

MEMO# 32316

March 25, 2020

SEC Issues COVID-19-Related Exemptive Relief for Transfer Agents Through May 30, 2020

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March 25, 2020 TO: ICI Members SUBJECTS: Transfer Agency RE: SEC Issues COVID-19-Related Exemptive Relief for Transfer Agents Through May 30, 2020

On March 20, the SEC announced temporary conditional regulatory relief for registered transfer agents and other regulated persons whose operations may be affected by the coronavirus (“transfer agents”).[\[1\]](#) The SEC notes that transfer agents may have difficulty complying with their regulatory obligations. Additionally, the SEC notes that transfer agents may be unable to conduct business with affected entities or security holders, thereby making it difficult to process securities transactions or corporate actions.

The exemptive order provides relief from the period of March 16 through May 30, 2020. However, the SEC stated that it continues to monitor the impact of the coronavirus and may extend this time period and may modify the conditions.[\[2\]](#)

Relief from Transfer Agent Recordkeeping, Reporting and Processing Time Requirements

The exemptive order provides relief from recordkeeping, reporting, and processing time requirements applicable to transfer agents under section 17A of the Exchange Act and Rules 17Ad-1 through 17Ad-11, 17Ad-13 through 17Ad-20, and 17f-1.

The order explicitly states that the relief does not include Rule 17Ad-12, which requires transfer agents to ensure that they adequately safeguard securities and funds in their possession or custody. The SEC states that if a transfer agent believes that its compliance with Rule 17Ad-12 could be negatively affected by the coronavirus, then the transfer agent should, to the extent possible, maintain all security holder or issuer funds that remain in its custody in a separate bank account held for the exclusive benefit of security holders until such funds are properly processed, transferred, or remitted.

Relief from Fingerprinting Requirements

The exemptive order also provides relief from fingerprinting requirements under Exchange Act section 17(f)(2) and Rule 17f-2. This relief accordingly exempts national securities exchanges (and its members), broker-dealers, transfer agents, clearing agencies, securities

information processors, and national securities associations from the requirements to (i) fingerprint their respective partners, directors, officers, and employees; and (ii) submit those fingerprints to the Justice Department.

Conditions of Relief

The exemptive order specifies that anyone that wishes to take advantage of the relief must provide written notification to the Commission via email to tradingandmarkets@sec.gov stating that (i) it is taking advantage of the relief; (ii) a description of the specific requirements that the registrant or other person is unable to comply with; and (iii) a statement of the reasons why, in good faith, compliance with those requirements is not possible.

Additionally, if a transfer agent knows or believes that it has been unable to maintain the books and records as required, then it must also provide (i) a complete and accurate description of the type of books and records that were not maintained; (ii) the names of the issuers for whom such books and records were not maintained; (iii) the extent of the failure to maintain such books and records; and (iv) the steps taken to ameliorate any such failure.

The SEC also encourages issuers and their transfer agents to provide affected security holders with contact information concerning their accounts, their access to funds or securities, and other shareholder concerns. Specifically, the SEC states that they should place a notice on their websites or provide toll-free numbers to respond to inquiries.

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endnotes

[1] The press release announcing the relief includes Division of Trading and Markets contact information and can be accessed at <https://www.sec.gov/news/press-release/2020-68>. The exemptive order can be accessed at <https://www.sec.gov/rules/exorders/2020/34-88448.pdf>.

[2] The press release also states that the SEC may provide additional relief as warranted.