee for each Fund will be separately determined. The Transaction Fee will be limited to amounts determined by the Adviser to be appropriate and will take into account the transaction costs associated with the Deposit Securities of each Fund.

make a market in Shares. The price of Shares on the AMEX will be based on a current bid/offer market and will be in the range of \$70 to \$125 per Share (based on the values of the Indices as of June 30, 2000). Transactions involving the sale of Shares will be subject to customary brokerage commissions and charges. Applicants expect that the price at which the Shares trade will be disciplined by arbitrage opportunities created by the ability to continually purchase or redeem Creation Units at their NAV, which should ensure that the Shares will not trade at a material discount or premium in relation to their NAV.

8. 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 Creation Units 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.<sup>8</sup>

9. Shares will not be individually redeemable. Shares will only be redeemable in Creation Unit-size aggregations through each Fund.<sup>9</sup> An investor redeeming a Creation Unit generally will receive a portfolio of securities ("Fund Securities") plus a "Cash Redemption Amount." The Cash Redemption Amount is cash in an amount equal to the difference between the NAV of the Shares being redeemed and the market value of the Fund Securities. The Cash Redemption Amount may include a Dividend Equivalent Payment. An investor may receive the cash equivalent of a Fund Security upon its request if, for example, the investor were constrained from effecting transactions in the Fund Security by regulation or policy. A redeeming investor will pay a Transaction Fee calculated in the same manner as a Transaction Fee payable in connection with the purchase of a Creation Unit.<sup>10</sup>

10. Because each Fund will redeem Creation Units in kind, a Fund will not have to maintain cash reserves for redemptions. This will allow the assets of each Fund to be committed as fully

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

11. Applicants state that neither Trust nor any Fund will be marketed or otherwise held out as a "mutual fund." Rather, applicants state that each Fund will be marketed as an "exchange-traded fund." No Fund marketing materials (other than as required in the prospectus) will refer to a Fund as an "open-end" or "mutual fund," except to contrast a Fund with a conventional open-end management investment company. In all marketing materials where the method of obtaining, buying or selling Shares is described, applicants will include a statement to the effect that Shares are not redeemable through a Fund except in Creation Units. The same type of disclosure will be provided in each Fund's prospectus, SAI, advertising materials, and all reports to shareholders.<sup>11</sup>

#### 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 17(a)(2) of the Act.

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

<sup>11</sup> Applicants state that persons purchasing Creation Units will be cautioned in a Fund's prospectus and/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 and/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 creation of a supply of new Shares with an active selling effort involving solicitation of secondary market demand for Shares. A Fund's prospectus and/or SAI will state that whether a person is an underwriter depends upon all the facts and circumstances pertaining to that person's activities. A Fund's prospectus and/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.

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 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 that would permit each Trust to register and operate as an open-end management investment company. Applicants state that investors may purchase Shares in Creation Units from each Fund and redeem Creation Units. Applicants further state that because the market price of Creation Units will be disciplined by arbitrage opportunities, investors should be able to sell Shares in the secondary market at prices that do not vary substantially from their NAV.

#### Sections 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 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 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 from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) and rule 22c-1 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 (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract

<sup>8</sup> 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.

<sup>9</sup> Creation Units may be redeemed through either NSCC or DTC. Investors who redeem through DTC will pay a higher Transaction Fee.

<sup>10</sup> See *supra* note 7.

dealers, (b) prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) 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 (a) that secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand, not as a result of unjust or discriminatory manipulation. 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 a person, from selling any security to or purchasing any security from the company. Because purchases and redemptions of Creation Units will be "in-kind" rather than cash transactions, section 17(a) may prohibit affiliated persons of the Fund from purchasing or redeeming Creation Units. Because the definition of "affiliated person" or 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 a Fund so long as fewer than twenty Creation Units of the Fund are in existence. In addition, any person owning more than 25% of the Shares of a Fund 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 such affiliated persons of the Funds 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 the affiliated persons of a Fund described above from purchasing or redeeming Creation Units. The composition of a Fund Deposit made by a purchaser or the Fund Securities and Cash Redemption Amount given to a redeeming investor will be the same regardless of the investor's identity, and 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 the affiliated persons described above to effect a transaction detrimental to the other holders of its Shares. Applicants also believe that "in kind" purchases and redemptions will not result in abusive self-dealing or overreaching by affiliated persons of the Fund.

#### **Applicants' Conditions**

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

1. Applicants will not register the Shares of any Future Fund by means of filing a post-effective amendment to a Trust's registration statement or by any other means, unless (a) applicants have requested and received with respect to such Future Fund, either exemptive relief from the Commission or a no-action letter from the Division of Investment Management of the Commission, or (b) the Future Fund 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 Fund's prospectus will clearly disclose that, for purposes of the Act, Shares are issued by the Fund and that acquisition of Shares by investment companies is subject to the restrictions of section 12(d)(1) of the Act.

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

4. Neither the Trusts nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Each Fund's prospectus will prominently disclose that the Shares are not individually redeemable

and that owners of the Shares may acquire those Shares from the Trust and tender those Shares for redemption to the Trust in Creation Units only.

5. The website for each Trust, which will be publicly accessible at no charge, will contain the following information, or a per Share basis, for each Fund: (a) the prior business day's NAV and the reported closing price, and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

6. The prospectus and annual report for each Fund will also include: (a) the information listed in condition 6(b), (i) in the case of the prospectus, for the most recently completed year (and the most recently completed quarter or quarters, as applicable) and (ii) in the case of the annual report, for the immediately preceding five years, as applicable; and (b) the following data, calculated on a per Share basis for one, five and ten year periods (or life of the Funds): (i) the cumulative total return and the average annual total return based on NAV and market price, and (ii) the cumulative total return of the relevant Index.

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

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 00-22988 Filed 9-6-00; 8:45 am]

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-43228; File No. SR-AMEX-00-38]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1, Amendment No. 2, and Amendment No. 3 Thereto by American Stock Exchange LLC Relating to Fees on Equity Option Transactions of Specialist and Registered Option Traders**

August 30, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934