

SEC Proposes Amendments to Modernize and Enhance Financial Disclosures

FOR IMMEDIATE RELEASE

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Washington D.C., Jan. 30, 2020 —The Securities and Exchange Commission today announced that it has voted to propose amendments to modernize, simplify, and enhance certain financial disclosure requirements in Regulation S-K. The proposed amendments would eliminate duplicative disclosures and modernize and enhance Management's Discussion and Analysis disclosures for the benefit of investors, while simplifying compliance efforts for companies. The Commission also announced that it is providing guidance on key performance indicators and metrics in Management's Discussion and Analysis.

"The proposal and the guidance we are releasing today, which reflect the staff's wealth of experience, would improve the quality and accessibility of registrants' presentation of financial results and performance metrics," said Chairman Jay Clayton. "The improved disclosures would allow investors to make better capital allocation decisions, while reducing compliance burdens and costs without in any way adversely affecting investor protection."

The proposal will have a 60-day public comment period following its publication in the Federal Register.

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FACT SHEET

Simplification and Modernization of Regulation S-K Items 301, 302, and 303 and MD&A Metrics Guidance

Jan. 30, 2020

The Securities and Exchange Commission is proposing amendments designed to modernize, simplify, and enhance certain financial disclosure requirements in Regulation S-K and separately issuing guidance on metrics in Management's Discussion and Analysis. The guidance provides registrants with disclosure considerations for key performance indicators and metrics disclosed in MD&A.

Background

These proposals are part of a comprehensive evaluation of the Commission's disclosure requirements that was recommended in the staff's Report on Review of Disclosure Requirements in Regulation S-K ("S-K Study"). The report was mandated by Section 108 of the Jumpstart Our Business Startups Act. Based on the S-K Study's recommendation, the staff initiated an evaluation of the information our rules require companies to disclose, how this information is presented, where this information is disclosed, and how we can better leverage technology as part of these efforts (collectively, the "Disclosure Effectiveness Initiative"). The overall objective of the Disclosure Effectiveness Initiative is to improve our disclosure regime for both investors and companies.

In developing the proposed amendments, the Commission considered input from comment letters received in response to these disclosure modernization efforts. The Commission also took into account the staff's experience with Regulation S-K arising from the Division of Corporation Finance's disclosure review program and changes in the regulatory and business landscape since the adoption of Regulation S-K.

Highlights

The proposed amendments would eliminate Item 301 (selected financial data) and Item 302 (supplementary financial data), and amend Item 303 (management's discussion and analysis). The proposed amendments are intended to modernize, simplify, and enhance the financial disclosure requirements by reducing duplicative disclosure and focusing on material information in order to improve these disclosures for investors and simplify compliance efforts for registrants.

Among other things, the proposed amendments to Item 303 would:

- Add a new Item 303(a), *Objective*, to state the principal objectives of MD&A;
- Replace Item 303(a)(4), *Off-balance sheet arrangements*, with a principles-based instruction to prompt registrants to discuss off-balance sheet arrangements in the broader context of MD&A;
- Eliminate Item 303(a)(5), *Tabular disclosure of contractual obligations* given the overlap with information required in the financial statements and to promote the principles-based nature of MD&A;
- Add a new disclosure requirement to Item 303, *Critical accounting estimates*, to clarify and codify existing Commission guidance in this area; and
- Revise the interim MD&A requirement in Item 303(b) to provide flexibility by allowing companies to compare their most recently completed quarter to either the corresponding quarter of the prior year (as is currently required) or to the immediately preceding quarter.

The proposal also includes certain conforming amendments, including to Forms 20-F and 40-F, as appropriate.

The guidance provides that, where companies disclose metrics, they should consider whether additional disclosures are necessary and gives examples of such disclosures. The guidance also reminds companies of the requirements in Exchange Act Rules 13a-15 and 15d-15 to maintain disclosure controls and procedures and that companies should consider these requirements when disclosing metrics.

What's Next?

The comment period for the proposal will remain open for 60 days following publication in the Federal Register. The guidance will be effective upon publication in the Federal Register.

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