

SEC and PCAOB (COVID-19) Response

SEC

On March 4, 2020, the SEC issued an order that provides publicly traded companies additional time to file certain disclosure reports. For annual and quarterly reports that would have been due between March 1 and April 30, 2020, there is an additional 45 days if the registrant is not able to file due to circumstances related to COVID-19, but they will be required to file an 8K by the reporting deadline.

On March 13, 2020, the SEC released an order with regards to issuers, shareholders, and other market participants regarding their obligations under the federal proxy rules.

For registered investment funds' semi-annual and annual reporting requirements, including Forms N-CEN and N-Port, which would have to be filed by or on April 30, 2020, there is also an additional 45 days if the registrant is not able to file due to circumstances related to COVID-19. The registrant will also need to promptly notify the Commission and disclose this on its public website.

Changing the Shareholder Meeting

As it relates to issuers that are thinking about changing the date, time or location of their shareholder meetings due to COVID-19 concerns, the SEC provides guidelines about such changes, provided that the issuer does the following:

1. Issues a press release announcing the change to their annual shareholder meeting,

1. Files this announcement as definitive additional soliciting material on EDGAR, and
2. Takes reasonable steps necessary to inform appropriate parties such as intermediaries in the proxy process and/or market participants.

“Virtual” Shareholder Meeting

As it relates to virtual shareholder meetings, check with your external legal counsel as it is contingent upon the governing documents and the state of incorporation. The SEC suggests that issuers that plan to conduct such meetings virtually that the shareholders and other participants are notified in a timely manner with clear directions on the details of the meetings.

March 16, 2020

Reporting Obligations

The SEC’s perspective on reporting is that companies have an obligation to share with investors their assessment, plans and any material risks related to their business from COVID-19. This includes financial statement disclosures, as well as any specific risks that would need to be identified as risk factors.

Management’s discussion and analysis should also describe any trends or uncertainties that the issuer reasonably expects will have a material favorable or unfavorable impact on revenues.

Footnote disclosures that may be impacted are as follows:

1. Subsequent events need to consider all material current/potential effects of COVID-19 that exist as of the balance sheet date.
2. Valuation and impairment consideration should be given on how COVID-19 impacts estimates and disclosures related to account balances such as receivables, loans, investments, inventory, goodwill, other long-lived assets, and the valuation allowance on deferred tax assets.
3. Debt agreements and covenants may be adjusted based on revised cash flow needs as a result of COVID-19 that will result in amendments to existing debt agreements or the need for waivers on debt covenants. Debtors will need to determine if such changes result in a modification or extinguishment accounting or if the classification of the long-term debt needs to be revised as short-term.
4. Going concern will need to be assessed if conditions/events related to COVID-19 raise substantial doubt about an entity's ability to continue as a going concern, which also requires additional disclosures about risks and uncertainties.

PCAOB

The PCAOB has determined to provide PCAOB-registered audit firms a 45-day relief period from inspections, with some exceptions. They expect to resume inspections on May 11, 2020.

On February 19, 2020, the PCAOB along with the SEC issued a joint statement on the impact of COVID-19 on financial reporting. This statement emphasized, while the impact of COVID-19 may be difficult to predict or assess, information about the registrant's plan and response to COVID-19 may be material to an investment decision and thus, may need to be disclosed. The PCAOB and SEC encouraged registrants to work with their audit committees and auditors to ensure that the financial reporting, audit and review procedures were as robust as practical in light of the circumstances.