

CORONAVIRUS RESOURCE CENTER

SEC Urges More Forward-Looking Disclosure in Upcoming Earnings Season

April 10, 2020

On April 8, 2020, SEC Chair Clayton and Director, Division of Corporation Finance Hinman released a statement urging reporting companies that are preparing earnings disclosure to “provide as much information as is practicable regarding their current financial and operating status, as well as their future operational and financial planning.”¹ Although the statement is not SEC guidance and creates no new or additional disclosure obligations, the statement offers a useful and timely reminder to reporting companies: Given the sudden economic and social disruption related to COVID-19, historical earnings information (especially financial statements) will likely be “substantially less relevant” in the upcoming earnings season. For an overview of COVID-19 disclosure considerations and recent SEC guidance, see our prior client updates [here](#) and [here](#).

The statement urges reporting companies to disclose “(1) where the company stands today, operationally and financially, (2) how the company’s COVID-19 response, including its efforts to protect the health and well-being of its workforce and its customers, is progressing, and (3) how its operations and financial condition may change as all our efforts to fight COVID-19 progress.” According to the statement, “[d]etailed discussions of current liquidity positions and expected financial resource needs would be particularly helpful to our investors and markets” and disclosure of the financial impact of the CARES Act or other COVID-19 related government programs may be material.

The statement acknowledges the challenges of making forward-looking disclosure and encourages companies to utilize available safe harbors from liability. “We appreciate that in many cases actual financial and operational results may differ substantially from

¹ The statement is available [here](#).

what would now appear to be reasonable estimates. Given the uncertainty in our current business environment, we would not expect to second guess good faith attempts to provide investors and other market participants appropriately framed forward-looking information.” While the statement would appear to address SEC enforcement risk, reporting companies will want to bear in mind the real risk that private plaintiffs take a different view of such good faith attempts.

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For more information regarding the coronavirus, please visit our [Coronavirus Resource Center](#).

Please do not hesitate to contact us with any questions.



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