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# Staff Statement Regarding Temporary International Mail Service Suspensions to Certain Jurisdictions Related to the COVID-19 Pandemic

The staff in the Division of Trading and Markets and the Division of Investment Management<sup>[1]</sup> has received inquiries from persons and entities regarding requirements under the federal securities laws to mail certain regulatory communications to shareholders, clients and customers who (1) have mailing addresses located in international jurisdictions where the United States Postal Service,<sup>[2]</sup> other common carrier, or public or private foreign postal operator<sup>[3]</sup> has temporarily suspended international mail service due to impacts related to the coronavirus disease (“COVID-19”)<sup>[4]</sup> and (2) have not consented to electronic delivery of these regulatory communications.<sup>[5]</sup> Division staff received these inquiries from persons and entities that include broker-dealers, investment advisers, and other intermediaries with clients or customers in Affected Jurisdictions, as well as registered investment companies that offer shares directly and who have shareholders in Affected Jurisdictions.<sup>[6]</sup>

In light of these difficulties, Division staff is providing the following statement regarding these Impacted International Mailings.<sup>[7]</sup> This staff statement is temporary and expires on the date, as applicable to each specific Affected Jurisdiction, that Common Carriers resume mail delivery of Impacted International Mailings to such Affected Jurisdiction.<sup>[8]</sup> Division staff recognizes that circumstances related to the COVID-19 pandemic may evolve. As such, Division staff is committed to working with market participants to help them respond to operational and other challenges raised by COVID-19.

Division staff will not recommend the Commission take enforcement action against a Delivering Entity with respect to the failure to deliver Impacted International Mailings to Affected Recipients in Affected Jurisdictions if Delivering Entities:<sup>[9]</sup>

- are unable to mail Impacted International Mailings to Affected Recipients in an Affected Jurisdiction due to mail service suspensions;<sup>[10]</sup>
- send a notification to Division staff by email to [tradingandmarkets@sec.gov](mailto:tradingandmarkets@sec.gov) (for the Division of Trading and Markets) or [IM-EmergencyRelief@sec.gov](mailto:IM-EmergencyRelief@sec.gov) (for the Division of Investment Management) identifying the specific type(s) of Impacted International Mailings that the Delivering Entity will be holding temporarily due to mail service suspensions and update that notification, as needed, to reflect any material changes;<sup>[11]</sup>

- prominently publish the information contained in the notification to Division staff on the Delivering Entity's public website and update that information, as needed, to reflect any material changes;
- for Impacted International Mailings other than written confirmations and alternative periodic reporting as required pursuant to Exchange Act Rule 10b-10 and written statements with respect to free credit balances required pursuant to Exchange Act Rule 15c3-3(j)(1):
  - use reasonable best efforts to timely deliver such documents electronically using contact information for the Affected Recipient (e.g., an email address) that the Delivering Entity has a reasonable basis to believe is current and, in the transmittal message include an explanation regarding why the Delivering Entity is delivering such documents electronically and state that, unless the Affected Recipient elects electronic delivery of such documents going forward, the Delivering Entity will resume physical mailing once the Common Carrier has resumed service to the jurisdiction; and
  - if the Delivering Entity does not have such contact information for an Affected Recipient or receives information indicating that the contact information is not current (such as an email bounce back), use reasonable best efforts to obtain current contact information for electronic delivery of such documents to the Affected Recipient (e.g., through commercially available resources);
- with respect to written confirmations or alternative periodic reporting required by Exchange Act Rule 10b-10 and written statements with respect to free credit balances required pursuant to Exchange Act Rule 15c3-3(j)(1):<sup>[12]</sup>
  - use reasonable best efforts to notify the Affected Recipient by telephone, email, text message, or other means that: (i) the Delivering Entity will be holding such documents due to mail service suspensions in an Affected Jurisdiction;<sup>[13]</sup> and (ii) the Affected Recipient may consent to electronic delivery of such documents on a temporary or permanent basis;<sup>[14]</sup>
  - use reasonable best efforts to obtain the consent of the Affected Recipient to electronic delivery of such documents; provided that the Delivering Entity obtains the customer's consent before attempting electronic delivery of such documents; and
  - if the Delivering Entity does not obtain the Affected Recipient's consent to electronic delivery of such documents, (i) hold such documents temporarily and send a paper copy of such documents upon resumption of service to the Affected Jurisdiction (as outlined in the last bullet point below) and (ii) provide the Affected Recipient with a reasonable period of time in which to respond, as needed, to such documents (e.g., to notify the Delivering Entity of any errors in such documents) after such paper copies have been sent;
- maintain contemporaneous records reflecting the Delivering Entity's satisfaction of the steps described above; and
- monitor the relevant Common Carrier websites regularly for updates regarding the status of mail delivery to Affected Jurisdictions, and promptly (but, in any event, not later than 7 days following resumption of such service) send the Impacted International Mailing upon resumption of service to the Affected Jurisdiction if: (1) the Delivering Entity was unable to deliver the Impacted

International Mailing electronically or (2) the Affected Recipient requests delivery of a paper copy.

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[1] Referred to collectively in this statement as “Division staff” or “staff.”

[2] See United States Postal Service (“USPS”) *International Mail Service Suspensions*, available at <https://about.usps.com/newsroom/service-alerts/international/welcome.htm> (identifying destinations for which the USPS is temporarily suspending international mail acceptance due to service impacts related to the COVID-19 pandemic).

[3] Referred to collectively in this statement as “Common Carriers.”

[4] Referred to collectively in this statement as “Affected Jurisdictions.”

[5] For purposes of this statement, such shareholders, clients and customers are referred to collectively as “Affected Recipients,” and such regulatory communications to Affected Recipients are referred to as “Impacted International Mailings.” In addition, the Impacted International Mailings covered by this statement are the following: registered investment company reports to shareholders transmitted by such companies pursuant to Section 30(e) of the Investment Company Act and Rule 30e-1 or Rule 30e-2 thereunder, or forwarded by broker-dealers or banks pursuant to Rule 14b-1 or Rule 14b-2 under the Securities Exchange Act of 1934 (“Exchange Act”); prospectuses and prospectus supplements for funds and registered insurance products; preliminary and final prospectuses delivered pursuant to Exchange Act Rule 15c2-8(b); the delivery of Form ADV brochures (or any summary of material changes) and brochure supplements under the Investment Advisers Act of 1940 and Investment Advisers Act Rule 204-3 to existing clients; the delivery of Form CRS to customers or clients, as well as all written disclosure obligations under Regulation Best Interest pursuant to Exchange Act Rule 15l-1(a)(2)(i)(A)-(B); written confirmations and alternative periodic reporting, as required, pursuant to Exchange Act Rule 10b-10; and the written statements with respect to free credit balances required pursuant to Exchange Act Rule 15c3-3(j)(1) that must inform the customer of the amount due to the customer by the broker-dealer on the date of the statement, and that the funds are payable on demand of the customer.

[6] Referred to collectively in this statement as “Delivering Entities.”

[7] This statement represents the views of the Division staff. It is not a rule, regulation, or statement of the Securities and Exchange Commission (“Commission”). The Commission has neither approved nor disapproved its content. This statement, like all staff statements, has no legal force or effect: it does not alter or amend applicable law, and it creates no new or additional obligations for any person.

[8] Depending on the relevant facts and circumstances, Delivering Entities may wish to consider delivering Impacted International Mailings by utilizing a Common Carrier that the Delivering Entity does not customarily use to deliver that type or class of mailing.

[9] The Commission exempted registrants and other persons from certain Exchange Act requirements to furnish, as applicable, Soliciting Materials and Information Materials (as those terms are defined in the Commission’s order) when the registrant’s security holder has a mailing address located in an area where, as a result of COVID-19, the common carrier has suspended delivery service of the type or class customarily used by the registrant or other person making the solicitation. See *Order Under Section 36 of the Securities Exchange Act of 1934 Modifying Exemptions from the Reporting and*

*Proxy Delivery Requirements for Public Companies* (Mar. 25, 2020), available at <https://www.sec.gov/rules/exorders/2020/34-88465.pdf>. See also *Order Under Section 6(c) and Section 38(a) of the Investment Company Act of 1940 Granting Exemptions from Specified Provisions of the Investment Company Act and Certain Rules Thereunder; Commission Statement Regarding Prospectus Delivery* (Mar. 25, 2020), available at <https://www.sec.gov/rules/other/2020/ic-33824.pdf> (providing, among other things, that a registered management investment company or a registered unit investment trust is temporarily exempt from the requirements of Section 30(e) of the Investment Company Act and Rule 30e-1 or Rule 30e-2, respectively, to transmit annual and semi-annual reports where certain conditions are satisfied, including transmitting such reports to shareholders as soon as practicable, but not later than 45 days after the original due date).

[10] See *supra* note 8.

[11] A firm that is registered as both a broker and an investment adviser would send the relevant notification to the staff in both the Divisions of Trading and Markets and Investment Management.

[12] The circumstances described in the bullet points differ for confirmation statements and other communications under Exchange Act Rules 10b-10 and Rule 15c3-3(j)(1), as compared to other types of Impacted International Mailings. Division staff believes these differences are appropriate because, among other things, the former are typically specific to the particular recipient, may contain personalized information about the recipient, including their transaction history and account information, and may trigger certain customer rights and obligations (such as notifying the Delivering Entity of any errors in such documents), while the latter generally are reports to shareholders, prospectuses, or certain other documents that are typically directed to all shareholders of a particular issuer and do not contain personalized information.

[13] This staff statement does not address FINRA Rule 3150 (Holding of Customer Mail), which generally allows FINRA member firms to hold a customer's mail for a specific time period in accordance with the customer's written instructions if the firm meets several conditions.

[14] Guidance on obtaining consent to electronic delivery may be found in [Release Nos. 33-7856; 34-42728; IC-24426, Use of Electronic Media](#) (Apr. 28, 2000), 65 FR 25843, 25845-46 (May 4, 2000) ("2000 Use of Electronic Media"); see also [Release No. 33-7288; 34-37182; IC-21945; IA-1562, Use of Electronic Media by Broker-Dealers, Transfer Agents, and Investment Advisers for Delivery of Information](#) (May 9, 1996), 61 FR 24644, 24647 (May 15, 1996); and [Release No. 33-7233; 34-36345; IC-21399, Use of Electronic Media for Delivery Purposes](#) (Oct. 6, 1995), 60 FR 53458, 53459-63 (Oct. 13, 1995). For such consent to be informed, the Affected Recipient must be apprised of the duration of the consent and the types of documents to be delivered electronically pursuant to the consent. See 2000 Use of Electronic Media, 65 FR at 25846 n. 26.

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