transactions by section 4(3) of the Securities Act does not apply to any transaction in a redeemable security issued by a UIT. If MID CAP SPDRs are viewed as redeemable because Creation Units are redeemable and MID CAP SPDRs are deemed to be securities of the same class, section 24 would apply. Because the applicability of section 24(d) is not free from doubt, applicants have requested an exemption from that section to permit dealers trading in MID CAP SPDRs to rely on the prospectus delivery exemption provided by section 4(3) of the Securities Act. Assuming section 24(d) applies, the exemption is necessary because, according to applicants, the imposition of prospectus delivery requirements on transactions by dealers in the secondary market will materially and adversely impede the success of the MID CAP SPDRs product.

6. Applicants note that the secondary market for MID CAP SPDRs is significantly different from the typical secondary market for UIT securities, which usually is maintained by the sponsor. MID CAP SPDRs will be listed on a national securities exchange and will be traded in a manner similar to the shares of common stock issued by operating companies and closed-end investment companies. Dealers selling shares of operating companies and closed-end funds in the secondary market generally are not required to deliver a prospectus to the purchaser. Applicants contend that the MID CAP SPDRs should be subject to the same regulatory scheme as securities issued by operating companies and closed-end

7. Because MID CAP SPDRs will be exchange-listed, prospective investors will have access to several types of information about the product. Information regarding sales price and volume will be continually available on a real time basis throughout the day on brokers' computer screens and other electronic services, such as Quotron. The previous day's price and volume information will be published daily in the financial section of newspapers. Applicants also will publish daily, on a per MID CAP SPDR basis, the amount of accumulated dividends, net of accrued expenses. In addition, applicants expect that MID CAP SPDRs, like SPDRs, will be viewed as a novel, cost-effective, index security and will generate significant interest in the financial community. Applicants expect that broker-dealers and market analysts will familiarize themselves with the product, follow its performance, and share their opinions of the product with clients and other investors, resulting in even greater amounts of available information for investors.

8. In addition to all the information set forth above, investors will receive the Product Description. While not intended to substitute for a full prospectus, the Product Description will contain useful information about MID CAP SPDRs.

9. Section 26(a)(2)(C) requires, among other things, that the trust indenture prohibit payments to the trust's depositor (i.e., the Sponsor), and any affiliated person of the depositor, except payments for performing certain administrative services not relevant hereto. Applicants request an exemption from section 26(a)(2)(C) to permit the Trust to reimburse the Sponsor or AMEX, up to a maximum of 30 basis points of the Trust's net asset value on an annualized basis, for the following expenses: (a) annual licensing fees for use of the "S&P MidCap 400" trademark; (b) federal and state annual registration fees for the issuance of MID CAP SPDRs; (c) expenses of the Sponsor relating to the printing and distribution of marketing materials describing MID CAP SPDRs and the Trust; and (d) the initial fees and expenses incurred in connection with the organization of the Trust, which will be capitalized and amortized over five years on a straightline basis.

10. Ordinarily, the sponsor of a UIT has several sources of income, and expenses normally incurred by the sponsor in connection with the creation and maintenance of a UIT can be offset against the income from such sources. As the proposed Trust is structured, however, the usual sources of income are not available because the Sponsor will not impose a sales load, maintain a secondary market, or deposit Index Securities into the Trust. Although the Sponsor's parent company, the AMEX, will earn some income on the trading fees imposed on transactions occurring on the exchange, applicants expect that such fees will generate substantially less revenue than what would have been generated by a normal sales load or sales charges on secondary market trades of MID CAP SPDRs. In light of the above, applicants contend that the abuse sought to be remedied by section 26(a)(2)(C)—"double dipping" by UIT sponsors collecting money from their captive trusts on top of the profits already generated by sales charges and other sources of income-will not be present if the requested exemption is granted. In any event, the payment is capped at 30 basis points of the Trust's net asset value on an annualized basis. Expenses in excess of that figure will be absorbed by the Sponsor or the AMEX.

11. Section 14(a) provides, in part, that no registered investment company may make an initial public offering of its securities unless it has a net worth of \$100,000, or provision is made in connection with the registration of such securities that (i) firm agreements to purchase \$100,000 worth of such securities will have been made by not more than 25 persons, and (ii) all proceeds, including sales loads, will be refunded to investors if the investment company has a net worth of less than \$100,000 within 90 days after the effective date of the registration statement.

12. Rule 14a-3 under the Act provides an exemption from section 14(a) for UITs that invest only in "eligible trust securities" and agree to certain investor safeguards, including the refund of any sales loads collected from investors. Applicants will comply in all respects with rule 14a-3, except that the Trust will not restrict its investments to eligible trust securities, which do not include equity securities, and the Trustee will not refund the Transaction Fee discussed above. The fact that the Trust's portfolio is invested in equity rather than debt securities, applicants contend, does not negate the effectiveness of the safeguards nor subject investors to greater risk of loss due to investment in an undercapitalized investment company. With respect to the Transaction Fee. applicants believe that it is not a sales load, and therefore is not covered by the refund provision. In addition, the Transaction Fee will be paid not by small retail investors, but by institutional and other sophisticated, well-capitalized investors who can afford the \$850,000 purchase price of a Creation Unit. Such investors are able to assume the risk, which will be disclosed in the prospectus, of forfeiting the relatively small additional amount represented by the Transaction Fee.

13. Section 17(a) generally prohibits an affiliated person of a registered investment company from purchasing from or selling to such company any security or other property. Because purchases and redemptions will be "inkind" rather than cash transactions, section 17(a) may prohibit affiliated persons of the Trust from purchasing or redeeming Creation Units. Moreover, because the definition of affiliated person includes anyone owning 5% or more of an issuer's outstanding voting stock, every purchaser of a Creation Unit will be affiliated with the Trust so long as there are twenty or fewer holders of Creation Units. Applicants request an exemption from section 17(a) pursuant to sections 6(c) and 17(b), to