The amendments are intended to focus financial disclosures on material information while simplifying compliance for registrants.

**What you need to know**

- The SEC scaled back the requirement to provide selected quarterly financial data so registrants can omit it in most cases.
- The amendments eliminate the requirements for registrants to provide the selected financial data and contractual obligations tables.
- The amendments add objectives to the requirements for management’s discussion and analysis (MD&A) and change or clarify the requirements for a number of items such as liquidity and capital resources, known trends and uncertainties, critical accounting estimates and off-balance sheet arrangements.
- The rules can be applied 30 days after publication in the Federal Register, and compliance is mandatory 210 days after publication. Before the mandatory compliance date, registrants can choose which amended items to apply.

**Overview**

The Securities and Exchange Commission (SEC or Commission) adopted amendments to Regulation S-K to eliminate certain disclosure requirements and to revise several others to make the disclosures provided in management’s discussion and analysis (MD&A) more useful for investors.

The amendments, which also include conforming changes to the forms used by foreign private issuers when applicable, are the last major rule changes the SEC has proposed as part of its disclosure effectiveness initiative. “Today’s rules will improve the quality and accessibility of
the disclosure that companies provide their investors, including, importantly giving investors greater insight into the information management uses to monitor and manage the business,” said SEC Chairman Jay Clayton, who recently announced his intention to leave the Commission by the end of the year.

Key considerations

Selected quarterly financial data

The SEC amended Item 302(a) of Regulation S-K to allow registrants to omit the table of selected quarterly financial data they currently provide for each quarter of the two most recent fiscal years and any subsequent interim period, unless there has been a material retrospective change (or changes that are material in the aggregate) affecting comprehensive income.

If the comprehensive income for a quarter has been affected by a material change, a registrant must provide the summarized financial information required by Rule 1-02(bb) for each affected quarter and the fourth quarter of the same year along with earnings per share and the reasons for the change. Rule 1-02(bb) was also amended to add flexibility for registrants to use the same line items that appear in their financial statements.

The disclosure must be reviewed by the independent auditor and is required in the annual reports on Form 10-K and in registration statements of registrants (other than smaller reporting companies) that have securities registered under Section 12 of the Exchange Act.

How we see it

Registrants may voluntarily disclose fourth-quarter data because separate financial statements for that quarter are not presented in any filings, and investors would otherwise have to calculate the amounts using the third-quarter and annual results. Voluntary disclosures don’t have to be reviewed by an independent auditor, but must be read and considered by the auditor for any material inconsistencies with the audit financial statement. In any case, investors may find it beneficial for registrants to continue having this information reviewed by their independent auditor.

Selected financial data

The amendments eliminate the requirement in Item 301 of Regulation S-K for a registrant to present in MD&A a table of selected financial data for each of its last five years. The table has been required in registration statements and annual reports.¹

The SEC noted that providing this data for years before those presented in the audited financial statements can create additional costs and complexity for companies, and the information is typically available in filings that can be found on the SEC’s EDGAR system.

Management’s discussion and analysis

The SEC made a number of changes to Item 303 of Regulation S-K to modernize and simplify the MD&A requirements. Some of the key changes are discussed below.

Objectives of MD&A disclosure

The amendments add the objectives of MD&A disclosure. The objectives focus the disclosure on material information relevant to assessing a registrant’s financial condition, results of operations and cash flows. They address both historical and forward-looking information and refer to material financial and other statistical data that will enhance a reader’s understanding of the registrant’s financial condition, cash flows and other changes in financial condition and results of operations.
The new objectives differ slightly from what was proposed and from the objectives provided in the SEC’s 2003 interpretive guidance on MD&A. Most notably, the new objectives say that disclosures that meet the requirements are expected to better allow an investor to view the registrant from “management’s perspective.” This contrasts with the 2003 guidance, which framed viewing the registrant “through the eyes of management” as a primary goal of MD&A.

How we see it
We believe that registrants’ current MD&A disclosures generally reflect the substance of the SEC’s amendments. While registrants should carefully consider the impact of each change, we do not expect that most companies will need to make significant changes.

Material changes
The amendments clarify and emphasize that registrants must provide a narrative discussion of the underlying reasons for material changes in financial statement line items from period to period in both quantitative and qualitative terms. Quantitative disclosure appears to be the focus of this change, which is consistent with the 2003 interpretive guidance and the longstanding practice of the SEC staff to issue comment letters to registrants requesting more quantitative disclosure.

Prospective information
The amendments require the disclosure of prospective information that is “reasonably likely” to have a material impact throughout MD&A. In doing so, the SEC set a consistent threshold to replace the different thresholds that apply to various items under the legacy rules. For example, the legacy rules require a known trend or uncertainty to be disclosed if a registrant “reasonably expects” it will have a material impact on revenue or income. By contrast, if a registrant knows of an event that “will” cause a material change in the relationship between costs and revenue, the change in the relationship must be disclosed. The “reasonably likely” standard is currently used for liquidity disclosures.

How we see it
Disclosure of prospective information is both challenging for registrants and important to investors. Registrants should carefully evaluate how the changes to requirements will affect their practices. The advice of legal counsel will be helpful in determining what changes, if any, a registrant should make.

Liquidity and capital resources
The amendments combine the requirements for liquidity and capital resources. A registrant must discuss its ability to generate and obtain adequate amounts of cash to meet its requirements and plans for cash in the short term and long term.

A registrant must also describe its material cash requirements, their general purpose and the anticipated source of the funds needed to satisfy them. While this change goes beyond the legacy requirement for disclosures about capital expenditures, the SEC said it does not expect registrants to substantially change current practice.

Contractual obligations table
Registrants are no longer required to include a contractual obligations table in MD&A. However, the amendments related to liquidity and capital resources, including the requirement for registrants to discuss known contractual and other obligations (e.g., purchase obligations) on both a short-term and long-term basis, are intended to make sure that eliminating the table does not result in a material loss of information for investors.
**Off-balance sheet arrangements**

The SEC replaced the more prescriptive legacy requirement to disclose off-balance sheet arrangements in a separate section with a principles-based instruction to provide the disclosure regarding off-balance sheet arrangements throughout MD&A whenever material.

**Critical accounting estimates**

The amendments codify the requirement in the 2003 interpretive guidance to disclose information about critical accounting estimates. Specifically, the amendments require disclosure of quantitative and qualitative information to help investors understand the impact of estimation uncertainty on a registrant’s financial condition or operating results. To the extent material and reasonably available, such disclosure must include how much any critical accounting estimate has changed over a relevant period and a sensitivity analysis. Although there are some differences between the new requirement and the interpretive guidance, the SEC said that it believes the principles are not materially different and the modifications are intended to clarify the required disclosures, facilitate compliance and improve disclosures.

**Discussion and analysis of interim-period results**

The amendments provide a registrant with the option to discuss its interim results by comparing its most recent quarter to the immediately preceding quarter rather than to the same quarter of the prior year. A registrant that chooses this option must provide summary financial information for the immediately preceding quarter or identify the EDGAR filing that includes the information. Registrants must continue to include a comparison of year-to-date results as well.

**Transition**

The rules can be applied 30 days after publication in the Federal Register, and compliance is mandatory 210 days after publication.

Before the mandatory date, registrants can choose which amended items they want to comply with. For example, a registrant could stop providing Item 301 selected financial data disclosures after the effective date but wait until the mandatory compliance date to apply the other new rules. However, if a registrant wanted to stop providing a contractual obligations table in MD&A, it would need to comply with all of the amended Item 303 MD&A disclosure requirements in their entirety.

**Endnotes:**

1 Smaller reporting companies are not subject to Item 301, and emerging growth companies do not need to disclose data for any period prior to the earliest audited financial statements presented in their initial registration statement.