



**BDO Seidman, LLP**  
Accountants and Consultants

Provided Courtesy Of  
**UP|URISH**  
**POPECK**  
accountants and consultants

May 2009



# Financial Reporting

## Shareholder Questions – 2009

### Contents

Key areas of corporate governance affecting management, directors, and shareholders:

- The legislative and regulatory environment .....2
- Corporate governance:
  - Boards of directors .....5
  - Executive compensation....7
  - Audits and audit committees ..... .9
- Understanding the financial statements ..... 13
- Management’s plans and strategies ..... 16
- Business ethics and corporate social responsibilities .....21
- Shareholder communications and investor relations.....23
- For more information .....25

**BDO Seidman, LLP prepared this *Financial Reporting* letter to help our clients anticipate and respond to shareholder questions, which may be asked of members of management and the board during 2009.**

Given the deepening recession, the credit market situation and the falling stock market, this year’s annual meeting could prove to be especially challenging. During these uncertain times, frustrated investors will be demanding increased disclosure and more effective governance, reporting and communication.

Topics that corporate management and boards of directors should be prepared to address include the following:

- *Executive pay.* Investors may ask about reports of excessive compensation during these times of poor economic performance, and increasing numbers of shareholders will be seeking advisory approval of executive pay. Some groups may try to use the strict compensation limits required in the TARP bailout as a guideline to reign in perceived excess in other industries.
- *Weathering the recession.* Given the forecast for an extended economic turndown, shareholders will want to know if management has considered - adopting a comprehensive plan to reduce costs, improve inventory controls, enhance purchasing procedures, accelerate cash flow and extend cash retention.
- *Turmoil in credit markets.* Numerous companies have reported losses on a variety of investments – subprime mortgages, collateralized debt

## Financial Reporting

obligations, asset-backed securities, auction rate securities, etc. Shareholders may question why the investments were made and how much exposure to loss still exists, as well as any changes in risk management to avoid similar losses in the future. Investors may also ask about the value of investments held in company pension plans.

- *Changing accounting practices.* Are companies prepared for IFRS? The SEC has proposed a road map on the transition from GAAP to IFRS. Shareholders will want to know if management is prepared to meet this timeline, should the SEC decide to adopt it. They will want to know what the conversion will cost and how it might affect the company's financial results.
- *Fair value accounting.* Does the company expect to experience wide fluctuations in the value of assets and liabilities due to fair value accounting?

This letter provides a listing of specific questions that may be raised this year in the above and other areas. We hope you find the questions on the following pages useful.

## Shareholder Questions – 2009

### The Legislative and Regulatory Environment

#### Relationships with legal counsel

- Does the company have an in-house legal function?
- Which outside firms are used to provide general legal advice and SEC counsel, if separate? Are any members of these firms also directors of the company?
- Does the board have the ability to retain independent legal counsel for potential conflicts of interest on matters that management has a personal interest in, such as a retirement plan for senior executives?
- Do both the in-house and outside counsel have direct access to the board?
- Have any in-house or outside attorneys resigned or been terminated by the company during the last year? If so, what were the circumstances?

#### Compliance with laws, regulations and publicly known problems

- How does the board monitor the company's compliance with legal requirements?
- Do the directors feel they are adequately apprised of changes in laws and regulations, including federal securities laws, federal sentencing guidelines, stock exchange governance requirements, and state laws?
- Do the directors feel they are adequately apprised of relevant court decisions?
- Are the company's attorneys instructed to report any illegal acts to the board or the audit committee on a timely basis?
- Has the board discussed any problems that were cited in security analysts' reports, press articles, or other media during the past year? What actions, if any, were taken in response to these matters?
- Has the company had any difficulty maintaining its stock exchange listing?
- Has the company received any notices of non-compliance with listing standards? If so, what is the company doing to cure its non-compliance?
- Does management have adequate policies and procedures in place to ensure that information collected about the company's customers, vendors, or other trading partners remains private?
- Has the company assessed its compliance with privacy laws and standards? (These include the OECD Guidelines, EU Directive 95/146/EC, U.S. HIPAA, and Gramm-Leach-Bliley Act and generally accepted privacy principles established by the AICPA and CICA.)
- Does the company have an effective FCPA compliance program for all its operations, including all tiers of foreign subsidiaries and potential candidates for mergers or acquisitions?
- When is the last time the directors participated in compliance training?

#### Prevention of problems and penalties

- In light of deteriorating economic conditions and the resulting earnings and stock pressures that the company may be facing, has management and the board stepped up efforts to prevent fraudulent financial reporting or other corporate wrongdoing?
- Does the company have a plan in place to avoid bankruptcy or liquidation during this economic crisis?
- Does the board regularly review to ensure the CEO and senior management are setting a "tone at the top" that stresses legal compliance?
- Has the company taken all necessary steps to minimize the fines or sentences that might be imposed in response to fraudulent financial reporting or other corporate wrongdoing?
- Does the company have a policy of self-reporting and cooperating, should an SEC or other regulatory agency initiate an investigation?
- Does the company have a "crisis plan" to deal with big mistakes and crises such as investigations, restatements, or research reports that get negative press?
- How does management ensure that no illegal immigrants are employed by the company or its contractors?
- Has the company considered including alternative dispute resolution clauses in contracts and other agreements with its customers, suppliers, and employees?
- Does the company conduct periodic assessments of the strength of its patent portfolios?
- Has the company taken appropriate legal actions to protect its patents, trademarks, and other proprietary property?
- How does the company protect the integrity of existing patents, technology, and intellectual property overseas?

### The Legislative and Regulatory Environment (continued)

#### Prevention of problems and penalties (continued)

- Is the company prepared for patent or anti-trust challenges?
- Is the company conducting any internal investigations? If so, for what reason? What is the current status?
- Has the company taken steps to ensure that its internal investigations do not use questionable techniques, such as pretexting? (Pretexting involves impersonating a person to obtain his or her private telephone records.)

#### Investigations and pending litigation

- Is the company under investigation by any Federal or state regulatory agency? What issues are involved, and how will the issues be resolved? When will the investigation end?
- Has the SEC or any other regulatory body investigated the company or its management or questioned any of its reporting practices? What is the status of the matter, and what is management doing to resolve the issues?
- If the company operates in a regulated industry, has it been subject to a regulatory examination during the past year? What were the results of the examination? How is management planning to address any problems identified?
- Were any of the company's products taken off the market due to decisions by the FDA or other government agencies? What is the impact on revenues and earnings?
- Is any government agency investigating the company's importing and exporting practices? If so, what is the status of the investigation?
- What matters are currently being litigated? What is the likely outcome?
- Is the company involved in any litigation related to the subprime lending crisis or other credit market conditions?
- Will damages, if any, from pending litigation be covered by insurance? Are there any issues about insurance coverage?
- Has the company adequately reserved for liabilities from pending litigation? Is there any pending litigation for which no amounts have been reserved? If so, why?
- If the company is a plaintiff in any actions, what are the damages claimed and how long will it take to resolve the suits?
- What expenses were incurred for legal fees, and what amounts were paid in settlements this year and last year? What legal services were provided and by whom?
- What steps has the company taken to ensure its ability to comply with the requirements for electronically stored information, such as emails, voicemails, and spreadsheets? (New amendments to the Federal Rules of Civil Procedure took effect in December 2006.)
- What steps has the company taken to ensure that the records retention policies of overseas subsidiaries comply with the applicable local and international requirements?

#### Other legislative and regulatory matters

- Is the company having difficulty obtaining general liability insurance or insurance for directors and officers?
- How much is it costing the company to comply with Section 404 of the Sarbanes-Oxley Act of 2002?
- In light of the costs of the Sarbanes-Oxley Act, would the company consider plans to deregister or go private? If so, how would current shareholders be assured that they will receive a fair price?
- If the company is a smaller public company, is it considering moving to the Pink Sheets OTCQX tier? If so, can investors expect to receive periodic financial reports and audited financial statements? (The OTCQX tier was established in 2007. Listed companies must meet criteria set by the SEC, but they are not subject to periodic reporting requirements.)
- How will the company meet the 100% funding requirement for defined benefit pension plans for plan years beginning after December 31, 2007, as required by the Pension Protection Act of 2006? Will benefits be curtailed as a result of this requirement?
- Why has it taken so long for the company's patent applications to be approved? Why does it take so long for FDA or other approvals to be obtained? What is the likely impact on sales and earnings if they are (or are not) obtained?
- Does the company employ lobbyists to influence Congressional action? Which matters are of interest to the company and how much is being spent on lobbying efforts?
- Did the company adopt or amend any retirement plans this year? What were the costs or savings?
- Does the company limit the amount of its own stock that may be held in retirement plans?

## Shareholder Questions – 2009

### Boards of Directors

#### Elections and resignations of directors

- Has the company adopted, or does it plan to adopt, majority voting for uncontested elections of directors or a modified plurality system of voting? If not, why not? (In a majority voting system, directors must resign if they don't receive a majority of votes. In a modified plurality system, directors must resign if they receive more "withhold" than "for" votes.)
- If the company has not adopted majority voting, has consideration been given to cumulative voting for the election of directors? (Cumulative voting entitles shareholders to as many votes as the number of shares they own multiplied by the number of directors to be elected.)
- Has the company made, or is it considering, changes to its bylaws that would permit shareholders to nominate directors?
- Are all directors required to stand for re-election annually? If not, why not?
- What was the attendance record of each director at board meetings and board committee meetings last year?
- Does the board have a nominating or corporate governance committee composed entirely of outside directors?
- Does the nominating committee's charter encourage diversified representation on the board of women and minority candidates, as well as those from government, academia and non-profit organizations?
- How many directors are women or members of minority groups?
- What actions are being taken to ensure diversity on the board?
- Are all directors shareholders? Does the company encourage directors to own shares in the company?
- Do any directors serve on multiple boards? How many boards?
- What can you tell us about the reasons for directors' resignations or refusals to stand for re-election?
- If a director resigned due to a disagreement, what is being done to address the reason(s) for the disagreement?

#### Independence of directors

- Why aren't there more independent directors on the board?
- How does the company assess and monitor the continued independence of board members?
- What are the compensation arrangements for directors? How much are directors paid for attending board meetings? Do the directors get paid, if they don't attend meetings? What perks do directors receive?
- How does directors' compensation compare with other companies in the industry? Are the fees sufficiently competitive to attract high-quality directors?
- Did any directors buy or sell significant amounts of company stock or exercise a significant amount of stock options during the year? If so, why? Given the outlook for the company's future, why did these directors sell or buy stock?
- What is the full extent of any dealings between any of the directors and the company during the past X years?
- Has the company employed or paid any fees to relatives of any of the directors?
- Has any outside director made recommendations to management regarding the possible employment of any individuals? How are possible conflicts of interest avoided in these situations?
- Has the company or any of its senior officers made significant donations to charities with which board members have significant involvement?
- How are potential conflicts of interest identified and monitored?
- Do directors sign conflict-of-interest statements prior to their appointments to serve?
- Are any of the directors also board members of companies that either compete or do business with the company?
- Did any board member abstain from voting as a result of a conflict of interest? If so, what were the circumstances? What can be done to avoid conflicts in the future?
- Does the company have directors affiliated with the health industry who might not be perceived as objective when evaluating the company's decisions or positions related to significant social policy issues, such as affordable and universal health care insurance? Does the company have a policy prohibiting such potential conflicts of interest or requiring that directors recuse themselves from voting on issues on which they may not be perceived as objective?

Shareholder Questions – 2009

**Boards of Directors (continued)**

**Activities of the board of directors**

- Do board members have the experience and leadership capability to help guide the company through this economic crisis?
- How often does the board meet? Where were the meetings held?
- Are executive sessions of non-management directors held regularly?
- What were the major areas addressed at the board level this past year?
- What actions has the company taken to open doors for directors to give them access to people below the CEO and senior management team?
- Does the board ever disagree with management? Were there any instances where the board rejected a course of action proposed by management?
- How often do the directors disagree among themselves? How are disagreements resolved?
- Does the company have a formal disclosure policy aimed at ensuring that boardroom discussions stay confidential and directors do not leak unauthorized information about the company to the media?
- Does the board play a significant role in strategic planning? If a significant shift in strategy is contemplated, is the board consulted before final decisions are made?
- Are there separate boards of directors for each subsidiary? Are the separate boards encouraged to act independently from the parent company? Are the costs of separate boards justified by the benefits?
- Does the company indemnify directors in the event litigation arises which relates to possible conflicts of interest or negligence of the board? Does the company provide D&O liability insurance to members of the board?
- What factors are considered in the selection process for the chairman of the board?
- Has the board established a committee or a formal structure for addressing succession planning of directors, as well as key management executives?
- Does the board maintain an emergency succession plan that is reviewed annually?
- Does the board issue an annual report on its succession plan? Does the board solicit feedback on the plan from key constituents, such as long-term investors, analysts, customers, and suppliers?
- Has the board considered separating the roles of chairman of the board and chief executive officer?
- Did independent directors review and sign the annual report filed with the SEC? Did any directors refuse to sign?
- Do the directors receive training?
- How is the company ranked on corporate governance scorecards?
- Has the board developed corporate governance guidelines?
- When is the last time the board did a self-assessment? What were the results?

## Shareholder Questions – 2009

### Executive Compensation

#### Oversight of executive pay

- How is executive compensation determined? Why was executive compensation so high last year?
- Does the company allow shareholders a “say on pay” in the form of nonbinding shareholder votes on executive compensation? (A “say on pay” typically gives the shareholders the right to ratify at each annual meeting the compensation of the named executive officers set forth in the summary compensation table.)
- Has the company made any changes in its executive or director compensation plans or policies (e.g., retirement plans or policies for perquisites) as a result of expanded SEC disclosure rules?
- Has the company scaled back or eliminated executive director perks or other benefits that might be seen as excessive in light of the current economic crisis?
- Has the company considered placing limitations on executive pay similar to those that apply to companies receiving federal economic assistance? If not, why not?
- What benefits are payable to officers in the event of termination? Has the board taken, or is it considering, any actions to limit severance packages? Does the company pay tax gross-ups on any elements of executive pay? If so, which elements and how much?
- Do the named executives have employment contracts? What is the length of the CEO’s contract? If it is over three years, why? Does it have a specific termination date? If not, why not?
- How does the company justify the differential between its highest-paid executive and lowest-paid worker?
- How does the company justify the differential between CEO pay and that of the next highest-paid named executive officer?
- Is officers’ compensation comparable to that of similar companies? Is there a ceiling on officers’ compensation?
- Does the board believe the executive compensation structure promotes ethical behavior and supports the overall control environment?
- Why does the compensation committee think the various components of executive pay are aligned with appropriate performance metrics and targets? (The components of executive pay may include base salary, bonus, long-term incentives, stock gains, perquisites, and payment obligations under deferred compensation programs and supplemental retirement plans, or SERPs.)
- How do the directors know that the compensation payments to executives are not excessive in various termination scenarios? (Typical scenarios might include: if termination occurs within 12 months, if “not-for-cause” termination occurs within 12 months, and if “change of control” termination occurs within 12 months.)
- If the company has a SERP, how do the benefits compare with what is offered under employee-wide plans? If the benefit differential is significant, why aren’t these benefits subjected to shareholder approval?
- Does the compensation committee use outside executive compensation consultants? If so, who? Are these the same consultants used by management?
- Has the company adopted a policy to assure the independence of the compensation consultants used by the compensation committee?

#### Pay for performance

- What correlation is there between executive compensation and the market price of the company’s stock?
- What steps has the company taken to ensure management pay is tied to performance?
- Is compensation based on subjective factors, a specific formula, or other objective criteria? Has the company changed the formula during the performance period?
- Has the compensation committee established a “pay-for-superior-performance” standard with respect to executive compensation? (Under this standard, annual bonuses are not paid unless a company’s performance exceeds the median or mean performance of a disclosed peer group of companies. A minimum threshold for stock-based compensation may also be tied to the same performance criteria or selected financial and stock price performance criteria.)
- Why is such a high percentage of total compensation paid annually as opposed to long-term or performance-oriented awards? Is the company considering making long-term compensation a larger part of total compensation?
- Does the company have a “clawback” provision to recover bonuses if the company restates earnings?

## Shareholder Questions – 2009

### Executive Compensation (continued)

#### Disclosures about executive pay

- Why isn't the company's Compensation Disclosure and Analysis (CD&A) written in "plain-English"?
- Does management believe that this year's CD&A meets the SEC's expectations and is in line with best practices?
- Are there any forms of retirement benefits, perquisites, or deferred compensation that are not disclosed in public filings?
- Are there any undisclosed at-will oral agreements and/or bonus arrangements with senior officers of the company?
- Has the compensation committee reported on how they have improved the company's performance?
- Does the company have any special executive compensation agreements that are triggered in the event the company becomes the target of an unsolicited takeover or merger offer (i.e., "golden parachutes")? If yes, why do management and the directors believe these arrangements are in the best interest of the company and its shareholders?
- How did the company choose which companies to include in its peer group index for stock performance? Why was or wasn't Company X included? Why has the company's stock underperformed relative to the market or peer group index?
- Has the company taken any actions to give executives' pensions greater protection than pensions of other employees in the event of bankruptcy?
- To what extent are incentive stock options used to compensate management or other employees? Does the company have an employee stock ownership plan (ESOP)? What are the advantages of the ESOP and is it effective in increasing shareholder value? Are sales of company stock restricted by the plan?
- Has the company reported any untimely filings of Forms 3, 4, and 5 during the year? If so, does this have any implications for the company? (Forms 3, 4, and 5 are ownership forms filed by directors, officers, and principal shareholders under Section 16 of the '34 Act.)

#### Equity-based plans

- What is the company's policy for determining the timing of stock option grants?
- What procedures are in place to guard against backdating of option awards? Has the company adopted "blackout" periods to preclude stock grants when company executives have material, non-public information in hand? Has the company adopted a fixed grant schedule or window period for grants going forward?
- Did the company conduct an investigation into backdating allegations? What were the findings?
- If questionable practices regarding past grants occurred, what corrective actions were taken? Were any company resources used to satisfy the tax and legal liability of employees who received in-the-money options?
- Do any of the company's equity-based compensation plans have high burn rates relative to industry averages? (The burn rate is the total number of equity awards granted in any given year divided by the number of common shares outstanding.)
- Does the company plan to issue additional stock options to employees or other insiders? How much earnings dilution will existing shareholders experience, and what factors are considered in deciding how many options are granted and at what price to which executives?
- What portion of outstanding options is underwater? Does the company expect the options will be back "in the money" soon?
- Is the company seeking to reprice options? If so, what is the rationale for the re-pricing?
- Does the company's stock option plan permit the repricing of underwater stock options without prior shareholder approval, (if the applicable listing standards do not preclude the company from doing so)?
- If the company uses Rule 10b5-1 plans for executive stock sales, are the disclosures about the plans timely and sufficient, and are the controls over the plans adequate to prevent abuses? (SEC Rule 10b5-1 provides flexibility to insiders who may not trade on material nonpublic information by allowing them to set up automatic trading protocols that operate regardless of insider trading windows.)

## Shareholder Questions – 2009

### Audits and Audit Committees

#### The audit committee

- How often did the audit committee meet last year?
- Has the audit committee performed a self-assessment in the past year? What changes were made?
- Does the company believe the tasks being performed by the company's audit committee are in compliance with the Sarbanes-Oxley Act and related SEC rules and applicable stock exchange requirements?
- Is the audit committee overseeing the company's internal control reporting (or preparations for internal control reporting) under Section 404 of the Sarbanes-Oxley Act?
- How did the Sarbanes-Oxley Act, along with the rules adopted by the SEC and the various stock exchanges, improve the workings of the audit committee?
- What criteria are used to select the members of the audit committee? What are their qualifications and backgrounds?
- Does the company's present audit committee include at least one financial expert under the SEC's definition? Who is (are) the financial expert(s) on the audit committee? What are the qualifications of the financial expert(s)?
- How are the qualifications of the "non-financial expert" members of the audit committee assessed?
- Do audit committee members have sufficient expertise to provide oversight of risk management as it relates to credit, liquidity and operational risks?
- Does the audit committee receive continuing education?
- How does the company monitor that the audit committee members are independent?
- How are audit committee members compensated?
- Does the company indemnify audit committee members in the event litigation arises that relates to possible conflicts of interest or negligence of the board? Is D&O insurance provided? Is the insurance adequate and available next year?
- Have any audit committee members or their immediate families been employed by the company within the last 5 years?

#### The audit committee's responsibilities

- Does the audit committee have access to adequate resources to perform its duties properly? What is its budget for the coming year?
- Does management review the company's annual report with the audit committee? Did the audit committee question any of the conclusions reached by management?
- Do the external auditors discuss the quality of the accounting principles used by the company with the committee?
- Does management discuss with the audit committee the company's critical accounting policies? Has the audit committee required any changes to the company's critical accounting policies based on those discussions? Has the audit committee engaged consultants to assist them in obtaining an understanding of the critical accounting issues?
- Were the company's interim financial statements and press releases reviewed by the external auditors and discussed with the audit committee before they were issued?
- Considering the pervasiveness of the effects of the recent credit market conditions, did the audit committee evaluate the adequacy of disclosures regarding valuations, risks and uncertainties, and related matters in the MD&A, risk factors, and footnotes to the financial statements?
- If the company suffered significant losses as a result of recent market turmoil, has the audit committee investigated the causes of the losses and evaluated the processes and controls in place to prevent future losses?
- Is the audit committee responsible for overseeing the company's relationships with credit rating agencies?
- Do the external or internal auditors have direct access to the audit committee? How many times did the external or internal auditors meet with the audit committee during the past fiscal year? Does the work of the internal auditors complement the work of the external auditors?
- Did the audit committee evaluate the work performed by the external auditors?
- What issues did the audit committee discuss with the external auditors last year? How were these issues resolved?
- Does the audit committee review the internal auditors' reports? How are the recommendations made by internal auditors evaluated for possible action?

#### Audits and Audit Committees (continued)

##### The audit committee's responsibilities (continued)

- Did the audit committee evaluate internal controls by reviewing the external auditors' and internal auditors' recommendations for improving internal control and monitoring management's implementation? Did the audit committee express any significant concerns regarding the company's internal control system?
- Do management and the external auditors discuss the accounting treatment for large and unusual or significant year-end transactions with the audit committee?
- Is the audit committee aware of any possible illegal acts or conflicts of interest? If so, what is being done about them?
- Did the audit committee implement a whistleblower policy? Did the audit committee develop a complaint system to receive, retain, and treat complaints? Who monitors complaints in the company?

##### The audit committee's oversight of tax risks

- Does the audit committee oversee tax risks? Does the company's tax director regularly brief the audit committee on areas of tax risk and exposure?
- Does the company compare its tax rate with those of its competitors? Does the audit committee agree with the company's philosophy with regard to tax minimization and tax planning?
- Does the audit committee feel the company has adequate tax expertise and resources to manage its tax risks?
- Does the audit committee challenge the strength and completeness of internal controls over tax accounting and tax risk mitigation? Does it review the estimates and judgments involved in accounting for income taxes?
- Does the audit committee determine that executive compensation plans are tax-compliant?

##### Relationship with external auditors

- Why are the auditors' fees so high and why do they keep increasing?
- How often does the audit committee solicit bids from other firms to audit the company?
- How have the auditors' fees changed as a result of Section 404? How are they expected to change in the future?
- Has the company experienced any significant changes in the relationship with the external auditors under the new system of PCAOB oversight?
- Did the PCAOB inspect our company's audit?
- How were the external auditors selected? If applicable, why were the external auditors changed last year?
- What factors are considered in the evaluation of whether the external auditors are independent?
- When will the lead partner and concurring partner rotate off the company's audit? Do the replacements have adequate expertise? Has the audit committee reviewed their credentials?
- Do the external auditors provide non-audit services to the company? What is the nature of these services, and how much has been incurred in fees? Does the company plan on using the external auditors for non-audit services in the future?
- What criteria does the audit committee use in deciding whether to pre-approve nonaudit services?
- How does the audit committee monitor the nature and extent of non-audit services performed by the external auditors?
- Has the audit committee established safeguards to ensure the external auditors perform no prohibited services?
- Did the company enter into any arrangements with the auditor involving contingent fees?
- Did the auditor provide any tax services to the company or its executive officers of the type that would impair the auditor's independence under the PCAOB's rule on ethics and tax services?
- Were there any disagreements with the external auditors that arose during the year or were issues discussed with them that relate to management's integrity? If so, what were they? Were they brought to the attention of the board of directors or audit committee, and how were they resolved?
- Did the external auditors report on the adequacy of the company's internal control? If not, why not?
- Did the external auditors provide advice and assistance in reviewing the financial statements of merger candidates prior to their acquisition during the year?
- Did the external auditors review the "pro forma" disclosures in the company's recent press releases?

## Shareholder Questions – 2009

### Audits and Audit Committees (continued)

#### Relationship with external auditors (continued)

- Does the company use outside accountants other than the external auditors for non-audit services? If so, what did these services involve? Were the external auditors informed if other outside accountants were consulted on issues that might affect the company's accounting or financial reporting?
- How significant are the fees paid by the company to the external auditors in relation to the total revenues of the external auditor?
- Why do firms other than the principal auditing firm audit certain subsidiaries, divisions, or segments? Does the principal auditor take responsibility for the audit work performed by others? What percentage of the consolidated audit hours do firms other than the principal external auditors provide?

#### Internal control reporting – Accelerated filers

- What are the costs of complying with Section 404, and what is the company doing to ensure maximum benefits are derived from these costs?
- If the company newly qualified as a smaller reporting company this year, did it opt out of having the external auditors report on the adequacy of the company's internal control? Why or why not? (Smaller reporting companies are exempt from this requirement until fiscal years ending on or after December 15, 2009.)
- If a material weakness was identified, is it a pervasive issue across the company? Or is it limited to a specific location or account? What is management doing to remediate the weaknesses in these areas?
- Why did the company allow a material weakness to occur and whose fault is it?
- Were any material weaknesses identified but not reported because they were corrected before year-end?
- How was materiality evaluated?
- Were there any disagreements with the auditors on the evaluation of significant deficiencies or material weaknesses?
- Were audit adjustments identified but not recorded? Did the audit committee concur with the decision not to record the adjustment? How did the discovery of the adjustment affect the assessment of internal control?

#### Internal control reporting – Non-accelerated filers

- Management's report did not indicate any material weaknesses. How comfortable are you that the external auditors will reach the same conclusion when they eventually audit internal control over financial reporting? (Auditor attestation is not required for non-accelerated filers until fiscal years ending on or after December 15, 2009, and the SEC could defer this requirement for an additional year.)
- What is management's best estimate of the cost of compliance? Will it affect dividend payouts or spending decisions?
- Has the company established policies and procedures for disclosing internal accounting control deficiencies and frauds identified to the auditors and the audit committee?
- Has the company implemented the recommendations of the Treadway Commission or the related Committee of Sponsoring Organizations in assessing and documenting its internal controls? If not, what actions are being considered that would be responsive to such recommendations?

#### Internal controls - Other

- What is the tone from the top regarding a strong and effective internal control system?
- What are the implications of an adverse opinion on the effectiveness of internal controls or on the late filing of the company's Form 10-K?
- Has the company developed a system to monitor compliance with the SEC's Regulation Fair Disclosure on the dissemination of material, nonpublic information?
- How have internal controls kept pace with the company's growth and increased complexity?
- Has the committee discussed with management and the auditor the effects of recent events on internal control over financial reporting? Were there any material changes in internal controls in the past year? If yes, what changed and why?

Shareholder Questions – 2009

**Audits and Audit Committees (continued)**

**Internal controls – Other (continued)**

- What procedures are in place to prevent overrides in the internal control system? Has management discovered any overrides in the system? What procedures were implemented to prevent this from occurring? Did the company report these violations to the auditors and audit committee?
- Does the company have an internal audit department? How large is the department? What are its responsibilities? Are members of that department independent of all accounting functions? To whom does it report?
- Do auditors, either internal or external, visit all of the company's locations at least annually?
- How does the company protect its internal systems and network from "hackers"?
- What did the external auditors conclude about the adequacy of the company's computer control activities?
- Are there adequate physical safeguards for computer software and hardware? Is there a disaster recovery plan in place?
- Has the company taken measures to prevent the infiltration of computer viruses or other intrusions?

**Fraud prevention and detection**

- Have the company's external auditors implemented the recommendations in the PCAOB's 2007 report on areas in which auditors should improve their efforts to detect fraud? (The title of the report is "Observations on Auditors' Implementation of PCAOB Standards Relating to Auditors' Responsibilities with Respect to Fraud.")
- How do the financial statement audit and the 404 audit consider the risk of fraud, including both financial statement fraud and misappropriation of assets?
- Did the Section 404 assessment identify fraud on the part of senior management?
- Does management adequately evaluate the risk of fraud throughout the organization? What is management doing to deter and detect fraud?
- Does the company have a documented procedure for following up on all reported issues through the company's hotline?
- How were reported issues resolved during the year?
- Has the company appointed a chief compliance officer?
- What is the audit committee's responsibility for fraud awareness and detection?
- How does the audit committee address the risk of management override of controls?

**Other matters**

- Has the company paid its PCAOB support fees?
- Which transactions were executed with related parties? What was the business purpose of the transactions? Were the terms of the transactions at amounts approximating arm's-length or fair value? Who are the related parties? Why were related parties used? Are these transactions benefiting any specific shareholders, creditors, or others? Is the board of directors required to approve these transactions? Did it?
- Does the audit committee receive and review a report of the company's political contributions? How often? Are the reports reviewed for consistency with data available from the IRS and Federal Election Commission?
- Do the reports of political contributions include all relevant payments and usage of company assets, including contributions made indirectly through trade associations or tax-exempt Section 527 (26 U.S.C. §527) groups?

## Shareholder Questions – 2009

### Understanding the Financial Statements

#### Fair Value and Valuations in Illiquid Markets

- What were the major judgments involved in adopting the new fair value accounting standards, FASB Statement No. 157, *Fair Value Measurements*, and FASB Statement No. 159, *Fair Value Option for Financial Assets and Financial Liabilities*?
- Were any changes made to the valuation methods or models used by management during the period? Why, and with what effect on the financial statements?
- If the company has significant investments in alternative investment vehicles like hedge funds and private equity funds, what is the basis for the valuations used by the company?
- If the company has significant investments in mutual funds, has it evaluated the mutual fund company to ensure that it is financially sound with no liquidity problems?
- Does the company use a specialist to help determine fair values?
- If a specialist is used to help determine fair values, how has the company obtained comfort that the valuation methods used are appropriate and the values are reasonable?
- If the company reported losses on risky investments, (such as subprime mortgages, collateralized debt obligations, asset-backed securities, or auction rate securities), why were the losses incurred, and how much exposure to loss still exists?
- If the company is a financial institution that incurred losses rescuing off-balance sheet entities (that they sponsored) from investment losses or liquidity problems, why were the entities off-balance sheet? What exposure remains?

#### Quality of financial reporting

- Has the company selected appropriate accounting policies? Why does management use a particular accounting method (e.g., revenue recognition, amortization method, and cost deferral) in light of different policies used by the company's competitors? Has the company consistently and properly applied the appropriate accounting policies? Are the company's overall accounting policies aggressive or conservative?
- Did the company consult with the SEC regarding any accounting matters during the past year?
- How does management assess the significant operating, market, and credit risks that are discussed in the annual report?
- Were any accounting policies or estimates changed this year? To what extent are estimates by management part of the financial reporting process? Which estimates are considered critical? How does management determine when and if a change in estimate is appropriate?
- Why did the company change its method of accounting for \_\_\_\_? Why is this method better than the former one? Did the external auditors provide the company with a preferability letter?
- What is the quality of the company's earnings (e.g., unusual or non-recurring sources of income that are not separately disclosed)?
- Are all uncorrected errors, even if deemed immaterial, recorded in the financial statements? If not, why?
- If the company newly qualified as a smaller reporting company this year due to a drop in market capitalization, did it take advantage of the scaled financial and non-financial disclosure options for smaller companies? If so, did the company consider the impact on shareholders of receiving less information than in prior years?
- Does the company have any unresolved comment letters from the SEC? What is the nature of the comments? Will the company have to amend any filings as a result of the comment letter?

#### Restatements

- If the company restated prior years' financial statements, how was the problem discovered? Is the company certain that the full extent of the problem has been identified? What steps have been taken to ensure that this problem does not occur again?
- Why were there significant adjustments to the reported earnings of the company during a particular period or quarter? Are these adjustments indicative of weak management controls? How is management planning to correct the problems?

Shareholder Questions — 2009

Understanding Financial Statements (continued)

**Recent accounting changes**

- Has the company assessed the impact of the new business combinations and consolidation standards, FASB Statement No. 141(R) and FASB Statement No. 160? How does management expect these standards will affect the financial statements, the volatility of future earnings, and/or the company's future deal-making activities?
- Did the company make any changes to debt covenants or benefit arrangements as a result of the requirement to report the funded status of the company's pension plans under FASB Statement No. 158, *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans*?
- What does the company intend to do about any over-funded or underfunded plans? Has management considered any changes to those pension plans?
- What is the assumed long-term rate of return on pension plan assets for accounting purposes? How did management (and the audit committee and the auditors) conclude that the assumed long-term rate of return is a realistic long-term expectation?
- What steps is the company taking to prepare for upcoming changes in accounting for business combinations?
- Is the company prepared to adopt FAS 157, Fair Value Measurements, for non-financial assets and liabilities, which is required beginning in 2009? Are there certain non-financial assets or liabilities that will be difficult to value under FAS 157, and if so what are they? How will the company value these assets/liabilities?
- Does the company have any variable interest entities (VIEs) or special purpose entities (SPEs), or other "off-balance sheet financing" arrangements? What transactions does the company enter with VIEs or SPEs and why? Are the SPEs consolidated? Are there any related parties involved with any such entities or arrangements? How did the company determine that it did not need to consolidate any such special purpose entity?
- Is the company using special purpose entities for its real estate assets?

**Uncertain tax positions**

- Is the IRS or any other taxing authority currently examining any of the company's tax returns? Have any changes been proposed? What is the likely outcome of these challenges?
- Does the company expect that disclosures made under FIN 48 will affect the nature or status of its tax examinations by the IRS or other taxing authorities?
- Has the company received any questions from analysts, regulators, lawmakers, or other stakeholders about the company's tax positions as a result of the disclosures provided in compliance with FIN 48? What are the issues?
- What strategies does the company use to minimize corporate income taxes?
- Has the company entered into aggressive tax avoidance or deferral techniques? Who approved those transactions? Would the company do them again?
- Have tax authorities challenged the company's pricing on intercompany transfers between foreign and domestic jurisdictions? What is the likely outcome of that challenge?
- Did the company pay any significant Federal, state, or local tax, or foreign penalties recently? What measures are being taken by management to reduce or eliminate non-deductible interest and tax penalties?
- Does the company expect any change in its tax strategies or the level of oversight over them as a result of FIN 48?
- Does the company have an internal tax function? If not, which outside firms are used to provide tax advice? Are any members of these firms also directors of the company?

## Shareholder Questions – 2009

### Understanding Financial Statements (continued)

#### Complex accounting standards

- What controls does the company have over complex accounting transactions?
- Has the company reevaluated its method for valuing share-based payments? Are effective systems of internal control in place over accounting for share-based payments?
- Is the company using the “shortcut” method of accounting for hedges? How sure is management that the company is meeting all the criteria for the use of this method? How does the company determine that its hedges are highly effective (from both a business risk management and a financial accounting perspective)?
- What procedures and controls does the company have over the use of derivatives and hedging? Has the audit committee reviewed these procedures and controls in the past two years?

#### Trends

- What steps is the company taking to restore the stock price to pre-recession levels?
- Has the company considered buying back its stock on the open market as a result of the drop in price?
- Has the company received or has it applied for any federal assistance under the Troubled Asset Relief Program?
- How will the budget plans and tax proposals of the new administration will affect the company?
- Is the company preparing for any new regulations that may result from the credit crisis and resulting failures of financial institutions?
- Does the company believe its current financial condition is stronger or weaker when compared to one year ago?
- Has the company laid off employees or is it contemplating layoffs as a result of current economic conditions? If so, how does management intend to maintain morale among the remaining employees?
- Given the decline in the company’s market capitalization, did the company record an impairment charge related to goodwill? If not, how did the company reconcile the difference between its market cap and the value of its reporting units?
- What factors does management use to assess the company’s financial condition?
- Are management incentives based on financial condition, cash flows, results of operations, or a combination of these factors? If so, why?
- Does the company hold any real estate or other assets that have increased in value but are not reported at fair value in the financial statements? If yes, which assets have increased in value and by how much? Does the company’s stock price reflect this fact?
- What are the factors that cause differences between the company’s reported earnings and its cash flow from operations?
- In managing the business, does management rely more on reported earnings or cash flow?
- What are the most important economic trends that management relies upon in managing the day-to-day business of the company?
- Did sales and earnings meet management expectations in 2009? How are expectations benchmarked?

#### Other matters

- Has the company suffered any losses in connection with the recent failures of certain investment banks? How significant were the losses? What safeguards will the company establish to prevent further losses?
- What factors does management use to assess the performance of its operating segments? Who is the chief operating decision maker referred to in the company’s discussion of its operating segments?
- Were there any changes in senior-level personnel in the company’s accounting function? What were the reasons for the changes?
- Is the company planning to use XBRL reporting?
- Why did the company delay its SEC filing and/or earnings release for \_\_\_\_\_ period?
- Why doesn’t the company release earnings earlier?
- Will the company consider early adopting IFRS if it meets the criteria proposed by the SEC? (In early 2009, the SEC proposed a roadmap for allowing U.S. businesses to file under IFRS. Under the proposal, issuers that meet certain criteria would be allowed to early adopt IFRS beginning in 2010.)
- Has the company considered what the cost of converting to IFRS will be?

Shareholder Questions – 2009

**Management's Plans and Strategies**

**Prospects for growth and expansion**

- What are the major strategic and operating challenges facing the company now and in the next five years? How does management plan to address these issues?
- Have any new competitors entered the company's markets? How has the new competition affected the company's strategic planning? How did the company react to additional competition?
- What new products will be introduced this year and next year? Are competitors considering similar strategies?
- How have new products been received in the marketplace? What are the expected market shares and profit contributions of each new product? What are the expected lead times and product life cycles?
- What is the company's share of the (product name) market? What is being done to increase its share?
- How much did the company spend on advertising in 2008? What are advertising expenditures expected to be in 2009? What factors are considered in determining if advertising is effective?
- Has the company attempted to raise the prices of its products or services recently? Was this successful? If not, then why not? What percentage of the sales increase or decrease was the result of price increases or decreases? Of volume increases or decreases?
- How does the company maintain the quality of its products? What quality assurance procedures are currently in use? Are additional quality assurance procedures being considered?
- Does the company take steps to elicit feedback from customers on the level and extent of customer satisfaction?
- Are research and development capabilities or other intangibles critical to the company's competitive strategy? If so, which ones are critical and what steps is the company taking to protect or enhance these intangibles?

**Business risks and uncertainties**

- Are any of the company's products subject to government regulation?
- Does the company have any significant new products awaiting government approval? What is the expected approval date?
- Are the benefits or useful lives of any products questionable due to competition, patent challenges or expiration or other factors?
- Has the company formulated a plan to protect against the unauthorized use of trade secrets, know-how, and other information by former key employees?
- Does the company have alternate suppliers for key commodities, such as electricity and natural gas, that are essential to the company's processes?
- What percentage of the company's sales is from government contracts? Are any of these contracts subject to renegotiation? When do such contracts expire?
- Does the company have any significant sales or purchase commitments for commodities that are vital to sustain critical operations? Are financial derivative contracts, such as futures contracts, used to ensure a steady supply or constant price for these items?
- Why does the company rely exclusively on a particular customer or supplier, or on a relatively small number of customers or suppliers? Could this relationship adversely affect shareholder value?
- Does the company hedge price risks on commodities that are critical to the business?
- Are any of the company's significant customers experiencing financial difficulties? Are any of the company's significant customers under investigation by the SEC or any other law enforcement agency? What are management's plans to minimize any adverse impact that might result if these customers become insolvent?
- Has the company changed its policies for extending credit as a result of the deteriorating economic environment? Have accounts receivable balances increased as a result of slow or non-paying customers, and if so what additional measures have been put into place to ensure collection?
- Is the company susceptible to exposures arising from market risks and concentrations (e. g., major customers, products, geographical)? How does the company address these risks?
- Does the company have systems in place for monitoring the financial health of its suppliers, distributors, customers and other parties? Has the company been impacted by the failures of any of these parties?

## Shareholder Questions – 2009

### Management's Plans and Strategies (continued)

#### Response to changes in economic or political environment

- How has the recent turmoil in credit and financial markets affected the company's strategy for growth? What strategic changes has the company made in response to the turmoil?
- What effect has the recent credit market turmoil had on the values of investments in employee pension or other post-employment plans?
- What effect does the state of the economy or political environment in the U.S. or in other countries have on the company? Does the company expect any benefits or difficulties as a consequence of these conditions?
- Who are the company's major foreign competitors? Does the company have plans to address increased foreign competition? What are they?
- If U.S. interest or inflation rates rise, how will that affect the company? How will continued increases in the price of oil and other commodities affect the company? How will continued declines in the U.S. dollar relative to other currencies affect the company?
- How have the company's financial results been affected by the war in Iraq? What steps has the company taken to protect its personnel and facilities from terrorism and war?
- What is the likelihood that a foreign government will nationalize the company's operations?
- Which foreign countries, if any, restrict or prohibit the repatriation of earnings or assets?
- How does the company plan to take advantage of the bankruptcy of Competitor Y? Why did the competitor fail, and what measures is the company taking to ensure that a similar fate is not in store for itself?
- Does the company rely heavily on imports or exports, or compete with foreign companies? If so, how will the changing value of the dollar or the current political environment affect the company's competitive position? What measures are being taken to reduce the possibility of loss from foreign currency exchange rate changes?

#### Response to changes in tax laws

- Are there any other new or contemplated tax law changes that had an effect on the company in 2008 or will have an effect in future periods? (Consider Federal, foreign, and state laws.) Will the company consider increasing or decreasing asset allocations as a result of tax law changes in foreign or domestic jurisdictions?
- How does management assess whether tax-planning strategies are effective in managing its income tax obligations domestically and on a worldwide basis?

#### Mergers, acquisitions and divestitures

- Does the company plan to initiate or expect to receive any merger proposals?
- How would the company determine if a proposed merger would benefit the shareholders?
- Why has or hasn't the company employed anti-takeover measures?
- What sorts of anti-takeover precautions has the company taken? (For example, a "poison pill" triggers the issue of new shares to friendly shareholders once the stake owned by the hostile takeover party reaches a certain level.) How do these techniques impact shareholder value?
- Can shareholders rely on fairness opinions provided by investment bankers?
- Has the compensation committee approved any significant change-in-control payments?
- Did anyone acquire a significant interest in the company recently? If so, what are their intentions? What is management's reaction to this? Is shareholder approval required for business acquisitions and divestitures?

#### Investments, dividends, stock buybacks, and other uses of cash

- What is the amount of the company's capital budget for next year and the following year? Are cash flows from operations sufficient for these needs? If not, how will these requirements be financed?
- Does the company have an investment committee charged with making recommendations for employing excess working capital? What policies are in place to guide these investment decisions?
- How are investment returns on potential new capital projects assessed?

Shareholder Questions – 2009

**Management's Plans and Strategies (continued)**

**Investments, dividends, stock buybacks, and other uses of cash**

- What was the nature of R&D costs for each of the last three years? Does the company spend more or less (as a percentage of sales) on R&D than its competitors? What new products were introduced in 2008 as a result of R&D efforts? Were any R&D projects abandoned? If so, what were their costs?
- What is the expected level of investment in research and development (R&D) in the next few years? Has the company benchmarked its R&D spending against competitors?
- If the company has excess cash reserves, does it plan to buy back corporate stock or increase dividends?
- If the company has reduced dividends, why were dividend reductions made without first reducing other cash outlays, including executive compensation?
- How does the company's dividend policy compare to the industry? Has the company considered declaring a stock split or stock dividend? Would a stock split or stock dividend have a positive effect on long-term shareholder value?
- Has the company considered adopting a dividend reinvestment program?

**Workforce and management succession**

- What is the status of labor relations? Do any of the current labor contracts link wages to productivity increases? What issues will the company and union likely seek to negotiate when the current contracts expire?
- How much did the company spend to recruit and train personnel? How are these costs monitored, and how is cost effectiveness assessed?
- Who is next in line to succeed the CEO, Chairman, and CFO when they retire or otherwise leave the company? What is the likelihood of an external search?
- Why doesn't the company disclose its management succession plan to shareholders?
- Are members of management required to retire at a certain age? If so, what age? Does the retirement policy preclude those individuals from entering into consulting arrangements with the company? Has the company considered implementing, amending, or eliminating retirement policies?
- Why did specific managers leave the company? What termination benefits are being paid? Are they precluded from establishing relationships with competitors of the company?

**Technological and financial innovation**

- How is the company making use of technology in its manufacturing operations? How is management addressing employee, union, and community concerns about jobs being eliminated through plant automation?
- Does the company sell its products or services over the Internet? If not, does the company plan to establish e-commerce?
- What precautions are being taken to ensure that information transmitted through the Internet does not fall into the wrong hands or become compromised? Does the company have a privacy policy regarding customer and employee information?
- What new financial products are being offered to customers? Are these products being marketed by competitors? Is the company a participant in any of these transactions? If yes, what is the maximum exposure to the company if the financial products fail to perform as intended?

**Cost-cutting and restructuring programs**

- What steps has the company taken to streamline or restructure its operations? Are additional steps under consideration? If yes, when will this be announced, and what is the expected impact on earnings in the current year and future years? Has the company notified employees who might be affected?
- What amount was incurred by the company for health care costs for its workforce last year and last quarter? What steps are being taken to control these costs? Has the company considered self-insurance to better manage these costs? Why does the company provide or not provide health insurance for retirees? Does the company believe it would incur significant cost increases if legislation were passed that regulated managed-care providers?

## Shareholder Questions – 2009

### Management's Plans and Strategies (continued)

#### Cost-cutting and restructuring programs (continued)

- What is the company doing to control employee benefit costs?
- Does the company plan to offer early retirement or other termination incentives to employees to reduce costs and overhead expenses?
- What plans are in place to assist displaced workers? What is the labor union's position on this issue?
- Has the company outsourced any of its data processing, manufacturing, or other operations? If not, has this been considered and how were the risks of this action assessed? How much of its operations did the company move to offshore locations? Were the overall economic consequences considered?
- Is there any idle production capacity? If so, what actions are being considered to eliminate it?
- How is the company controlling its energy costs in the current operating environment?

#### Risk management

- What risk management techniques are used to evaluate the adequacy and cost effectiveness of insured risks? What is the limit of the company's product liability and catastrophic loss coverage?
- Does the company self-insure any risks? How sensitive are earnings to changes in assumptions about self-insurance?
- Does the company have a risk assessment committee?
- What guidance has the board of directors given management in developing a risk management system?
- What oversight role does the board of directors have to ensure the integrity of the company's risk management system?
- Has the company purchased or sold any finite-risk insurance products?
- Is the company considering any changes in its insurance practices?
- Has the company had difficulty obtaining terrorism insurance? Or any other type of insurance?
- Is there a proper separation of duties between those who create financial risks and those who manage and control risks?
- Does the company use enterprise risk management?
- What is the company's attitude towards financial risks?
- How does the company monitor concentrations of risk with banks or financial intermediaries? Have any limits been established on the extent of exposure allowed with a single entity?
- Were there any significant foreign currency exchange gains or losses in 2008 and in interim 2009 operations? What is the company doing to minimize the impact of changes in foreign currency rates? Does the company hedge its foreign currency exposures?
- What types of financial instruments and derivatives does the company use? What are the major risks from the company's use of financial instruments or derivatives (e.g., options, futures, forwards, caps, collars, interest rate swaps)?
- Does the company have written guidelines and policies on the use of financial instruments and derivative instruments? Who formulated those policies? Did the board of directors approve those policies?
- Do management and the board of directors monitor the company's financial instruments and derivatives exposures?
- Is there a limit system in place (i.e., a system that sets the maximum amount of loss the company would tolerate before liquidating a position)?
- Does the company plan to change its use of derivatives, co-cos, synthetic leases or other financial instruments?
- How does the company monitor the retirement plans' investment performance? Do the external auditors audit the plans' financial statements? Who sets the investment policy for the plans' assets?

#### Capital structure

- What is the company's current price-earnings ratio? Why is it so high or low compared to competitors? In light of this, why has or hasn't the company issued additional common stock to meet its business expansion plans?
- How does the company's debt-to-equity ratio compare to the ratios of its major competitors? How does the company use debt to maximize shareholder returns? How are the risks associated with the current debt load assessed?

### Shareholder Questions – 2009

#### Management's Plans and Strategies (continued)

##### Capital structure (continued)

- Is management taking steps to de-leverage the company in response to the tight credit market conditions? If so, what steps? Has management set a goal for the maximum amount of leverage?
- What interest rates would the company pay if it were to issue additional long-term debt in today's market? How do these interest rates compare to those that the company is currently paying on its debt obligations?
- Has the company violated (or approached violating) any loan covenants? If so, what costs were incurred to obtain waivers or to restructure these debts? Are additional violations expected in the near term?
- What portion of the company's long-term debt bears interest at floating rates? What portion is denominated in foreign currencies? Has the company considered measures to reduce the risk of fluctuations in interest rates or foreign currency exchange rates?
- Has the company considered any revisions to common stock voting rights? Has the company considered issuing other classes of common stock with rights and privileges different from those accorded to the company's common stock? What would be the benefits of such a class of stock?
- Has the company considered adopting or rescinding an employee stock purchase plan?

##### Sources of financing

- The SEC has approved measures to help small companies raise capital more efficiently, and it is considering other changes in the future. How and when will these changes affect the company and its shareholders?
- Will the company be able to satisfy its short-term cash requirements without obtaining additional financing through the issuance of new debt or equity securities? How did the company make that assessment?
- How is the company's current relationship with its banks?
- Has the company experienced a reduction in availability of its traditional sources of financing? If so, how is it compensating for this reduction? Is it seeking alternative sources, and if so what are they? What will be the impact of reduced available financing to the company going forward?
- How has the outlook for the stock market and bond market affected the company's plans for a public offering of its stock or debt? What industry or company factors are relevant in creating a favorable environment for raising additional equity or issuing debt? Does the company plan to refinance any of its existing debt?
- Would the company consider obtaining additional financing from a private placement of its common stock or debt to institutional investors? Why or why not? Would institutional investors receive more favorable terms in comparison to the terms that might be negotiated with other third parties?
- Is the company considering any divestitures? If the company is considering any M&A transactions in order to reduce risks attributable to its current operating concentrations, how would they be financed?
- Would the company pay a market premium if it were able to purchase large blocks of shares from institutional investors? How would this affect the share price?
- Why does the company issue options, warrants, and convertible securities if such securities have the potential to dilute the interests of current shareholders? How do these actions increase shareholder value?

##### Liquidity and debt

- Has the company funded long-term assets with short-term liabilities? If so, does the company face liquidity problems, such as distressed sales of assets when creditors won't roll over short-term loans? What is the company doing to mitigate any liquidity problems?
- Have failed auction processes for auction rate securities affected the liquidity of the company? If so, what steps are planned to maintain the company's cash position?
- What is the company's bond rating? Why was the company's credit rating changed, and what impact will this have on future borrowings? Did the company anticipate this change? What steps are planned to improve the ratings?
- Is it possible that the company will restructure its debt or file for bankruptcy protection? What effect would this have on existing shareholders, creditors, employees, and the communities in which the company operates?
- Have transactions such as asset sales and sale-leasebacks been considered to satisfy liquidity needs?
- How will liquidity of the company be affected by restrictions placed on Subsidiary X, which prevent it from paying dividends to the parent company?

## Shareholder Questions – 2009

### Business Ethics and Social Responsibilities

#### Business ethics

- Has the company adopted a code of ethics for its principal executive and senior financial officers? Were any waivers granted?
- Has the company established a written policy on corporate conduct regarding possible conflicts of interest and illegal acts, to guide key personnel in their business activities?
- Do the company's codes of ethics and corporate conduct cover its entire global operations?
- Has the company considered how the actions of "outsiders" such as agents, suppliers, and distributors reflect upon their ethics and compliance programs?
- Has the company developed a supplier code of conduct? Does the company have an independent monitoring process for assessing compliance with its supplier code of conduct?
- Is there a system in place that allows employees to raise ethics and compliance issues without fear of retribution?
- Is there a process in place that allows management and the board of directors to address issues that arise from any level of the organization?
- Is the company's reward system (promotions, bonuses, and salary increases) aligned with the objectives of the ethics and compliance programs?
- Does the company regularly and systematically scrutinize the causes of compliance failures and respond appropriately?
- Does the company issue (or is it planning to issue) a Corporate Social Responsibility (CSR) report? If not, why not?
- Does the company issue (or is it planning to issue) a sustainability report? Does (or will) the sustainability report comply with the Global Reporting Initiative's (GRI's) Sustainability Reporting Guidelines?

#### Clean energy and healthy living

- What is the extent of the company's exposure to global warming or climate changes?
- What is the company doing to reduce greenhouse emissions or otherwise prevent or mitigate climate control risks?
- Has the company integrated environmental accountability into its current code of conduct?
- Does the company attempt to measure its emissions and environmental impacts on the communities in which it operates? Does it make available reports on the impacts to the members of the communities?
- Is the company investing in (or does it plan to invest in) renewable energy sources?
- Is the company insured for claims related to environmental matters? Have the company's environmental policies affected its insurance rates or coverage?
- What are the company's procedures for addressing the risks associated with hazardous chemicals, and how is toxic waste disposed? Are any of the company's products considered carcinogenic? How are employees protected from dangerous chemicals? How does the company's safety record compare to similar companies?
- Does the company recycle its waste and manufacturing byproducts? If not, why not?
- Do the company's manufacturing operations comply with environmental laws? Is the company subject to any U.S. or international actions related to its environmental responsibilities?
- Do the company's products or services contribute to any unhealthy conditions, such as obesity?
- Are the company's products labeled appropriately to warn users of any risks?
- Were any of the company's products recalled for safety violations? Did the company's reaction appropriately balance the interests of customers with those of shareholders? Are there any legal issues related to the recall?

#### Labor standards

- Does the company comply with labor standards set by the International Labor Organization and United Nations?
- Is the company outsourcing jobs to offshore locations? If so, what are the risks? Has the company disclosed the locations of all facilities located outside the U.S.?
- How often are non-U.S. locations inspected for working conditions and compliance with labor standards?
- How much of the company's revenues come from parts of the world with high HIV/AIDS prevalence rates?
- Has the company set consistent standards for workers' health and safety, including HIV/AIDS and other pandemic diseases?

Shareholder Questions – 2009

**Business Ethics and Social Responsibilities (continued)**

**Labor standards**

- Has the company implemented mandatory drug testing in the workplace? If not, why not? How have the employees or their unions reacted to testing by the company?
- Does the company maintain a smoke-free environment for its employees? If not, why not?
- What are the company's equal opportunity policies? Has the company publicly disclosed data reported to the Equal Employment Opportunity Commission (EEOC) or otherwise reported publicly on the diversity of its workforce?
- What policies and procedures does the company have to prevent workplace harassment?
- Does the company support any causes, events or media coverage that might be seen as inconsistent with family values?
- What is the company doing to improve the quality of public education in the communities in which it operates?
- Does the company's supplier code of conduct address supply chain labor conditions? Does the code include provisions for assessing suppliers' ties to governments that are considered repressive in the sense that workers in these countries are subject to human rights abuses or working conditions that are unsafe, unhealthy and exploitive?

**Contributions**

- Has the company publicly disclosed the details of its charitable and political donations? If not, how much was donated, who are the individuals making the decisions regarding the contributions, and what criteria are used to determine which organizations receive donations?
- Are the company's management and employees encouraged to donate their time to charity? Do they volunteer time during normal business hours? How many hours are devoted to volunteer work and at what cost to the company?
- Does the company have a political action committee (PAC) and, if so, what is its purpose, how is it administered, and how are funds raised? What candidates does the PAC support?

**Specific industries**

- If the company is in the financial services industry, what steps is it taking to prohibit services for corporate or individual clients that enable capital flight (from the U.S. to offshore locations) and result in tax avoidance?
- If the company's business involves Internet technology, what steps is it taking (or could it take) to reduce the likelihood that its business practices will facilitate "Internet censorship?" Specifically, what steps could the company take to block foreign governments from violating human rights by monitoring, censoring, and jailing Internet users through manipulation of Internet technology?
- If the company is a retailer, what steps has it taken to reduce or eliminate PVC, (i.e., polyvinyl chloride, a type of plastic that can be used in packaging and products), and replace it with safer and more cost-effective alternatives?
- If the company is a retailer, what are its policies on selling products that contain nanomaterials? (Nanomaterials are very small particles that can be absorbed through the skin and may be harmful to consumers and workers.)
- If the company manufactures or sells food products, what is its policy with regard to the identification and labeling of food products that may contain genetically engineered ingredients? What steps is it taking to conserve resources, prevent pollution and provide for safety testing and systems to ensure identity preservation and traceability "from farm to fork?"
- If the company contracts with governments to provide military weapons or supplies, does the company's code of conduct include a statement of the ethical criteria for bidding on, accepting and executing these types of contracts?
- If the company manufactures or markets electronic products, what is it doing to manage the level of toxic chemicals, (such as lead and certain brominated flame retardants in electronics products), that are limited by the European Union's Reduction of Hazardous Substances (RoHS) Directive?

## Shareholder Questions – 2009

### Shareholder Communications and Investor Relations

#### Investor base

- What is the total number of shareholders? Who are the principal shareholders?
- How many institutional investors own shares in the company, and what percentage of the total shares outstanding is owned by institutions? What are management's reasons for rejecting any suggestions made by these institutions?
- How much of the firm's stock is owned by hedge funds? What do these investors want? How do management and the directors evaluate any suggestions made by these funds?
- How much of the firm's stock is owned by private equity firms?
- Have foreign government-owned funds (also known as sovereign wealth funds) taken any significant stakes in the company? What percentage of the total shares outstanding is owned by such funds?
- What procedures has the company implemented to prevent trading of its stock based on inside information?

#### Communications with shareholders

- Who in management is responsible for shareholder communications and responding to shareholder questions?
- Does the company provide a process for investors to communicate with directors? If not, why not?
- Has the company designated at least one independent director whom shareholders can contact?
- Has the board developed and disclosed communications policies covering all forms of communications, including in-person meetings, telephone calls, e-mail and other written communications?
- Does the board take an active role in ensuring shareholder communications efforts and policies are up to date and effective?
- Has the switch to e-proxies resulted in (or do you expect it to result in) better communications and/or lower costs?
- What are the company's plans for the use of electronic shareholder forums? Are you seeing any cost reduction or any improvement in the effectiveness of shareholder communications using these e-forums?
- Does the company or its CEO or CFO have a corporate blog? What is the company's policy for providing disclosures about financial information in the blog? (A blog is an online journal that offers commentary on a wide range of topics.)
- Has the company considered participating in the SEC's XBRL voluntary program? What are the pros and cons? Is the company prepared for the changes that will be required when the XBRL rules go into effect?
- Were any proposals submitted to management for inclusion in the proxy statement that management decided not to include? Why were certain issues omitted from the proxy? Why doesn't the company permit confidential voting by shareholders with an outside party tabulating the results?
- Can a summary of significant matters discussed at the annual meeting be distributed to shareholders?
- What is the company doing to improve its annual report and make it more understandable to shareholders?

#### Communications with analysts

- Has the company established and disclosed corporate policies for responding to requests for access to knowledgeable company officials and other qualified persons, including securities analysts and investors?
- Does the company maintain frequent contact with analysts who follow the company? If the company does not have an analyst following, how does this affect the stock price? Does the company expect to be able to attract an analyst following in the future?
- How has the company's practice regarding earnings guidance changed in recent years? Why? Will the company continue to provide earnings guidance to analysts?
- Does the company publish earnings forecasts? If so, do the forecasts include the components of earnings (revenues, expenses, gains, losses, margins, earnings per share, etc.)? What factors are used to derive these forecasts?
- Does management expect any increase in the volatility of the company's stock price due to changes in earnings guidance?

Shareholder Questions – 2009

**Shareholder Communications and Investor Relations (continued)**

- Does management agree with analysts' expectations for earnings in the next quarter and for 2009 earnings? If there are disagreements, how are they communicated to analysts and investors?
- If it is necessary to revise earnings forecasts, how will this information be communicated to the public?

**Trends and competitive analysis**

- If the company does not provide earnings guidance, what information does it provide to analysts?
- Has the company provided information about trends and competitive analysis?
- Why did the market price of the company's stock fluctuate so dramatically compared with shares of its competitors?
- Has the company provided five-year growth rate projections?
- What are management's plans for maximizing shareholder value in 2009 and beyond?
- What actions are being taken to ensure shareholder value is maximized on a long-term basis?
- Which business segment is growing the fastest and why? What are the anticipated sales and earnings changes for each of the company's business segments?
- How is the economy affecting the company's expectations for sales, earnings, and dividends for next year? What growth rates are expected for the company this year and next? What are the most significant factors that impact these performance expectations? Which factors are beyond the company's control?
- How do the company's operating results and financial ratios compare with those of its competitors?
- How do the company's product quality and productivity goals compare to those of its competitors?
- How does the company's business cycle affect the current quarter's performance?
- How does the current quarter's performance contribute to the company's long-term strategy?
- How do first quarter earnings compare to the earnings that were projected for the period? What estimates are the most significant in formulating realistic earnings expectations?

# Corporate Governance Update and Shareholder Questions: 2009

*A Financial Reporting letter*



## For More Information

If you would like further information or to discuss the implications of the matters discussed in this *Financial Reporting* letter, please contact the BDO Seidman engagement partner serving you or one of the following partners: Ben Neuhausen or Wayne Kolins.

Ben Neuhausen (bneuhausen@bdo.com)  
(312) 616-4661

Wayne Kolins (wkolins@bdo.com)  
(212) 885-8595

**Material discussed in this *Financial Reporting* letter is meant to provide general information and should not be acted upon without first obtaining professional advice appropriately tailored to your individual circumstances.**

---

Published by:  
BDO Seidman, LLP