

HERE WE GO AGAIN - RISK FACTORS AND OTHER REMINDERS FOR UPCOMING QUARTERLY REPORTS

Jul 23, 2025

SUMMARY

In April, companies were faced with addressing the impacts of tariffs and a global trade war, as discussed in our [April 8, 2025 post](#). Companies now find themselves grappling with the need to re-address these issues in light of the possible August 1st effective date for additional tariffs, the impact of recent and potential trade deals and other developments. Companies should give consideration to updating, among other things, risk factors, MD&A, guidance and forward-looking disclosures.

RISK FACTORS

Companies should consider whether any material updates to risk factors are appropriate taking into account recent trade, economic, social and political developments, such as:

TARIFFS

Companies continue to face a dynamic tariff environment. As we discussed in our [April 8, 2025 post](#), companies should consider the wide-ranging effects of global tariffs and potential mitigation actions, including the magnitude of business subject to tariffs, availability of alternate suppliers and changes to supply chains, ability to raise prices, potential for retaliation, legal challenges and overall impact of profitability and margins. Companies should take into account the potential August 1 “deadline” for additional tariffs, as well as the impact of trade deals reached over the past 90 days, including those with China, the United Kingdom, Indonesia and Vietnam, as well as trade deals expected to be reached and the impact of “letters” re-setting tariff rates that have already been sent. Companies should consider how their prior disclosure and expectations may have changed based on their experience over the past quarter.

IMPACT ON ECONOMY

Although much of the immediate market reaction to the initial tariff announcements has reversed, companies should still consider the impact of a potential economic slowdown, capital spending and long-ranging planning, and the impact on demand, inflation, consumer confidence and credit markets.

FOREIGN CURRENCY RISK

Companies should consider the recent decline in the value of the U.S. dollar relative to other currencies. For example, some companies include a statement about a hypothetical change in the value of the U.S. dollar by 10% or more. Companies should consider updating this disclosure.

ONE BIG BEAUTIFUL BILL ACT (OBBBA)

On July 4, President Trump signed legislation with significant provisions affecting U.S. budget, spending and tax policy. Companies should consider the tax, spending and other impacts of the legislation, and whether there are any expected risks or potential benefits from the OBBBA that merit discussion in risk factors, MD&A, the financial statement notes, or elsewhere. In the very early stages, we have not generally seen new risk factors around the OBBBA, perhaps due to the expectation of benefits rather than risks from the act. Market practice will inevitably evolve over the rest of the year.

U.S. POLITICAL DEVELOPMENTS

Consider the effect of U.S. political developments, including additional legislation, regulatory developments and potential changes at the Federal Reserve.

CYBERSECURITY AND AI RISKS

Companies should consider the potentially wide-ranging risks, and the SEC's focus on, artificial intelligence, AI-washing and cybersecurity.

INTERNATIONAL CONFLICTS

Continuing effect of international conflicts, including tensions with Iran, the Ukraine war, the Israel-Hamas conflict, tensions between China and Taiwan, the potential for secondary sanctions on countries doing business with Russia, among others, including any direct or indirect effects on a company's business. As illustrated in the SEC's staff's [sample comment letter regarding the invasion of Ukraine](#), companies should consider, among other things, direct and indirect exposures through their operations, employee base, investments, sanctions or legal or regulatory uncertainties as well as actual or potential disruptions in supply chains, commodity or resource prices, business relationships or assets.

General Reminders

Additional reminders for risk factors:

- As a technical matter, quarterly risk factors described in prior Form 10-Qs should be included and updated, if still relevant, in subsequent Form 10-Qs, until such risks are included in a Form 10-K. As a result, a new risk factor included in a company's first fiscal quarter may need to also be included in the second quarter Form 10-Q. See our [July 29, 2020 post](#).
- Stay mindful of the "buried facts" doctrine, under which disclosure may be found to be false and misleading where its significance is obscured or buried. It can be helpful to list risks in general order of significance and filter out trivial or irrelevant information.
- As [previously discussed](#), presenting risks as "hypothetical" or speculative when, in fact, a material adverse event has actually occurred, such as a tariff impact, can be misleading.

MD&A

As discussed in our [April 8, 2025 post](#), companies are required to address "known trends and uncertainties" in MD&A and to provide "such further information . . . as may be necessary to make the required statements, in the light of the circumstances under which they were made not misleading" pursuant to Rule 12b-20. The impact of tariff regimes currently affecting a company's business or that may go into effect in the near future but are not reflected in the financial statements may qualify as "known trends" or "uncertainties" that should be addressed. In addition, a number of companies are including discussions of OBBBA in their MD&A, including statements that they are evaluating its impact and that there may be uncertainty until further guidance becomes available. Similar to [SEC staff guidance relating to Covid disclosures](#), companies should consider disclosing the impact of tariffs through the eyes of management, including, to the extent material:

- The effects on operations, liquidity and capital resources.
- Operational changes, such as changes to suppliers or manufacturing locations or substitutions of parts or raw materials.
- Known trends, events or uncertainties that are reasonably likely to have a material impact on the company results of operations or financial position.

GUIDANCE

Companies should carefully consider how these events and economic uncertainty should be reflected in their guidance. As discussed in our [April 29, 2025 post](#), companies have taken different approaches, including widening guidance ranges, separately disclosing or quantifying tariff impacts, enhancing disclosure of key assumptions or skipping guidance altogether.

As a reminder, in periods of uncertainty, companies should be mindful of the Reg. FD risks of private communications addressing these uncertainties around the time guidance is being updated but before it published.

FORWARD-LOOKING STATEMENTS

Similar to risk factors, companies should review the substance and priority of factors included in their FLS disclaimers, with careful attention to tailoring the listed factors to the specific forward-looking statements in the filing.

RELATED CAPABILITIES

- Securities & Corporate Governance

MEET THE TEAM



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