

Division of Corporation Finance Actions During Government Shutdown

(Updated 1/10/2019: Questions 4 and 5 revised; Questions 6 and 9 added)

A limited number of staff members in the Division of Corporation Finance are available to answer questions relating to fee calculations for filings and emergency relief regarding filings or other federal Securities law matters but will not generally be available to respond to other questions. If you require assistance in these matters, submit your request and contact information to CFEmergency@sec.gov. Federal law and regulations require us to cease our regular activities and our ability to respond to other questions may be limited by those regulations. Regardless of our operating status, EDGAR will accept registration statements, offering statements and other filings; however, as discussed below, during a shutdown we will not be able to declare registration statements effective nor qualify Form 1-A offering statements.

Please do not contact staff in the Division of Corporation Finance to report a tip or complaint. Please follow the instructions at <https://www.sec.gov/tcr> to report your concern. In addition, we are not permitted to answer questions submitted to CFEmergency@sec.gov that are not related to the matters described above during the shutdown period.

- [-] The following Questions and Answers may address many of the questions you may have.

Question	Answer
1. How will I know whether the SEC's operating status has changed?	Updates on our operating status will be posted on the SEC website.
2. What happens if I have an effective registration statement and I determine that I must update the information in my prospectus before commencing my offering?	You should not go forward with your offering before updating your prospectus. The company and its representatives will have to decide whether the company can update the prospectus without filing a post-effective amendment. If you file a post-effective amendment on EDGAR, the staff will not be in a position to declare that amendment effective.
3. What happens if I have a previously qualified Form 1-A and I determine that I must update the information in my offering statement before commencing or continuing my offering?	You should not go forward with your offering before updating your offering statement. If you file a post-qualification amendment on EDGAR, the staff will not be in a position to qualify that amendment.
4. If my registration statement was declared effective prior to the shutdown (my effective date was December 26, 2018 or earlier) what happens if I don't price my offering within the 15-day time period provided in Rule 430A?	<p>Because your registration statement was declared effective prior to the shutdown, you are eligible to use Rule 430A and you may file post-effective amendments, as necessary, under Rule 462(c) to restart the 15-business-day period so that, at the time of pricing you will be able to include the pricing information in a 424(b) prospectus supplement. Post-effective amendments filed pursuant to Rule 462(c) are effective upon filing.</p> <p>Alternately, at the time of pricing, you could file a post-effective amendment under Rule 462(c), prior to the time confirmations are sent or given, to include the information omitted under Rule 430A.</p> <p>NOTE: You cannot rely on Rule 462(c), however, to include the pricing information if the post-effective amendment includes substantive changes from, or additions to, the prospectus in the effective registration statement.</p>
5. Now that the shutdown is in effect, can I file an amendment to my	Yes. If you choose to remove the delaying amendment, your registration statement will not become effective until 20 days have passed.

Question	Answer
<p>current registration statement to remove the delaying amendment so my registration statement will be effective in 20 days?</p>	<p>If the SEC’s operational status does not change and you wish to further delay the effective date of your registration statement, you may file another pre-effective amendment during the 20 day period. The registration statement would not become effective until 20 days after the latest pre-effective amendment that does not include a delaying amendment.</p> <p>If the SEC’s operating status changes to operational and your registration statement is not yet effective, we would consider a request to accelerate to an earlier date. We may ask you to amend the registration statement to include the delaying amendment.</p> <p>NOTE: Simply omitting the delaying amendment from an amendment will not begin the 20 day period. A company that intends to remove the delaying amendment must amend its registration statement to include the following language provided by Rule 473(b) - “This registration statement shall hereafter become effective in accordance with the provisions of section 8(a) of the Securities Act of 1933.” It must also amend to include all information required by the form, including the price of the securities it will sell.</p> <p>Rule 430A is not available in the absence of a delaying amendment because Rule 430A is only available with respect to registration statements that are declared effective by the Commission or the staff.</p>
<p>6. Can I amend to remove the delaying amendment while I have outstanding, unresolved staff comments on my filings?</p>	<p>Yes. As in all situations, responsibility for complete and accurate disclosure lies with the company and others involved in the preparation of a company’s filings.</p> <p>If you amend your filing to remove the delaying amendment and our operating status changes prior to your effective date, we may ask you to amend your filing to include the delaying amendment so that we may work with you to resolve outstanding comments.</p>
<p>7. Can I file a new registration or offering statement during a shutdown?</p>	<p>Yes. Regardless of our operating status, EDGAR will accept registration statements, offering statements and other filings.</p>
<p>8. Can I file a new registration statement without a delaying amendment during the shutdown?</p>	<p>Yes. But if our operating status changes during the 20 day period, we may ask you to amend the document to include a delaying amendment.</p>
<p>9. Will the Division consider a request for emergency relief under Rule 3-13 of Regulation S-X?</p>	<p>During a lapse in appropriations, the Division’s activities are limited. The Antideficiency Act generally prohibits agencies from continued operation in the absence of appropriations, but contains exceptions, one of which is for emergencies involving the protection of property. Thus an agency may act where there is some reasonable likelihood that the protection of property would be compromised, in some significant degree, by delay in the performance of the function in question.</p> <p>In an emergency where Rule 3-13 may provide relief for registrants, the Division may grant an application where consistent with the limitations discussed below. Submit requests to CFEmergency@sec.gov and describe the emergency and the significant property interest to be protected.</p>

DIVISION OF INVESTMENT MANAGEMENT ACTIONS DURING GOVERNMENT SHUTDOWN

Due to the government shutdown, the Division of Investment Management will not be available to respond to any questions about pending matters. Please understand that regulations require us to cease our regular activities and our ability to respond to questions may be limited by those regulations. In case of an emergency, please send an email to IMemergency@sec.gov or call 202-551-6720.

During the shutdown, the Division will not be in a position to act upon any requests for acceleration of the effective date of a pending registration statement or qualification of a pending offering statement until the SEC receives appropriations to fund its operations. Investment companies can continue to make filings on EDGAR during this time. A significant percentage of filings submitted by registered investment companies are in the form of post-effective amendments to registration statements. Many of these filings, pursuant to rules promulgated under the 1933 Act (e.g., Rule 485 for open-end funds), become effective automatically either immediately upon filing or following the passage of a certain number of days. These filings will become effective automatically after the entire time period set forth in the applicable rules until the SEC returns to open and operational status.

A limited number of staff members are available to answer questions relating to fee calculations for filings. If you require assistance in calculating a fee for a filing you will make during the shutdown period, submit your request and contact information to IMEmergency@sec.gov.

We will follow the procedures set forth by the Division of Corporation Finance described [here](#), as applicable, with regard to the acceleration of initial registration statements and other types of filings made by registered investment companies during the federal government shutdown.

Please direct questions about individual filings to Bill Kotapish (202-551-6756) from Dec. 27 – Jan. 4 and Christian Sandoe (202-551-6949) after Jan. 4.