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SEC Provides Filing Relief for Companies Affected by Coronavirus

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by Cam C. Hoang

The Securities and Exchange Commission issued an order today providing filing relief for companies that are affected by the coronavirus. In the order, the Commission notes that disruptions to transportation, and limited access to facilities, support staff, and professional advisors as a result of COVID-19, could hamper the efforts of public companies and other persons with filing obligations to meet their filing deadlines.

Companies may have an additional 45 days from the original due date to file their Exchange Act reports that are otherwise due between March 1 and April 30. In the reports, companies must disclose that they are relying on the order and state the reasons why they could not file their reports on a timely basis.

As conditions to the filing relief, companies must be unable to meet their filing deadlines due to circumstances related to COVID-19. They must furnish in a report on Form 8-K or Form 6-K, by the later of March 1 or the original filing deadline, (1) a statement that they are relying on the order; (2) a brief description of the reasons why they could not file the report on a timely basis; (3) the estimated date of filing; (4) if appropriate, a risk factor explaining, if material, the impact of COVID-19 on their business; and (5) if the report cannot be filed on a timely basis because of the inability of a third party to furnish a required opinion, report or certification, a signed statement by the third party.

Companies may also be exempt from Exchange Act requirements to furnish proxy and other soliciting materials under certain conditions, where the shareholder has a mailing address located in an area where the common carrier has suspended delivery service as a result of COVID-19, and the companies have made a good faith effort to furnish their proxy materials.

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