
February 20, 2020

SEC Issues a Statement on Coronavirus Reporting Considerations and Potential Relief

Yesterday, the U.S. Securities and Exchange Commission (the “SEC”) published a joint Public Statement by SEC Chairman Jay Clayton, SEC Division of Corporation Finance Director Bill Hinman, SEC Chief Accountant Sagar Teotia and PCAOB Chairman William D. Duhnke III (the “Statement”) (available [here](#)) addressing financial reporting considerations and potential SEC relief in light of the current and potential effects of the coronavirus. The Statement follows coronavirus-related comments provided by Chairman Clayton in his speech on January 30 (available [here](#)). At that time, Chairman Clayton noted that the SEC staff would monitor coronavirus-related developments and provide guidance to companies and other market participants regarding any required disclosures relating to reporting companies’ potential exposure to the effects of the coronavirus and the impact of such exposure on financial disclosures and audit quality. Chairman Clayton also noted that, despite the uncertainty surrounding the impact of the coronavirus, how reporting companies plan for the uncertainty and how they respond to events as they evolve can be material to an investment decision.

Background

As noted in the Statement, the coronavirus effects may be of significance to a number of SEC reporting companies (including those based in the United States, in China or elsewhere in the world) that have business operations, or depend on companies (for example, suppliers, distributors and/or customers) that have operations, in China or other countries affected by the virus. As the situation continues to develop, its effects on individual reporting companies remain “difficult to assess or predict with meaningful precision” due to existence of a number of factors beyond their control and knowledge.

From the perspective of a reporting company, the coronavirus may have a range of effects on its operations, internal processes and controls, and operating results. There may be administrative challenges for reporting companies with a calendar year-end that could affect audit quality and the timeliness of the completion of the annual audit (*e.g.*, access by auditors to information and company personnel). There may well also be challenges for reporting companies as they prepare disclosures to be included in annual or quarterly reports on Form 10-K or Form 10-Q, or annual reports on Form 20-F or Form 40-F, due to the difficulty in quantifying how they will need to respond to the consequences of the coronavirus (if it continues to spread) and quantifying the impact of such consequences, as well as any mitigating actions, on prospects, financial condition, results of operations and cash flows. These consequences will also need to be factored into decisions made around financial reporting (accounting conclusions and reporting/recognition of subsequent events). Access to financial and other information from equity method investees and

acquired/to be acquired businesses, as well as from consolidated entities, affected by the coronavirus may also be impacted. Finally, reporting companies headquartered, or with operations, in China, or with supply chain or other material relationships with companies in China, may need to consider the impact of coronavirus consequences on their disclosure controls and procedures and (particularly if controls need to be modified or temporarily replaced) internal control over financial reporting.

Themes Addressed in the Statement

As result of the ensuing uncertainty, the SEC urges reporting companies to engage with their audit committees and auditors to ensure that “their financial reporting, auditing and review processes are as robust as practicable in light of the circumstances” as this will enable them to better respond to events as they unfold and to meet any applicable requirements. In particular:

- The Statement underscores the need for reporting companies to consider potential disclosure of “subsequent events” in the notes to their financial statements in accordance with guidance included in Accounting Standards Codification (ASC) 855, *Subsequent Events*.
- The Statement is also a reminder of the SEC’s general policy of granting relief from filing deadlines in situations where, in light of circumstances beyond the control of a reporting company, filings cannot be completed on time with appropriate review and attention. The Statement cross-references the SEC release (available [here](#)) issued following Hurricane Michael in 2018, at which time the SEC issued both an order under the Securities Exchange Act of 1934 (the “Exchange Act”) and the Investment Company Act of 1940 (available [here](#)) and an interim final temporary rule (available [here](#)), and provided no-action relief on related filing obligations under the Securities Act of 1933, the Exchange Act and the Investment Advisers Act of 1940. The 2018 actions underscore the importance for affected reporting companies of complying with any new deadlines that may be set and being in a position to state the reasons why reports, schedules or forms could not be filed with the SEC on a timely basis.

The SEC staff expects to engage with registrants on questions they may have in relation to reporting of the potential effects of the coronavirus and encourages reporting companies to contact the SEC staff if they require specific relief or guidance. Based on the circumstances and on the continued monitoring of coronavirus-related developments, the SEC staff will decide whether it would be appropriate to provide relief or additional guidance on a case-by-case or broader basis. In the absence of such relief, reporting companies will only have the limited extensions available as provided in, and upon compliance with, Rule 12b-25 under the Exchange Act.

* * *

This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

Mark S. Bergman
+44-20-7367-1601

mbergman@paulweiss.com

John (Jack) Lange
+852-2846-0333

jlange@paulweiss.com

Xiaoyu Greg Liu
+86-10-5828-6302

gliu@paulweiss.com

Judie Ng Shortell
+86-10-5828-6318

jngshortell@paulweiss.com

Betty Yap
+852-2846-0396

byap@paulweiss.com

Tong Yu
+81-3-3597-6306

tyu@paulweiss.com

Securities practice management attorney Monika G. Kislowska and associate Sofia D. Martos contributed to this Client Memorandum.