

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88465 / March 25, 2020]

ORDER UNDER SECTION 36 OF THE SECURITIES EXCHANGE ACT OF 1934 MODIFYING EXEMPTIONS FROM THE REPORTING AND PROXY DELIVERY REQUIREMENTS FOR PUBLIC COMPANIES

On March 4, 2020, in response to the potential effects of coronavirus disease 2019 (COVID-19), the Securities and Exchange Commission (the “Commission”) issued an order¹ (the “Original Order”) pursuant to its authority under Section 36 of the Securities Exchange Act of 1934 (the “Exchange Act”) granting exemptions from certain provisions of that Act and the rules thereunder related to the reporting and proxy delivery requirements for certain public companies, subject to certain conditions. The Commission has been monitoring the effects of COVID-19 and is now modifying the exemptions in light of its current understanding of the circumstances. The health and safety of all participants in the securities markets is of paramount importance, and the Commission recognizes that public companies and other market participants continue to face challenges in meeting the reporting and proxy delivery requirements of the federal securities laws in a timely manner. For this reason and the reasons stated in the Original Order, the Commission finds that modifying the exemptions to cover filings due on or before July 1, 2020, pursuant to its authority under Section 36 the Exchange Act, is appropriate in the public interest and consistent with the protection of investors. This Order supersedes the Original Order.

¹ Release No. 34-88318 (March 4, 2020), available at <https://www.sec.gov/rules/other/2020/34-88318.pdf>.

Any registrant or other person in need of additional assistance related to deadlines, delivery obligations or their public filings, should contact the Division of Corporation Finance at (202) 551-3500 or at https://www.sec.gov/forms/corp_fin_interpretive.

I. TIME PERIOD FOR THE RELIEF

- The time period for the relief specified in Section II with respect to those registrants or other persons impacted by COVID-19 is March 1, 2020 to July 1, 2020.
- The Commission intends to monitor the current situation and may, if necessary, extend the time period during which this relief applies, with any additional conditions the Commission deems appropriate and/or issue other relief.

II. FILING REQUIREMENTS FOR REGISTRANTS AND OTHER PERSONS

The Commission believes that the relief from filing requirements provided by the exemption below is necessary and appropriate in the public interest and consistent with the protection of investors. We remind public companies and other persons who are the subjects of this Order to continue to evaluate their obligations to make materially accurate and complete disclosures in accordance with the federal securities laws.

Accordingly, IT IS ORDERED, pursuant to Section 36 of the Exchange Act, that a registrant (as defined in Exchange Act Rule 12b-2) subject to the reporting requirements of Exchange Act Section 13(a) or 15(d), and any person required to make any filings with respect to such a registrant, is exempt from any requirement to file or furnish materials and

any amendment thereto with the Commission under Exchange Act Sections 13(a), 13(f), 13(g), 14(a), 14(c), 14(f), 15(d) and Regulations 13A, 13D-G (except for those provisions mandating the filing of Schedule 13D or amendments to Schedule 13D), 14A, 14C and 15D, and Exchange Act Rules 13f-1, and 14f-1, as applicable, where the conditions below are satisfied.

Conditions.

- (a) The registrant or any person required to make any filings with respect to such a registrant is unable to meet a filing deadline due to circumstances related to COVID-19;
- (b) Any registrant relying on this Order furnishes to the Commission a Form 8-K or, if eligible, a Form 6-K² by the later of March 16 or the original filing deadline of the report³ stating:⁴

- (1) that it is relying on this Order;
- (2) a brief description of the reasons why it could not file such report, schedule or form on a timely basis;
- (3) the estimated date by which the report, schedule, or form is expected to be filed;
- (4) a company specific risk factor or factors explaining the impact, if material, of COVID-19 on its business; and
- (5) if the reason the subject report cannot be filed timely relates to the inability of any person, other than the registrant, to furnish any required opinion, report or

² The registrant must furnish a Form 8-K or Form 6-K for each filing that is delayed.

³ Any registrant relying on this Order would not need to file a Form 12b-25 so long as the report, schedule, or form is filed within the time period prescribed by this Order.

⁴ The Commission believes such statements, as furnished, to the extent they contain “forward-looking statements,” and otherwise meet the conditions of Exchange Act Section 21E, would be subject to the safe harbor contained therein. See the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 77z-1 (1998).

certification, the Form 8-K or Form 6-K shall have attached as an exhibit a statement signed by such person stating the specific reasons why such person is unable to furnish the required opinion, report or certification on or before the date such report must be filed.

(c) The registrant or any person required to make any filings with respect to such a registrant files with the Commission any report, schedule, or form required to be filed no later than 45 days after the original due date; and

(d) In any report, schedule or form filed by the applicable deadline pursuant to paragraph (c) above, the registrant or any person required to make any filings with respect to such a registrant must disclose that it is relying on this Order and state the reasons why it could not file such report, schedule or form on a timely basis.

III. FURNISHING OF PROXY AND INFORMATION STATEMENTS

We also believe that relief is warranted for those seeking to comply with the requirements of Exchange Act Sections 14(a) and (c) and Regulations 14A and 14C and Exchange Act Rule 14f-1 thereunder to furnish materials to security holders when mail delivery is not possible, and that the following exemption is necessary and appropriate in the public interest and consistent with the protection of investors.

Accordingly, IT IS ORDERED, pursuant to Section 36 of the Exchange Act, that a registrant or any other person is exempt from the requirements of the Exchange Act and the rules thereunder to furnish proxy statements, annual reports, and other soliciting materials, as applicable (the “Soliciting Materials”), and the requirements of the Exchange Act and

the rules thereunder to furnish information statements and annual reports, as applicable (the “Information Materials”), where the conditions below are satisfied.

Conditions.

(a)(1) The registrant’s security holder has a mailing address located in an area where, as a result of COVID-19, the common carrier has suspended delivery service of the type or class customarily used by the registrant or other person making the solicitation; and

(b) The registrant or other person making a solicitation has made a good faith effort to furnish the Soliciting Materials to the security holder, as required by the rules applicable to the particular method of delivering Soliciting Materials to the security holder, or, in the case of Information Materials, the registrant has made a good faith effort to furnish the Information Materials to the security holder in accordance with the rules applicable to Information Materials.

By the Commission.

Vanessa A. Countryman
Secretary