

Securities Regulation Daily Wrap Up, TOP STORY—COVID-19 sparks more SEC, PCAOB regulatory updates, (Mar. 24, 2020)

Securities Regulation Daily Wrap Up

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By [Amanda Maine, J.D.](#)

In light of the health risks posed by the coronavirus, OCIE will be conducting most inspections off-site through correspondence, and the PCAOB will be conducting its domestic firm inspections remotely while international inspections are temporarily suspended.

The SEC's Divisions of Enforcement and Investment Management and the Office of Compliance Inspections and Examinations (OCIE) provided updates on the impact of the coronavirus (COVID-19) on their operations. Enforcement reminded insiders of their duty not to communicate or trade on material nonpublic information, while OCIE assured that registrants that use relief provided by the SEC will not be targeted for examinations. IM provided conditional regulatory relief to affiliates of money market funds related to a short-term dislocation in the market for money market securities due to the coronavirus. In addition, the PCAOB stated that it will be conducting its domestic firm inspections remotely while suspending international travel for inspections of overseas firms.

Enforcement. Division of Enforcement Co-Directors Stephane Avakian and Steven Peikin issued a [statement](#) outlining enforcement issues related to the coronavirus. They noted that corporate insiders such as directors, officers, employees, and consultants are learning material nonpublic information that may hold an even greater value than under normal circumstances. The co-directors highlighted the fact that earnings reports and SEC disclosure filings may be delayed due to COVID-19, which may give more people access to material nonpublic information than under normal circumstances. Those in possession of this information should be mindful of their obligations to keep it confidential and not trade on it, they advised.

They also urged public companies to protect against the improper dissemination and use of material nonpublic information by reviewing their disclosure controls and procedures, insider trading prohibitions, codes of ethics, Regulation FD, and selective disclosure prohibitions. Likewise, broker-dealers, investment advisers, and other registrants should ensure their compliance with policies and procedures designed to prevent the misuse of material nonpublic information.

The co-directors warned that the Enforcement Division remains committed to ensuring that Main Street investors are not victims of fraud related to COVID-19. In early February, the SEC issued an [Investor Alert](#) on coronavirus-related scams, which cautioned investors to be wary of promotions claiming that the products or services of publicly-traded companies can prevent, detect, or cure coronavirus.

OCIE. OCIE also provided an [update](#) on its operations in light of COVID-19. Due to health and safety concerns, OCIE will now be conducting examinations off-site through correspondence, unless it is "absolutely necessary" for the staff to be on-site. OCIE assured that it remains fully operational nationwide and will continue to execute its investor protection mission.

OCIE stressed that it is fully aware of the regulatory [relief](#) provided to registrants and encouraged registrants to take advantage of any relief as needed. OCIE emphasized that reliance on regulatory relief will not be a risk factor taken into consideration when determining whether OCIE commences an examination.

In addition, OCIE said that it is actively engaged in outreach with registrants to assess the impacts and challenges related to COVID-19. OCIE encouraged registrants to contact its staff with any questions or concerns.

Investment companies. The Division of Investment Management granted no-action relief based on a request from the Investment Company Institute (ICI) for affiliates of money market funds. Investment Company Act Rule 17a-9 provides a registered open-end investment company regulated as a money market fund an exemption from prohibitions under Section 17(a) to permit affiliated persons of a money market fund to purchase distressed and non-distressed securities from the fund subject to certain conditions. In its [letter](#), ICI notes that Rule 17a-9 was amended in 2010 to "enable advisers to address acute credit or liquidity problems in a money market fund portfolio by purchasing securities from the fund that would be difficult or impossible to sell on the open market at or near their amortized cost."

According to ICI, there is a short-term dislocation in the market for money market securities due to the COVID-19 outbreak, but because of conflicting regulations, affiliated persons who want to purchase securities from the funds to enhance the funds' liquidity or stability are unable to do so. ICI requested relief from the regulations, which the [staff granted](#), subject to the following conditions as outlined by ICI in its request:

- The purchase price of the purchased security would be its fair market value as determined by a reliable third-party pricing service.
- The affiliated purchases must satisfy the conditions of Rule 17a-9 except to the extent that the terms of such affiliated purchases would otherwise conflict with applicable banking and Federal Reserve regulations.
- The fund must timely file Form N-CR reporting the transaction.
- The relief shall be in effect on a temporary basis in response to the national emergency concerning the COVID-19 outbreak.

PCAOB. The PCAOB provided an update on its current operations in light of COVID-19. The PCAOB will be conducting its domestic firm inspections remotely to the extent possible and is coordinating with audit firms, while it is suspending international travel for non-U.S. firm inspections for March and April.

The comment period for the Board's [concept release](#) on revisions to its quality control standards ended March 16. However, the PCAOB said that comments received "within a reasonable timeframe" will be treated in the same manner as comments posted by the deadline.

The PCAOB will continue its registration activities, including the processing of applications and responding to questions on application matters. The Board will also continue to meet and vote on pending items remotely. While the PCAOB has cancelled in-person events, such as audit committee and preparer roundtables and the PCAOB/AAA annual meeting, it is committed to staying connected virtually and plans to hold webinars and other virtual meetings.

Clayton's statement. In a [statement](#) posted to the SEC's website, Chairman Jay Clayton assured that the Commission is "focused on ensuring that the business continuity plans of market participants are adjusted, as necessary or appropriate, to comply with health and safety measures, and that they also facilitate the continuing operation of our markets, market integrity and investor protection."

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