

§ 230.487

17 CFR Ch. II (4-1-01 Edition)

subsequent post-effective amendment or registration statement relating to the prospectus is filed before such amendment or registration statement becomes effective.

(2) A post-effective amendment or registration statement which includes a prospectus shall become effective under paragraph (a) of this section notwithstanding the filing of a subsequent post-effective amendment or registration statement relating to the prospectus, *Provided*, that the following conditions are met:

(i) The subsequent amendment or registration statement is filed under paragraph (b) of this section; and

(ii) The subsequent amendment or registration statement designates as its effective date either:

(A) The date on which the prior post-effective amendment or registration statement was to become effective under paragraph (a) of this section or

(B) A new effective date designated under paragraph (b)(1)(iii) of this section.

In this case the prior post-effective amendment or registration statement filed under paragraph (a) of this section and any prior post-effective amendment or registration statement filed under paragraph (b) of this section shall also become effective on the new effective date designated under paragraph (b)(1)(iii) of this section.

(3) Notwithstanding paragraphs (d)(1) and (d)(2) of this section, if another post-effective amendment or registration statement relating to the same prospectus is filed under paragraph (a) of this section before the prior amendments or registration statements filed under paragraphs (a) and (b) of this section have become effective, none of such prior amendments or registration statements shall become effective under this section.

(e) *Condition to Use of Paragraphs (a) or (b)*. A post-effective amendment or new registration statement shall not become effective under paragraphs (a) or (b) of this section unless within two years prior to the filing thereof a post-effective amendment or registration statement relating to the common stock of the registrant has become effective.

(f) *Electronic Filers*. When ascertaining the date of filing, electronic filers should not presume a registration statement has been accepted until notice of acceptance has been received from the Commission.

NOTE: To determine the date of automatic effectiveness, the day following the filing date is the first day of the time period. For example, a post-effective amendment filed under paragraph (a) of this section on November 1 would become effective on December 31.

[59 FR 43466, Aug. 24, 1994, as amended at 64 FR 27894, May 21, 1999]

§ 230.487 Effectiveness of registration statements filed by certain unit investment trusts.

(a)(1) A unit investment trust registered under the Investment Company Act of 1940 that files a registration statement pursuant to the Act in connection with the offering of the securities of a series of the unit investment trust, except the first series of such trust, may designate a date and time for such registration statement to become effective. If the registrant complies with the conditions set forth in paragraph (b) of this section, the registration statement shall become effective in accordance with such designation.

(2) The registrant may designate the date and time of effectiveness in the registration statement or in any pre-effective amendment thereto. A pre-effective amendment to a registration statement with respect to which such a designation is properly made shall be deemed to have been filed with the consent of the Commission and shall accordingly be treated as part of the registration statement.

(b) Availability of effectiveness of a registration statement in accordance with paragraph (a) of this section is conditioned upon compliance with the following:

(1) The registrant is not engaged in the business of investing in securities issued by one or more open-end management investment companies;

(2) The designation provided for in paragraph (a) of this section is set forth on the facing sheet of such registration statement or a pre-effective amendment thereto;

(3) The registrant identifies one or more previous series of the trust for which the effective date of the registration statement was determined by the Commission or its staff, and makes the following representations:

(i) That the portfolio securities deposited in the series with respect to which the registration statement or pre-effective amendment is being filed do not differ materially in type or quality from those deposited in such previous series identified by the registrant; and

(ii) That, except to the extent necessary to identify the specific portfolio securities deposited in, and to provide essential financial information for, the series with respect to which the registration statement or pre-effective amendment thereto is being filed, the registration statement or pre-effective amendment thereto does not contain disclosures that differ in any material respect from those contained in the registration statement of such previous series identified by the registrant;

(4) The registrant represents that it has complied with rule 460 under the Act (17 CFR 230.460);

(5) The identification and representations provided for in paragraphs (b)(3) and (b)(4) of this section are made on the signature page of the registration statement or a pre-effective amendment thereto; and

(6) If counsel prepared or reviewed such registration statement or a pre-effective amendment thereto, such counsel shall furnish to the Commission at the time the registration statement or pre-effective amendment thereto is filed a written representation that such registration statement or pre-effective amendment does not contain disclosures which would render such registration statement ineligible to become effective pursuant to paragraph (a) of this section.

(c)(1) The Commission may, in the manner and under the circumstances set forth in paragraph (c)(2) of this section, suspend the ability of a unit investment trust to designate the date and time of effectiveness of a series of such trust. Any such suspension, so long as it is in effect, shall apply to any registration statement that has been filed but has not, at the time of

such suspension, become effective, and to any registration statement with respect to any series of such trust that may be filed after such suspension. Any suspension shall apply only to the ability to designate the date and time of effectiveness pursuant to paragraph (a) of this section and shall not otherwise affect any registration statement.

(2) Any suspension pursuant to paragraph (c)(1) of this section shall become effective at such time as the Commission furnishes written notice thereof to the company or the sponsor of the unit investment trust. The notice of such suspension shall be in writing and shall specify the period for which such suspension shall remain in effect. The Commission may issue such suspension if it appears to the Commission that any registration statement containing a designation pursuant to this section is incomplete or inaccurate in any material respect, whether or not such registration statement has become effective, or that the registrant has not complied with the conditions of this section. Following such action by the Commission, the registrant may file with the Commission at any time a petition for review of the suspension. The Commission will order a hearing on the matter if a request for a hearing is included in the petition.

(d) When ascertaining the date of filing, electronic filers should not presume a registration statement has been accepted until notice of acceptance has been received from the Commission.

[47 FR 20294, May 12, 1982, as amended at 58 FR 14858, Mar. 18, 1993; 59 FR 43467, Aug. 24, 1994; 64 FR 27894, May 21, 1999]

§ 230.488 Effective date of registration statements relating to securities to be issued in certain business combination transactions.

(a) A registration statement filed on Form N-14 by a registered open-end management investment company for the purpose of registering securities to be issued in an exchange offer or other business combination transaction pursuant to Rule 145 under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) shall become effective on the thirtieth day after the date upon which it is filed with the Commission, or such later date designated by the registrant on