

pursuant to paragraph (b)(1)(ii) of this section, including a description of any arrangement for payment for order flow and any profit-sharing relationship.

(2) A broker or dealer shall make the report required by paragraph (b)(1) of this section publicly available within one month after the end of the quarter addressed in the report.

(c) *Customer requests for information on order routing.* (1) Every broker or dealer shall, on request of a customer, disclose to its customer the identity of the venue to which the customer's orders were routed for execution in the six months prior to the request, whether the orders were directed orders or non-directed orders, and the time of the transactions, if any, that resulted from such orders.

(2) A broker or dealer shall notify customers in writing at least annually of the availability on request of the information specified in paragraph (c)(1) of this section.

(d) *Exemptions.* The Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of this section, if the Commission determines that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.

[65 FR 75436, Dec. 1, 2000]

SECURITIES EXEMPTED FROM  
REGISTRATION

**§ 240.12a-4 Exemption of certain warrants from section 12(a).**

(a) When used in this section, the following terms shall have the meaning indicated unless the context otherwise requires:

(1) The term *warrant* means any warrant or certificate evidencing a right to subscribe to or otherwise acquire another security, issued or unissued.

(2) The term *beneficiary security* means a security to the holders of which a warrant or right to subscribe to or otherwise acquire another security is granted.

(3) The term *subject security* means a security which is the subject of a war-

rant or right to subscribe to or otherwise acquire such security.

(4) The term *in the process of admission to dealing*, in respect of a specified security means that (i) an application has been filed pursuant to section 12 (b) and (c) of the Act for the registration of such security on a national securities exchange; or (ii) the Commission has granted an application made pursuant to section 12(f) of the Act to continue or extend unlisted trading privileges to such security on a national securities exchange; or (iii) written notice has been filed with the Commission by a national securities exchange to the effect that such security has been approved for admission to dealing as a security exempted from the operation of section 12(a) of the Act.

(b) Any issued or unissued warrant granted to the holders of a security admitted to dealing on a national securities exchange, shall be exempt from the operation of section 12(a) of the Act to the extent necessary to render lawful the effecting of transactions therein on any national securities exchange (i) on which the beneficiary security is admitted to dealing or (ii) on which the subject security is admitted to dealing or is in the process of admission to dealing, subject to the following terms and conditions:

(1) Such warrant by its terms expires within 90 days after the issuance thereof;

(2) A registration statement under the Securities Act of 1933 is in effect as to such warrant and as to each subject security, or the applicable terms of any exemption from such registration have been met in respect to such warrant and each subject security; and

(3) Within five days after the exchange has taken official action to admit such warrant to dealing, it shall notify the Commission of such action.

(c) Notwithstanding paragraph (b) of this section, no exemption pursuant to this section shall be available for transactions in any such warrant on any exchange on which the beneficiary security is admitted to dealing unless:

(1) Each subject security is admitted to dealing or is in process of admission to dealing on a national securities exchange; or

(2) There is available from a registration statement and periodic reports or other data filed by the issuer of the subject security, pursuant to any act administered by the Commission, information substantially equivalent to that available with respect to a security listed and registered on a national securities exchange.

(d) Notwithstanding the foregoing, an unissued warrant shall not be exempt pursuant to this section unless:

(1) Formal or official announcement has been made by the issuer specifying (i) the terms upon which such warrant and each subject security is to be issued, (ii) the date, if any, as of which the security holders entitled to receive such warrant will be determined, (iii) the approximate date of the issuance of such warrant, and (iv) the approximate date of the issuance of each subject security; and,

(2) The members of the exchange are subject to rules which provide that the performance of the contract to purchase and sell an unissued warrant shall be conditioned upon the issuance of such warrant.

(e) The Commission may by order deny or revoke the exemption of a warrant under this section, if, after appropriate notice and opportunity for hearing to the issuer of such warrant and to the exchange or exchanges on which such warrant is admitted to dealing as an exempted security, it finds that:

(1) Any of the terms or conditions of this section have not been met with respect to such exemption, or

(2) At any time during the period of such exemption transactions have been effected on any such exchanges in such warrant which (i) create or induce a false, misleading or artificial appearance of activity, (ii) unduly or improperly influence the market price, or (iii) make a price which does not reflect the true state of the market; or

(3) Any other facts exist which make such denial or revocation necessary or appropriate in the public interest or for the protection of investors.

(f) If it appears necessary or appropriate in the public interest or for the protection of investors, the Commission may summarily suspend the exemption of such warrant pending the determination by the Commission

whether such exemption shall be denied or revoked.

(g) Section 240.10b-1 shall be applicable to any warrant exempted by this section.

(Secs. 3, 12, 48 Stat. 882, as amended, 892; 15 U.S.C. 78c, 78l)

[15 FR 3450, June 2, 1950, as amended at 18 FR 128, Jan. 7, 1953]

**§ 240.12a-5 Temporary exemption of substituted or additional securities.**

(a)(1) Subject to the conditions of paragraph (a)(2) of this section, whenever the holders of a security admitted to trading on a national securities exchange (hereinafter called the original security) obtain the right, by operation of law or otherwise, to acquire all or any part of a class of another or substitute security of the same or another issuer, or an additional amount of the original security, then:

(i) All or any part of the class of such other or substituted security shall be temporarily exempted from the operation of section 12(a) to the extent necessary to render lawful transactions therein on an issued or "when-issued" basis on any national securities exchange on which the original, the other or the substituted security is lawfully admitted to trading; and

(ii) The additional amount of the original security shall be temporarily exempted from the operation of section 12(a) to the extent necessary to render lawful transactions therein on a "when-issued" basis on any national securities exchange on which the original security is lawfully admitted to trading.

(2) The exemptions provided by paragraph (a)(1) of this section shall be available only if the following conditions are met:

(i) A registration statement is in effect under the Securities Act of 1933 to the extent required as to the security which is the subject of such exemption, or the terms of any applicable exemption from registration under such act have been complied with, if required;

(ii) Any stockholder approval necessary to the issuance of the security which is the subject of the exemption, has been obtained; and

(iii) All other necessary official action, other than the filing or recording