

**MEMO# 32374**

April 9, 2020

# **SEC Division of Investment Management and Division of Trading and Markets Issue Staff Statements Regarding Paper Submissions**

[32374]

April 9, 2020 TO: ICI Members

Investment Company Directors SUBJECTS: Compliance

Disclosure

Fund Accounting & Financial Reporting

Fund Governance

Investment Advisers

Operations

Risk Oversight RE: SEC Division of Investment Management and Division of Trading and Markets Issue Staff Statements Regarding Paper Submissions

Staff from the SEC Divisions of Investment Management and Trading and Markets have issued statements regarding the use of e-mail instead of mailing paper documents for submissions under several Commission forms, notices, or regulations.[\[1\]](#) The staff statements address the logistics challenges in sending or receiving mail during the COVID-19 national emergency.

## **Division of Investment Management Guidance on Hearing Requests on Applications**

The staff of the Division of Investment Management provided guidance regarding hearing requests for applications under the Investment Company Act of 1940 and the Investment Advisers Act of 1940.[\[2\]](#) Specifically:

- For new hearing requests on applications, the staff indicates that the Commission will be *requiring* interested persons to submit an e-mail to [Secretarys-Office@sec.gov](mailto:Secretarys-Office@sec.gov).
- For hearing requests on applications for which the Commission has already issued a notice but not yet an order,[\[3\]](#) the staff asks interested persons to e-mail a copy of a written hearing request to the Commission's Secretary at the above address. The staff cautions interested parties that if the Secretary does not receive an e-mail requesting a hearing on these applications by April 21, 2020, the Commission will issue an order on the application thereafter.

- For serving notice of a hearing request on applicants, the staff offers applicants the option of providing an e-mail address so that interested parties can provide service by e-mail instead of personally or by mail.

## **Divisions of Trading and Markets Guidance on Paper Submissions under the Exchange Act**

The Division of Trading and Markets also recently addressed paper submissions that are required by a number of Exchange Act forms and regulations (Impacted Paper Submissions).<sup>[4]</sup> The staff indicated this relief is temporary and encompasses submissions made through June 30, 2020.

Staff will not recommend the Commission take enforcement action with respect to any failure to comply with the paper submission or manual signature requirements of these forms and regulations if:

- filers contact Division staff<sup>[5]</sup> to discuss the appropriate process for filing or submitting electronically, in lieu of in paper format, by using, for example, a secure file transfer system;
- the submissions are signed electronically, if a signature is required, by using a typed form of signature within the electronic submission that will take the position of the manual signature;
- a signatory retains a manually signed signature page or other document authenticating, acknowledging, or otherwise adopting his or her signature that appears in typed form within the electronic submission and provides such document, as promptly as practicable, upon request by Division or other Commission staff;
- such document indicates the date and time when the signature was executed; and
- the filer establishes and maintains policies and procedures governing this process.

The staff also states that it would not recommend that the Commission take enforcement action regarding failure to comply with any notarization requirements for these submissions or in broker-dealer annual reports that will be filed with the Commission if:

- the filer indicates on the signed document that it is making the filing without notarization based on staff relief from the COVID-19 crisis; and
- the filer notifies, as applicable, Trading and Markets at [tradingandmarkets@sec.gov](mailto:tradingandmarkets@sec.gov) or its designated examining authority that the filer could not obtain the notarization due to difficulties arising from the COVID-10 crisis.

Bridget Farrell  
Assistant General Counsel

### **endnotes**

<sup>[1]</sup> In addition to the Investment Management and Trading and Markets staff statements discussed herein, the Commission and other Divisions have provided additional guidance regarding other paper submission, signature, or notarization requirements during the COVID-19 national emergency. See, e.g., *Relief for Form ID Filers and Regulation Crowdfunding and Regulation A Issuers Related to Coronavirus Disease 2019 (COVID-19)*, Release No. 33-10768 (Mar. 26, 2020) (temporary final rule providing relief from

notarization requirements for Form ID among other guidance), *available at* <https://www.sec.gov/rules/interim/2020/33-10768.pdf>; *Staff Statement Regarding Rule 302(b) of Regulation S-T in Light of COVID-19 Concerns* (Mar. 24, 2020) (cross-divisional staff statement providing conditional relief from recommending that the Commission take enforcement action with respect to the manual signature requirements of Rule 302(b) if the filer experiences COVID-19 difficulties), *available at* <https://www.sec.gov/corpfin/announcement/staff-statement-regarding-rule-302b-regulation-s-t-light-covid-19-concerns>; *Office of the Secretary Operating Status* (updated Apr. 9, 2020) (providing conditional instructions regarding e-mail submissions for appeals pursuant to Commission's Rule of Practice Rule 430, petitions pursuant to Commission's Rules of Practice Rule 192, and hearing requests under the Investment Company Act and Investment Advisers Act), *available at* <https://www.sec.gov/os/os-operating-status>.

[2] See *Division of Investment Management Staff Statement on Hearing Requests on Applications Filed Under the Investment Company Act of 1940 and Investment Advisers Act of 1940*, *IM Information Update*, *IM-INFO-2020-03* (Apr. 2020), *available at* <https://www.sec.gov/files/im-info-2020-03.pdf>. See also *Office of the Secretary Operating Status*, *supra* note 1.

[3] The staff lists these applications in Appendix A of the staff statement.

[4] See *Division of Trading and Markets Staff Statement Regarding Requirements for Certain Paper Submissions in Light of COVID-19 Concerns* (Apr. 2, 2020), *available at* <https://www.sec.gov/tm/paper-submission-requirements-covid-19>. The staff identifies a non-exhaustive list of forms and regulations under Trading and Markets oversight that require paper submissions as Impacted Paper Submissions: Form X-17A-5 Part III audited annual reports, Form 1, Form CA-1, Form 19b-4(e), Form ATS, and Form ATS-R (as well as any amendments, if applicable, that may be filed to such forms); paper submissions made by registered clearing agencies pursuant to Exchange Act Rule 17a-22, Rule 24b-2 and Rule 83(c)(3); and the report of the independent public accountant submitted by broker-dealers pursuant to Rule 17a-5(d)(1)(i)(C).

[5] The staff recommends that if a filer is not sure who to contact or is not able to contact a Division staff member about filing electronically, the filer should submit a request for assistance and contact information to [tradingandmarkets@sec.gov](mailto:tradingandmarkets@sec.gov).