

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 28146; 812-13485]

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

February 6, 2008

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.

Applicants: Barclays Global Fund Advisors (the “Adviser”), iShares Trust (the “Trust”) and SEI Investments Distribution Co. (the “Distributor”).

Summary of Application: Applicants request an order that permits: (a) series of certain open-end management investment companies to issue shares (“Shares”) redeemable in large aggregations only (“Creation Units”); (b) secondary market transactions in Shares to occur at negotiated market prices; and (c) certain affiliated persons of the series to deposit foreign currency and money market securities into, and receive foreign currency and money market securities from, the series in connection with the purchase and redemption of Creation Units.

Filing Dates: The application was filed on January 25, 2008. 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 February 26, 2008, 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 who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

Addresses: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090. Applicants: Adviser and Trust, c/o Barclays Global Investors, N.A., 45 Fremont Street, San Francisco, CA 94105; Distributor, One Freedom Valley Drive, Oaks, PA 19456.

For Further Information Contact: Bruce R. MacNeil, Senior Counsel, at (202) 551-6817, or Michael W. Mundt, Assistant Director, 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 (tel. 202-551-5850).

Applicants' Representations:

1. The Trust, an open-end management investment company registered under the Act, is organized as a Delaware statutory trust and as a series fund with multiple series. The Trust will offer two new series that will invest substantially all of their assets in foreign money market securities: iShares Euro Currency Fund and iShares Pound Sterling Currency Fund (each a "New Fund"). Each New Fund will seek to preserve capital and maintain stability of principal by investing in short-term securities that are denominated in the specified local currency and have remaining maturities of sixty days or less ("Portfolio Securities"). Applicants state each New Fund is designed to decrease in value when the value of the U.S. dollar increases relative to

the applicable local currency and increase in value when the value of the U.S. dollar falls relative to the applicable local currency. While the value of each New Fund's Portfolio Securities is expected to be relatively constant in local currency terms, a New Fund's net asset value ("NAV") will be expressed in U.S. dollars. Because of this, fluctuations in the per Share NAV of each New Fund will be caused by fluctuations in the exchange rate between U.S. dollars and the applicable local currency.

2. The Trust plans to offer future series that will hold money market securities denominated in a different local currency than the New Funds ("Future Funds"). Applicants request that the order apply to any such Future Funds. Any Future Fund will be (a) advised by the Adviser, and (b) comply with the terms and conditions of the order. The New Funds and the Future Funds together are the "New Funds." Each New Fund will operate as an actively-managed exchange-traded fund.

3. The Adviser, a California corporation, is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act") and will serve as investment adviser to each New Fund. The Distributor, a Pennsylvania corporation, is registered under the Securities Exchange Act of 1934 ("Exchange Act") and serves as principal underwriter and distributor for the New Funds.

4. Shares of the New Funds will be sold in Creation Units of 25,000 or more. All orders to purchase Creation Units must be placed with the Distributor by or through an "Authorized Participant," an entity that has entered into an agreement with the Distributor and that is a participant in the Depository Trust Company ("DTC," and such participant, "DTC Participant"). Shares of each New Fund will be sold in Creation Units in exchange for a designated amount of the applicable local currency (the "Currency Deposit"). Each New Fund

reserves the right to permit or require the substitution of an amount of securities denominated in the applicable local currency (“Deposit Securities,” together with the Currency Deposit, the “Fund Deposit”) to replace a portion of the Currency Deposit.<sup>1</sup> An investor purchasing a Creation Unit from a New Fund will be charged a fee (“Transaction Fee”) to cover certain transaction costs associated with the issuance of Creation Units. The Distributor will maintain a record of Creation Unit purchases.

5. Purchasers of Shares in Creation Units may hold such Shares or may sell such Shares into the secondary market. Shares will be listed on a national securities exchange, as defined in section 2(a)(26) of the Act (a “Listing Market”). It is expected that one or more member firms of a Listing Market will be designated to act as a specialist and maintain a market for Shares on the Listing Market (the “Specialist”). Prices of Shares trading on a Listing Market will be based on the current bid/offer market. Shares sold in the secondary market will be subject to customary brokerage commissions and charges.

6. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs (which could include institutional investors). The Specialist, in providing a fair and orderly secondary market for the Shares, also may purchase Creation Units for use in its market-making activities. Applicants expect that secondary market purchasers of

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<sup>1</sup> It is intended that, on each day that a New Fund is open, including as required by section 22(e) of the Act (“Business Day”), the New Fund will make available the estimated Fund Deposit. The estimated Fund Deposit is an amount per creation unit expressed in the applicable local currency representing the previous Business Day’s Fund Deposit plus the current Business Day’s accrued expenses, interest and income. To the extent a New Fund requires a substitution of Deposit Securities for a portion of the Currency Deposit, a description of the Deposit Securities, including the names and amount of the Deposit Securities required to be contributed, will be made available prior to the opening of business on the Listing Market. The Listing Market, or a third-party financial information provider, intends to disseminate, every 15 seconds, during regular trading hours, an approximate amount per Share representing the NAV from the prior Business Day adjusted to reflect the current Business Day’s expenses, interest and income calculated using the amortized cost method and the current currency spot rate.

Shares will include both institutional investors and retail investors.<sup>2</sup> 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.

7. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from a New Fund, or tender such Shares for redemption to the New Fund, in Creation Units only. To redeem, an investor will have to accumulate enough Shares to constitute a Creation Unit. Redemption orders must be placed by or through an Authorized Participant. An investor redeeming a Creation Unit generally will receive a specified amount of local currency (the “Currency Redemption Amount”). Each New Fund reserves the right to substitute Portfolio Securities for all or a portion of the Currency Redemption Amount.<sup>3</sup> A redeeming investor may pay a Transaction Fee to offset transfer and other transaction costs that may be incurred by the New Fund in processing the redemption.

8. Neither the Trust nor any individual New Fund will be marketed or otherwise held out as an “open-end investment company” or a “mutual fund.” The prospectus (“Prospectus”) for each New Fund will prominently disclose that the New Fund is an “actively-managed exchange-traded fund.” All marketing materials that describe the method of obtaining, buying or selling Shares, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and that the owners of Shares may purchase or redeem Shares from a

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<sup>2</sup> Shares will be registered in book-entry form only. DTC or its nominee will be the registered owner of all outstanding Shares. DTC or DTC Participants will maintain records reflecting beneficial owners of Shares.

<sup>3</sup> To the extent a New Fund requires a substitution of Portfolio Securities for the Currency Redemption Amount, a description of the Portfolio Securities, including the names and amount of the Portfolio Securities, will be made available prior to the opening of business on the applicable Listing Market.

New Fund in Creation Units only. The same approach will be followed in the SAI, shareholder reports and investor educational materials issued or circulated in connection with the Shares.

The New Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

9. The New Funds' website, which will be publicly available at no charge, will include information about the New Funds that is updated on a daily basis, including the mid-point of the bid-ask spread at the time of the calculation of NAV ("Bid/Ask Price"). On each Business Day, before the commencement of trading in Shares on the Listing Market, each New Fund will disclose the identities and quantities of the Portfolio Securities and other assets held in the New Fund portfolio that will form the basis for the New Fund's calculation of NAV at the end of the Business Day.<sup>4</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 (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, from any provision of the Act, 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. Section 17(b) of the Act authorizes the Commission to exempt a proposed

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<sup>4</sup> Applicants note that under accounting procedures followed by the New Funds, trades made on the prior Business Day ("T") will be booked and reflected in NAV on the current Business Day ("T + 1"). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

transaction from section 17(a) of the Act 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 on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general 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 New Fund, as a series of an open-end management investment company, to issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units from each New Fund and redeem Creation Units from each New Fund. Applicants further state that because the market price of Shares 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.

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, which is currently being offered to the public by or through a principal 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) of the Act and rule 22c-1 under the Act. Applicants request an exemption under section 6(c) 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 (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract 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 that (a) 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. 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.



## Sections 17(a)(1) and (2) of the Act

7. Section 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person (“second tier affiliate”), from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines “affiliated 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 and any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act provides that a control relationship will be presumed where one person owns more than 25% of another person’s voting securities. Applicants request an exemption from 17(a) under sections 6(c) and 17(b), to permit in-kind purchases and redemptions by persons that are affiliated persons or second-tier affiliates of the New Funds by virtue of holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more of the New Funds.

8. Applicants state that although there is no present intention to permit in-kind purchases, applicants contend that no useful purpose would be served by prohibiting affiliated persons from making in-kind purchases or redemptions of Shares in Creation Units. The deposit procedures for in-kind purchases and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions. Deposit Securities will be valued under the same objective standards applied to valuing Portfolio Securities. Therefore, applicants state that in-kind purchases and redemptions for which relief is requested will afford no opportunity for the affiliated persons and second-tier affiliates described above to effect a transaction detrimental to other holders of Shares. Applicants also believe that these purchases

and redemptions will not result in self-dealing or overreaching by those persons of the New Fund.

Applicants' Conditions:

The applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

1. Each New Fund's Prospectus will clearly disclose that, for purposes of the Act, Shares are issued by the New Fund and that the acquisition of Shares by investment companies and companies relying on Sections 3(c)(1) or 3(c)(7) of the Act is subject to the restrictions of Section 12(d)(1) of the Act, except as permitted by an exemptive order that permits registered investment companies to invest in a New Fund beyond the limits of Section 12(d)(1), subject to certain terms and conditions, including that the registered investment company enter into an agreement with the New Fund regarding the terms of the investment.

2. As long as each New Fund operates in reliance on the requested order, the Shares will be listed on a Listing Market.

3. Neither the Trust nor any New Fund will be advertised or marketed as an open-end investment company or a mutual fund. Each New Fund's Prospectus will prominently disclose that the New Fund is an "actively managed exchange-traded fund." Each New Fund's Prospectus will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from a New Fund and tender those Shares for redemption to a New Fund 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 a New Fund and tender those Shares for redemption to a New Fund in Creation Units only.

4. The web site for the Trust, which will be publicly accessible at no charge, will contain the following information, on a per Share basis, for each New Fund: (a) the prior Business Day's NAV and the Bid/Ask Price and a calculation of the premium or discount of the Bid/Ask Price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

5. The Prospectus and annual report for each New Fund will also include: (a) the information listed in condition 4(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 New Fund), (i) the cumulative total return and the average annual total return based on NAV and Bid/Ask Price, and (ii) the cumulative total return of the relevant local currency against the U.S. dollar.

6. On each Business Day, before the commencement of trading in Shares on a New Fund's Listing Market, the New Fund will disclose on its website the identities and quantities of the money market securities and other assets held by the New Fund that will form the basis for the New Fund's calculation of NAV at the end of the Business Day.

7. The Adviser and any subadviser, directly or indirectly, will not cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact

with the New Fund) to acquire any Deposit Security for a New Fund through a transaction in which the New Fund could not engage directly.

8. The requested order will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of actively-managed exchange-traded funds.

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

Florence E. Harmon  
Deputy Secretary