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Ten Suggestions for 2005 MD&A's

About a year ago, the SEC issued additional guidance on Management's Discussion and Analysis of Financial Condition and Results of Operations (MD&A). As public companies go through the arduous process of writing their MD&A's, we offer the following suggestions for meeting the heightened expectations of the SEC, institutional shareholders and other observers.

- 1. Don't Simply Mark Up Last Year's MD&A.** And worse yet, don't simply mark up last year's document if it was a mark-up of previous years. The SEC is serious when it says that it expects these discussions to be dynamic reflections of what is important this year to senior management.
- 2. Add an Executive Level Overview.** Like a good newspaper article, tell the reader what is most important in your discussion at the beginning.
- 3. Add Captions.** Captions make your discussion more readable and help organize your thoughts.
- 4. Use More Tables.** Consider using tables instead of narratives for such things as comparison of results in different periods. This might help cut down on the words spent on line item, by line item comparisons of one period's financial statements to another.
- 5. Look Back at Your Earnings Release and Conference Calls.** If something was important enough to appear in your most recent earnings releases or to be discussed in your most recent analyst conference calls or presentations, consider whether you have covered the topic fully in your MD&A.
- 6. Look Back at Recent Analyst Write-Ups.** Analyst write-ups reveal what the market is interested in about your company. Make sure that an objective observer would agree that you have fully covered in your MD&A what analysts are saying about your company.
- 7. Edit Out the Immaterial.** Too often, according to the SEC, MD&A discussions contain information that dates from a time before a change in the company's business, and is therefore immaterial.
- 8. Edit Out the Duplication.** Repeating something that will appear elsewhere in a filing does not gain you points in the eyes of most readers. For example, let your accountants describe your critical accounting estimates and assumptions in the notes to the financial statements, and focus in the MD&A on why your estimates and assumptions might *change* because of changes in your business or business environment.



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9. Don't Be Afraid to Discuss Trends. The SEC encourages companies to identify and disclose known trends, events, demands, commitments and uncertainties that are “reasonably likely to have a material effect on financial condition or operating performance”. Your “safe harbor” language about “forward looking statements” should protect you if your trends don't turn out how you think they will.

10. Don't Wait Until the Very End to Have Top Level Management Review. The SEC advises “early top level involvement by a company's management in identifying the key disclosure themes and items”.

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