

Practical Guidance Related to Forensic Analysis Due Diligence Interviews

INTRODUCTION

Valuation analysts value businesses, securities, and intangible assets for many transaction, taxation, financing, accounting, and other purposes. In addition, valuation analysts and other forensic specialists (collectively, “analysts”) are asked to perform valuation, damages, transfer price, and related economic analyses within a litigation or other contrarian environment. Because of their specialized experience and expertise, analysts may be retained as experts in litigation and other controversy matters. These controversies may involve what would otherwise be considered valuation-related analyses.

Such analyses could include issues of business and security valuation, transaction fairness, company solvency, lender liability, shareholder rights and shareholder oppression, breach of contract, and other matters. These other matters may include bankruptcy, antitrust, fraud and misrepresentation, interpretation of acquisition agreement payment provisions, interpretation of buy/sell agreement valuation provisions, intellectual property infringement, intercompany transfer pricing, and so forth.

Whether representing a plaintiff or defendant in a litigation or other controversy, legal counsel (counsel) may retain the analyst as an expert on matters related to valuation, contract damages, transaction fairness, solvency or insolvency, or other economic analyses. And these forensic (i.e., litigation-related) analyses may involve a public company, a private company, a private company security or ownership interest, an intangible

asset or intellectual property, or a company economic event.

In such matters, counsel may retain the analyst to assist with the forensic investigation as either a consulting expert or a testifying expert. This discussion considers the procedures that the analyst may perform during the due diligence stage of that forensic investigation. In such instances, the analyst should have a foundational familiarity with forensic-related due diligence procedures.

In such forensic-related assignments, the analyst often conducts due diligence interviews (sometimes referred to as “management interviews”) as part of the forensic analysis or other special investigation assignment. For purposes of this discussion, the due diligence interview involves inquiries (usually in person, sometimes in writing) to any level of employee of the subject company. That is, for purposes of this discussion, the term *management* encompasses all levels of the organization from, say, staff accountants up to the owner/operator (for a private company)—and up to the board of directors (for a public company). In addition, the analyst may perform due diligence interviews with parties who are not employees of the subject company. These parties may include former employees, independent auditors, counsel, commercial bankers, contractors, customers, and suppliers.

Based on the nature of the specific forensic investigation, the analyst may be asked to reach a valuation, damages, fairness, solvency, transfer price, or other conclusion with regard to the subject company, ownership interest, or



ROBERT F. REILLY, CPA

Willamette Management Associates
Chicago, IL
rfreilly@willamette.com

event. Often, the analyst may learn more about the subject company, ownership interest, or event from the due diligence interviews than from any other single informational source—including from the documents provided by the subject company or by its counsel.

The information obtained by the analyst during the due diligence interview process often affects the development of, the conclusion of, and the reporting of the controversy-related analysis or special investigation. The analyst’s work product may be a special investigation report (to the company board of directors or independent counsel), an expert report prepared for the litigation, or expert testimony before a judicial finder of fact.

The due diligence interview process is a forensic procedure performed in virtually every valuation, damages, or other economic analysis.

Continued on next page

expert TIP

The information obtained by the analyst during the due diligence interview process often affects the development of, the conclusion of, and the reporting of the controversy-related analysis or special investigation.

sis prepared within a litigation or other controversy environment. This discussion provides practical guidance to the analyst who is conducting the due diligence interview process. And, this discussion provides the analyst with a checklist of topics to consider during the forensic due diligence investigation. In particular, this discussion considers the following topics:

1. Best practices with regard to the due diligence interview process
2. Typical questions that the analyst may ask during the due diligence interview process

THE DUE DILIGENCE INTERVIEW PROCESS

There are many ways for an analyst to conduct the due diligence interview. There is no absolutely “right” way—and no absolutely “wrong” way—for an analyst to conduct the interview. However, there are some practical procedures that may help the analyst to conduct—and to document—an effective due diligence interview.

First, the analyst should be thoroughly prepared to conduct the interview. The motto “be prepared” is good advice for every aspect of the forensic analysis. This “be prepared” advice is especially appropriate during the due diligence interview process.

The analyst’s preparation typically includes the performance of these practical procedures:

1. Thoroughly review the subject company’s website and any other publicly available data about the company (or the subject business interest, contract, economic event, etc.)
2. Completely review all of the documents that have been provided by the company management and/or counsel
3. Comprehensively review and analyze the company’s historical and prospective financial statements; the analyst may pay particular attention to the year-to-year changes in the company’s

financial statement account balances

4. Thoroughly research the company’s industry segment and the local, regional, or national economy (as applicable)
5. Actually write out a list of questions to ask to each person who will be interviewed during the due diligence interview process

Second, it is important for the analyst to interview the appropriate individuals. Determining who is (and who is not) an appropriate individual to interview may be a collaborative process, with the participation of counsel. The selection of exactly who is an appropriate individual to interview will vary with each forensic analysis.

Therefore, the analyst may discuss with counsel the general topics that will be covered during the interview process. And, the analyst should request to interview the individuals (at whatever level within the company organization) who are the most knowledgeable regarding the proposed topics.

In some forensic analyses, it may be useful for the analyst to interview individuals from outside the subject company. Such individuals may include the following:

1. Independent accountants
2. Commercial bankers
3. Principal customers
4. Principal suppliers
5. Principal competitors
6. Former management employees

The analyst should balance the need for client confidentiality with the need for information when determining which individuals to interview during the forensic investigation.

Third, the analyst should anticipate an interviewee’s potential bias. In a typical forensic investigation, the role of the analyst is to conclude the dispute-related value, damages, transaction price, or other quantitative variable related to the subject company. In most lit-

igation-related forensic investigation, there are two (or more) sides to the dispute—typically with each side seeking a very different quantitative outcome.

For example, in a dissenting shareholder appraisal rights action or a shareholder oppression action, the company controlling owners (and the company management) may want an acquisition transaction to proceed. In contrast, the dissenting shareholders may want to stop the transaction from closing (or to receive their estimate of the company fair value for their shares). In such a situation—where the company management may have a personal bias as to the results of an economic event—it is important for the analyst to be:

1. diligent in asking all of the relevant due diligence investigation questions and
2. prepared to ask (and document) follow up due diligence questions.

In many forensic investigations, and especially when the management team has worked for the company for a long time, management has much more information about the company than the analyst has. This access to (and familiarity with) information gives management an advantage in presenting a particular point of view to the analyst.

However, the analyst should endeavor to uncover the complete truth about the issues related to the subject company and/or the subject event by:

1. being sufficiently prepared to conduct the due diligence interviews and
2. being sufficiently prepared to anticipate the potential bias of the company management or other interviewee.

Fourth, if the analyst can control the interview process, the due diligence interview should not be restricted to one session. Let’s *Continued on next page*

assume that the analyst follows the practical guidance discussed above—that is, the analyst (1) is prepared, (2) interviews the appropriate individuals, and (3) filters out any potential interviewee bias. Nonetheless, the initial due diligence interview may uncover unexpected issues about the subject company or the subject event. These issues may require the analyst to conduct additional research and, consequently, to conduct additional follow-up interviews with the company management.

These follow-up interviews may be needed to allow the analyst to pursue unexpected issues raised during an initial interview. These follow-up interviews may be necessary to help the analyst to resolve conflicting “stories” from multiple interviewees. And, these follow-up interviews may be helpful to determine whether the same interviewee changes his or her “story” after a period of time.

New and unexpected issues that are uncovered in the initial interview often turn out to be the important issues in the forensic investigation. It is noteworthy that analysts on different sides of a forensic investigation often conduct similar analyses and often apply similar methods regarding the subject analysis. It is often the case that the analyst’s treatment of just a few variables will materially impact the value, price, damages, or other conclusion regarding the subject company or the subject event.

Both the analyst’s identification of those few variables (and of how these variables may affect the value, damages, or other conclusion regarding the company or the event) and the analyst’s presentation of a persuasive argument for the appropriate treatment of these variables can result in a favorable outcome of the litigation or investigation.

And, the due diligence interview process often helps the analyst to identify which variables are the most important to the value, damages, or other analysis conclusion.

CAVEATS REGARDING DUE DILIGENCE QUESTIONS

It is important for the analyst (and counsel) to recognize several caveats regarding the use of any standardized list of due diligence interview questions. First, the due diligence questions presented in **Exhibit 1** on pages 18-24 are not intended to be comprehensive or all-inclusive. And second, not every question listed is appropriate for every forensic investigation.

The due diligence questions provided in Exhibit 1 are generally applicable to the forensic investigations involving a valuation, damages, or other transaction-related analysis. And, the questions presented in Exhibit 1 are primarily directed to forensic analyses related to a private company or closely held business interest. Nonetheless, most of the questions are also applicable to forensic analyses of public companies or publicly traded securities.

SUMMARY AND CONCLUSION

The due diligence process is one of the analyst’s standard procedures performed during the forensic investigation of a company, company ownership interest, or economic event. Such a forensic analysis could involve controversy-related investigations related to a breach of contract, fraud and misrepresentation, bankruptcy, antitrust, lender liability, shareholder rights, intellectual property infringement, or other dispute. And, such controversy-related investigations could involve quantitative analyses related to business valuation, transaction pricing and structuring, economic dam-



ages measurement, intercompany transfer pricing, contract interpretation, fairness and solvency, or other economic events.

This discussion presents the foundational elements that the analyst should be aware of with regard to the due diligence component of the forensic investigation.

Related to any forensic investigation, it is important for the analyst to effectively conduct the due diligence interview process. The due diligence interview process is an important forensic investigation procedure. During the interview process, the analyst often learns important information that may influence the quantitative analyses related to the forensic investigation.

The primary purpose of the due diligence interview is to enable the analyst to get questions answered. In addition, the interview may also be helpful to uncover information that the analyst may not otherwise have access to.

Representative due diligence interview questions presented in **Exhibit 1** are not intended to be comprehensive. And, this list is intended to provide general guidance to the analyst involved in the forensic analysis.

Continued on next page

EXHIBIT 1

FORENSIC ANALYST'S REPRESENTATIVE DUE DILIGENCE INTERVIEW QUESTIONS

For purposes of this exhibit, the due diligence interview questions are categorized into four categories:

1. Questions related to the business operations of the subject company or business ownership interest
2. Questions related to the subject industry segment and the subject economy
3. Questions related to the financial statements of the subject company or business ownership interest
4. Questions related to specific events that may impact the subject company or business ownership interest

Even the experienced forensic analyst may fail to ask the perfect question to uncover every material issue related to the subject dispute. Therefore, at the end of the due diligence interview session, the analyst may ask each interviewee a catch-all question. For example, the analyst may ask, "Do you know of any relevant information that has not been covered and that could have a bearing on the issues we talked about?" This type of general question may provide an opportunity for the interviewee to volunteer any material information that was previously undisclosed.

QUESTIONS RELATED TO THE SUBJECT COMPANY BUSINESS OPERATIONS

This category of questions may help the analyst to understand how the company or the ownership interest operates. By asking these questions, the analyst may gain an understanding of the business risks and opportunities that exist for the company or ownership interest.

Every forensic analysis has unique aspects. These questions may help the analyst to uncover the factors that are unique to the subject forensic investigation.

Company History and Organization

1. When was the company founded?
2. Describe the most important events in the company's history.
3. Describe any historical business unit mergers, acquisitions, or divestitures.
4. Describe any historical ownership changes.
5. Describe any historical changes in the company's lines of business.
6. Describe any historical changes in the geographic area served by the company.
7. For a private company, provide a list of the company owners and their respective ownership interests.
8. Are any of the company owners currently active in the business? If yes, explain.
9. Is there any company stock that is subject to any stockholders' agreement, stock transferability restriction agreement, buy-sell agreement, etc.?
10. List the names of any subsidiaries of the company or ownership interests in other companies, including the percentage owned by the parent company.
11. List all known related parties (including subsidiaries, affiliates, or relatives) that the company does business with.
12. List the states (or the countries) in which the company currently transacts business.
13. Describe the locations of the company principal facilities and the primary activities that occur at each facility.
14. For a private company, describe all historical transactions in the company stock in the five years prior to the forensic analysis date. Describe the circumstances surrounding each of the transactions, including whether the transaction was at arm's length.
15. Describe all current litigation involving the company or the ownership interest, with these matters categorized as to (a) claims against the company and (b) claims on behalf of the company.

Services (or Products) Offered

1. Describe the company's service/product lines and the approximate percentage of the most recent fiscal year company revenue and gross profit produced by each service/product line.
2. Describe the process by which the company prices its services/products (i.e., "services").
3. What other services typically compete with the company's services?

Continued on next page

4. What are the advantages and disadvantages of the company services versus the services of the competitor companies?
5. Why do clients/customers select this company to provide services—instead of the competitor companies?
6. How long is the typical services sale cycle?
7. How frequently are the company's services changed/modified?
8. Which service lines have achieved the fastest revenue growth? Which service lines have reported the slowest revenue growth?
9. Which service lines are the most profitable? And, which service lines are the least profitable?
10. Does the company own patents, proprietary technology, or trade secrets that prevent or hinder competitor companies from duplicating its services?
11. Describe any services that are unique, or not easily duplicated by new or existing competitors.
12. Are the revenue from the company services cyclical?
13. Are the revenue from the company services seasonal? If so, what are typically the strongest and weakest months for the company revenue?
14. What are the company plans for future services/products?
15. Describe the research and development activities of the company.

Manufacturing (or Production)

1. What percentage of the company's services is produced by the company? And what percentage of the company's services is subcontracted to a third party?
2. Where are the company's facilities?
3. Describe the company's production process for its services.
4. Is the company's process more labor intensive or more capital intensive?
5. What are the ages and the conditions of the company's facilities?
6. What is the capacity of each facility relative to the current operating levels?
7. Who is the manager of each facility, and how long has he or she been employed by the company?
8. Does the company have any planned expansion of its facilities?
9. Does the company have any planned asset dispositions related to its facilities?
10. How do the facilities compare to similar companies in the same industry segment?
11. Do the facilities enable the company to earn superior or inferior profit margins compared to similar companies in the same industry segment? Why?
12. How technologically advanced are the company's processes?
13. Are the company's employees unionized?
14. Describe the company's relationship with its employees.
15. Does the company have any outstanding workers compensation claims?

Clients (or Customers)

1. Provide an overview of the company's client/customer base.
2. How are the company's services used by clients/customers (i.e., "clients")?
3. List the 10 largest clients (as measured by revenue) for the most recent fiscal years, and the percentage of total revenue made to each of those clients.
4. For the company's largest recurring clients (as measured by revenue), how long has that party been a client of the company?
5. Does the company provide credit to any of its clients? If so, describe the conditions in which the company offers credit and the credit terms offered by the company.
6. Do clients tend to consistently purchase services from the same company, or do they periodically switch services providers?
7. Identify the most important markets for the company's services.
8. What are the key recent trends in each of these markets?
9. Are the company's key markets increasing, decreasing, or stable in terms of size?
10. Does the company have existing contracts with its clients? If so, provide copies of representative contracts.
11. Approximately how many current clients does the company have?
12. Is the company typically the sole supplier of services to its clients? Or do clients typically buy services from multiple suppliers?
13. Are there any large contracts, significant new clients, or new markets that the company anticipates adding during the next 12 months?

Continued on next page

14. Are there any large contracts, existing clients, or present markets that the company expects to lose, terminate, or abandon during the next 12 months?
15. Does the company provide services to federal, state, or local governments or governmental agencies? If so, what percent of the company's total business is from federal, state, or local governments or governmental agencies?

Suppliers

1. What raw materials or other supplies does the company rely on?
2. Who are the company's principal suppliers?
3. How many suppliers does the company have?
4. Are any of those suppliers the sole source of supply for the company?
5. For each significant supplier, how long has the company had a business relationship with that supplier?
6. Are any of the suppliers the only (or primary) entity that supplies the industry segment with a particular product?
7. Describe how the principal supplies were/are priced?
8. What has been the trend in the cost of supplies?
9. List and provide copies of any long-term supply contracts or other special purchasing arrangements in place with suppliers.
10. How much notice is required by either the company or the supplier to terminate the business relationship?
11. Could the company switch suppliers without a detrimental impact on the business? Why or why not?
12. If the company had to find a new supplier for a key supply, (a) could it and (b) how long would it take to find a new supplier?
13. Has the company considered becoming more vertically integrated by acquiring a supplier or by expanding its line of business?
14. To what extent does the company fabricate versus assemble products, and how much flexibility does the company have in this respect?
15. Does the company use derivatives or other hedging activities to protect against increasing prices?

Sales and Marketing

1. What is the approximate total size of the market (in dollars) for the services offered by the company?
2. What is the company's estimated market share for each of the services offered?
3. How has the company's market share for each of its service lines changed in the last five years? Ten years?
4. What are the most important selling features of the company's services (i.e., price, quality, brand name, service, etc.)?
5. What warranty does the company offer for its services? And, how frequently do customers submit warranty claims?
6. How intense is the competition in the relevant industry segment?
7. How are the company's services priced?
8. Describe how new business opportunities are identified, followed-up, prioritized, and pursued, and by whom.
9. What distribution channels does the company use for its services?
10. How is technology used in the company's marketing?
11. Describe any changes in the company's marketing budget from year to year.
12. Describe the typical level of experience and typical tenure of the company sales staff.
13. Does the company depend on one employee or on a small number of employees to generate sales?
14. Describe the historical turnover rate of the company sales staff.
15. On what basis are the company's sales people compensated?

Management and Other Employees

1. Provide a copy of the most current company organization chart, along with resumes for the senior members of the management team.
2. How long have the senior members of the management team been employed by the company?
3. Do any of the senior members of the management team have known health issues? And, are any of the senior members of the management team close to retirement age?

Continued on next page

FORENSICS/FRAUD - Forensic Due Diligence Interviews, continued

4. Provide the total compensation for each member of the company management team, including perquisites.
5. How many hours per week do each of the senior members of the management team spend working for the company?
6. How many employees does the company have?
7. What unions (if any) represent the company's employees, and when do any union contracts expire?
8. How many employees are covered by collective bargaining agreements?
9. Has the company ever experienced any work stoppages due to a strike?
10. What is the total number of employees in each organizational area?
11. What are the critical skills and backgrounds needed in the development, production, and distribution of the company's products/services?
12. Identify any management or technical positions that have been difficult for the company to fill due to shortages of labor with the appropriate skills.
13. Describe the current labor market for the company's industry segment. That is, is the supply of employee candidates robust or sparse?
14. How extensively are independent contractors used?
15. List the members of the company's board of directors and provide a description of the background of each member.

Company Outlook

1. Describe the company's competitive strengths, weaknesses, opportunities, and threats.
2. What are the most important things that the company must accomplish in order to be successful over the next five years?
3. What is the company's expected annual growth rate over the next five years in terms of revenue, operating profit, and net profit?
4. What is the biggest risk to the company achieving its projected financial results of operations?
5. What could cause the actual financial results of operations to exceed—or fall short of—the projected financial results of operations?
6. What is the level of capital spending required to support the company's projected revenue growth?
7. What are the known large and infrequent capital expenditures that will be made within the next five years (e.g., a plant expansion, an IT upgrade, the replacement of major equipment)?
8. Do you expect any changes in the service lines offered by the company in the next five years (due to either expansion or contraction)?
9. Are there any internal factors that may constrain the company's business growth, such as lack of access to capital or insufficient cash?
10. Does the company plan to acquire other companies in the next five years?
11. Are the company's profit margins expected to change over the next five years? Why or why not?
12. Does the company prepare an annual budget? Does the company prepare a long-term financial plan, projection, or forecast? Describe the process that is applied to create the company's annual budget. Describe the process that is applied to prepare the long-term financial plan, projection, or forecast.
13. Is the annual budget or forecast considered to be conservative, baseline, or aggressive?
14. How do the projected revenue growth and profit margins compare to historical revenue growth and profit margins?
15. Does the company plan any changes in ownership in the future (for example, through either share buybacks or the issuance of shares)?

QUESTIONS RELATED TO THE SUBJECT INDUSTRY SEGMENT AND ECONOMIC FACTORS

These questions may help the analyst to put the subject company in context relative to other similarly situated companies. In addition, these questions may also help the analyst to better understand the long-term outlook for the company.

Industry and Economy

1. What national or regional economic factors impact the company's revenue (e.g., interest rates, inflation rate, disposable income, etc.)?
2. How does this company differ from other competitor companies in the relevant segment industry?
3. How has the company performed during recent economic downturns? During recent strong economic periods?

Continued on next page

FORENSICS/FRAUD - Forensic Due Diligence Interviews, continued

4. Is government regulation a factor for the company? If so, how?
5. What stage of the industry life cycle is the relevant industry segment in (i.e., introduction, growth, maturity, or decline)?
6. What are the most important recent developments or trends in the relevant industry segment?
7. How many companies of your approximate size (e.g., revenue within plus or minus 50 percent) operate in the industry segment?
8. Is the industry segment generally comprised of small local companies or large multinational companies?
9. Describe the barriers to entry in the relevant industry segment.
10. How has the size of the industry segment changed in the last five years?
11. How is the size of the industry segment expected to change in the next five years?
12. What level of innovation and/or change is required to stay competitive in the relevant industry segment?
13. Does the company generally lead or lag the industry segment in terms of new services, pricing, and other similar factors?
14. Is the technology employed at the company considered (a) outdated, (b) current, or (c) leading edge compared to the industry segment standard?
15. What trade associations does the company belong to?

Competition

1. Who are the most significant competitors of the company? Describe any publicly traded competitors—as well as any privately owned competitors.
2. Does the company management monitor the financial results and/or public filings of any publicly traded peer-group companies? Describe which ones.
3. How large are the company's principal competitors in terms of revenue?
4. Where are the company's principal competitors located?
5. What are the principal competitors' estimated market shares for each of the services offered by the company?
6. What are the primary strengths and weaknesses of the principal competitors—in comparison to the strengths and weaknesses of the subject company?
7. On what basis do companies in this industry segment compete (e.g., price, quality, service, technology, or some other basis)?
8. How often do the company's clients switch between the subject company and its competitors?
9. How easy is it for the company's clients to switch between the subject company and its competitors?
10. Do any principal competitors have proprietary technology, trade secrets, patents, copyrights, trademarks, or other intangible property that give them a competitive advantage over the subject company?
11. Do the company's principal competitors have greater or weaker economies of scale compared to the subject company?
12. How has competition changed in the last five years (i.e., new competitors, regulatory changes that affected competition, erosion of pricing power, etc.)?
13. How does branding help (or hurt) the company to compete? Or, are the company's services/products unbranded and considered to be commodity services/products by the company's clients?
14. For each service line, if the company bids on a business opportunity, (a) what competitor companies does it typically compete against and (b) why is/isn't the company typically successful in winning the competitive bid?
15. How intense is the competition among the companies in the industry segment?

QUESTIONS RELATED TO THE SUBJECT COMPANY FINANCIAL STATEMENTS

Understanding the subject company's financial statements is an important procedure in just about any forensic analysis. This is because of the significant impact that the financial statements may have on the company's business value, transaction price, damages measurement, solvency, etc.

A discussion of the company's historical financial statements may also inform the analyst as to any financial statement normalization adjustments—or financial statement errors or irregularities—that need to be considered in the forensic analysis.

Continued on next page

The analyst should develop a general understanding of each account on the company's financial statements. And, the analyst should develop a thorough understanding of the more material accounts on the company's financial statements.

Consider, for example, the company's accounts receivable. The analyst may want to investigate:

1. if company management considers the stated accounts receivable balance to be collectable,
2. how long the accounts receivable typically remains outstanding,
3. what client/customer accounts are included in the accounts receivable account balance,
4. if the accounts receivable balance is related to the company revenue or to some other business activities, and/or
5. other similar issues.

Questions that relate to each and every account balance on the company's financial statements are not included in the list below. This is because the number of such questions that relate to each individual account on the financial statements would be beyond the scope of this discussion.

Historical Financial Results

1. If applicable, provide copies of the independent accountant's letters to the company management (or directors) for the past five years.
2. Describe the accounting principles used by the company (e.g., revenue recognition methods, cash versus accrual basis, and property accounting methods).
3. Have there been any changes in the accounting principles applied in the preparation of the company financial statements over the past five years?
4. How do the current accounting principles compare to the accounting principles used by other competitor companies in the industry segment?
5. Explain all significant year-over-year changes in the financial statement accounts (e.g., the interviewee may explain changes such as (a) a 50 percent annual increase in accounts payable, (b) a 15 percent annual decrease in revenue, or (c) the gross margin improved from 30 percent of sales to 40 percent of sales).
6. Describe any nonrecurring or extraordinary income or expense items recorded during the past five years.
7. What plan does the company have for capital expenditures during the next 12 months?
8. Has the management or the board of directors received any offers to buy the company during the past five years? If so, describe the details of each offer or provide a copy of any written offers received.
9. Have any of the stockholders personally guaranteed the company loans? If yes, explain.
10. Describe any short-term and long-term sources of credit and how they were used over the past five years.
11. Is the company's current capital structure (a) sustainable and (b) expected to change over the next five years?
12. Has the company complied with all of its outstanding loan covenants? If not, explain why.
13. Discuss the company's dividend history and the outlook for future dividend payments.
14. Summarize any assets owned by the company that may be classified as (a) nonoperating assets or (b) excess assets. That is, are there any assets that do not contribute to the primary operations of the company (e.g., cash and cash equivalent balances that may not be needed for future working capital or capital expenditures)?
15. Describe all of the company's intangible assets and all of the company's contingent liabilities that are not recorded on the company's balance sheet.

QUESTIONS RELATED TO SPECIFIC EVENTS THAT MAY IMPACT THE SUBJECT COMPANY

These questions may help the analyst to identify the most significant events that impacted the subject company or business interest in recent years. These questions may also help identify the significant events that could affect the subject company or business interest in the near future.

1. Does the company operate with any license, permit, franchise, or other agreement that permits the company to operate—either at the total entity level or at a particular location level? Which of these licenses, etc., are private-party agreements? Which of these licenses, etc., are government-issued agreements?
2. How important is location to the company's results of operations? Could the company move its facilities and still maintain its planned results of operations? What type of impact would a facility relocation have on the company's planned results of operations?

Continued on next page

3. What type of intellectual property does the company own or operate? Specifically, what patents, copyrights, trademarks, and trade secrets does the company own or operate?
4. What procedures does the company employ to protect its intellectual property?
5. What would be the expected impact if the company lost the right to (or ability to) operate its intellectual property?
6. Does the company either inbound license or outbound license any of its intellectual property? If so, please provide copies of all such licenses.
7. What are the most significant long-term contractual agreements that the company has entered into? For example, consider these types of long-term agreements: supplier agreements, customer/client agreements, executive employment agreements, noncompetition agreements, joint development agreements, joint venture agreements, etc. Please provide copies of each of those agreements. Have any such agreements even been unexpectedly terminated or violated? If so, please describe the impacts of that unexpected agreement termination or violation.
8. How important are the company's banking relationships? How stable are the company's banking relationships? How frequently does the company change its banking relationships?
9. What are the company's principal sources of debt capital? What are the agreements (i.e., notes and debt indenture agreements, bond indenture agreements, long-term leases) that document those financing arrangements? Has the company ever violated the terms of any of these financing arrangements? If so, what were the consequences of such violations?
10. In the last five years, has the company participated in any mergers, service line or entity acquisitions, service line liquidations, or service line divestitures? Please describe each such transaction. Please describe the impact of each such transaction.
11. In the last five years, has the company implemented a restructuring of its long-term debt or a recapitalization or reorganization of its capital structure? Please describe each such transaction. Please describe the impact of each such transaction.
12. Does the company maintain confidentiality agreements, nondisclosure agreements, nonsolicitation agreements, or any similar agreements with any of its employees? If so, which employees—and how were these employees selected? Please provide copies of those agreements. Has the company ever had to enforce these agreements? If so, how?
13. In the last five years, has the company been involved in a taxation audit or dispute at any level? Has the company been involved in a regulatory agency audit or dispute at any level? Has the company been involved in an environmental audit or dispute at any level? If so, how was each of these audits or disputes resolved? What was the impact of each of these audits or disputes?
14. During the last 10 years, was the company involved in any litigation (as either plaintiff or defendant) involving competitors, merger or acquisition parties, contract counterparties, financial institutions, government agencies, or similar parties? If so, please describe the claims of each litigation matter. Please describe the resolution of each litigation matter.
15. During the last 10 years, was the company involved in any litigation (as either plaintiff or defendant) involving any member of company management, any company director, or any current or former shareholder? If so, please describe the claims of each litigation matter. Please describe the resolution of each litigation matter.

The analyst should recognize that every company, company ownership interest, contract, and economic event has unique attributes. And, both the list provided in Exhibit 1—and the practical guidance provided above—should not substitute for the analyst's independent judgment and professional experience. 