

relocated and resumed operations outside the disaster area.

The list of counties and parishes designated by FEMA as disaster areas eligible for Individual or Public Assistance as a result of Hurricanes Katrina, Rita, and Wilma has been published and amended in the **Federal Register**, and is available at <http://www.fema.gov/news/disasters.fema>. For the hardest hit areas, DFCL will closely monitor progress and may extend these deadlines even further. DFCL will work with stakeholders covered by an extension provided above who may receive written communications applying an earlier or incorrect

deadline. We will consider other deadline issues on a case-by-case basis.

E. *Filing Date Extensions for PERM applications impacted by Hurricane Wilma, Rita, or Katrina*. Under current PERM regulations, employers must begin their recruitment efforts no more than 180 days prior to filing a permanent labor certification application, and must complete most recruitment measures at least 30 days prior to filing. Due to recent hurricanes, employers or their attorneys within a FEMA-designated disaster area may be unable to comply with the requirement of completing their recruitment efforts within the regulatory 180-day time

frame. Therefore, DFCL is extending recruitment validity periods to allow employers or their attorneys located within a FEMA-designated disaster area (as defined above) to file their permanent labor certification application by seventy-five (75) days after the date of the last of the three hurricanes, so long as recruitment was begun within 180 days prior to the specific hurricane. The last of the three hurricanes, Wilma, hit on October 24, 2005, and 75 days after that date is January 7, 2006. The specific dates applicable to each hurricane are as follows:

Hurricane date	Recruitment must have begun by (180 days prior to hurricane):	Filing must occur by:
Katrina—Aug. 29, 2005 .....	March 2, 2005 .....	January 7, 2006.
Rita—Sept. 23, 2005 .....	March 27, 2005 .....	January 7, 2006.
Wilma—Oct. 24, 2005 .....	April 27, 2005 .....	January 7, 2006.

Those hurricane-affected employers who may have already been denied due to the “staleness” of the recruitment on an application may file a request for reconsideration with the appropriate Certifying Officer.

Those employers wishing to submit an application under this guidance, where the recruitment period lasted longer than 180 days, must submit their application by mail to the appropriate National Processing Center. The employer must include a cover letter (signed by the employer or the employer’s representative) explaining the particular circumstances that caused the employer to fall within the boundaries of this guidance. Please note: Under the regulations, recruitment steps must be completed at least 30 days before filing the application. This requirement will still be enforced.

The Division will continue to revisit issues surrounding Hurricanes Katrina, Rita, and Wilma in the coming months, as needed.

5. *Action Required*. FLC Center directors are requested to inform certifying officers and staff of the information in this guidance letter and ensure they take appropriate action.

6. *Inquiries*. Please direct questions to the appropriate National Office staff.

[FR Doc. 05–23784 Filed 12–7–05; 8:45 am]

BILLING CODE 4510–30–P

**SECURITIES AND EXCHANGE COMMISSION**

[Investment Company Act Release No. 27173; 812–13179]

**MGI Funds and Mercer Global Investments, Inc.; Notice of Application**

December 1, 2005.

**AGENCY:** Securities and Exchange Commission (“Commission”).

**ACTION:** Notice of an application under section 6(c) of the Investment Company Act of 1940 (“Act”) for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as certain disclosure requirements.

*Summary of Application:* Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

*Applicants:* MGI Funds (the “Trust”) and Mercer Global Investments, Inc. (the “Adviser”).

*Filing Dates:* The application was filed on March 23, 2005, and amended on November 3, 2005, and November 22, 2005.

*Hearing or Notification of Hearing:* An order granting the application 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 December 27, 2005, and

should be accompanied by proof of service on the 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, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303. Applicants, 1166 Avenue of the Americas, New York, NY 10036.

**FOR FURTHER INFORMATION CONTACT:** Christine Y. Greenlees, Senior Counsel, at (202) 551–6879, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (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 Desk, 100 F Street, NE., Washington, DC 20549–0102 (telephone (202) 551–5850).

**Applicants’ Representations**

1. The Trust, a Delaware statutory trust, is registered under the Act as an open-end management investment company. The Trust offers, or will offer, shares in seven series (each a “Fund” and collectively, the “Funds”), each with separate investment objectives, policies and restrictions.<sup>1</sup> The Adviser

<sup>1</sup> Applicants also request relief with respect to future series of the Trust and any other existing or future registered open-end management investment

is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act") and provides investment management services to the Funds pursuant to an investment management agreement ("Advisory Agreement") with the Trust. The Advisory Agreement has been approved by the initial shareholder of each Fund and by the Trust's board of trustees (the "Board"), including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act, of the Trust or the Adviser ("Independent Trustees").

2. Under the terms of the Advisory Agreement, the Adviser is authorized to provide each Fund with investment research, advice and supervision, and to furnish an investment program for each Fund. The Advisory Agreement also authorizes the Adviser, subject to Board approval, to enter into investment sub-advisory agreements ("Subadvisory Agreements") with one or more subadvisers ("Subadvisers"). Each Subadviser is, and will be, registered as an investment adviser under the Advisers Act. The Adviser monitors and evaluates the Subadvisers and recommends to the Board their hiring, retention or termination. Subadvisers recommended to the Board by the Adviser have been, or will be, selected and approved by the Board, including a majority of the Independent Trustees. Each Subadviser has discretionary authority to invest the assets or a portion of the assets of a particular Fund. The Adviser compensates each Subadviser out of the fees paid to the Adviser under the Advisory Agreement.

3. Applicants request an order to permit the Adviser, subject to Board approval, to enter into and materially amend Subadvisory Agreements without obtaining shareholder approval. The requested relief will not extend to any Subadviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust or of the Adviser, other than by reason of serving as a Subadviser to one or more of the Funds ("Affiliated Subadviser").

company or series thereof that: (a) Is advised by the Adviser or a person controlling, controlled by, or under common control with the Adviser; (b) uses the management structure described in the application; and (c) complies with the terms and conditions of the application (included in the term "Funds"). The only existing registered open-end management investment company that currently intends to rely on the requested order is named as an applicant. All references to the term "Adviser" herein include (a) the Adviser, and (b) an entity controlling, controlled by, or under common control with the Adviser. If the name of any Fund contains the name of a Subadviser (as defined below), the name of the Adviser will precede the name of the Subadviser.

4. Applicants also request an exemption from the various disclosure provisions described below that may require a Fund to disclose fees paid by the Adviser to each Subadviser. An exemption is requested to permit the Trust to disclose for each Fund (as both a dollar amount and as a percentage of each Fund's net assets): (a) The aggregate fees paid to the Adviser and any Affiliated Subadvisers; and (b) the aggregate fees paid to Subadvisers other than Affiliated Subadvisers ("Aggregate Fee Disclosure"). For any Fund that employs an Affiliated Subadviser, the Fund will provide separate disclosure of any fees paid to the Affiliated Subadviser.

#### Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except under a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f-2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Form N-1A is the registration statement used by open-end investment companies. Item 14(a)(3) of Form N-1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a-1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 ("1934 Act"). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the "rate of compensation of the investment adviser," the "aggregate amount of the investment adviser's fees," a description of the "terms of the contract to be acted upon," and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Form N-SAR is the semi-annual report filed with the Commission by registered investment companies. Item 48 of Form N-SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the Subadvisers.

5. Regulation S-X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed

with the Commission. Sections 6-07(2)(a), (b), and (c) of Regulation S-X require that investment companies include in their financial statements information about investment advisory fees.

6. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if 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. Applicants state that their requested relief meets this standard for the reasons discussed below.

7. Applicants assert that the shareholders are relying on the Adviser's experience to select one or more Subadvisers best suited to achieve a Fund's investment objectives. Applicants assert that, from the perspective of the investor, the role of the Subadvisers is comparable to that of the individual portfolio managers employed by traditional investment company advisory firms. Applicants state that requiring shareholder approval of each Subadvisory Agreement would impose costs and unnecessary delays on the Funds, and may preclude the Adviser from acting promptly in a manner considered advisable by the Board. Applicants note that the Advisory Agreement and any Subadvisory Agreement with an Affiliated Subadviser will remain subject to section 15(a) of the Act and rule 18f-2 under the Act.

8. Applicants assert that some Subadvisers use a "posted" rate schedule to set their fees. Applicants state that while Subadvisers are willing to negotiate fees that are lower than those posted on the schedule, they are reluctant to do so where the fees are disclosed to other prospective and existing customers. Applicants submit that the requested relief will allow the Adviser to negotiate more effectively with each Subadviser.

#### Applicants' Conditions

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

1. Before a Fund may rely on the order requested in the application, the operation of the Fund in the manner described in the application will be approved by a majority of the Fund's outstanding voting securities, as defined in the Act, or, in the case of a Fund whose public shareholders purchase shares on the basis of a prospectus

containing the disclosure contemplated by condition 2 below, by the sole initial shareholder before offering the Fund's shares to the public.

2. The prospectus for each Fund will disclose the existence, substance, and effect of any order granted pursuant to the application. Each Fund will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Adviser has ultimate responsibility (subject to oversight by the Board) to oversee the Subadvisers and recommend their hiring, termination, and replacement.

3. Within 90 days of the hiring of a new Subadviser, the affected Fund shareholders will be furnished all information about the new Subadviser that would be included in a proxy statement, except as modified to permit Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in such disclosure caused by the addition of the new Subadviser. To meet this obligation, the Fund will provide shareholders within 90 days of the hiring of a new Subadviser with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the 1934 Act, except as modified by the order to permit Aggregate Fee Disclosure.

4. The Adviser will not enter into a Subadvisory Agreement with any Affiliated Subadviser without that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. Each Fund will comply with the fund governance standards as defined in rule 0-1(a)(7) under the Act by the compliance date for the rule ("Compliance Date"). Prior to the Compliance Date, a majority of the Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be at the discretion of the then existing Independent Trustees.

6. When a Subadviser change is proposed for a Fund with an Affiliated Subadviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Trust's Board minutes, that such change is in the best interests of the Fund and its shareholders, and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

7. Independent legal counsel, as defined in rule 0-1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of

such counsel will be within the discretion of the then existing Independent Trustees.

8. The Adviser will provide the Board, no less frequently than quarterly, with information about the profitability of the Adviser on a per-Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Subadviser during the applicable quarter.

9. Whenever a Subadviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the profitability of the Adviser.

10. The Adviser will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of the Fund's assets, and, subject to review and approval of the Board, will: (a) Set each Fund's overall investment strategies; (b) evaluate, select and recommend Subadvisers to manage all or a part of a Fund's assets; (c) when appropriate, allocate and reallocate a Fund's assets among multiple Subadvisers; (d) monitor and evaluate the performance of Subadvisers; and (e) implement procedures reasonably designed to ensure that the Subadvisers comply with each Fund's investment objective, policies and restrictions.

11. No trustee or officer of the Trust, or director or officer of the Adviser, will own, directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person), any interest in a Subadviser, except for: (a) Ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser, or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of any publicly traded company that is either a Subadviser or an entity that controls, is controlled by, or is under common control with a Subadviser.

12. Each Fund will disclose in its registration statement the Aggregate Fee Disclosure.

13. The requested order will expire on the effective date of rule 15a-5 under the Act, if adopted.

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

**Jonathan G. Katz,**  
Secretary.

[FR Doc. E5-7058 Filed 12-7-05; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52870; File No. SR-Amex-2005-091]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Trading Privileges of the iShares® Lehman TIPS Bond Fund

December 1, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 13, 2005, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On November 22, 2005, Amex filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposal on an accelerated basis.

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

The Amex proposes to trade shares (the "Fund Shares" or "Shares") of the iShares® Lehman TIPS Bond Fund (ticker symbol: TIP) (the "Fund"),<sup>4</sup> pursuant to unlisted trading privileges ("UTP").

The text of the proposed rule change is available on the Exchange's Internet Web site (<http://www.amex.com>), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### 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. The text of these statements may be examined at the places specified in Item III below, and is set forth in sections A, B, and C below.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> In Amendment No. 1, the Exchange clarified and supplemented certain aspects of its proposal.

<sup>4</sup> iShares® is a registered trademark of Barclays Global Investors, N.A.