

regulatory benefits gained in terms of furthering the purposes of the Exchange Act. The Commission believes that adoption of Rules 12f-2 and 12f-5, and the amendments to Rules 12f-1 and 12f-3, and the rescission of previous Rules 12f-2 (to be replaced with new Rule 12f-2) and 12f-6 will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. Specifically, as discussed in more detail above, the Commission believes that the new Rule 12f-2 one-trading-day delay for UTP in IPOs provides a minimal restraint on competition among market centers which is outweighed by the benefits associated with the resulting reduction of potential price volatility risk in IPO securities. In addition, the one-trading-day delay is shorter than the current temporary two-trading day delay.

The Commission has prepared a Final Regulatory Flexibility Analysis ("FRFA") regarding the amendments and rescissions to the rules under Section 12(f), in accordance with 5 U.S.C. 604. The FRFA notes the minimal economic effect on the minimal number of small businesses, if any, that may be generated by these amendments to and rescissions of these rules under Section 12(f) of the Exchange Act. In addition, the FRFA notes that Rule 12f-2 should reduce the risk of high price volatility, and possible associated risk of loss to investors, in listed IPOs. The Commission believes that the benefits of reducing risk to investors outweigh the potential costs, if any, that might be incurred by, for example, small specialist firms on regional exchanges.

A copy of the FRFA will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549.

VII. Effective Date

The new rules and amendments to the Commission's rules and forms shall be effective immediately, in accordance with the Administrative Procedure Act, which allows effectiveness in less than 30 days after publication for, inter alia, "a substantive rule which grants or recognizes an exemption or relieves a restriction." 5 U.S.C. 553(d)(1). Moreover, the Administrative Procedures Act allows for accelerated effectiveness "as provided by the agency for good cause and published with the Rule." 5 U.S.C. 553(d)(3). Accelerated effectiveness of the rules and amendments is necessary in order to ensure compliance with the UTP Act, which requires the Commission to

prescribe the duration of the waiting period, if any, for UTP in listed IPOs "[n]ot later than 180 days after the date of enactment of the Unlisted Trading Privileges Act of 1994 * * *."46

List of Subjects in 17 CFR Parts 240 and 249

Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, the Commission hereby amends title 17, chapter II of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78w, 78x, 78ll(d), 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

* * * * *
 2. Section 240.12f-1 is amended by revising the section heading and introductory text of paragraph (a), redesignating paragraphs (a)(5) and (a)(6) as paragraphs (a)(6) and (a)(7), adding paragraph (a)(5), and revising newly designated paragraph (a)(6) to read as follows:

§ 240.12f-1 Applications for permission to reinstate unlisted trading privileges.

(a) An application to reinstate unlisted trading privileges may be made to the Commission by any national securities exchange for the extension of unlisted trading privileges to any security for which such unlisted trading privileges have been suspended by the Commission, pursuant to section 12(f)(2)(A) of the Act (15 U.S.C. 78l(2)(A)). One copy of such application, executed by a duly authorized officer of the exchange, shall be filed and shall set forth:

- (1) * * *
- (5) The date of the Commission's suspension of unlisted trading privileges in the security on the exchange;
- (6) Any other information which is deemed pertinent to the question of whether the reinstatement of unlisted trading privileges in such security is consistent with the maintenance of fair and orderly markets and the protection of investors; and

* * * * *
 3. Section 240.12f-2 is revised to read as follows:

⁴⁶Section 12(f)(1)(C), as amended, 15 U.S.C. 78l(f)(1)(C).

§ 240.12f-2 Extending unlisted trading privileges to a security that is the subject of an initial public offering.

(a) *General Provision*—A national securities exchange may extend unlisted trading privileges to a subject security on or after such national securities exchange opens for trading on the day that follows the day on which the initial public offering of such subject security commences.

(b) The extension of unlisted trading privileges pursuant to this section shall be subject to all the provisions set forth in Section 12(f) of the Act (15 U.S.C. 78l(f)), as amended, and any rule or regulation promulgated thereunder, or which may be promulgated thereunder while the extension is in effect.

(c) *Definitions.* For the purposes of this section:

- (1) The term *subject security* shall mean a security that is the subject of an initial public offering, as that term is defined in section 12(f)(1)(G)(i) of the Act (15 U.S.C. 78l(f)(1)(G)(i)), and
- (2) An *initial public offering commences* at such time as is described in section 12(f)(1)(G)(ii) of the Act (15 U.S.C. 78l(f)(1)(G)(ii)).

4. Section 240.12f-3 is amended by revising paragraph (b) to read as follows:

§ 240.12f-3. Termination or suspension of unlisted trading privileges.

* * * * *
 (b) Unlisted trading privileges in any security on any national securities exchange may be suspended or terminated by such exchange in accordance with its rules.

5. Section 240.12f-5 is added to read as follows:

§ 240.12f-5 Exchange rules for securities to which unlisted trading privileges are extended.

A national securities exchange shall not extend unlisted trading privileges to any security unless the national securities exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends unlisted trading privileges.

6. Section 240.12f-6 is removed and reserved.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

7. The authority citation for Part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted;

* * * * *

§§ 249.27 and 248.28 [Removed]

8. Sections 249.27 and 248.28 are removed.