

MEMO# 32318

March 25, 2020

SEC Extends Coronavirus Related Exemptive Relief to August 15, 2020

[32318]

March 25, 2020 TO: ICI Members

Investment Company Directors SUBJECTS: Closed-End Funds

Compliance

Derivatives

Disclosure

Exchange-Traded Funds (ETFs)

Fund Accounting & Financial Reporting

Fund Governance

International/Global

Investment Advisers

Operations

Risk Oversight

Technology & Business Continuity

Transfer Agency

Unit Investment Trusts (UITs)

Valuation

Variable Insurance Products RE: SEC Extends Coronavirus Related Exemptive Relief to August 15, 2020

On March 25, the Commission extended regulatory relief provided earlier this month to registered management investment companies and BDCs (hereinafter referred to collectively as funds) whose operations may be affected by COVID-19.[\[1\]](#) The Extended Order notes that “the Commission has been monitoring the effects of COVID-19 and is now extending the exemptions with certain modifications in light of its current understanding of the circumstances. The health and safety of all participants in the securities markets is of paramount importance, and the Commission recognizes that investment companies and other market participants continue to face challenges in meeting the requirements of the federal securities laws addressed in the Original Order in a timely manner.”

The Extended Order notes that it supersedes and extends the filing periods covered by the Original Order. The Commission draws attention to the requirement that entities must notify the Division staff and/or investors, as applicable, of the intent to rely on the relief but the Extended Order eliminates the requirement that entities describe why they are relying on the Order or estimate a date by which the required action will occur.

The extension covers:

- in-person board meetings;
- Form N-CEN and Form N-PORT filing deadlines;
- annual and semi-annual shareholder report transmittal and filing deadlines; and
- Form N-23C-2 transmittal and filing deadline (which closed-end funds and BDCs file at least 30 days prior to calling or redeeming securities).

The Extended Order is summarized briefly below.

In-Person Fund Board Meetings: relief is available March 13 to August 15, 2020

The Original Order was available for meetings held through June 15, 2020.

Forms N-CEN and N-PORT Filing Requirements: relief is available for filings due from March 13 to June 30, 2020

The Original Order extended the filing deadlines for filings due from March 13 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.

Fund and UITs' Transmittal of Annual and Semi-Annual Shareholder Reports: relief is available for filings due from March 13 to June 30, 2020

The Original Order extended the filing deadlines for filings due from March 13 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. The report must be filed with the SEC within 10 days of transmission to shareholders.

Closed-End Funds and BDCs Filing Form 23C-2: relief is available from March 13 to August 15, 2020

The Original Order provided relief from the 30 day advance notice filing requirement through June 15, 2020.

Commission Statement Regarding Prospectus Delivery: relief available for prospectuses where delivery was originally required from March 13 through June 30, 2020, and the prospectus is delivered to investors as soon as practicable, but not later than 45 days after the date originally required.

The Original Order relief applied to prospectuses where delivery was originally required as late as April 30, 2020. The Extended Order repeats much of the Original Order's language, including that the relief does not extend to initial purchases by an investor of fund shares.

Disclosure Guidance for Public Companies

The Division of Corporation Finance also issued guidance today, 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.[\[2\]](#) The guidance notes that "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." It also states that "[t]he 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.” Further, it states that 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. Moreover, it states that a company “should consider whether it may need to revisit, refresh, or update previous disclosure to the extent that the information becomes materially inaccurate.”

The guidance goes on to state that some companies 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. Finally, the guidance states that staff “want to emphasize our message that health and safety are the first priority and that, as the Commission’s relief and staff guidance makes clear, they should not be compromised to meet reporting requirements. As events evolve, we will provide additional guidance, if appropriate. Companies and their representatives should contact us with questions or if they believe there are additional areas where guidance or temporary relief may be necessary.”

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.
- For questions regarding Form N-LIQUID, please email 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. (Note this is updated contact information.)

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endnotes

[1] See SEC Extends Conditional Exemptions From Reporting and Proxy Delivery Requirements for Public Companies, Funds, and Investment Advisers Affected By Coronavirus Disease 2019 (COVID-19) (March 25, 2020) (“Extended Order”), *available at* <https://www.sec.gov/news/press-release/2020-73>. See also ICI Memorandum No. 32282 (March 14, 2020), *available at* https://www.ici.org/my_ici/memorandum/memo32282 (summarizing the “Original Order”). In addition, the Division of Corporation Finance issued its current views regarding disclosure considerations and other securities law matters related to COVID-19 in the Extended Order.

[2] CF Disclosure Guidance: Topic No. 9 (March 25, 2020), *available at*

<https://www.sec.gov/corpfin/coronavirus-covid-19>.

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