

## [Securities Regulation Daily Wrap Up, PUBLIC COMPANY REPORTING AND DISCLOSURE—SEC staff provides filing relief amid COVID-19 concerns, \(Jun. 26, 2020\)](#)

Securities Regulation Daily Wrap Up

[Click to open document in a browser](#)

By [Amy Leisinger, J.D.](#)

Filings, disclosures, and signatures may be provided online temporarily in connection with mail disruptions and the lack of in-person interactions.

The SEC staff has issued three statements regarding filing obligations in the wake of COVID-19. Specifically, Commission divisions have noted that enforcement would not be recommended if persons and entities are unable to mail certain regulatory communications to clients due to international mail service restrictions or if executives are unable to readily provide physical signatures on required filings. Overall, "best efforts" will protect financial service providers from potential liability, according to the SEC staff.

**Temporary mail service suspensions.** The staff of the Trading and Markets and Investment Management divisions [noted](#) receipt of inquiries regarding requirements to mail certain communications to customers who have not consented to electronic delivery. Some jurisdictions have experienced disruptions in international mailings, and the SEC staff explained that it will not recommend the Commission take enforcement action for failure to deliver impacted international mailings to recipients in affected jurisdictions so long as delivering entities send email notifications to staff identifying the specific mailings affected and prominently publish relevant information on their public websites.

These persons and entities must use reasonable best efforts to timely deliver documents electronically on a temporary basis and to obtain the consent of the affected recipient to electronic delivery. They must also maintain records reflecting satisfaction of these obligations and monitor the status of mail delivery to affected jurisdictions.

The staff stated that this position is temporary and expires on the date that a common carrier resumes mail delivery of impacted international mailings in an affected jurisdiction.

**Regulation S-T.** Together with the Division of Investment Management and the Division of Trading and Markets, CorpFin [addressed](#) the authentication and document retention requirements under Regulation S-T Rule 302(b) in light of logistical issues raised by the spread of the coronavirus disease. Rule 302(b) requires that each signatory to electronically filed documents manually sign a document acknowledging the electronic signature and retain that document. The staff explained that it expects compliance as practicable but that, given concerns related to COVID-19, some persons and entities may experience difficulties satisfying the requirement. In light of these difficulties, the staff stated that it will not recommend enforcement action if a signatory retains a manually signed document authenticating the electronic signature indicating the date and time the signature was executed and if the filer maintains policies and procedures governing the process.

The staff noted that this statement is temporary and that notice will be published at least two weeks before termination.

**Form submission.** Separately, CorpFin noted logistical difficulties in submitting certain forms (other than Forms 144) on paper given the spread of COVID-19. In light of ongoing concerns, the staff statement made a [temporary statement](#) covering those who submit the following forms:

- various reports by foreign private issuers on Form 6-K;
- Forms 11-K pursuant to Regulation S-T Rule 101(b)(3);

- reports pursuant to Rule 101(b)(5) of Regulation S-T; and
- unabridged foreign language documents and English translations of annual budgets pursuant to Regulation S-T Rule 306.

The division explained that staff would not object if the documents are submitted via email in lieu of mailing and that the relief will remain effective until the staff provides public notice. The staff noted that filers may continue to submit these documents to the SEC mailroom but that there may processing delays.

RegulatoryActivity: Covid19 GCNNews PublicCompanyReportingDisclosure SECNewsSpeeches