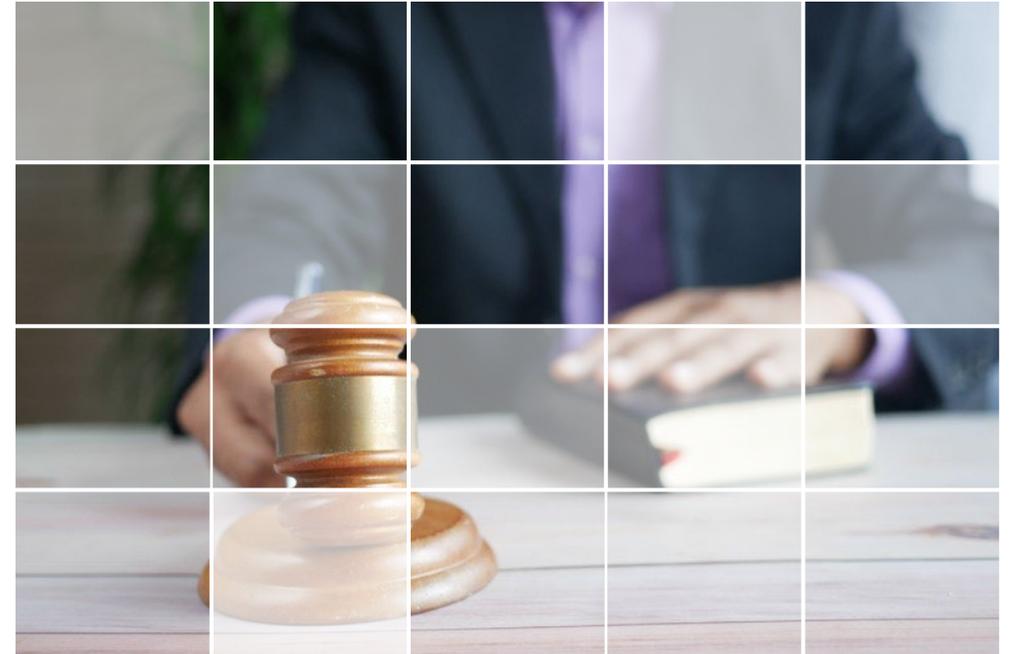




# SEC Disclosure Knowledge for Public Companies



**Stella Dai 2021.8**  
**Dragon Gate Investment Partners**

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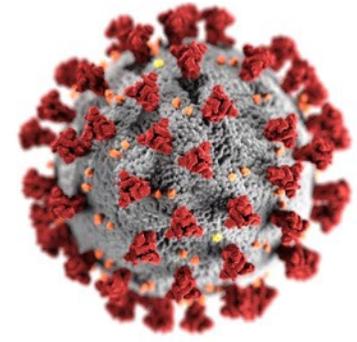
**Statutes**



**Rules, Regulations and Schedules**



**Modernization of Regulation S-K**



**Coronavirus (Guidance)**

# Statutes



# Securities Act of 1933

Often referred to as the "**truth in securities**" law, the Securities Act of 1933 has two basic objectives:

- require that investors receive **financial and other significant information** concerning securities being offered for public sale; and
- **prohibit deceit, misrepresentations, and other fraud** in the sale of securities.

# Securities Exchange Act of 1934

With this Act, Congress created the Securities and Exchange Commission. The Act empowers the SEC with broad authority over all aspects of the securities industry. This includes the power to register, regulate, and oversee brokerage firms, transfer agents, and clearing agencies as well as the nation's securities self regulatory organizations (SROs). The various securities exchanges, such as the New York Stock Exchange, the NASDAQ Stock Market, and the Chicago Board of Options are SROs. The Financial Industry Regulatory Authority (FINRA) is also an SRO.

The Act also identifies and prohibits certain types of conduct in the markets and provides the Commission with **disciplinary powers** over regulated entities and persons associated with them.

The Act also empowers the SEC to require **periodic reporting** of information by companies with publicly traded securities.

# Trust Indenture Act of 1939

This Act applies to debt securities such as bonds, debentures, and notes that are offered for public sale. Even though such securities may be registered under the Securities Act, they may not be offered for sale to the public unless **a formal agreement** between the issuer of bonds and the bondholder, known as the **trust indenture**, conforms to the standards of this Act.

## Sarbanes-Oxley Act of 2002

On July 30, 2002, President Bush signed into law the Sarbanes-Oxley Act of 2002, which he characterized as "the most far reaching reforms of American business practices since the time of Franklin Delano Roosevelt." The Act mandated a number of reforms to enhance corporate responsibility, enhance financial disclosures and combat corporate and accounting fraud, and created the "**Public Company Accounting Oversight Board**," also known as the PCAOB, to oversee the activities of the auditing profession. (Please check the [Classification Tables](#) maintained by the [US House of Representatives Office of the Law Revision Counsel](#) for updates to any of the laws.) You can find links to all Commission rulemaking and reports issued under the Sarbanes-Oxley Act at: <http://www.sec.gov/spotlight/sarbanes-oxley.htm>.



# Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

The Dodd-Frank Wall Street Reform and Consumer Protection Act was signed into law on July 21, 2010 by President Barack Obama. The legislation set out to reshape the U.S. regulatory system in a number of areas including but not limited to **consumer protection, trading restrictions, credit ratings, regulation of financial products, corporate governance and disclosure, and transparency**. (Please check the [Classification Tables](#) maintained by the [US House of Representatives Office of the Law Revision Counsel](#) for updates to any of the laws.) You can find links to all Commission rulemaking and reports issued under the Dodd Frank Act at: <http://www.sec.gov/spotlight/dodd-frank.shtml>.



## Jumpstart Our Business Startups Act of 2012

The Jumpstart Our Business Startups Act (the "JOBS Act") was enacted on April 5, 2012. The JOBS Act aims to help businesses **raise funds** in public capital markets by minimizing regulatory requirements. The full text of the Act is available at: <http://www.gpo.gov/fdsys/pkg/BILLS-112hr3606enr/pdf/BILLS-112hr3606enr.pdf>. (Please check the [Classification Tables](#) maintained by the [US House of Representatives Office of the Law Revision Counsel](#) for updates to any of the laws.)

# Rules, Regulations and Schedules



# Rules, Regulations and Schedules

The following rules, regulations and schedules apply to **disclosure documents** filed with the SEC that are subject to review by the Division of Corporation Finance.

## [Regulation S-X](#) [17 CFR Part 210]

- Form and content of and requirements for **financial statements**

## [Regulation Crowdfunding](#) [17 CFR Part 227]

- Rules governing **crowdfunding offerings** of up to \$1,070,000



# Rules, Regulations and Schedules

## [Regulation S-K](#) [17 CFR Part 229]

- Integrated **disclosure requirement** repository

Also included in Part 229:

- Regulation M-A [17 CFR 229.1000 - 229.1016]  
Mergers and acquisitions
- Regulation AB [17 CFR 229.1100 - 229.1123]  
Asset-backed securities
- Regulation S-K [17 CFR 229]  
[Item 402\(c\)\(2\)\(x\)](#) [17 CFR 229.402(c)(2)(x)] and Related Item 402  
[Sections](#) as of July 20, 2010  
For the Pay Ratio Rule

## [Industry Guides](#)

- Securities Act and Exchange Act **Industry Guides**



# Rules, Regulations and Schedules

## [Regulation S-T](#) [17 CFR Part 232]

- General rules and regulations for **electronic filings**

## [Descriptions of Securities Act Forms](#) [17 CFR Part 239]

- Forms prescribed under the Securities Act  
[This link includes only descriptions of the forms required under the Securities Act. You can find the text of the forms on the [Securities Act Forms page](#).]



# Rules, Regulations and Schedules

[Regulation M](#) [17 CFR 242.100-105]

[Regulation FD](#) [17 CFR Part 243]

- Fair disclosure

[Regulation G](#) [17 CFR Part 244]

- General rules regarding disclosure of **non-GAAP** financial measures

[Regulation BTR](#) [17 CFR Part 245]

- Blackout trading restrictions



# Rules, Regulations and Schedules

## [Descriptions of Exchange Act Forms](#) [17 CFR Part 249]

- Forms prescribed under the Exchange Act  
[This link includes only descriptions of the forms required under the Exchange Act. You can find the text of the forms on the [Exchange Act Forms page](#).]

## [General Rules and Regulations, Trust Indenture Act of 1939](#) [17 CFR Part 260]

- **Trust Indenture** Act rules

## [Descriptions of Trust Indenture Act Forms](#) [17 CFR Part 269]

- Forms prescribed under the Trust Indenture Act  
[This link includes only descriptions of the forms required under the Trust Indenture Act. You can find the text of the forms on the [Trust Indenture Act Forms page](#).]

# General Rules and Regulations, Securities Act of 1933

## [17 CFR Part 230]

Significant Items	
Rule 144 [17 CFR 230.144]	Persons deemed not to be engaged in a distribution and therefore not underwriters
Rule 147 [17 CFR 230.147]	Exemption for intrastate offers and sales of securities
Rule 155 [17 CFR 230.155]	Integration of abandoned offerings
Regulation A [17 CFR 230.251 - 230.263]	Conditional small issues exemption
Regulation C [17 CFR 230.401 - 230.498]	Registration and filing requirements
Regulation D [17 CFR 230.501 - 230.508]	Rules governing the limited offer and sale of securities without registration under the Securities Act

# General Rules and Regulations, Securities Act of 1933

## [17 CFR Part 230]

Significant Items	
Rule 701 [17 CFR 230.701]	Exemption for offers and sales of securities pursuant to certain compensatory benefit plans and contracts relating to compensation
Rules 800, 801 & 802 [17 CFR 230.800 - 230.802]	Exemptions for cross-border rights offerings, exchange offers or business combinations for the securities of foreign private issuers
Regulation S [17 CFR 230.901 - 230.905]	Rules governing offers and sales made outside the United States without registration under the Securities Act
Regulation CE [17 CFR 230.1001]	Coordinated exemptions for certain issuers of securities exempt under state law

# General Rules and Regulations, Securities Exchange Act of 1934

## [17 CFR Part 240]

Significant Items	
Regulation 12B [17 CFR 240.12b-1 - 240.12b-37]	Exchange Act registration and reporting
Rule 12g3-2 [17 CFR 240.12g3-2]	Exemptions for American depositary receipts and certain foreign securities
Regulations 13D and 13G [17 CFR 240.13d-1 - 240.13d-102]	Securities ownership
Schedule 13D [17 CFR 240.13d-101]	Statement of beneficial ownership
Schedule 13G [17 CFR 240.13d-102]	Statement of beneficial ownership
Rule 13e-1 [17 CFR 240.13e-1]	Purchase of securities by the issuer
Rule 13e-3 [17 CFR 240.13e-3]	Going private transactions

# General Rules and Regulations, Securities Exchange Act of 1934

## [17 CFR Part 240]

Significant Items	
Schedule 13e-3 [17 CFR 240.13e-100]	Transaction statement under Section 13(e) of the Exchange Act
Rule 13e-4 [17 CFR 240.13e-4]	Tender offers by issuers
Regulation 14A [17 CFR 240.14a-1 - 240.14b-2]	Proxy rules
Schedule 14A [17 CFR 240.14a-101]	Proxy statement pursuant to Section 14(a) of the Exchange Act
Regulation 14C [17 CFR 240.14c-1 - 240.14c-101]	Distribution of information pursuant to Section 14(c) of the Exchange Act
Schedule 14C [17 CFR 14c-101]	Information statement pursuant to Section 14(c) of the Exchange Act
Regulation 14D [17 CFR 240.14d-1 - 240.14d-103] Regulation 14E [17 CFR 240.14e-1 - 240.14f-1]	Tender offer rules

# General Rules and Regulations, Securities Exchange Act of 1934

## [17 CFR Part 240]

Significant Items	
Schedule TO [17 CFR 240.14d-100]	Tender offer statement under Section 14(d)(1) or 13(e)(1) of the Exchange Act
Schedule 14D-1F [17 CFR 240.14d-102]	Tender offer statement pursuant to Rule 14d-1(b) of the Exchange Act
Schedule 14D-9 [17 CFR 240.14d-101]	Solicitation / recommendation statement under Section 14(d)(4) of the Exchange Act
Schedule 14D-9F [17 CFR 240.14d-103]	Solicitation / recommendation statement under Section 14(d)(4) of the Exchange Act and Rules 14d-1(b) and 14e-2(c) under the Exchange Act
Regulation 14N [17 CFR 240.14n-1 - 240.14n-3]	Filings required by certain nominating shareholders
Schedule 14N [17 CFR 240.14n-101]	Information to be included in statements filed pursuant to Regulation 14N
Section 16 rules [17 CFR 240.16a-1 - 240.16e-1]	Ownership reports and trading by officers, directors and principal securityholders

# Modernization of Regulation S-K



# Modernization of Regulation S-K Items 101, 103, and 105

AGENCY: Securities and Exchange Commission.

ACTION: **Final rule.**

SUMMARY: The Securities and Exchange Commission (“Commission”) is adopting amendments to modernize the description of business, legal proceedings, and risk factor disclosures that registrants are required to make pursuant to Regulation S-K. These disclosure items have not undergone significant revisions in over 30 years. The amendments update these rules to account for developments since their adoption or last revision, to improve disclosure for investors, and to simplify compliance for registrants. Specifically, the amendments are intended to improve the readability of disclosure documents, as well as discourage repetition and the disclosure of information that is not material.

DATES: The final rules are effective on November 9, 2020.

## Modernization of Regulation S-K Items 101, 103, and 105

The final amendments to Items 101 and 103 will affect only domestic registrants and “foreign private issuers” that have elected to file on domestic forms subject to Regulation S-K disclosure requirements. Regulation S-K does not apply to foreign private issuers unless a form reserved for foreign private issuers (such as Securities Act Form F-1, F-3, or F-4) specifically refers to Regulation S-K. Form 20-F is the combined registration statement and annual report form used by foreign private issuers under the Exchange Act. It also sets forth certain disclosure requirements for registration statements filed by foreign private issuers under the Securities Act. Instead of Items 101 and 103, the foreign private issuer forms refer to Part I, Item 4 and Item 8.A.7., respectively, of Form 20-F. In contrast, the amendment to Item 105 will affect both domestic and foreign registrants because Forms F-1, F-3, and F-4, like their domestic counterparts, all refer to that Item. See, e.g., Item 3 of Form F-1. A foreign private issuer is any foreign issuer other than a foreign government, except for an issuer that (1) has more than 50% of its outstanding voting securities held of record by U.S. residents; and (2) any of the following: (i) a majority of its officers and directors are citizens or residents of the United States; (ii) more than 50% of its assets are located in the United States; or (iii) its business is principally administered in the United States. See Securities Act Rule 405 [17 CFR 230.405] and Exchange Act Rule 3b-4(c) [CFR 240.3b-4(c)].

## Brief Summary of the final amendments

Regulation S-K Item	Summary of Existing Item Requirements	Summary of the Final Amendments
<p><b>Item 101(a)</b></p>	<p>Requires a description of the general development of the business of the registrant during the past five years, or such shorter period as the registrant may have been engaged in business.</p>	<p>Revises Item 101(a) to:</p> <ul style="list-style-type: none"> <li>• Be largely principles-based, requiring disclosure of information material <b>to an understanding of the general development of the business, and eliminating the previously prescribed five-year timeframe.</b></li> </ul> <p>Revises Item 101(h) to:</p> <ul style="list-style-type: none"> <li>• <b>Eliminate the three-year timeframe</b> with respect to smaller reporting companies.</li> </ul> <p>Revises Items 101(a) and (h) to clarify that:</p> <ul style="list-style-type: none"> <li>• Registrants, in filings made after a registrant’s initial filing, may provide <b>an update of the general development of the business</b> rather than a full discussion. The update must disclose <b>all of the material developments</b> that have occurred since the registrant’s most recent filing containing a full discussion of the general development of its business, and incorporate by reference that prior discussion.</li> </ul>

## Brief Summary of the final amendments

Regulation S-K Item	Summary of Existing Item Requirements	Summary of the Final Amendments
<p><b>Item 101(c)</b></p>	<p>Requires a narrative description of the business done and intended to be done by the registrant and its subsidiaries, focusing upon the registrant’s dominant segment or each reportable segment about which financial information is presented in its financial statements. To the extent material to an understanding of the registrant’s business taken as a whole, the description of each such segment must include disclosure of several specific matters.</p>	<p>Revises Item 101(c) to:</p> <ul style="list-style-type: none"> <li>• Clarify and expand <b>the principles-based approach of Item 101(c)</b>, with a non- exclusive list of disclosure topic examples (drawn in part from the topics currently contained in Item 101(c));</li> <li>• Include, as a disclosure topic, a description of the registrant’s <b>human capital resources</b> to the extent such disclosures would be material to an <b>understanding of the registrant’s business</b>; and</li> <li>• <b>Refocus the regulatory compliance disclosure requirement</b> by including as a topic all material government regulations, not just environmental laws.</li> </ul>

## Brief Summary of the final amendments

Regulation S-K Item	Summary of Existing Item Requirements	Summary of the Final Amendments
<p><b>Item 103</b></p>	<p>Requires disclosure of any material pending legal proceedings including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding and the relief sought. Similar information is to be included for any such proceedings known to be contemplated by governmental authorities.</p> <p>Contains a threshold for disclosure based on a specified dollar amount (\$100,000) for proceedings related to Federal, State, or local environmental protection laws.</p>	<p>Revises Item 103 to:</p> <ul style="list-style-type: none"> <li>• Expressly state that the required information may be provided by <b>hyperlink or cross-reference</b> to legal proceedings disclosure located elsewhere in the document to <b>avoid</b> duplicative disclosure; and</li> <li>• Implements a <b>modified disclosure threshold</b> that increases the existing quantitative threshold for disclosure of environmental proceedings to which the government is a party from \$100,000 to \$300,000, but that also affords a registrant the flexibility to select a different threshold that it determines is reasonably designed to result in disclosure of material environmental proceedings, provided that the threshold does not exceed the lesser of \$1 million or one percent of the current assets of the registrant and its subsidiaries on a consolidated basis.</li> </ul>

## Brief Summary of the final amendments

Regulation S-K Item	Summary of Existing Item Requirements	Summary of the Final Amendments
Item 105	<p>Requires disclosure of the most significant factors that make an investment in the registrant or offering speculative or risky and specifies that the discussion should be concise, organized logically, and furnished in plain English. The Item also states that registrants should set forth each risk factor under a subcaption that adequately describes the risk. Additionally, Item 105 directs registrants to explain how each risk affects the registrant or the securities being offered and discourages disclosure of risks that could apply to any registrant.</p>	<p>Revises Item 105 to:</p> <ul style="list-style-type: none"> <li>• <b>Require summary risk factor disclosure</b> of no more than two pages if the risk factor section exceeds 15 pages;</li> <li>• Refine the principles-based approach of Item 105 by <b>requiring disclosure of “material” risk factors</b>; and</li> <li>• Require <b>risk factors to be organized</b> under relevant headings in addition to the subcaptions currently required, with any risk factors that may generally apply to an investment in securities disclosed at the end of the risk factor section under a separate caption.</li> </ul>

# Coronavirus (Guidance)



## Disclosure Considerations

- **Summary:** This guidance provides additional views of the Division of Corporation Finance regarding operations, liquidity, and capital resources disclosures companies should consider with respect to business and market disruptions related to COVID-19.
- **Supplemental Information:** The statements in this CF Disclosure Guidance represent the views of the Division of Corporation Finance. This guidance is not a rule, regulation or statement of the Securities and Exchange Commission. Further, the Commission has neither approved nor disapproved its content. This guidance, like all staff guidance, has no legal force or effect: it does not alter or amend applicable law, and it creates no new or additional obligations for any person.



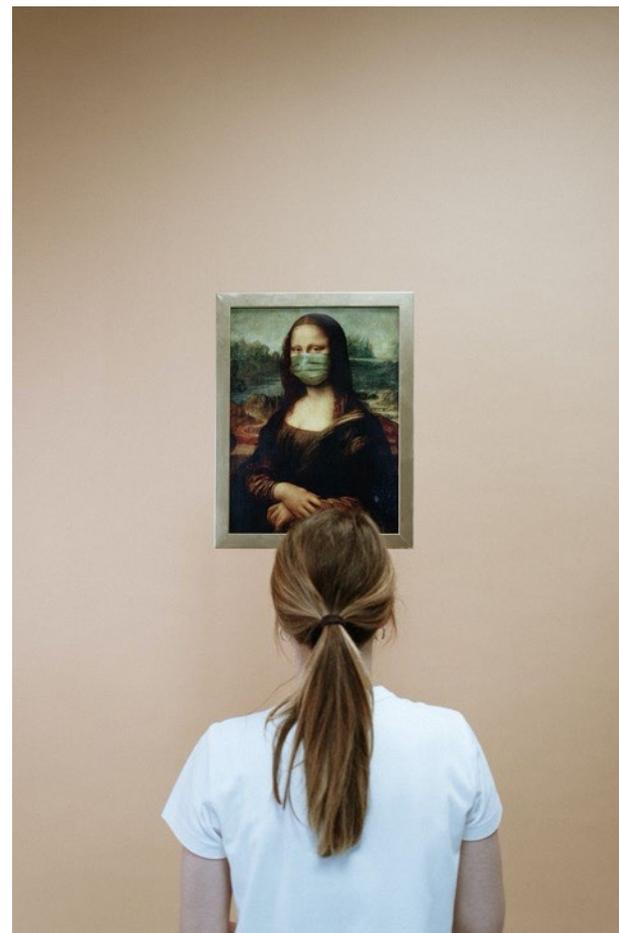
## Operations, Liquidity, and Capital Resources

- Companies have undertaken and are generally in the process of making a diverse range of operational adjustments in response to the effects of COVID-19. These adjustments are numerous and include a transition to telework; supply chain and distribution adjustments; and suspending or modifying certain operations to comply with health and safety guidelines to protect employees, contractors, and customers, including in connection with a transition back to the workplace. These types of adjustments may have an effect on a company that would be material to an investment or voting decision, and affected companies should carefully consider their obligations to disclose this information to investors.



## Operations, Liquidity, and Capital Resources

- Companies also are undertaking a diverse and sometimes complex range of financing activities in response to the effects of COVID-19 on their businesses and markets. These activities may involve obtaining and utilizing credit facilities, accessing public and private markets, implementing supplier finance programs, and negotiating new or modified customer payment terms. These funding sources may include novel terms and structures. It is important that companies provide robust and transparent disclosures about how they are dealing with short- and long-term liquidity and funding risks in the current economic environment, particularly to the extent efforts present new risks or uncertainties to their businesses. While we have observed companies making some of these disclosures in their earnings releases, we encourage companies to evaluate whether any of the information, in light of its potential materiality, should also be included in MD&A.



# Considerations

- What are the material operational challenges that management and the Board of Directors are monitoring and evaluating? How and to what extent have you altered your operations, such as implementing health and safety policies for employees, contractors, and customers, to deal with these challenges, including challenges related to employees returning to the workplace? How are the changes impacting or reasonably likely to impact your financial condition and short- and long-term liquidity?
- How is your overall liquidity position and outlook evolving? To the extent COVID-19 is adversely impacting your revenues, consider whether such impacts are material to your sources and uses of funds, as well as the materiality of any assumptions you make about the magnitude and duration of COVID-19's impact on your revenues. Are any decreases in cash flow from operations having a material impact on your liquidity position and outlook?
- Have you accessed revolving lines of credit or raised capital in the public or private markets to address your liquidity needs? Are your disclosures regarding these actions and any unused liquidity sources providing investors with a complete discussion of your financial condition and liquidity?

## Considerations

- Have COVID-19 related impacts affected your ability to access your traditional funding sources on the same or reasonably similar terms as were available to you in recent periods? Have you provided additional collateral, guarantees, or equity to obtain funding? Have there been material changes in your cost of capital? How has a change, or a potential change, to your credit rating impacted your ability to access funding? Do your financing arrangements contain terms that limit your ability to obtain additional funding? If so, is the uncertainty of additional funding reasonably likely to result in your liquidity decreasing in a way that would result in you being unable to maintain current operations?
- Are you at material risk of not meeting covenants in your credit and other agreements?
- If you include metrics, such as cash burn rate or daily cash use, in your disclosures, are you providing a clear definition of the metric and explaining how management uses the metric in managing or monitoring liquidity? Are there estimates or assumptions underlying such metrics the disclosure of which is necessary for the metric not to be misleading?

## Considerations

- Have you reduced your capital expenditures and if so, how? Have you reduced or suspended share repurchase programs or dividend payments? Have you ceased any material business operations or disposed of a material asset or line of business? Have you materially reduced or increased your human capital resource expenditures? Are any of these measures temporary in nature, and if so, how long do you expect to maintain them? What factors will you consider in deciding to extend or curtail these measures? What is the short- and long-term impact of these reductions on your ability to generate revenues and meet existing and future financial obligations?
- Are you able to timely service your debt and other obligations? Have you taken advantage of available payment deferrals, forbearance periods, or other concessions? What are those concessions and how long will they last? Do you foresee any liquidity challenges once those accommodations end?
- Have you altered terms with your customers, such as extended payment terms or refund periods, and if so, how have those actions materially affected your financial condition or liquidity? Did you provide concessions or modify terms of arrangements as a landlord or lender that will have a material impact? Have you modified other contractual arrangements in response to COVID-19 in such a way that the revised terms may materially impact your financial condition, liquidity, and capital resources?

## Considerations

- Are you relying on supplier finance programs, otherwise referred to as supply chain financing, structured trade payables, reverse factoring, or vendor financing, to manage your cash flow? Have these arrangements had a material impact on your balance sheet, statement of cash flows, or short- and long-term liquidity and if so, how? What are the material terms of the arrangements? Did you or any of your subsidiaries provide guarantees related to these programs? Do you face a material risk if a party to the arrangement terminates it? What amounts payable at the end of the period relate to these arrangements, and what portion of these amounts has an intermediary already settled for you?
- Have you assessed the impact material events that occurred after the end of the reporting period, but before the financial statements were issued, have had or are reasonably likely to have on your liquidity and capital resources and considered whether disclosure of subsequent events in the financial statements and known trends or uncertainties in MD&A is required?



More to Come...

Thanks!



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