

SEC Amends Financial Disclosure Rules

As part of a continuing effort to modernize, simplify and enhance its disclosure rules, the Securities and Exchange Commission (SEC) adopted sweeping changes to Items 301, 302 and 303 of Regulation S-K, largely as proposed in January 2020. Conforming changes were made in other rules and registration and report forms, including parallel changes to disclosure requirements for foreign private issuers.

Item 301, Selected Financial Data

Item 301 requires a company to disclose, in tabular form, selected financial information for the five preceding years, with exceptions for smaller reporting companies (SRCs) and emerging growth companies. Noting the difficulties encountered in preparing the table and the ready availability of historical financial information in EDGAR, the SEC's electronic database of public company filings, the SEC has deleted the item entirely. The SEC, however, encourages reporting companies, in the Management's Discussion and Analysis of Financial Condition and Results of Operations (MD&A), to disclose, if material, financial trends from periods earlier than those presented in the financial statements and to include tabular presentation of relevant financial information in an introduction to the MD&A.

Item 302, Supplementary Financial Information

Item 302, Supplementary Financial Information. On similar grounds, the SEC deleted the requirement to disclose certain quarterly information for the preceding two years, except if there have been material changes in the Statements of Comprehensive Income for any of the quarters during the two-year period.



Item 303, MD&A

Significant revisions to the MD&A, which the SEC considers at the heart of its textual financial disclosure rules, include the deletion or rearranging of many provisions as well as new and revised requirements. The following are some of the most significant amendments.

The SEC added a new subsection (a), setting forth the MD&A's objective, which is "to provide material information relevant to an assessment of the [company's] financial condition and results of operations ... including an evaluation of the amounts and certainty of cash flows from operations and from outside sources." The MD&A must be prepared entirely in light of this objective and focus specifically on material events and uncertainties that are "reasonably likely" to cause reported financial information to not necessarily be predictive of future results.

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Requirements for liquidity and capital resources disclosure remain generally unchanged, but now specify that the company must analyze its ability to meet cash requirements during the current year and, separately, in periods beyond. Reflecting the deletion of subsection (a)(5), *Tabular Disclosure of Contractual Obligations*, cash needed to satisfy contractual obligations must be addressed if material.

Although discussion of interim periods since the beginning of the year and of the comparable prior-year period continues to be required, a company may compare the quarter being reported on with either the preceding quarter of the current year or the comparable quarter of the preceding year.

New subsection (b)(3) requires disclosure of critical accounting estimates made in financial statement preparation, largely clarifying and codifying existing SEC guidance. Reporting companies must disclose estimates that involve significant degrees of uncertainty that were or are “reasonably likely” to be material and include sensitivity analyses when information is reasonably available. This disclosure must supplement and not duplicate the discussion of accounting policies required to be included in the Notes to Financial Statements.

With the deletion of item (a)(5), as well as disclosure about effects of inflation, the MD&A no longer contains different requirements for SRCs and other reporting companies.

The amendments take effect 30 days from publication in the Federal Register, become mandatory for fiscal years ending on or after 210 days after publication, and apply to registration statements and prospectuses required on the initial filing date to contain financial statements for a period on or after the mandatory compliance date.

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