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SEC Staff Comment Asks Company For Quantitative Disclosure Related To Menu Price Impacts On Revenue

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In monitoring recent Securities and Exchange Commission (SEC) staff comment letters, we found a letter exchange that we believe is a good practical example of a common disclosure topic for Management's Discussion and Analysis (MD&A) drafting: providing quantitative disclosure when discussing underlying reasons for material changes in results of operations from period-to-period.

As background, Item 303(b) of Regulation S-K states, "Where the financial statements reflect material changes from period-to-period in one or more line items, including where material changes within a line item offset one another, describe the underlying reasons for these material changes in ***quantitative*** and qualitative terms." (emphasis added) Further, Item 303(b)(3)(iii) states, "If the statement of comprehensive income presents material changes from period to period in net sales or revenue, if applicable, describe the extent to which such changes are attributable to ***changes in prices*** or to changes in the volume or amount of goods or services being sold or to the introduction of new products or services." (emphasis added)

It may come as no surprise that many companies, including restaurant companies, increased their prices in 2022. For example, Chipotle Mexican Grill (one of my family's favorite restaurants) stated in the risk factor section of its last 10-K, "In 2022, we implemented several menu price increases to partially offset the increases in delivery, labor and other costs." It should also come as no surprise that these price increases drove an increase in Chipotle's food and beverage revenue. On this topic, Chipotle's MD&A in its last Form 10-K stated:

"Comparable restaurant sales increased 8.0% for the year ended December 31, 2022. ***The increase is primarily attributable to an increase in menu prices*** and, to a lesser extent, an increase in transactions, partially offset by a decrease in group size from the continued resurgence of our in-restaurant business. Comparable restaurant sales represent the change in period-over-period total revenue for restaurants in operation for at least 13 full calendar months. (emphasis added)

"In-restaurant sales increased 26.4% for the year ended December 31, 2022 compared to the year ended December 31, 2021. ***The increase was primarily due to menu price increases,*** a shift in consumer

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behaviors related to COVID-19 from digital sales to in-restaurant sales across the country, and new restaurant openings." (emphasis added)

In monitoring recent SEC staff comment letters, we came across this comment exchange where the SEC staff noticed these disclosures and asked for additional quantitative disclosure.

Management's Discussion and Analysis of Financial Condition and Results of Operations
Results of Operations
Revenue, page 23

1. We note per the risk factor on page 9 and discussion of costs on page 23 that you implemented several menu price increases in 2022. Please quantify and discuss the extent to which changes in food and beverage revenue are attributable to changes in prices pursuant to Item 303(b)(2)(iii) of Regulation S-K. This comment also applies to Form 10-Qs.

Chipotle's Response:

We acknowledge the Staff's comment and undertake to include the requested quantification in future SEC filings to the extent Chipotle's statement of income presents material changes from period to period in our food and beverage revenue, including menu price increases, if applicable. By way of example, using Chipotle's Form 10-K for the fiscal year ended December 31, 2022 as a model, in future filings we intend to include disclosures such as the following in "Management's Discussion and Analysis of Financial Condition and Results of Operations – Results of Operations" to describe the material changes from period to period in food and beverage revenue presented on Chipotle's income statement:

The significant factors contributing to the total revenue increase for the year ended December 31, 2022 compared to the year ended December 31, 2021, were comparable restaurant sales increase of $568.6 million and restaurants not yet in the comparable base of $519.4 million, of which $210.5 million was due to restaurants opened in 2022. Comparable restaurant sales increased 8.0% as a result of an increase in the average check of 7.1% and, to a lesser extent, an increase in transactions of 0.9%. The increase in average check was driven by a 12.0% benefit from menu price increases, which was partially offset by a decrease in check mix.

In future filings, our disclosures of quantitative information describing factors that resulted in material changes in revenue from period-to-period would be substantially similar to the disclosures above, with appropriate adjustments to reflect the material factors for the relevant period, if any."

This comment letter exchange serves as a good reminder for registrants to carefully consider discussing the underlying reasons for material changes in both qualitative and quantitative terms.

But what about situations where quantitative information is difficult to ascertain? For example, in response to the SEC's January 2020 proposal to modernize Item 303 of Regulation S-K, some commenters asked to revise the proposal to limit the requirement to provide quantitative disclosure where it is "reasonably available" and material, stating that registrants often struggle with isolating reasons for material changes, as they can be highly interrelated. (See footnote 108 and surrounding text of the SEC's 2020 MD&A Adopting Release.)

In response to the "reasonably available" suggestion by these commenters, the SEC said in its adopting release:

"We acknowledge, as suggested by some commenters, that isolating reasons for specific material changes, and quantifying such isolated reasons, can sometimes be challenging because they can be highly interrelated. In such circumstances, we encourage registrants to acknowledge this fact, and to explain such interrelated circumstances to the extent possible."

It is worth noting, however, that the SEC did include a "to the extent reasonably available" carve-out in the revisions to critical accounting estimates under Item 303(b)(3). In that portion, the rule states, "Provide qualitative and quantitative information necessary to understand the estimation uncertainty and the impact the critical accounting estimate has had or is reasonably likely to have on financial condition or results of operations to the extent the information is material and reasonably available."