Proskauer

UPDATE: The SEC Extends Temporary Conditional Relief for Investment Advisers, Registered Funds and BDCs in Connection with Coronavirus Outbreak

March 30, 2020

On Wednesday, March 25, 2020, the U.S. Securities and Exchange Commission (the "SEC") issued an order under the Investment Advisers Act of 1940, as amended (the "Advisers Act") and an order under the Investment Company Act of 1940, as amended (the "Investment Company Act") extending the period for which previously-granted conditional relief is available, as summarized in the chart below.

The previously-granted relief was announced on March 13, 2020 and provided exemptions related to (i) certain filing and delivery requirements for investment advisers, registered investment companies and business development companies ("BDCs") and; (ii) in-person board meeting requirements for registered investment companies and BDCs. The orders issued on March 25, 2020 supersede those issued on March 13, 2020. For additional information on the original orders, see our previous client alert here.

In addition to extending the period for which the conditional relief is available, the SEC eliminated certain conditions from the original orders that registrants believed would be difficult to comply with given the quickly-changing situation relating to the ongoing coronavirus outbreak.

INVESTMENT ADVISERS

Relief Granted by SEC in Original Advisers Act Order*	Period Covered by Original Order	Extended Period Under New Order	Conditions Eliminated

45-day extension for the following filing/delivery obligations: • Registered investment advisers' Form ADV filing requirements; • Exempt reporting advisers' obligation to file reports on Form ADV Part 1A; • Registered investment advisers' obligation to deliver amended brochures, brochure supplements or a summary of material changes to clients; and • Private fund advisers' Form PF filing requirements.	Obligations for which the original due date is on or after March 13, 2020 but on or prior to **April 30, 2020**.	Obligations for which the original due date is on or after March 13, 2020 but on or prior to **June 30, 2020**.	No longer required to: • Include, in its email correspondence to the SEC and on its website, as applicable, why it is unable to meet a filing deadline or delivery requirement; or • Provide an estimated date of filing or delivery completion.

* https://www.sec.gov/rules/other/2020/ia-5463.pdf

INVESTMENT COMPANIES AND BDCs

Relief Granted by SEC in Original Investment Company Act Order*	Period Covered by Original Order	Extended Period Under New Order	Conditions Eliminated
Relief from requirements that certain agreements, plans or arrangements be approved by a fund's board of directors by an in-person vote.	March 13, 2020 to (and including) **June 15, 2020**	March 13, 2020 to (and including) **August 15, 2020**	N/A
45 day extension to Form N-CEN and Form N-PORT filing deadlines.	Filings for which the original due date is on or after March 13, 2020 but on or prior to **April 30, 2020**.	Filings for which the original due date is on or after March 13, 2020 but on or prior to **June 30, 2020**.	No longer required to: • Include, in its email correspondence to the SEC and on its website, why it is unable to File Form N-CEN or Form N-PORT; or • Provide an estimated date by which it expects to file such report.

Relief Granted by SEC in Original Investment Company Act Order*	Period Covered by Original Order	Extended Period Under New Order	Conditions Eliminated
45 day extension from annual and semi-annual report transmittal deadlines.	Filings for which the original due date is on or after March 13, 2020 but on or prior to **April 30, 2020**.	Filings for which the original due date is on or after March 13, 2020 but on or prior to **June 30, 2020**.	No longer required to: • Include, in its email correspondence to the SEC and on its website, why it is unable to time its report on a timely basis; or • Provide an estimated date by which it expects to file such report.
Exemption from the requirement to file Form N-23C-2 at least 30 days prior to calling or redeeming securities.	March 13, 2020 to (and including) **June 15, 2020**.	March 13, 2020 to (and including) **August 15, 2020.**	No longer required to include, in email correspondence to the SEC, a brief description of the reasons why it needs to file a notice fewer than 30 days in advance of the date set by the closed-end fund or BDC, as applicable, for calling or redeeming the securities of which it is the issuer.

Relief Granted by SEC in Original Investment Company Act Order*	Period Covered by Original Order	Extended Period Under New Order	Conditions Eliminated
45 day extension from registered fund prospectus delivery requirements [1]	Delivery was originally required on or after March 13, 2020 but on or prior to **April 30, 2020**.	Delivery was originally required on or after March 13, 2020 but on or prior to **June 30, 2020**.	No longer required to: • Include, in its email correspondence to the SEC and on its website, a brief description of why it or any other person required could not deliver the prospectus to investors on a timely basis; or • Provide an estimated date by which it expects the prospectus to be delivered.

* https://www.sec.gov/rules/other/2020/ic-33817.pdf

Conclusion

The SEC and its staff continue to assess impacts relating to the coronavirus on investors and market participants. The SEC may provide additional relief as circumstances warrant and, as evidenced by these recent events, may extend and/or modify currently available relief.

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[1] Unlike the other relief described herein, where the SEC used its exemptive authority pursuant to various provisions of the Advisers Act and the Investment Company Act, the relief granted with respect to prospectus delivery requirements is an SEC statement that it would not provide a basis for an SEC enforcement action so long as a registered fund operated within the terms of the order.

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Proskauer's cross-disciplinary, cross-jurisdictional Coronavirus Response Team is focused on supporting and addressing client concerns. Visit our Coronavirus Resource Center for guidance on risk management measures, practical steps businesses can take and resources to help manage ongoing operations.

Related Professionals

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