

SEC Urges Public Companies to Provide COVID-19 Disclosure in Preparation for Q1 Earnings Calls

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As public companies prepare for quarterly earnings releases in the midst of the COVID-19 pandemic, they face the challenge of providing meaningful, forward-looking disclosure based on future projections and historical data of questionable relevance. On April 8, 2020, SEC Chairman Jay Clayton and Division of Corporation Finance Director Bill Hinman issued a [joint statement](#) (the Statement) addressing these challenges and reaffirming the SEC's long-held positions on earnings release disclosure. Emphasizing the importance of high-quality disclosure amid the uncertainty created by COVID-19, the Statement urges companies "to provide as much information as is practicable regarding their current financial and operating status, as well as their future operational and financial planning." The Statement specifically calls for upcoming Q1 earnings calls and subsequent communication to the marketplace to include as much information as is practicable regarding current operating status and future operating plans under various COVID-19-related mitigation efforts. Specifically, companies should provide disclosure that addresses:

- current liquidity positions, including income statement and balance sheet effects, and expected near-term and long-term financial resource needs;
- significant impacts on operations, including as a result of company actions and policies to protect worker health and well-being and customer safety, and efforts to mitigate COVID-19-related impacts on company performance; and
- the nature, amounts, and effects of financial assistance received under the CARES Act or other similar COVID-19-related federal and state programs, to the extent the financial assistance has materially affected, or is reasonably likely to have a material future effect upon, financial condition or results of operations.

This guidance is generally in line with the disclosure requirements of Item 303 of Regulation S-K and SEC Release 33-8350, with an added emphasis on forward-looking statements related to COVID-19 responses. In addition to providing detailed disclosure of the current state of the company and actions taken to respond to COVID-19, companies are encouraged to disclose how they "expect to adjust their operational and financial affairs to most effectively work through the COVID-19 health crisis." The Statement discourages companies from resorting to generic, boilerplate disclosures in light of forecasting challenges in this time of uncertainty. Rather, the Statement encourages companies to take advantage of safe harbors for forward-looking statements, noting that amidst the current uncertain business environment, the SEC "would not expect to second guess good faith attempts to provide investors and other market participants appropriately framed forward-looking information."

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