

Item 4(d)(iii)

Verne, B. Michael

From: Verne, B. Michael
Sent: Thursday, September 15, 2011 12:14 PM
To: [REDACTED]
Cc: [REDACTED] Walsh, Kathryn
Subject: RE: 4(d) Documents For Filing

[REDACTED] - here is our position:

1. If a document makes a passing reference to synergies with no quantified dollar amount attached (e.g., the deal will result in synergies) this is not enough to make a document responsive to Item 4(d)(iii).
2. If Document A makes a passing reference to synergies with a quantified dollar amount attached (e.g., the deal will result in \$40 million in synergies) this may be enough to make a document responsive to Item 4(d)(iii). If there is an underlying Document B from which this figure is drawn and Document B is being submitted in response to Item 4(d)(iii), there is no need to submit Document A. If there is no such Document B, then Document A must be submitted in response to Item 4(d)(iii).
3. If a series of emails discusses input into the final version of a substantive synergies document, the emails are not responsive to Item 4(d)(iii) as long as the substantive synergies document is submitted in response to Item 4(d)(iii).

-----Original Message-----

From: [REDACTED]
Sent: Wednesday, September 14, 2011 8:56 PM
To: Verne, B. Michael
Cc: [REDACTED]
Subject: 4(d) Documents For Filing

Hello Mike-

We have a question about the scope of item 4(d)(iii). In a transaction for which the parties have jointly developed projections of revenue synergies, it seems clear that any final financial model that includes stated assumptions would be responsive to Item 4(d)(iii). But what about the following types of documents:

- (1) estimates of synergies that do not rise to the level of a "financial model" and do not state their assumptions (e.g., a slide that simply contains a bullet that says "revenue synergies in 2012 estimated to be \$x million"); or
- (2) E-mails that do not include the final analysis or models that are sent between the acquiring party and the acquired party in which the parties share ideas back and forth about what should go into the synergies analysis (e.g., "should we include the \$X million in synergy type A in our analysis," or "did you factor synergy type B into your analysis"?).

Thank you for your guidance, please let me know if you would care to discuss.