

## SEC Extends Relief for Funds and Investment Advisers Amid COVID-19 Pandemic



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On March 25, the SEC issued orders under the Investment Company Act of 1940 (New ICA Order) (available at: <https://www.sec.gov/rules/other/2020/ic-33824.pdf>) and the Investment Advisers Act of 1940 (New Advisers Act Order) (available at: <https://www.sec.gov/rules/other/2020/ia-5469.pdf>) that extend the relief previously provided on March 13 in response to the effects of COVID-19 and eliminate certain conditions for reliance on the orders. We published a client alert on the initial relief, which can be read here (available at: <https://www.pepperlaw.com/publications/sec-grants-relief-to-funds-and-advisers-related-to-covid-19-outbreak-2020-03-16/>).

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Pepper Hamilton and Troutman Sanders attorneys are monitoring regulatory developments closely, and remain committed to assisting our clients through this time. Do not hesitate to contact any of the authors listed here.

### **Modified Relief Related to the Investment Company Act of 1940**

The New ICA Order expands on the relief provided in the original order by extending temporary relief related to (1) in-person board meetings and share repurchases by closed-end funds and business development companies (BDCs) until August 15, 2020 and (2) certain filing obligations and the transmittal of semi-/annual reports until June 30, 2020.

- **Relief temporarily eliminating in-person board meetings has been extended to August 15, 2020.** The conditions for reliance on this relief are unchanged from the original order.
  
- **Form N-CEN and N-PORT Filings**
  - *Delayed filing of Forms N-CEN and N-PORT extended to filings due on or before June 30, 2020.* These filings still need to be made as soon as practicable and in no case later than 45 days after the original due date.
  
  - *Elimination of certain conditions to delay filing of Forms N-CEN and N-PORT.* The New ICA Order eliminates certain conditions for reliance on the relief related to Forms N-CEN and N-PORT. The New ICA Order no longer requires that a registered fund that intends to rely on the relief (1) include, in its email correspondence to SEC staff and on its website, a brief description of the reasons why it is unable to file Form N-CEN or Form N-PORT and (2) provide SEC staff with an estimated date by which it expects to file such report.
  
- **Transmittal of Shareholder Reports**
  - *Delayed transmittal of shareholder reports extended to reports due for delivery on or before June 30, 2020.* Transmittal must be made as soon as practicable and in no case later than 45 days after the original due date.

- *Elimination of certain conditions to delay delivery of shareholder reports.* The New ICA Order eliminates certain conditions for reliance on the relief with respect to the transmittal of annual and semiannual reports. The New ICA Order no longer requires that a registered fund that intends to rely on the New ICA Order with respect to transmission of shareholder reports (1) include, in its email correspondence to SEC staff and on its website, a brief description of the reasons why it is unable to file its report on a timely basis and (2) provide SEC staff with an estimated date by which it expects to file such report.
- **Notice Period for Closed-End Fund Share Repurchases**
  - The original order temporarily exempted closed-end funds and BDCs from the requirement to file Form N-23C-2 at least 30 days in advance of calling or redeeming any shares until June 15, 2020. The New ICA Order extends the temporary exemption until **August 15, 2020**.
  - The New ICA Order eliminates the requirement that a closed-end fund or BDC that intends to rely on the New ICA Order with respect to share repurchases include, in its email correspondence to SEC staff, a brief description of the reasons why it needs to file a notice fewer than 30 days in advance of the date.

### **Relief Related to the Investment Advisers Act of 1940**

The New Advisers Act Order expands the window of relief to include Form ADV and Form PF filings due on or before June 15, 2020. All filings must be made as soon as practicable, but not later than 45 days after the original due date for filing or delivery.

- **Form ADV Amendment and Delivery Requirements**
  - The original order provided a temporary exemption to investment advisers and exempt reporting advisers for filings and delivery of Form ADV due until April 30, 2020. The New Advisers Act Order extends this relief to filings due on or before **June 15, 2020**.
  - The New Advisers Act Order eliminates the condition that an investment adviser or exempt reporting adviser (1) include, in its email correspondence to SEC staff and on its website, as applicable, why it is unable to meet a filing deadline or delivery requirement and (2) provide an estimated date of filing or delivery completion.

- **Form PF**

- The original order provided a temporary exemption to investment advisers with respect to their Form PF filings due until April 30, 2020. The New Advisers Act Order extends this relief to Form PF filings due on or before **June 15, 2020**.
- The New Advisers Act Order eliminates the condition that an investment adviser (1) include, in its email correspondence to SEC staff and on its website, as applicable, why it is unable to meet a filing deadline or delivery requirement and (2) provide an estimated date of filing or delivery completion.

Advisers must still notify the SEC that they are relying on the New Advisers Act Order and must file the Form ADV or Form PF, as applicable, and deliver the brochure (or summary of material changes) and brochure supplement as soon as practicable, but not later than 45 days after the original due date for filing or delivery, as applicable.

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Should you have any questions related to the items discussed in this article or regarding your legal and compliance obligations during the COVID-19 outbreak, please do not hesitate to contact any of the authors listed. Pepper Hamilton and Troutman Sanders attorneys remain committed to assisting you through this rapidly developing situation.