

Melbourne Regional to the Melbourne International Airport.

**EFFECTIVE DATE:** 0901 UTC, November 30, 2000.

**FOR FURTHER INFORMATION CONTACT:**

Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5627.

**SUPPLEMENTARY INFORMATION:**

**History**

The name of the Melbourne Regional Airport, FL, has been changed to the Melbourne International Airport. Therefore, the descriptions of the Class D airspace at Cocoa Patrick AFB, FL, and the Class E5 airspace at Melbourne, FL, must be amended to reflect this change. This rule will become effective on the date specified in the **EFFECTIVE DATE** section. Since this action has no impact on the users of the airspace in the vicinity of the Cocoa Patrick AFB and the Melbourne International Airports, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

**The Rule**

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class D airspace descriptions at Cocoa Patrick AFB, FL, and the Class E4 airspace description at Melbourne, FL. Class D airspace designations and Class E5 airspace designations are published in paragraph 5000 and paragraph 6005, respectively, of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, incorporated by reference in 14 CFR 71.1. The airspace designations in this action will appear subsequently in this order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

**PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS**

1. The authority citation for 14 CFR Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 14 CFR 11.69.

**§71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

*Paragraph 5000 Class D Airspace.*

\* \* \* \* \*

**ASO FL D Cocoa Patrick AFB, FL [Revised]**

Cocoa, Patrick Air Force Base, FL  
(Lat 28°14'22"N, long 80°36'27"W)  
Melbourne International Airport  
(Lat. 28°06'10"N, long. 80°38'45"W)  
That airspace extending upward from the surface to and including 2,500 feet MSL within a 5.3-mile radius of Patrick AFB; excluding the portion south of a line connecting the 2 point of intersection within a 4.3-mile radius circle centered on Melbourne International Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airpoft/Facility Directory.

\* \* \* \* \*

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

**ASO FL E5 Melbourne, FL [Revised]**

Melbourne International Airport, FL  
(Lat 28°06'10"N, long. 80°38'45"W)  
Patrick AFB  
(Lat. 28°14'22"N, long. 80°36'27"W)  
That airspace extending upward from 700 feet above the surface within 6.8 radius of the Melbourne International Airport and within a 7-mile radius of Patrick AFB.

\* \* \* \* \*

Issued in College Park, Georgia, on August 10, 2000.

**Wade T. Carpenter,**

*Acting Manager, Air Traffic Division,  
Southern Region.*

[FR Doc. 00-21817 Filed 9-1-00; 8:45 am]

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**COMMODITY FUTURES TRADING COMMISSION**

**17 CFR Part 146**

**Privacy Act of 1974; Implementation**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is amending its rule to require biennial rather than annual publication of the agency's Privacy Act notice of the existence and character of each of its systems of records to conform to OMB requirements.

**DATES:** Effective on September 5, 2000.

**FOR FURTHER INFORMATION CONTACT:** Stacy Dean Yochum, Counsel to the Executive Director, (202) 418-5157, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, syochum@cftc.gov.

**SUPPLEMENTARY INFORMATION:** In 1996, OMB incorporated guidance to agencies on implementing the reporting and publication requirements of the Privacy Act into Appendix I to OMB Circular A-130 (61 FR 6428, February 20, 1996). OMB revised Appendix 1, changing the annual requirement to review recordkeeping practices, training, violations and notices under the Privacy Act to a biennial review. To conform the review and publication of its system of records to OMB requirements, the Commission is amending § 146.11(a) to require biennial rather than annual publication of the Commission's systems of records under the Privacy Act.

**Administrative Procedure Act**

The Commission has determined that the Administrative Procedure Act, 5 U.S.C. 553, does not require notice of proposed rulemaking and an opportunity for public participation in connection with this amendment. In this regard, the Commission notes that such notice and opportunity for comment is unnecessary because this amendment is related solely to agency organization, procedure and practice and conforms the Commission rules to earlier amendments to the Privacy Act. Accordingly, the Commission finds

good cause to make this amendment effective immediately upon publication in the **Federal Register**. 5 U.S.C. 553(b)(B).

#### List of Subjects in 17 CFR Part 146

Privacy; Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, in particular, section 2(a)(11), the Commission amends Chapter I of Title 17, part 146 of the Code of Federal Regulations as follows:

#### PART 146—RECORDS MAINTAINED ON INDIVIDUALS

1. The authority for Part 146 is revised to read as follows:

**Authority:** 88 Stat. 1896 (5 U.S.C. 552a), as amended; 88 Stat. 1389 (7 U.S.C. 4a(j)).

2. Revise § 146.11, paragraph (a), introductory text, to read as follows:

##### § 146.11 Public notice of records system.

(a) The Commission will publish in the **Federal Register** at least biennially a notice of the existence and character of each of its systems of records, which notice shall include—

\* \* \* \* \*

Issued in Washington, DC on August 29, 2000, by the Commission.

**Jean Webb,**

*Secretary of the Commission.*

[FR Doc. 00-22557 Filed 9-1-00; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 240

[Release No. 34-43217; File No. S7-29-99]

RIN 3235-AH85

#### Unlisted Trading Privileges

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Securities and Exchange Commission is amending Rule 12f-2 under the Securities Exchange Act of 1934 ("Exchange Act"), which governs unlisted trading privileges ("UTP") in listed initial public offerings ("IPOs"). Under the amendment, a national securities exchange extending UTP to an IPO security 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 by the listing exchange to the Consolidated Tape.

**EFFECTIVE DATE:** This final rule is effective November 6, 2000.

**FOR FURTHER INFORMATION CONTACT:** Ira Brandriss, Attorney, at (202) 942-0148, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549-1001.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 12(f) of the Exchange Act<sup>1</sup> governs when a national securities exchange may extend UTP to a security, *i.e.*, allow trading in a security that is not listed and registered on that exchange.<sup>2</sup> The UTP Act of 1994 ("UTP Act")<sup>3</sup> substantially amended Section 12(f). Prior to that time, exchanges had to apply to the Commission for approval before extending UTP to a particular security. The UTP Act removed the application, notice, and Commission approval process from Section 12(f) (except in cases of Commission suspension of UTP in a particular security on an exchange). Accordingly, under Section 12(f) of the Exchange Act, exchanges may immediately extend UTP to a security listed on another exchange unless it is a listed IPO security.<sup>4</sup> For listed IPO securities, Rule 12f-2 of the Exchange Act requires exchanges to wait one full day before they can extend UTP to such securities.

On December 9, 1999, the Commission proposed for comment an

<sup>1</sup> 15 U.S.C. 78l(f).

<sup>2</sup> Section 12(a) generally prohibits trading on an exchange of any security that is not registered (listed) on that exchange. Section 12(f) excludes from this restriction securities traded pursuant to UTP that are registered on another national securities exchange. When an exchange "extends UTP" to a security, the exchange allows its members to trade the security as if it were listed on the exchange. Over-the-counter ("OTC") dealers are not subject to the Section 12(a) registration requirement because they do not transact business on an exchange.

<sup>3</sup> Pub. L. No. 103-389, 108 Stat. 4081 (1994).

<sup>4</sup> Section 12(f)(1)(B), read jointly with Section 12(f)(1)(A)(ii), as amended, provides this exception for listed IPO securities. In defining securities that fall within the exception, subparagraphs 12(f)(1)(G)(i) and (ii) provide:

(i) a security is the subject of an initial public offering if—

(I) the offering of the subject security is registered under the Securities Act of 1933; and

(II) the issuer of the security, immediately prior to filing the registration statement with respect to the offering, was not subject to the reporting requirements of Section 13 or 15(d) of this title; and

(ii) an initial public offering of such security commences at the opening of trading on the day on which such security commences trading on the national securities exchange with which such security is registered.

amendment to Rule 12f-2 under the Exchange Act that would eliminate the one-day waiting period and permit a national securities exchange to extend UTP to an IPO security immediately after the first trade in the IPO security on the listing exchange is reported to the Consolidated Tape.<sup>5</sup>

##### A. Current Rule 12f-2

The UTP Act established a temporary two-day waiting period for extending UTP to an IPO security, but allowed the Commission to adopt a rule providing for a shorter waiting period.<sup>6</sup> On April 21, 1995, the Commission adopted Rule 12f-2 under the Exchange Act to provide for a shorter waiting period. The final rule differed from the original proposed rule, which would have allowed a UTP exchange to trade a listed IPO as soon as the first trade on the listing exchange was reported to the Consolidated Tape. The final rule instead established a one-day trading delay for extending UTP to listed IPOs.<sup>7</sup>

In arriving at this position in 1995, the Commission acknowledged the substantial volume of trading that occurs on the initial trading days of IPOs. As a general matter, the Commission agreed with the comments of the regional exchanges that early UTP in IPO securities would enhance the ability of multiple markets to compete for this volume. However, in response to concerns raised by the NYSE and two underwriting firms that IPO pricing could be at risk if there were no opportunity for early centralized trading, the Commission decided to require the one-day waiting period. In making this determination, the Commission noted the possibility that virtually immediate UTP in IPO securities could complicate the pricing and orderly distribution of IPO securities by increasing the risk of price volatility as the securities are distributed to the public. Another significant factor in the Commission's decision to adopt a one-day trading delay in 1995 was the fact that insufficient data was available with

<sup>5</sup> Exchange Act Release No. 42209 (Dec. 9, 1999), 64 FR 69975 (Dec. 15, 1999) ("Proposing Release"). Commission staff also issued a no-action letter to several regional exchanges narrowing the scope of transactions that should be considered IPOs for purposes of Rule 12f-2. See note 32, *infra*.

<sup>6</sup> While providing temporarily for a two-day waiting period, the Act required the Commission to prescribe, by rule or regulation within 180 days of its enactment, the duration of the interval, if any, that the Commission would determine to be "necessary or appropriate for the maintenance of fair and orderly markets, the protection of investors and the public interest" or otherwise in furtherance of the purposes of the Act.

<sup>7</sup> See Exchange Act Release No. 35637 (April 21, 1995), 60 FR 20891 (April 28, 1995).