

Item A (d)(iii)

Walsh, Kathryn

From: Walsh, Kathryn
Sent: Thursday, September 15, 2011 3:06 PM
To: [REDACTED]
Subject: RE: Item 4(d) synergies question

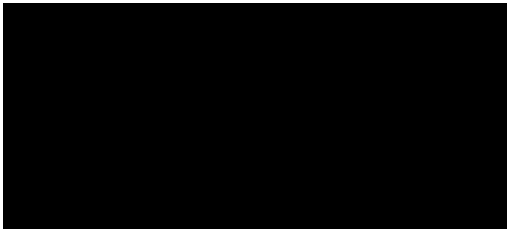
On point 2, I would think that 9 times out of 10 the \$5 million will be taken from another substantive synergies document, so there will very likely be no need to worry about documents that reference such a figure in passing. That said, if all you have are these kinds of synergies estimates, we want to see them.

Agree on your last point.

From: [REDACTED]
Sent: Thursday, September 15, 2011 12:28 PM
To: Walsh, Kathryn
Subject: RE: Item 4(d) synergies question

Thank you. I think the position on point 2 is a bit odd as one could end up producing documents that say nothing more than we expect synergies of \$5 million, for example, and that does not seem to be the type of document sought in 4diii. In my case it is moot, as we do have a report prepared by a third party that contains the detail of the synergy analysis, making the other passing references contained in summary documents non-responsive.

And I assume that if one has a series of drafts, or different iterations, of synergies reports that one would produce the latest version, as is the case with 4c draft documents.



From: Walsh, Kathryn [mailto:kwash@ftc.gov]
Sent: Thursday, September 15, 2011 12:15 PM
To: [REDACTED]
Subject: RE: Item 4(d) synergies question

Here's where we are Eric:

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).

From: [REDACTED]
Sent: Wednesday, September 14, 2011 3:16 PM
To: Walsh, Kathryn
Subject: Item 4(d) synergies question

I have a few documents that are related to an acquisition and refer to synergies in a brief passing reference . Examples, while not exact, are that the discounted cash flow analysis results in \$40 million for the assets, plus \$10 million for tax efficiencies, scale benefits and synergies. Another in the context of a discounted cash flow discussion assigns a dollar figure to achieving 50% of Synergies in Country X.

This does not seem to me to rise to the level of a 4(d)(III) document and seems similar to a financial model without stated assumptions.

There may be other documents which formed the basis for these conclusory statements which would be within 4(d)(iii) .

Your views?

You did say in the conference call to run these types of questions by you.

Best regards

[REDACTED]

This e-mail is sent by a law firm and contains information that may be privileged and confidential. If you are not the intended recipient, please delete the e-mail and notify us immediately.