



Information Circular: HealthShares, Inc. Exchange-Traded Funds

To: Head Traders, Technical Contacts, Compliance Officers, Head of ETF Trading, Structured Products Traders

From: William Slattery, Director, NASDAQ Listing Qualifications Department

DATE: April 3, 2007

Background Information on the Funds

HealthShares, Inc. is an investment company with several series of underlying fund portfolios (the "Funds"). Each Fund is an "index fund" that issues ETF Shares ("ETF Shares" or "Shares") listed on the New York Stock Exchange and is an open-end management company registered under the Investment Company Act of 1940, as amended ("1940 Act"). Each Fund seeks to invest in a portfolio of securities that substantially replicates a particular benchmark index. See Appendix A for a list of the Funds that commenced trading on an unlisted trading privileges ("UTP") basis on NASDAQ on April 3, 2007.

XShares Advisors LLC (the "Advisor") serves as investment advisor to the Funds with overall responsibility for the general management and administration of the Funds, subject to the supervision of the Funds' Board of Directors. The Advisor's parent company is XShares Group LLC, the creator of the underlying indexes for the Funds. The Advisor has no prior experience managing exchange-traded funds or registered investment companies.

BNY Investment Advisors (the "Sub-Adviser"), a division of The Bank of New York, a New York State banking corporation, acts as investment sub-adviser to the Funds. Pursuant to an Agreement between the Advisor and the Sub-Adviser, the Sub-Adviser will be responsible for the day-to-day management of the Funds, subject to the supervision of the Advisor and the Funds' Board of Directors. The Bank of New York also serves as the Administrator, Custodian and Transfer Agent to the Funds. ALPS Distributors, Inc. serves as the distributor of Creation Units for each Fund on an agency basis. The Distributor does not maintain a secondary market in shares of the Funds.

Each Fund's investment objective is to seek to track the performance, before fees and expenses, of a particular underlying index. The Advisor uses a passive, or indexing, approach in managing the Funds. Unlike many mutual funds, the Funds do not seek to outperform any particular market sector and will not assume temporary defensive positions when markets decline or appear overvalued. Each Fund will invest at least 90% of its assets in the common stocks of companies in the underlying Index, or in American Depositary Receipts or Global Depositary Receipts

based on securities of international companies in the underlying index. Because each underlying index is comprised only of stocks as indicated by its name (e.g., only “diagnostics” companies are contained in the HealthShares Diagnostics Index), this means that each Fund will invest at least 90% of its assets in such companies. The Funds will provide shareholders with at least 60 days’ notice of any change in these policies.

Each Fund may also invest up to 10% of its assets in futures contracts, options on futures contracts, options, swaps on securities of companies in the underlying index, as well as cash and cash equivalents, such as money market instruments (subject to applicable limitations of the 1940 Act). Each Fund will attempt to replicate the underlying index by matching the weighting of securities in its portfolio with such securities’ weightings in the underlying index. In managing the Funds, the Advisor seeks a correlation of 0.95 or better between each Fund’s performance and the performance of the underlying index. A figure of 1.00 would represent perfect correlation. There is no guarantee that the Advisor will be able to obtain this level of correlation.

As described more fully in the prospectus and the Statement of Additional Information (“SAI”) for the Funds, the Funds offer and issue Shares at their net asset value (“NAV”) only in blocks of 100,000 Shares. These 100,000 Share blocks are called “Creation Units.” You can purchase shares directly from a Fund only in Creation Units or multiples thereof. For any particular Fund, the number of Fund shares in a Creation Unit will not change over time, except in the event that the Fund splits or revalues its shares. The Funds will not issue fractional Creation Units. To purchase shares directly from a Fund, you must be a Participating Organization or must purchase through a broker that is a Participating Organization. A Participating Organization is a participant of the Continuous Net Settlement System of the National Securities Clearing Corporation (“NSCC”) or the Depository Trust Company (“DTC”) that has executed a Participant Agreement with the Fund’s distributor. Most Participating Organizations are expected to be brokerage firms.

The NAV of each Fund’s Shares is calculated each business day as of the close of regular trading on the NYSE, generally 4:00 p.m., Eastern Time (ET). NAV per Share is computed by dividing the net assets by the number of shares outstanding. If you buy or sell Shares on the secondary market, you will pay or receive the market price, which may be higher or lower than NAV. Your transaction will be priced at NAV only if you purchase or redeem your Shares in Creation Unit blocks.

The registration statement for the Funds describes the various fees and expenses for each Fund’s Shares.

For a more complete description of the Funds and the underlying indexes, visit www.healthsharesinc.com.

Purchases and Redemptions in Creation Unit Size

NASDAQ members are hereby informed that procedures for purchases and redemptions of Shares in Creation Unit Size are described in the Trusts’ prospectus and SAI and that Shares are not individually redeemable but are redeemable only in Creation Unit Size aggregations or multiples thereof.

Principal Risks

Interested persons are referred to the discussion in the prospectus for the Funds of the principal risks of an investment in the Funds. These include tracking error risk (factors causing a Fund's performance to not match the performance of the underlying index), market trading risk (for example, trading halts, trading above or below net asset value), stock market risk, investment style risk, interest rate risk, investment approach risk, concentration risk, non-diversification risk, issuer-specific risk, management risk, lack of market liquidity, lack of governmental insurance or guarantee and fiscal policy risk.

Exchange Rules Applicable to Trading in the Shares

Trading in the Shares on NASDAQ is on a UTP basis and is subject to [NASDAQ equity trading rules](#).

Trading Hours

The values of the index underlying the Shares are disseminated to data vendors every 15 seconds. The Shares will trade on NASDAQ between 7:00 a.m. and 8:00 p.m., ET, unless otherwise indicated.

Suitability

Trading in the Shares on NASDAQ will be subject to the provisions of [NASDAQ Rule 2310](#). Members recommending transactions in the Shares to customers should make a determination that the recommendation is suitable for the customer. In addition, members must possess sufficient information to satisfy the "know your customer" obligation that is embedded in the NASDAQ Conduct Rules.

Members also should review [NASD Notice to Members 03-71](#) or guidance on trading these products. The Notice reminds members of their obligations to: (1) conduct adequate due diligence to understand the features of the product; (2) perform a reasonable-basis suitability analysis; (3) perform customer-specific suitability analysis in connection with any recommended transactions; (4) provide a balanced disclosure of both the risks and rewards associated with the particular product, especially when selling to retail investors; (5) implement appropriate internal controls; and (6) train registered persons regarding the features, risk and suitability of these products.

Trading Halts

NASDAQ will halt trading in the Shares of a Fund in accordance with [NASDAQ Rule 4120](#). The grounds for a halt under NASDAQ Rule 4120 include a halt by the primary market because the intraday indicative value of the Fund and/or the value of its underlying index are not being disseminated as required, or a halt for other regulatory reasons. In addition, NASDAQ will also stop trading the Shares of a Fund if the primary market de-lists the Fund.

Delivery of a Prospectus

NASDAQ members should be mindful of applicable prospectus delivery requirements under the federal securities laws with respect to transactions in the Funds.

Prospectuses may be obtained via the [Funds' website](#). The prospectus for the Funds does not contain all of the information set forth in the Funds' registration statement (including the exhibits to the registration statement), parts of which have been omitted in accordance with the rules and regulations of the Securities and Exchange Commission ("SEC"). For further information about the Funds, please refer to the registration statement.

In the event that the Funds rely upon an order by the SEC exempting the Shares from certain prospectus delivery requirements under Section 24(d) of the 1940 Act and in the future make available a written product description, [NASDAQ Rule 4420\(j\)\(2\)](#) requires that NASDAQ members provide to all purchasers of Shares a written description of the terms and characteristics of such securities, in a form prepared by the Trust for the Funds, no later than the time a confirmation of the first transaction in the Shares is delivered to such purchaser. In addition, NASDAQ members shall include such a written description with any sales material relating to the Shares that is provided to customers or the public. Any other written materials provided by a NASDAQ member to customers or the public making specific reference to the ETF Shares as an investment vehicle must include a statement in substantially the following form: "A circular describing the terms and characteristics of the Shares of the Fund has been prepared by the Trust and is available from your broker. It is recommended that you obtain and review such circular before purchasing Shares of the Fund. In addition, upon request you may obtain from your broker a prospectus for Shares of the Fund."

A NASDAQ member carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase Shares for such omnibus account will be deemed to constitute agreement by the non-member to make such written description available to its customers on the same terms as are directly applicable to NASDAQ member under this rule.

Upon request of a customer, NASDAQ members also shall provide a copy of the Prospectus.

Exemptive, Interpretive and No-Action Relief Under Federal Securities Regulations

The SEC has issued exemptive, interpretive or no-action relief from certain provisions of rules under the Securities Exchange Act of 1934 (the "ACT") regarding trading in the above mentioned exchange-traded funds.

Short Sale Rules

Transactions in ETFs will not be subject to "tick" requirements of the SEC short sale rule (SEC Rule 10a-1) or the "bid" requirements of the NASDAQ short sale rule ([NASDAQ Rule 3350](#)). Short orders must be marked SHORT or SHORT EXEMPT. (See paragraph below regarding Rule 200(g) of Regulation SHO.)

Rule 200(g) of Regulation SHO

The SEC Division of Market Regulation has stated that the Division will not recommend enforcement action under Rule 200(g) of Regulation SHO if a broker-dealer marks "short" rather than "short exempt" a short sale effected in the Funds, subject to specified conditions, including that a broker-dealer executing exempt short sales will mark such sales as "short" and in no event will such sales be marked "long". (See [letter](#) from James A. Brigagliano, Assistant Director, Division of Market Regulation, SEC, to Ira Hammerman, Senior Vice President and General Counsel, Securities Industry Association, dated January 3, 2005.)

Regulation M Exemptions

Generally, Rules 101 and 102 of Regulation M prohibit any "distribution participant" and its "affiliated purchasers" from bidding for, purchasing or attempting to induce any person to bid for or purchase any security which is the subject of a distribution until after the applicable restricted period, except as specifically permitted in Regulation M. The provisions of the Rules apply to underwriters, prospective underwriters, brokers, dealers, and other persons who have agreed to participate or are participating in a distribution of securities.

The SEC has granted an exemption from Rule 101 under Regulation M to permit persons participating in a distribution of shares of the above-mentioned Funds to engage in secondary market transactions in such shares during their participation in such a distribution. In addition, the SEC has granted relief under Regulation M to permit persons who may be deemed to be participating in the distribution of shares of the above-mentioned Funds (i) to purchase securities for the purpose of purchasing Creation Unit Aggregations of Fund Shares and to (ii) tender securities for redemption in Creation Unit Aggregations. Further, the SEC has clarified that the tender of Fund Shares to the Funds for redemption does not constitute a bid for or purchase of any of the Funds' securities during the restricted period of Rule 101. The SEC has also granted an exemption pursuant to paragraph (e) of Rule 102 under Regulation M to allow the redemption of Fund Shares in Creation Unit Aggregations during the continuous offering of shares.

Customer Confirmations for Creation or Redemption of Fund Shares (SEC Rule 10b-10)

Broker-dealers who handle purchases or redemptions of Fund Shares in Creation Unit size for customers will be permitted to provide such customers with a statement of the number of Creation Unit Aggregations created or redeemed without providing a statement of the identity, number and price of shares of the individual securities tendered to the Fund for purposes of purchasing Creation Unit Aggregations ("Deposit Securities") or the identity, number and price of shares to be delivered by the Trust for the Fund to the redeeming holder ("Redemption Securities"). The composition of the securities required to be tendered to the Fund for creation purposes and of the securities to be delivered on redemption will be disseminated each business day and will be applicable to requests for creations or redemption, as the case may be, on that day. This exemptive relief under Rule 10b-10 with respect to creations and redemptions is subject to the following conditions:

1. Confirmations to customers engaging in creations or redemptions must state that all information required by Rule 10b-10 will be provided upon request
2. Any such request by a customer for information required by Rule 10b-10 will be filed in a timely manner, in accordance with Rule 10b-10(c)
3. Except for the identity, number and price of shares of the component securities of the Deposit Securities and Redemption Securities, as described above, confirmations to 10b-10(a)

SEC Rule 14e-5

An exemption from Rule 14e-5 has been granted to permit any person acting as a dealer-manager of a tender offer for a component security of the Funds to (1) redeem Fund Shares in Creation Unit Aggregations from the issuer that may include a security subject to such tender offer and (2) to purchase Fund Shares during such tender offer. In addition, a no-action position has been taken under Rule 14e-5 if a broker-dealer acting as a dealer-manager of a tender offer for a security of the Fund purchases or arranges to purchase such securities in the secondary market for the purpose of tendering such securities to purchase one or more Creation Unit Aggregations of Shares, if made in conformance with the following:

1. such bids or purchases are effected in the ordinary course of business, in connection with a basket of 20 or more securities in which any security that is the subject of a distribution, or any reference security, does not comprise more than 5% of the value of the basket purchased; or
2. purchases are effected as adjustments to such basket in the ordinary course of business as a result of a change in the composition of the underlying index; and
3. such bids or purchases are not effected for the purpose of facilitating such tender offer.

Section 11(d)(1); SEC Rules 11d1-1 and 11d1-2

Section 11(d)(1) of the Act generally prohibits a person who is both a broker and a dealer from effecting any transaction in which the broker-dealer extends credit to a customer on any security which was part of a new issue in the distribution of which he participated as a member of a selling syndicate or group within thirty days prior to such transaction. The SEC has clarified that Section 11(d)(1) does not apply to broker-dealers that are not Authorized Participants (and, therefore, do not create Creation Unit Aggregations) that engage in both proprietary and customer transactions in Shares of the Funds in the secondary market, and for broker-dealer Authorized Participants that engage in creations of Creation Unit Aggregations. This relief is subject to specific conditions, including the condition that such broker-dealer (whether or not an Authorized Participant) does not, directly or indirectly, receive from the fund complex any payment, compensation or other economic incentive to promote or sell the Shares of the Funds to persons outside the fund complex, other than non-cash compensation permitted under NASD Rule 2830(I)(5)(A), (B) or (C). (See [letter](#) from Catherine McGuire, Chief Counsel, SEC Division of Market Regulation, to Securities Industry Association, Derivative Products Committee, dated November 21, 2005.) The SEC also has taken a no-action position under Section 11(d)(1) of the Act that broker-dealers may treat Shares of the Funds, for purposes of Rule 11d1-2, as "securities issued by a registered open-end investment company as defined in the Investment Company Act" and thereby extend credit or maintain or

arrange for the extension or maintenance of credit on Shares that have been owned by the persons to whom credit is provided for more than 30 days, in reliance on the exemption contained in the rule.

SEC Rule 15c1-5 and 15c1-6

The SEC has taken a no-action position with respect to Rule 15c1-5 and Rule 15c1-6 as to the required disclosure of control by a broker or dealer with respect to creations and redemptions of Fund Shares and secondary market transactions therein. (See [letter](#) from Catherine McGuire, Chief Counsel, SEC Division of Market Regulation, to Securities Industry Association, Derivative Products Committee, dated November 21, 2005.)

This Information Circular is not a statutory prospectus. NASDAQ members should consult the HealthShares prospectus and the Funds' website at www.healthsharesinc.com for relevant information.

Inquiries regarding this Information Circular should be directed to:

- [Will Slattery](#), Director, NASDAQ Listing Qualifications, at 301.978.8088
- [NASDAQ Market Sales](#) at 800.846.0477

Appendix A

Exchange-Traded Fund	Symbol	CUSIP Number
HealthShares Infectious Disease ETF	HHG	42226E703
HealthShares European Drugs ETF	HRJ	42226E810