



8011-01P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88448/ March 20, 2020]

Order Under Section 17A and Section 36 of the Securities Exchange Act of 1934 Granting Exemptions from Specified Provisions of the Exchange Act and Certain Rules Thereunder

The Commission understands from transfer agents and their representatives, as well as other persons, that COVID-19 may present challenges in timely meeting certain of their obligations under the federal securities laws. In light of this, we are issuing this Order to address the currently anticipated needs of transfer agents (and of other persons with regard to Exchange Act section 17(f)(2) and Rule 17f-2), that have been directly or indirectly affected by COVID-19.

Section 36 of the Exchange Act authorizes the Commission, by rule, regulation or order, to exempt, either conditionally or unconditionally, any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Exchange Act or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.

Section 17A(c)(1) of the Exchange Act provides that the appropriate regulatory agency, by rule or by order, upon its own motion or upon application, may conditionally or unconditionally exempt any person or security or class of persons or securities from any provision of Section 17A or any rule or regulation prescribed under Section 17A, if the appropriate regulatory agency¹ finds that such exemption is in the public interest and consistent with the protection of investors and the purposes of Section 17A, including the

¹ Section 3(a)(34)(B) of the Exchange Act defines “appropriate regulatory authority.”

prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds.

Transfer agents and other persons who are unable to meet a deadline as extended by this relief, or in need of additional assistance, should contact the Division of Trading and Markets at (202) 551-5777 or tradingandmarkets@sec.gov.

I. TIME PERIOD FOR THE RELIEF

The time period for the relief specified in Section II of this Order is as follows:

- With respect to those transfer agents and other persons impacted by COVID-19, the period from and including March 16, 2020, to May 30, 2020.
- The Commission may extend the time period during which this relief applies, with any additional conditions the Commission deems appropriate.

II. COMPLIANCE WITH SECTIONS 17A AND 17(f) OF THE EXCHANGE ACT

Exchange Act Section 17A and Section 17(f), as well as the rules promulgated under Sections 17A and 17(f), contain requirements for registered transfer agents and other regulated persons relating to, among other things, processing securities transfers, safekeeping of investor and issuer funds and securities and maintaining records of investor ownership. As a result of issues related to COVID-19, registered transfer agents and other persons directly affected by COVID-19 may have difficulty complying with some or all of their regulatory obligations. In addition, registered transfer agents indirectly affected by COVID-19 may be unable to conduct business with entities or security holders who themselves have been directly or indirectly affected, thereby making it difficult to process securities transactions and corporate actions in conformance with Section 17A, Section 17(f) and the rules thereunder.

While the national clearance and settlement system continues to operate well in light of these challenges, the Commission recognizes that the need to comply with Section 17A and Section 17(f) of the Exchange Act, as well as the rules promulgated thereunder, may present compliance issues for those affected by COVID-19. Therefore, the Commission is using its authority under Section 17A and Section 36 of the Exchange Act to provide temporary relief from certain regulatory provisions. This Order temporarily exempts: (1) transfer agents from the requirements of Sections 17A and 17(f)(1) of the Exchange Act, as well as Rules 17Ad-1 through 17Ad-11, 17Ad-13 through 17Ad-20, and 17f-1 thereunder (the “Transfer Agent Exempted Provisions”); and (2) transfer agents and other persons subject to such requirements, from the requirements of Section 17(f)(2) of the Exchange Act and Rule 17f-2 thereunder (the “Fingerprinting Exempted Provisions”) (collectively, the Transfer Agent Exempted Provisions and Fingerprinting Exempted Provisions are the “Exempted Provisions”). The Commission finds the following exemption to be in the public interest and consistent with the protection of investors and the purpose of Section 17A of the Exchange Act, including the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds.

Accordingly, IT IS ORDERED, pursuant to Sections 17A and 36 of the Exchange Act, that any registered transfer agent that is unable to comply with any or all of the Exempted Provisions, as applicable, due to COVID-19, as well as any other person subject to the Fingerprinting Exempted Provisions, is hereby temporarily exempted from complying with such provisions for the period from and including March 16, 2020 to May 30, 2020 where the conditions below are satisfied.

Conditions.

(a) A registrant or other person relying on this Order must provide written notification to the Commission by May 30, 2020 of the following:

- (1) The registrant or other person is relying on this Order;
- (2) A description of the specific Exempted Provisions the registrant or other person is unable to comply with and a statement of the reasons why, in good faith, the registrant or other person is unable to comply with such Exempted Provisions; and
- (3) If a transfer agent knows or believes that it has been unable to maintain the books and records it is required to maintain pursuant to Section 17A and the rules thereunder, a complete and accurate description of the type of books and records that were not maintained, the names of the issuers for whom such books and records were not maintained, the extent of the failure to maintain such books and records, and the steps taken to ameliorate any such failure to maintain such books and records.

(b) The Exempted Provisions do not include, and this order does not provide relief from, Rule 17Ad-12 under the Exchange Act. Transfer agents affected by COVID-19 that have custody or possession of any security holder or issuer funds or securities shall continue to comply with the requirements of Rule 17Ad-12 under the Exchange Act. If a transfer agent's operations, facilities, or systems are significantly affected as a result of COVID-19 such that the transfer agent believes its compliance with Rule 17Ad-12 could be negatively affected, to the extent possible, all security holder or issuer funds that remain in the custody of the transfer agent should be maintained in a separate bank account held for the exclusive benefit of security holders until such funds are properly processed, transferred, or remitted.

The notification required under (a) above shall be emailed to:

tradingandmarkets@sec.gov

The Commission encourages registered transfer agents and the issuers for whom they act to inform affected security holders whom they should contact concerning their accounts, their access to funds or securities, and other shareholder concerns. If feasible, issuers and their transfer agents should place a notice on their websites or provide toll free numbers to respond to inquiries.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-06292 Filed: 3/25/2020 8:45 am; Publication Date: 3/26/2020]