

## 2020 Filing Season Survey: Coronavirus (COVID-19) Disclosures So Far

February 28, 2020

### Introduction

For Securities and Exchange Commission (SEC) registrants with a fiscal year ending December 31, March 2020 brings the deadlines for filing annual reports on Form 10-K for all categories of filers. These registrants and other companies with non-calendar year fiscal years are, and will continue to be, in the midst of preparation for filings of quarterly reports on Form 10-Q to be made throughout 2020.

For consideration in preparing these reports, the SEC has published two statements encouraging registrants to monitor the necessity for disclosures regarding the novel coronavirus outbreak ([link](#)) and indicated that registrants and their advisors may contact the SEC staff regarding any need for assistance related to impacts on disclosure as well as in order to seek relief or guidance on the effects of the novel coronavirus on financial reporting for affected parties ([link](#)).

The level of detail and appropriate context for such disclosures will largely depend on a particular registrant's industry, footprint and extent of affected operations or the effect on personnel, suppliers and customers in China and any other impacted areas. A company's management, together with its board of directors, audit committee, legal counsel and auditors, should actively monitor the potential effects of the novel coronavirus and evaluate whether any additional or new disclosures should be included to address this emerging and evolving issue.

The full, long-term effect of the novel coronavirus outbreak on business operations, financial and stock price performance, strategy, capital allocation and risk mitigation remains to be seen. But certain trends have emerged in Exchange Act disclosures as companies begin to address their exposures in their risk factors, in management's discussion and analysis of financial condition and results of operations (including disclosures regarding liquidity and capital resources), and in routine earnings releases and non-routine press releases addressing revisions to earnings guidance and/or specific strategic situations related to the novel coronavirus outbreak.

### Contact Information

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## Risk Factors

Risk factors in annual reports on Form 10-K are contained in Part I, Item 1A of Form 10-K. Risk factors in quarterly reports on Form 10-Q are contained in Part II, Item 1A of Form 10-Q and are only required to be set forth if there are any material changes from the risk factors as previously disclosed in a company's most recent Form 10-K. Smaller reporting companies are no longer required to include risk factors in their Form 10-K or Form 10-Q but may choose to do so.

Between January 1, 2020, and February 27, 2020, over 540 annual and quarterly reports have already been filed that mention coronavirus or COVID-19 in their risk factor sections.

### **Closures or Cancellations of, or Reductions in, Operations or Production in Mainland China or Surrounding Areas, including Restrictions on Transportation and Going into Public**

Companies with operations or production in China or its surrounding areas (e.g., Hong Kong, Macau) have been the most directly impacted by the outbreak of the coronavirus and related restrictions on transportation and appearances in public. These companies are discussing the extent and effects of closures of key locations or cancelled operations to a greater degree of detail than any other subgroup described in this post.

For companies with brick-and-mortar locations or factories in mainland China or its surrounding areas, their risk factors commonly describe whether stores or factories have been temporarily closed or have had their hours of operation curtailed and the uncertainty surrounding how long these closures will continue. Many also mention that they expect or have already realized declining sales due to these closures, in large part due to restrictions on private and public transportation services and on the public's ability to appear in commercial locations in general.

For companies engaged in the transportation or hospitality industries with significant operations in mainland China or its surrounding areas, their risk factors not only note the temporary closure of certain locations (e.g., hotels, casinos) and/or cancellation of particular services (e.g., commercial flights or cruise routes to and from mainland China), but also identify the chilling effect on their global businesses due to the negative perception of these companies or industries impacted by the coronavirus outbreak and related decrease in demand for their services and/or products.

### **Effect on Suppliers or Logistics Providers**

Companies that rely on Chinese suppliers across various industries have included risk factors relating to the potential negative impact that decreases in or potential cessations of production by certain vendors could have on their businesses. Such companies sometimes identify the name of the specific affected suppliers, discuss the availability of alternative sources of supply or disclose the extent of the production or financial shortfalls expected for their own business due to the harmful consequences for their suppliers.

Relatedly, many firms rely on global transportation and logistics networks to bring key materials to their production facilities or to bring their finished products to customers. Some companies have discussed the risks to their business associated with

disruptions in these networks due to restrictions on the movement of goods and people brought about by the coronavirus outbreak.

### **Indirect Demand Effects**

Many companies provide products or services that have or could experience decreases in demand due to the outbreak of the coronavirus, even though the provider itself does not maintain direct operations in China or the surrounding areas. Such companies tend to generally and briefly discuss the potential financial harm they could experience due to decreased demand for their products. For some commodities, such as fossil fuels, decreased demand for the commodity has already negatively impacted the price of the commodity, which directly affects global revenues.

### **General Risk and Uncertainty**

Many firms across industries and geographical areas have disclosed general risks associated with the outbreak of coronavirus alongside their disclosure of more general risks, such as natural disasters, pandemics or other catastrophic events. Companies that fall into this category tend to give the shortest discussion of the impact of the coronavirus outbreak of any discussed in this section and in most cases have just added “such as coronavirus” to a laundry list of other unforeseeable risks that they are not capable of quantifying.

### **Effect on Planned Entry or Expansion into, or Existing Investments or Projects in, China or Surrounding Areas**

Companies with plans to enter or expand into the Chinese market or with existing investments in China and surrounding have cautioned that the coronavirus outbreak could negatively impact such plans, investments or projects and the future success of such ventures or investment performance.

### **MD&A**

Between January 1, 2020, and February 27, 2020, over 160 annual and quarterly reports have already been filed that mention coronavirus or COVID-19 in their management discussion and analysis (MD&A) sections. While the MD&A section generally deals with quantitative and qualitative comparisons across relevant historical periods, the discussion also includes significant information regarding the company’s future outlook and expectations. So far, the discussions of coronavirus in MD&A sections have tended to identify potential trends, uncertainties and projections regarding any expected impacts on future periods. Some companies with more direct business connections to China and its surrounding areas have included such disclosures.

In addition to the types of risk factors disclosures discussed above, companies that discuss the outbreak of coronavirus in their MD&A section tend to discuss the impact of the disease specifically within the context of their businesses. For example, some consumer products companies have discussed in their MD&A sections the negative impact that the reduction in people’s ability and willingness to go into public will likely have on their business in particular.

## Earnings and Investor Guidance

Between January 1, 2020, and February 27, 2020, over 420 filings on Form 8-K have already been furnished or filed with the SEC that mention coronavirus or COVID-19 in the body of the Form 8-K or in the exhibits thereto.

While a few filings have included mentions of coronavirus within the body of the Form 8-K itself in Items 2.02 (Results of Operations and Financial Condition), 7.01 (Regulation FD Disclosure) and 8.01 (Other Events), the vast majority of references to coronavirus in current reports on Form 8-K have appeared in press releases attached as exhibits to the Form 8-Ks, which were primarily announcements of quarterly and/or annual financial results and related earnings guidance. Within such press releases, disclosures have tended to note that either the company did not take business disruptions related to the coronavirus into account in connection with its forward-looking earnings guidance or that the company revised its guidance downward due to the impact of the coronavirus. In such cases, a description of the magnitude and reason for the revision are consistently included.

Disclosures regarding the impact of coronavirus on Form 8-Ks also tend to appear in press releases issued under Items 7.01 or 8.01, primarily regarding revisions to previously issued guidance or otherwise discussing the impact of the coronavirus on their business in greater detail. Companies in the transportation, hospitality and health services industries whose operations are most directly and significantly impacted by the coronavirus tend to fall into this group. In some cases, disclosures of this type in the health sector have even provided positive revisions to guidance due to increased demand for certain health products due to the coronavirus outbreak, although this is far from the norm.

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