Deloitte.

# Changing Standards for Environmental Disclosures

Kathryn Pavlovsky, Deloitte Financial Advisory Services LLP

September 7, 2011

# Agenda

Overview of SEC guidance on disclosure

Marketplace activity influencing disclosure

Governance structure

Business implications

# Overview of SEC’s Guidance on Disclosure

Item 101 of Regulation S-K, *Description of Business*. Item 101 requires a registrant to describe its business and that of its subsidiaries. Also, among other things,Item 101 expressly requires disclosure regarding certain costs of complying with environmental laws.

Item 103 of Regulation S-K,*Legal Proceedings*. Item 103 requires a registrant to briefly describe any material pending legal proceeding to which it or any of its subsidiaries is a party. Instruction 5 to Item 103 provides some specific requirements that apply to disclosure of certain environmental litigation.

Item 303 of Regulation S-K, *Management's Discussion and Analysis of Financial Condition and Results of Operations*. Item 303 includes a broad range of disclosure items that address the registrant's liquidity, capital resources and results of operations. For example, registrants must identify and disclose known trends, events, demands, commitments and uncertainties that are reasonably likely to have a material effect on financial condition or operating performance.

Item 503 of Regulation S-K, *Prospectus Summary, Risk Factors, and Ratio of Earnings to FixedCharges*.Item 503(c) requires a registrant to provide where appropriate,under the heading “Risk Factors,”a discussion of the most significant factors that make an investment in the registrant speculative or risky.

In addition to the disclosure requirements of Regulation S-K and Regulation S-X, the Securities Act Rule 408 and Exchange Act Rule 12b-20 require a registrant to disclose “such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.”

# Marketplace forces influencing disclosure

- Accounting standards trend towards transparency
  – Lower thresholds for probability
  – Fair value measurement
  – Enhanced provisions for estimating
  – Prescriptive disclosure requirements
- Alignment of regulatory bodies
  – Congress and the SEC (Dodd-Frank Act)
  – Environmental, Safety & Enforcement regulators
  – SEC (Climate Change Disclosure)
- Subpoenas
- Shareholder resolutions
- Catastrophic events

# Governance considerations

Does the Company have adequate Governance structures?

- Accountability supported by appropriate competencies
- Policies, procedures and controls
- Data collection systems

Has the risk been appropriately assessed? How reliable is the supporting data and information?

- Uncertainty regarding legislation/regulation
- Materiality / likelihood threshold and analysis
- Application of relevant frameworks (e.g. regulatory, ISO, ASTM, etc)

Are the Company’s disclosures consistent across communication channels?

# Potential business implications

Enterprise-wide understanding of sustainability-related risks and opportunities including but not limited to:

- **Regulatory**
  - Enacted and proposed regulation and corresponding enforcement provisions
  - Current emissions and potential for reduction
- **Operational**
  - Physical risks
  - Business partner/supply and value chain implications
- **Reputational**
  - Consistency with previous representations in Voluntary disclosures and across communication channels
- **Financial**
  - Financial and accounting implications including whether the Company has corresponding asset or liability positions
  - Adequacy of internal processes, procedures, controls and systems for information gathering and reporting

Context-based performance management and review of management’s approach to address climate change and sustainability-related growth and innovation opportunities

This presentation contains general information only and Deloitte is not, by means of this presentation, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This presentation is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this presentation.

## About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms. Please see www.deloitte.com/us/about for a detailed description of the legal structure of Deloitte LLP and its subsidiaries

Deloitte.