

## Press Release

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# SEC Extends Conditional Exemptions From Reporting and Proxy Delivery Requirements for Public Companies, Funds, and Investment Advisers Affected By Coronavirus Disease 2019 (COVID-19)

## Division of Corporation Finance Issues Related Disclosure and Other Guidance. ... SEC Continues to Closely Monitor Impact of Coronavirus on Investors and Capital Markets

### FOR IMMEDIATE RELEASE

2020-73

*Washington D.C., March 25, 2020* — Today, the Securities and Exchange Commission announced that it is extending the filing periods covered by its previously enacted conditional reporting relief for certain public company filing obligations under the federal securities laws, and that it is also extending regulatory relief previously provided to funds and investment advisers whose operations may be affected by COVID-19. In addition, the SEC's Division of Corporation Finance issued today its current views regarding disclosure considerations and other securities law matters related to COVID-19.

"Health and safety continue to be our first priority," said SEC Chairman Jay Clayton. "These actions provide temporary, targeted relief to issuers, investment funds and investment advisers affected by COVID-19. At the same time, we encourage public companies to provide current and forward-looking information to their investors and, in these uncertain times, companies are reminded that they can take steps to avail themselves of the safe harbor in Section 21E of the Exchange Act for forward-looking statements."

### Public Company Relief

To address potential compliance issues, the Commission [issued an order](#) that, subject to certain conditions, provides public companies with a 45-day extension to file certain disclosure reports that would otherwise have been due between March 1 and July 1, 2020. Today's Order supersedes and extends the Commission's Original Order of March 4, 2020. Among other conditions, companies must continue to convey through a current report a summary of why the relief is needed in their particular

circumstances for each periodic report that is delayed. The Commission may provide extensions to 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.

### **Investment Fund and Adviser Relief**

The Commission also issued orders (<https://www.sec.gov/rules/other/2020/ia-5469.pdf> and <https://www.sec.gov/rules/other/2020/ic-33824.pdf>) that would provide certain investment funds and investment advisers with additional time with respect to holding in-person board meetings and meeting certain filing and delivery requirements, as applicable. Today's Orders supersede and extend the filing periods covered by the Commission's Original Orders of March 13, 2020. Among other conditions, entities must notify the Division staff and/or investors, as applicable, of the intent to rely on the relief, but generally no longer need to describe why they are relying on the order or estimate a date by which the required action will occur. The time periods for relief are described in the Orders. The Commission may provide extensions to the time period for the relief, with any additional conditions it deems appropriate, or provide additional relief as circumstances warrant. Firms and financial professionals are encouraged to contact SEC staff with questions or matters of particular concern.

### **Public Company Disclosure Guidance**

The Division of Corporation Finance today [issued Disclosure Guidance Topic No. 9](#), providing the staff's current views regarding disclosure and other securities law obligations that companies should consider with respect to COVID-19 and related business and market disruptions. The Division has been monitoring how companies are reporting the effects and risks of COVID-19 on their businesses, financial condition, and results of operations and is providing the guidance as companies prepare disclosure documents during this uncertain time.

The guidance encourages timely reporting while recognizing that it may be difficult to assess or predict with precision the broad effects of COVID-19 on industries or individual companies.

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.

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## **ADDITIONAL INFORMATION**

### **Commission Relief for Public Companies**

The Commission has issued this Order as necessary and appropriate in the public interest and consistent with the protection of investors. 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 or Form F-3 (and for well-known seasoned issuer status, which is based in part on Form S-3 or Form F-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 Public 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 discourage 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. To the extent the registrant or insiders are engaged in transactions, or circumstances otherwise warrant it, the registrant should consider what disclosures are required in order to inform the public of its financial condition.

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 continue to 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 continue to address these and any issues on a case-by-case basis in light of their fact-specific nature. If you require general assistance related to this order please call (202) 551-3500 or submit your request for assistance and contact information at [https://www.sec.gov/forms/corp\\_fin\\_interpretive](https://www.sec.gov/forms/corp_fin_interpretive).

### **Commission Relief for Funds and Investment Advisers**

The Commission has issued the Orders as necessary and appropriate in the public interest and consistent with the protection of investors. For an entity seeking to rely upon an Order, attention is directed to the various conditions, including, that entities must notify the Division staff and/or investors, as applicable, of the intent to rely on the relief, but generally no longer need to describe why they are relying on the Order or estimate a date by which the required action will occur.

Subject to their conditions, the Orders provide the following temporary exemptive relief:

*Relief Related to the Investment Company Act of 1940*

- Registered management investment companies, business development companies, and any investment adviser or principal underwriter of such companies from Investment Company Act sections and rules requiring certain agreements, plans or arrangements be approved by the company's board of directors by an in-person vote due to circumstances related to the current or potential effects of Coronavirus. The Order extends to the period from (and including) the date of the original order to (and including) August 15, 2020. The original order extended to June 15, 2020.
- Registered management investment companies and unit investment trusts affected by Coronavirus from Form N-CEN and Form N-PORT filing deadlines; for which the original due date is on or after the date of the original order but on or prior to June 30, 2020. The original order extended the filing deadlines on or prior to April 30, 2020. Filings would still need to be made as soon as practicable but no later than 45 days after the original due date.
- Registered management investment companies and unit investment trusts affected by Coronavirus from annual and semi-annual report transmittal deadlines. Relief would extend to obligations for which the original due date is on or after the date of the original order but on or prior to June 30, 2020. The original order extended to April 30, 2020. Transmittal would still need to be made as soon as practicable but no later than 45 days after the original due date; and
- Registered closed-end investment companies and business development companies from the requirement to file Form N-23C-2 at least 30 days prior to calling or redeeming securities. The Order would extend to the period from (and including) the date of the original order to (and including) August 15, 2020. The original order extended to June 15, 2020.

*Relief Related to the Investment Advisers Act of 1940*

The Order would extend the following obligations for which the original due date is on or after the date of the original order but on or prior to June 30, 2020. The original order extended to April 30, 2020. Filing or delivery, as applicable, would still need to be made as soon as practicable but no later than 45 days after the original due date.

- Registered investment advisers and exempt reporting advisers affected by Coronavirus to file an amendment to Form ADV or file reports on Form ADV Part 1A, respectively;
- Registered investment advisers affected by Coronavirus from requirements to deliver amended brochures, brochure supplements or summary of material changes to clients where the disclosures are not able to be timely delivered because of circumstances related to Coronavirus; and

- Private fund advisers affected by Coronavirus from Form PF filing requirements.

### **Commission Statement of Delivery of Fund Prospectuses**

The Commission also takes the position, as described in the orders, that it would not provide a basis for a Commission enforcement action if a registered fund does not deliver to investors the current prospectus of the registered fund where the prospectus is not able to be timely delivered because of circumstances related to Coronavirus, subject to the conditions described in the orders. The Commission's position has been extended to June 30, 2020. Delivery would still need to be made as soon as practicable but no later than 45 days after the date originally required.

### **Division of Investment Management contact information:**

For general questions or concerns related to impacts of Coronavirus on the operations or compliance of funds and advisers, including questions about Form N-MFP and Form N-CR, please email [IM-EmergencyRelief@sec.gov](mailto:IM-EmergencyRelief@sec.gov).

For questions regarding Form N-LIQUID, please email [IM-N-LIQUID@sec.gov](mailto:IM-N-LIQUID@sec.gov) and simultaneously contact: Tim Husson, Associate Director, at (202) 551-6803 and Jon Hertzke, Assistant Director, at (202) 551-6247.

For questions regarding Form ADV, email [IARDLive@sec.gov](mailto:IARDLive@sec.gov).

For questions regarding Form PF, email [FormPF@sec.gov](mailto:FormPF@sec.gov).

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