

# SEC Approves Further Regulatory Relief and Assistance for Hurricane Sandy Victims

**FOR IMMEDIATE RELEASE**  
**2012-226**

*Washington, D.C., Nov. 14, 2012* — The Securities and Exchange Commission today issued an order providing regulatory relief to publicly traded companies, investment companies, accountants, transfer agents, and others affected by Hurricane Sandy.

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## Additional Materials

- [SEC Order Granting Exemptions](#)

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The loss of property, power, transportation, and mail delivery due to the hurricane poses challenges for some public companies and others that are required to provide information to the SEC and shareholders. To address compliance issues caused by Hurricane Sandy and its aftermath, the order conditionally exempts affected persons from the requirements of the federal securities laws with regard to the following:

- Exchange Act filing requirements for the period from Oct. 29, 2012 to Nov. 20, 2012, provided that the filer disclose the reasons why, in good faith, it cannot file on a timely basis
- Proxy and information statement delivery requirements for companies or others attempting to deliver materials to affected areas
- Investment Company Act requirements for the transmittal to shareholders in affected areas of the annual and semi-annual reports of registered investment companies for the period from Oct. 29, 2012 to Nov. 20, 2012
- Transfer agent compliance with Exchange Act Sections 17A and 17(f) and Exchange Act Rules 17Ad-1 through 17Ad-20, and Exchange Act Rules 17f-1 and 17f-2 for the period from Oct. 29, 2012 to Dec. 1, 2012

- Auditor independence requirements as they relate to reconstruction of previously existing accounting records for audit clients

In addition, the Commission has directed the staff to take the following positions under the Exchange Act, the Securities Act, and the Investment Advisers Act, regarding issues that may arise commonly for companies and others attempting to comply with their obligations under the federal securities laws:

- For purposes of eligibility to use Form S-3 (as well as well-known seasoned issuer status, which is based in part on Form S-3 eligibility) for a company relying on the exemptive order, any of that company's Exchange Act reports that would have been required to be filed during the period from Oct. 29, 2012 to Nov. 20, 2012 will be due by Nov. 21, 2012. Such a company will, therefore, be considered:
  - Current in its Exchange Act reports prior to Nov. 21, 2012 if it was current in its Exchange Act reports as of Oct. 28, 2012
  - Current in its Exchange Act reports as of Nov. 21, 2012 if it was current in its Exchange Act reports as of Oct. 28, 2012 and it has made any filings required during the period from Oct. 29, 2012 to Nov. 20, 2012
  - Timely in its Exchange Act reports prior to Nov. 21, 2012 if it was timely in its Exchange Act reports as of Oct. 28, 2012
  - Timely in its Exchange Act reports as of Nov. 21, 2012 if it was timely in its Exchange Act reports as of Oct. 28, 2012 and it has made any filings required during the period from Oct. 29, 2012 to Nov. 20, 2012 on or before Nov. 21, 2012
- For purposes of the Form S-8 eligibility requirements and the current public information eligibility requirements of Rule 144(c), a company relying on the exemptive order will be considered:
  - Current in its Exchange Act reports prior to Nov. 21, 2012 if it was current in its Exchange Act reports as of Oct. 28, 2012
  - Current in its Exchange Act reports as of Nov. 21, 2012 if it was current in its Exchange Act reports as of Oct. 28, 2012 and it has made any filings required during the period from Oct. 29, 2012 to Nov. 20, 2012

- Companies that receive an extension on filing Exchange Act annual reports or quarterly reports pursuant to the order will be considered to have a due date of Nov. 21, 2012 for those reports for purposes of Exchange Act Rule 12b-25. As such, those companies will be permitted to rely on Rule 12b-25 where they are unable to file the required reports on or before Nov. 21, 2012.
- For the period from Oct. 29, 2012 to Nov. 20, 2012, a registered open-end investment company and a registered unit investment trust will be considered to have satisfied the requirements of Section 5(b)(2) of the Securities Act to deliver a summary or a statutory prospectus, as applicable, to an investor, provided that: (1) the sale of shares to the investor was not an initial purchase by the investor of shares of the company or unit investment trust; (2) the investor's mailing address for delivery, as listed in the records of the company or unit investment trust, has a ZIP code for which the U.S. Postal Service has suspended mail service, as a result of Hurricane Sandy, of the type or class customarily used by the company or unit investment trust, to deliver summary or statutory prospectuses; and (3) the company, or unit investment trust, or other person promptly delivers the summary or statutory prospectus, as applicable (a) if requested by the investor, or (b) by the earlier of Nov. 21, 2012 or the resumption of the applicable mail service.
- A registered investment adviser will be considered to have satisfied Form ADV filing requirements under Section 204(a) of the Advisers Act and Rule 204-1 thereunder, if: (1) the registrant's Form ADV filing deadline falls within the period from Oct. 29, 2012 to Nov. 20, 2012; (2) the registrant was or is not able to meet its filing deadline due to Hurricane Sandy and its aftermath; and (3) the registrant makes the required Form ADV filing by Nov. 21, 2012.
- For the period from Oct. 29, 2012 to Nov. 20, 2012, a registered investment adviser will be considered to have satisfied the requirements of Section 204 of the Advisers Act and Rule 204-3(b) thereunder to deliver the written disclosure statements required thereunder to its advisory client, provided that: (1) the client's mailing address for delivery, as listed in the records of the investment adviser, has a ZIP code for which the U.S. Postal Service has suspended mail service, as a result of Hurricane Sandy, of the type or class customarily used by the adviser to deliver written disclosure statements; and (2) the investment adviser or other person promptly delivers the written disclosure statement (a) if requested by the client,

or (b) at the earlier of Nov. 21, 2012 or the resumption of the applicable mail service.

The relief is structured for a broad class of companies and others affected by Hurricane Sandy. Some companies and other affected persons may require additional or different assistance in their efforts to comply with the requirements of the federal securities laws. The Commission staff will address these and any disclosure-related issues on a case-by-case basis in light of their fact-specific nature.

Any companies, transfer agents, brokerage firms, investment companies, investment advisers, security holders or other persons requiring additional assistance are encouraged to contact Commission staff for individual relief or interpretive guidance.

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*<http://www.sec.gov/news/press/2012/2012-226.htm>*