

timetables that take into account the resources available to small entities; (b) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (c) performance rather than design standards; and (d) an exemption from coverage of the rule, or any part thereof, for small entities. The rule requirements, as explained above, are designed to protect the interests of all fund investors, and an exemption from the conditions in the proposed rules for small entities would not be consistent with the protection of investors. Further clarification, consolidation, or simplification of the requirements is not necessary. The conditions of the rules are design rather than performance standards.

We encourage comment on the IRFA, especially with regard to the number of small entities that are likely to rely on the proposed rules and the impact of the proposed form amendments on small entities. A copy of the IRFA is available from Penelope W. Saltzman, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549-0506.

VIII. Statutory Authority

The Commission is proposing rules 12d1-1, 12d1-2, and 12d1-3 under the authority set forth in sections 6(c), 12(d)(1)(J), and 38(a) of the Investment Company Act [15 U.S.C. 80a-6(c), 80a-12(d)(1)(J), 80a-37(a)]. The Commission is proposing amendments to registration forms under the authority set forth in sections 6, 7(a), 10 and 19(a) of the Securities Act of 1933 [15 U.S.C. 77f, 77g(a), 77j, 77s(a)], and sections 8(b), 24(a), and 30 of the Act [15 U.S.C. 80a-8(b), 80a-24(a), and 80a-29].

List of Subjects

17 CFR Part 239

Reporting and recordkeeping requirements, Securities.

17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Proposed Rules and Form Amendments

For the reasons set out in the preamble, the Commission proposes to amend Title 17, Chapter II of the Code of Federal Regulations to read as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

1. The authority citation for part 270 is amended by revising the subauthority for § 270.12d1-1 to read as follows:

Authority: 15 U.S.C. 80a-1 *et seq.*, 80a-34(d), 80a-37, and 80a-39, unless otherwise noted;

* * * * *

Sections 270.12d1-1, 270.12d1-2, and 270.12d1-3 are also issued under 15 U.S.C. 80a-6(c), 80a-12(d)(1)(J), and 80a-37(a).

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2. Sections 270.12d1-1, 270.12d1-2, and 270.12d1-3 are added to read as follows:

§ 270.12d1-1 Exemptions for investments in money market funds.

(a) *Exemptions.* If the conditions of paragraph (b) of this section are satisfied, notwithstanding sections 12(d)(1)(A), 12(d)(1)(B), and 17(a) of the Act (15 U.S.C. 80a-12(d)(1)(A), 80a-12(d)(1)(B), and 80a-17(a)), and § 270.17d-1:

(1) An investment company ("Acquiring Fund") may purchase and redeem shares issued by a Money Market Fund; and

(2) A Money Market Fund, any principal underwriter therefor, and a broker or a dealer may sell or otherwise dispose of shares issued by the Money Market Fund to an Acquiring Fund.

(b) *Conditions.*

(1) *Administrative fees.* The Acquiring Fund pays no Administrative Fees, or the Acquiring Fund's investment adviser waives its advisory fee in an amount necessary to offset any Administrative Fees.

(2) *Unregistered money market funds.* If the Money Market Fund is not an investment company registered under the Act:

(i) The Acquiring Fund reasonably believes that the Money Market Fund:

(A) Operates in compliance with § 270.2a-7;

(B) Complies with sections 17(a), (d), (e), 18, and 22(e) of the Act (15 U.S.C. 80a-17(a), (d), (e), 80a-18, and 80a-22(e)) as if it were a registered open-end investment company; and

(C) Has adopted procedures designed to ensure that it complies with sections 17(a), (d), (e), 18, and 22(e) of the Act (15 U.S.C. 80a-17(a), (d), (e), 80a-18, and 80a-22(e)) as if it were a registered open-end investment company, periodically reviews and updates those procedures, and maintains books and records describing those procedures;

(D) Maintains the records required by §§ 270.31a-1(b)(1), 270.31a-1(b)(2)(ii),

270.31a-1(b)(2)(iv), and 270.31a-1(b)(9); and

(E) Preserves permanently, the first two years in an easily accessible place, all books and records required to be made under paragraphs (b)(2)(i)(C) and (D) of this section, and makes those records available for examination on request by the Commission or its staff; and

(ii) The adviser to the Money Market Fund is registered with the Commission as an investment adviser under section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3).

(c) *Definitions.*

(1) *Administrative Fees* means any sales charge, as defined in rule 2830(b)(8) of the Conduct Rules of the NASD, or service fee, as defined in rule 2830(b)(9) of the Conduct Rules of the NASD, charged in connection with the purchase, sale, or redemption of securities issued by a Money Market Fund.

(2) *Investment company* includes a company that would be an investment company under section 3(a) of the Act (15 U.S.C. 80a-3(a)) but for the exceptions to that definition provided for in sections 3(c)(1) and 3(c)(7) of the Act (15 U.S.C. 80a-3(c)(1) and 80a-3(c)(7)).

(3) *Money Market Fund* means:

(i) An open-end management investment company registered under the Act that is regulated as a money market fund under § 270.2a-7; or

(ii) A company that would be an investment company under section 3(a) of the Act (15 U.S.C. 80a-3(a)) but for the exceptions to that definition provided for in sections 3(c)(1) and 3(c)(7) of the Act (15 U.S.C. 80a-3(c)(1) and 80a-3(c)(7)) and that:

(A) Is limited to investing in the types of securities and other investments in which a money market fund may invest under § 270.2a-7; and

(B) Undertakes to comply with all the other requirements of § 270.2a-7, except that, if the company has no board of directors, the company's investment adviser performs the duties of the board of directors.

§ 270.12d1-2 Exemptions for investment companies relying on section 12(d)(1)(G) of the Act.

(a) *Exemption to acquire other securities.* Notwithstanding section 12(d)(1)(G)(i)(II) of the Act (15 U.S.C. 80a-12(d)(1)(G)(i)(II)), a registered open-end investment company or a registered unit investment trust that relies on section 12(d)(1)(G) of the Act (15 U.S.C. 80a-12(d)(1)(G)) to acquire securities issued by another registered investment company that is in the same group of