

SEC Provides Conditional Regulatory Relief and Assistance for Companies Affected by the Coronavirus Disease 2019 (COVID-19)

SEC is closely monitoring the impact of the coronavirus on investors and capital markets

FOR IMMEDIATE RELEASE
2020-53

Washington D.C., March 4, 2020 —Today, the Securities and Exchange Commission announced that it is providing conditional regulatory relief for certain publicly traded company filing obligations under the federal securities laws. The impacts of the coronavirus may present challenges for certain companies that are required to provide information to trading markets, shareholders, and the SEC. These companies may include U.S. companies located in the affected areas, as well as companies with operations in those regions.

To address potential compliance issues, the Commission has issued an order that, subject to certain conditions, provides publicly traded companies with an additional 45 days to file certain disclosure reports that would otherwise have been due between March 1 and April 30, 2020. Among other conditions, companies must convey through a current report a summary of why the relief is needed in their particular circumstances. The Commission may extend the time period for the relief, with any additional conditions it deems appropriate, or provide additional relief as circumstances warrant. Companies and their representatives are encouraged to contact SEC staff with questions or matters of particular concern.

SEC Chairman Jay Clayton noted, "The health and safety of all participants in our markets is of paramount importance. While timely public filing of Exchange Act reports is a cornerstone of well-functioning markets, we recognize that this situation may prevent certain issuers from compiling these reports within required timeframes."

Chairman Clayton added, "We also remind all companies to provide investors with insight regarding their assessment of, and plans for addressing, material risks to their business and operations resulting from the coronavirus to the fullest extent practicable to keep investors and markets informed of material developments. How companies plan and respond to the events as they unfold can be material to an investment decision, and I urge companies to work with their audit committees and auditors to ensure that their financial reporting, auditing and review processes are as robust as practicable in light of the circumstances in meeting the applicable requirements. Companies providing forward-looking information in an effort to keep investors informed about material developments, including known trends or uncertainties regarding coronavirus, can take steps to avail themselves of the safe harbor in Section 21E of the Exchange Act for forward-looking statements."

In addition, the Division of Investment Management has issued a staff statement regarding certain in-person board voting requirements under the Investment Company Act of 1940, available [here](#).

The SEC divisions and offices that oversee companies, accountants, investment advisers, mutual funds, brokerage firms, transfer agents, and other regulated entities and financial professionals will continue to closely track developments, and, if appropriate, consider additional relief from other regulatory requirements for those affected by the coronavirus. Entities and financial professionals affected by the coronavirus are encouraged to contact Commission staff with questions and concerns.

ADDITIONAL INFORMATION

Commission Order

The Commission has enacted this Order having due regard for the needs and safety of companies impacted by COVID-19 while also considering the importance of markets and investors receiving materially accurate and timely information. For those companies seeking to rely upon the Order, attention is directed to the various conditions, including the requirement to furnish a Form 8-K or Form 6-K by the later of March 16 or the original reporting deadline.

In connection with the Commission relief issued in the order, the Commission staff will take the following positions with respect to certain obligations under the Securities Act and the Exchange Act:

- For purposes of eligibility to use Form S-3 (and for well-known seasoned issuer status, which is based in part on Form S-3 eligibility), a company relying on the exemptive order will be considered current and timely in its Exchange Act filing requirements if it was current and timely as of the first day of the relief period and it files any report due during the relief period within 45 days of the filing deadline for the report.
- 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 filing requirements if it was current as of the first day of the relief period and it files any report due during the relief period within 45 days of the filing deadline for the report.
- 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 45 days after the filing deadline for the report. As such, those companies will be permitted to rely on Rule 12b-25 if they are unable to file the required reports on or before the extended due date.

Disclosure Considerations for All Companies

The Commission encourages all companies and other related persons to consider their activities in light of their disclosure obligations under the federal securities laws. For example, where a company has become aware of a risk related to the coronavirus that would be material to its investors, it should refrain from engaging in securities transactions with the public and to take steps to prevent directors and officers (and other corporate insiders who are aware of these matters) from initiating such transactions until investors have been appropriately informed about the risk.

When companies do disclose material information related to the impacts of the coronavirus, they are reminded to take the necessary steps to avoid selective disclosures and to disseminate such information broadly. Depending on a company's particular circumstances, it should consider whether it may need to revisit, refresh, or update previous disclosure to the extent that the information becomes materially inaccurate.

Companies providing forward-looking information in an effort to keep investors informed about material developments, including known trends or uncertainties regarding the coronavirus, can take steps to avail themselves of the safe harbor in Section 21E of the Exchange Act for this information.

Requests for Additional Assistance Relating to COVID-19

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 and therefore are encouraged to contact Commission staff. Registrants facing administrative difficulties in the filing process (e.g., inability to obtain a required signature due to an executive officer being located in a quarantined zone) are encouraged to contact the staff who will be available to help address these issues. The Commission staff will address these and any issues on a case-by-case basis in light of their fact-specific nature.

###