On June 26, 2020, the SEC issued an update on the various accommodations provided at the start of the COVID pandemic. As public companies adapt to new operating conditions, the SEC has reassessed each relief offered considering current conditions and market outreach. Some of the temporary relief will be extended while other provisions will expire as originally scheduled.

*The SEC will continue to assess the need for regulatory action, including additional relief as warranted.*

**Joint Staff Statements**

**Expiring**

- **International Mail Service Suspensions to Certain Jurisdictions.** A June 2020 joint staff statement addressed federal securities law requirements to mail certain regulatory communications to shareholders, clients, and customers who have not consented to electronic delivery and have mailing addresses in international jurisdictions where mail service was suspended. The statement noted the SEC would not recommend enforcement action if certain alternate arrangements are satisfied. **This relief expires on the date that common carriers resume mail delivery.**

**Continuing or Extended**

- **Shareholder Meetings.** A March 2020 joint statement addressed registrants’ ability to change shareholder meeting dates and locations, switch from an in-person shareholder meeting to a virtual or hybrid meeting, and furnish proxy soliciting materials through the notice-only, e-proxy delivery option. **These positions continue in effect, although the SEC expects that the number of companies using this relief will decrease since most annual shareholder meetings are held in the first half of the calendar year.**

- **Authentication and Retention Requirements of Rule 302(b) of Regulation S-T.** A March 2020 joint staff statement addressed the creation and retention of manual signatures in electronically filed documents. **This statement has been updated to note that it will remain in effect until a date specified in a public notice, which date will be at least two weeks from the notice date.**

**Division of Corporate Finance**

**Expiring**

- **Public Company Reports Filing Deadlines.** The relief provided public companies with a 45-day extension to file certain disclosure reports that would otherwise have been due on or before July 1, 2020. **Further extension of this relief is unnecessary.**

- **Regulation A and Regulation Crowdfunding Reports Filing Deadlines.** The temporary final rules extended the filing deadlines for specified reports and forms due pursuant to Regulation Crowdfunding and Regulation A for issuers with reports due for periods ended on or before May 31, 2020. **The SEC did not extend this relief.**

**Continuing or Extended**

- **Facilitating Capital Formation for Small Businesses.** These temporary rules were intended to expedite the offering process for smaller, previously established companies directly or indirectly affected by COVID-19 that were seeking to meet their funding needs through the offer and sale of securities pursuant to Regulation Crowdfunding. The amendments apply to securities offerings initiated under Regulation...
Crowdfunding between May 4, 2020, and August 31, 2020. The SEC will decide whether to extend the relief prior to August 31.

- **Proxy Material Delivery.** The SEC provided conditional relief from the requirement to furnish proxy soliciting materials to security holders when mail delivery is not possible due to carrier suspensions. Although this relief does not have a specified expiration date, the SEC expects that few registrants will need to use this relief for proxy materials sent to domestic mailing addresses. The relief remains available to registrants needing to send proxy materials to international addresses if the common carrier has suspended delivery service.

- **Forms 144 and Other Paper Submissions.** An April no-action statement noted the SEC would not recommend an enforcement action if Form 144 filings are transmitted via email and include electronic rather than manual signatures. The SEC also provided a statement regarding the filing of certain forms (other than Forms 144) that are filed with the SEC in paper. Both statements applied to the specified filings from April 23, 2020, to June 30, 2020. On June 25, the SEC updated both statements to extend the accommodations until a date specified in a public notice, which date will be at least two weeks from the notice date.

**Division of Investment Management**

**Expiring**

- **Short-Term Funding Flexibility for Open-End Funds and Separate Accounts.** The conditional exemptive order provided additional flexibility for open-end funds and separate accounts to obtain short-term funding and offered the following temporary exemptive relief from the *Investment Company Act of 1940* (ICA):
  - Borrow money from certain affiliates
  - Additional flexibility under existing interfund lending arrangements and the ability to use interfund lending arrangements for funds that do not currently have exemptive relief
  - Permits registered open-end funds to enter into lending arrangements or borrowings that deviate from fundamental policies, subject to prior board approval


- **Term Asset-Backed Securities Loan Facility (TALF 2020) No-Action Letter.** SEC staff would not recommend an enforcement action against registered investment companies (RIC) participating in TALF 2020, under certain facts and circumstances. The letter reaffirms no-action positions from the 2008 financial crisis and expands those positions to provide flexibility to RICs and business development companies (BDC) to participate in the TALF 2020 through a special purpose vehicle. **TALF 2020 is currently scheduled to terminate on September 30, 2020.**

- **Prospectus Delivery.** The SEC issued a statement that it would not provide a basis for an enforcement action if a registered management investment company or unit investment trust (UIT) does not timely deliver to investors its current prospectus due to COVID-19 delivery issues. The statement covered prospectuses required to be delivered on or before **June 30, 2020,** provided that the sale was not an investor’s initial purchase. Delivery would still need to be made as soon as practicable but not later than 45 days after the date originally required. **Further extension of this relief is unnecessary.**

- **Transmittal of Annual and Semi-Annual Reports.** An exemptive order extended the deadlines for transmittal of annual and semi-annual reports due between March 13, 2020, and **June 30, 2020,** by RICs and UITs affected by COVID-19 by up to 45 days, subject to certain conditions. **Further extension of this relief is unnecessary.**
SEC Update on COVID Accommodations

- **Form N-23C-2 (Advance Notice by Registered Closed-End Funds and BDCs to Call or Redeem Securities).** An exemptive order provided relief through **August 15, 2020,** from the requirement of registered closed-end investment companies and BDCs to file Form N-23C-2 at least 30 days prior to calling or redeeming securities, subject to certain conditions. **Further extension of this relief is unnecessary.**

- **Form N-CEN (RIC Annual Report) and Form N-PORT (Monthly Portfolio Investments Report).** An exemptive order extended the filing deadlines for Form N-CEN and Form N-PORT due between March 13, 2020, and **June 30, 2020,** by RICs and UITs affected by COVID-19 by up to 45 days, subject to certain conditions. **Further extension of this relief is unnecessary.**

- **Form ADV and Form ADV Part 1A Reports.** An exemptive order extended the filing deadlines for Form ADV and Form ADV Part 1A reports due between March 13, 2020, and **June 30, 2020,** by registered investment advisers (RIA) and exempt reporting advisers affected by COVID-19 by up to 45 days, subject to certain conditions. **Further extension of this relief is unnecessary.**

- **Form ADV Part 2 Brochures, Brochure Supplements, and Summary of Material Changes.** An exemptive order extended delivery deadlines for certain delivery requirements of Form ADV Part 2—summary of material changes—to existing clients due between March 13, 2020, and **June 30, 2020,** by RIA by up to 45 days, subject to certain conditions. **Further extension of this relief is unnecessary.**

- **Form PF.** An exemptive order extended the filing deadlines for Form PF reports due between March 13, **2020,** and **June 30, 2020,** by private fund advisers affected by COVID-19 by up to 45 days, subject to certain conditions. **Further extension of this relief is unnecessary.**

**Continuing or Extended**

- **Affiliated Purchases of Debt Securities.** The SEC has issued two no-action letters on a temporary basis in response to COVID stating that the SEC would not recommend an enforcement action if, under certain facts and circumstances, certain funds sell debt securities to an affiliated person. **These letters remain in effect.**

- **Temporary Regulatory Flexibility to Assist BDCs in Fulfilling Their Statutory Mandate.** An April 2020 conditional exemptive order provided temporary flexibility for BDCs to issue and sell senior securities and participate in certain joint enterprises or other joint arrangements that would otherwise be prohibited by the ICA and Rule 17d-1. **The relief is available until the earlier of December 31, 2020, or the date by which the BDC ceases to rely on the order.**

- **In-Person Board Meeting Requirements.** Boards of directors of RICs and BDCs continue to face challenges traveling to meet the in-person voting ICA requirements. The SEC recently extended earlier exemptive relief facilitating, subject to certain conditions, remote board meetings, and remote approval of certain agreements, plans, or arrangements. **The relief will terminate no earlier than December 31, 2020.**

**Division of Trading & Markets**

**Expiring**

- **Facilitating the Continued and Orderly Operation of National Securities Exchanges (NSE).** The SEC staff have worked closely with NSEs to facilitate the closing of physical trading floors and the transition to all-electronic trading, provide temporary relief from certain filing deadlines and listing standards, provide additional flexibility in response to market volatility, and modify certain shareholder approval rules. **As the exchanges resume normal floor trading operations, the related temporary rules will expire.**

- **TALF 2020 Order.** The SEC granted exemptive relief that permitted eligible brokers and dealers to participate in TALF 2020. **TALF 2020 is currently scheduled to terminate on September 30, 2020.**
Extension of Certain Deadlines Under Rule 606 of Regulation NMS. The SEC granted exemptive relief that extended the deadline to May 29, 2020, to provide the quarterly disclosure, and—for certain broker-dealers that engage in outsourced routing activity—extended the deadline to June 1, 2020, to collect monthly customer-specific data, and to July 29, 2020, to provide the first related customer-specific reports. Further extension of this relief is unnecessary.

Broker-Dealer Financial Responsibility Rules. An April 2020 statement provides that SEC staff would not recommend an enforcement action relating to generally prompt transmission of customer checks by broker-dealers under Rule 15c3-3(k)(2), and the timing of quarterly securities counts of physical securities by broker-dealers under Rule 17a-13. The SEC has not extended past June 2020 relief relating to the prompt transmission of customer checks.

Consolidated Audit Trail (CAT) Reporting Deadlines. Industry members that are broker-dealers are required to report to the CAT under rules adopted by the self-regulatory organizations (SRO), and SROs by statute and SEC rule must enforce their members’ compliance. The SEC issued a no-action letter in March 2020 explaining the SEC would not recommend enforcement action if the current reporting deadlines were not enforced against the industry members. An April exemptive order established a phased CAT reporting timeline for broker-dealers that delayed the start of broker-dealer reporting to June 2020, while preserving the completion dates for each phase.

Continuing or Extended

COVID-19-Related Financial Industry Regulatory Authority (FINRA) Guidance and Relief. SEC staff worked with FINRA staff in addressing COVID-19-related issues in connection with obligations under FINRA’s existing rules through FINRA’s issuance of staff statements, guidance, and FAQs, as well as proposed rule change filings. For example, the SEC enabled the immediate effectiveness of a FINRA rule change to modify certain timing, method of service, and other procedural requirements to allow parties to—among other things—file or serve documents electronically, which was extended to July 31, 2020.

Conditional Relief to Municipal Advisors. Intended to assist smaller municipal issuers, the SEC issued an order granting a temporary conditional exemption from broker registration to registered municipal advisors in connection with certain direct placement of municipal securities. The relief extends through December 31, 2020, and is only available in connection with a direct placement in the aggregate principal amount of $20 million or less.

Registered Transfer Agent Relief. The SEC provided registered transfer agents with exemptive relief for certain recordkeeping, reporting, and processing time obligations that could be difficult to meet considering COVID-19 challenges. Transfer agents at all times continue to be subject to the requirements of Exchange Act Rule 17Ad-12, which requires transfer agents to ensure that they adequately safeguard securities and funds in their possession or custody. In June, the SEC extended the relief until a date to be specified in an SEC public notice, which date will be at least two weeks from the notice date.

Fingerprinting Requirements. The SEC provided additional relief to transfer agents, broker-dealers, NSEs and their members, and clearing agencies from the statutory requirement that partners, directors, officers, and employees be fingerprinted. In June, the SEC extended the relief until a date to be specified in a public notice, which date will be at least two weeks from the notice date.

Broker-Dealer Financial Responsibility Rules. An April 2020 statement provides that SEC staff would not recommend an enforcement action relating to prompt transmission of customer checks and the timing of quarterly securities counts of physical securities. The SEC has extended the quarterly securities count relief until December 31, 2020, including requesting that broker-dealers notify Commission and FINRA staff if the relief will be needed, but has not extended past June 2020 relief relating to the prompt transmission of customers checks.
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- **Paper Submissions, Manual Signatures, and Notarization Requirements.** An April 2020 staff statement noted SEC staff would not recommend enforcement action if filers and registrants make alternate arrangements, as detailed in the statement, for delivery, execution, and notarization of certain paper filings. **The statement was updated in June 2020 to indicate that the statement would terminate on the date specified in a public notice, which date will be at least two weeks from the notice date.**

**Conclusion**

BKD will continue to follow this developing situation. As with most topics related to COVID-19, changes are being made rapidly. Please note that this information is current as of the date of publication. Visit [BKD’s COVID-19 Resource Center](#) to learn more. If you have questions about these changes, contact your [BKD Trusted Advisor](#) today.

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