

MEMO# 32376

April 9, 2020

SEC Staff Issues Updated Guidance on Shareholder Meetings in Light of COVID-19 Concerns

[32376]

April 9, 2020 TO: ICI Members

Investment Company Directors SUBJECTS: Closed-End Funds

Compliance

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Transfer Agency RE: SEC Staff Issues Updated Guidance on Shareholder Meetings in Light of COVID-19 Concerns

On March 13, the SEC's staff of the Divisions of Corporation Finance and Investment Management provided guidance to issuers (i.e., operating companies and investment companies) and their shareholders on upcoming shareholder meetings in light of COVID-19 concerns.[\[1\]](#) The guidance was primarily aimed at those issuers that have mailed their definitive proxy statements and now are considering alternative arrangements due to COVID-19.

On April 7, the staff updated and expanded the initial relief granted to issuers.[\[2\]](#) Specifically, it extends the prior guidance related to changes in date, time, and location of a shareholder meeting to:

- Special meetings (in addition to annual meetings); and
- Investment company shareholder meetings in connection with a business combination or other transaction described in a registration statement on Form N-14.[\[3\]](#)

In light of potential delays in the printing and physical mailing of "full set" proxy materials, the updated guidance also provides relief for issuers that instead may wish to use the "notice-only" delivery option, notwithstanding an inability to comply with certain rule requirements.[\[4\]](#) The guidance states:

"In circumstances where delays are unavoidable due to COVID-19 related difficulties, the staff would not object to an issuer using the 'notice-only' delivery

option in a manner that, while not meeting all aspects of the notice and timing requirements of Rule 14a-16, will nonetheless provide shareholders with proxy materials sufficiently in advance of the meeting to review these materials and exercise their voting rights under state law in an informed manner and so long as the issuer announces the change in the delivery method by following the steps described above [*i.e.*, earlier in the guidance] for announcing a change in the meeting date, time, or location.”

Issuers and other affected parties are encouraged to contact the staff to discuss any other concerns resulting from any late filings caused by delays in the printing and mailing of proxy materials.

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endnotes

[1] See Memorandum to Members [No. 32284](#), dated March 14, 2020, for a detailed summary of this guidance.

[2] *Staff Guidance for Conducting Annual Meetings in Light of COVID-19 Concerns*, available at www.sec.gov/ocr/staff-guidance-conducting-annual-meetings-light-covid-19-concerns?auHash=zrsDVFen7QmUL6Xou7EIHYov4Y6lfrRTjW3KPSVukQs#_ftnref6.

[3] For these specific investment company meetings, however, the staff expects the announcement of a change to be filed as a prospectus supplement under Securities Act Rule 497.

[4] Exchange Act Rule 14a-16 governs issuers’ use of the “notice-only” proxy delivery option. Among other things, it requires sending: a notice of electronic availability of proxy materials no later than 40 calendar days before the meeting; paper copies of proxy materials within three business days after receiving a request; and paper copies of proxy materials to requesting shareholders until such requests are revoked.