

# SEC relieves companies affected by coronavirus

March 20, 2020

The SEC recently issued an Order to provide conditional regulatory relief and assistance to companies affected by the coronavirus (COVID-19). To address potential issues with meeting reporting obligations under the federal securities laws, the Order provides publicly traded companies with an additional 45 days to file certain disclosure reports that would otherwise be due between March 1 and April 30, 2020.



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In addition, the SEC's Division of Investment Management issued a staff statement allowing an exemption for certain in-person board voting requirements under the Investment Company Act of 1940. The staff position applies to board meetings held between March 4 and June 15, 2020.

Affected companies or individuals that require additional assistance are encouraged to contact the SEC staff. The Commission continues to monitor the situation and could issue additional relief, if necessary.

#### Exchange Act filing deadlines

For registrants affected by the coronavirus that are subject to the reporting requirements of Sections 13(a) or 15(d) under the Securities Exchange Act of 1934 (Exchange Act), deadlines for materials filed or furnished under certain sections and rules of the Act are extended for the period from and including March 1 to April 30, 2020. All reports, schedules, or forms must be filed no later than 45 days after the original due date. Each report, schedule, or form must be filed on or before the specified date; must disclose reliance on the Order; and must specify the reasons why, in good faith, the filing is delayed.

Registrants seeking to rely on the Order are required to furnish Form 8-K or Form 6-K, as applicable, by the later of March 16, 2020 or the original reporting deadline. The form must (i) state that the registrant is relying on the Order; (ii) include a brief description of the reasons why it could not file on a timely basis; (iii) indicate the estimated date of the anticipated filing; and (iv) include a risk factor explaining the effect the coronavirus has had on its business, if material.

Further, if the reason for the delayed filing is due to the inability of any person, other than the registrant, to provide any required opinion, report, or certification, a statement signed by such person specifying the reasons for the delay must be attached as an exhibit to Form 8-K or Form 6-K, as applicable.

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### Disclosure considerations

In its announcement, the Commission reminded companies that when they disclose material information related to the coronavirus, they should avoid selective disclosures and distribute the information broadly. Companies are also reminded to consider whether any previous disclosures need to be updated to the extent that information becomes materially inaccurate in light of the coronavirus.

Further, companies that provide forward-looking information about material developments, including known trends and uncertainties regarding the coronavirus, are subject to the safe-harbor provisions in Exchange Act Section 21E.

### Other reporting requirements

- for purposes of determining whether a company is eligible to use Forms S-3 and S-8, to file as a well-known seasoned issuer, and to be exempt from registration pursuant to Rule 144(c), a company relying on the Order will be considered current and timely in its Exchange Act reports if it was current and timely as of the first day of the relief period and it files any required report under the Order within 45 days of the filing deadline for the report.
- companies that receive an extension for filing quarterly or annual Exchange Act reports pursuant to the Order remain eligible to rely on Exchange Act Rule 12b-25 when they are unable to file the required reports on or before the extended due date.

Source:

*Grant Thornton, On the Horizon March 12, 2020.*

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