



United States General Accounting Office
Washington, DC 20548

Office of the General Counsel

B-286222

September 19, 2000

The Honorable Phil Gramm
Chairman
The Honorable Paul S. Sarbanes
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

Subject: Securities and Exchange Commission: Unlisted Trading Privileges

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Securities and Exchange Commission (SEC), entitled "Unlisted Trading Privileges" (RIN: 3235-AH85). We received the rule on August 30, 2000. It was published in the Federal Register as a final rule on September 5, 2000. 65 Fed. Reg. 53560.

Under the final rule, a national securities exchange extending unlisted trading privileges (UTP) to an initial public offering (IPO) listed on another exchange will no longer be required to wait until the day after trading has commenced on the listing exchange to allow trading in that security. Instead, a national securities exchange will be permitted to begin trading an IPO issue immediately after the first trade in the security is reported to the Consolidated Tape.

Enclosed is our assessment of the SEC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the SEC complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Thomas McCool,

Director, Financial Institutions and Markets Issues. Mr. McCool can be reached at (202) 512-8678.

Anthony H. Gamboa
Acting General Counsel

Enclosure

cc: Ms. Margaret H. McFarland
Deputy Secretary
Securities and Exchange Commission

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
SECURITIES AND EXCHANGE COMMISSION
ENTITLED
"UNLISTED TRADING PRIVILEGES"
(RIN: 3235-AH85)

(i) Cost-benefit analysis

While there is no statutory mandate that directs the SEC to perform a specific cost-benefit analysis of the final rule, consideration was given to the impact of the rule on competition. Also, a discussion of the impact of the rule on market participants, listing exchanges, and specialists is included. In determining that the final rule is a major rule, the Office of Management and Budget found that the rule would have a yearly impact of \$319 million.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The SEC prepared an Initial and a Final Regulatory Flexibility Analysis in connection with the proposed and final rules, respectively. The conclusion of the Final Analysis is that the final rule will not have an impact on small entities because none of the national exchanges are considered small.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the SEC is not subject to title II of the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On December 15, 1999, the SEC published a Notice of Proposed Rulemaking in the Federal Register. 64 Fed. Reg. 69974. The SEC received seven comments in response to the proposed rule which are discussed in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains no information collections that are subject to review by the Office of Management and Budget under the Paperwork Review Act.

Statutory authorization for the rule

The final rule is promulgated pursuant to the authority contained in sections 11A(a)(1)(C)(ii), 11A(a)(1)(D), 12(f)(1)(C), 12(f)(1)(D), and 23(a) of the Exchange Act, 15 U.S.C. 78k-1, 78l(f)(1)(C), 78l(f)(1)(D), and 78w(a).

Executive Order No. 12866

As the rule is promulgated by an independent regulatory agency, it is not subject to the review requirements of the order.