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Current developments in SEC reporting

December 2013

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To Our Clients and Friends:

The Securities and Exchange Commission ("SEC") continues to emphasize the primary role and responsibility assumed by management and audit committees in providing meaningful and transparent information to investors. The uncertainties in the current economic and regulatory environment make the preparation of high-quality annual reports increasingly challenging.

We have prepared this report to assist management teams in their understanding of the areas most frequently commented on by SEC staff. The information summarized in this report is based on comment letters issued to companies in the automotive sector and closed by the SEC from October 1, 2012, to October 31, 2013. We have also provided relevant examples of recent comments to aid companies in preparing robust disclosures that are consistent with relevant accounting and reporting guidance.

As you prepare for the upcoming 2013 year-end financial reporting season, we hope you find this report to be a useful reference tool. Please do not hesitate to reach out to your PwC engagement team to discuss the information contained in this publication.

Sincerely,

Richard Hanna
Global and U.S. Automotive Leader

Sharad P. Jain
U.S. Automotive Assurance Leader

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Overview

Last year we wrote about ongoing uncertainty in the global automotive sector, especially in the European Union. While there is seldom an occasion where the global industry has performed in sync, 2013 has marked a turning point for the region, setting the European region up for a long awaited, albeit slight, recovery in 2014. This will bring the region in line with the recent recoveries in North America and East Europe and continued growth in Developing Asia-Pacific and South America.

Areas of concern remain, however, as the developed Asia-Pacific region is expected to see assembly declines due to stagnant economic conditions, high labor costs, and localization of products currently tagged for export. Middle East & Africa is also experiencing a significant decline as sanctions against Iran and political uncertainty within the region remain prevalent. Despite these setbacks, global light vehicle production is expected to reach 81.8m units in 2013, representing a 3.3% year on year gain.

Several key developments began to take shape during 2013 that promise to have a significant impact on the global automotive outlook going forward. Announced in July 2013, the formation of a strategic partnership between GM and Honda to develop next-generation fuel cell technologies represents a growing trend of strategic collaborations and resource pooling to drive and deliver innovation to the masses.

M&A activity has also shown signs of improvement in 2013, as companies look to strengthen and/or broaden their capabilities. The pace of acquisitions and collaborations is expected to quicken, particularly in the areas of fuel economy and safety systems. Furthermore, we expect OEMs and suppliers in developing markets will seek to acquire distressed companies with established capabilities in these areas, setting the stage for more geographically balanced – and competitive – core competencies in the future.

In many economies the encouraging growth seen in 2012 or early 2013 has tapered off due to the slow down of stimulus measures - including lowered interest rates (Brazil) and specific government incentives (Japan). Within individual markets there are changes in demand through both changing customer tastes (Australians demanding imported SUVs over domestic sedans) or demographics (South Korea opening up to imports), as well continued investments in production capacity markets such as China and Brazil which are seen as critical to future successes.

The SEC's Division of Corporation Finance continues to emphasize the importance of compliant and transparent disclosures highlighting the associated trends, risk and uncertainties which are most relevant to the users of financial statements. To help reporting entities gain insight into the SEC's current areas of interest, PwC analyzed comments issued by the SEC staff to registrants in the automotive sector on Forms 10-K and 10-Q that were published from October 1, 2012 to October 31, 2013.

From this analysis we identified "hot topics" (ranked 1 to 9 and presented in order by number of comments received) and some other notable trends (presented in other areas) that we believe are relevant and may be of continued focus in the near future.

We note that often the SEC staff raises comments which impact multiple areas of the financial statements or MD&A.

Rank	Nature of comment
1.	Management's discussion and analysis
2.	Income taxes
3.	Segment reporting
4.	Compliance
5	Regulation S-X presentation requirements
6.	Loss contingencies
7.	Accounting for indebtedness
8.	Non-GAAP measures
9.	Impairments
Other	Other areas:
	Statement of cash flows
	Disclosure controls and procedures
	State sponsors of terrorism
	Recall and warranty reserves
	Business combinations

This report includes a discussion of the above areas and provides the text of actual SEC staff comment letters. It is intended to assist management in their evaluation of the topics that may be most important for the 2013 year-end financial reporting cycle and suggests areas of focus in drafting disclosures for upcoming filings on Forms 10-K and 10-Q.

Management's discussion and analysis

As with the previous two years, management's discussion and analysis ("MD&A") was the top area for comment in the 2013 cycle. Overall, the nature of the comments received are also similar to prior years, although there is a noticeable increase in the requests to discuss certain variables and financial measures at a segment level (i.e., disaggregate changes in cost components or discuss sensitivity to the prices of key raw materials by segment).

MD&A is described by the SEC as a narrative explanation of the financial statements that the registrant believes will enhance a reader's understanding of its financial condition, changes in financial condition and results of operation. It should reflect the facts and circumstances specific to each individual registrant and should not consist of generic or boilerplate disclosure, and it should complement rather than replicate information available in the financial statements and accompanying notes.

The SEC has acknowledged that it has used, and will continue to, use the benefit of hindsight in evaluating The adequacy of MD&A.

The SEC staff frequently issues comments reminding registrants that MD&A should not simply repeat information provided elsewhere in the filing, and that they should explain the "whys" and "implications" behind the financial position and results of operations.

Other comment trends related to MD&A during 2013 include:

- requests to enhance descriptions or provide additional detail on how specific factors have impacted the financial condition or results;
- requests to specifically quantify the explanations provided, especially where items appear to partially offset; and
- questioning how the accounting implications of factors mentioned in the MD&A have been considered in the financial statements themselves.

Results of operations

The principal requirements for registrants to discuss results of operations in MD&A is contained in Item 303(a)(3) of Regulation S-K, with additional guidance provided in Financial Reporting Release ("FRR") 36 and FRR 72. The discussion and analysis provided with the results of operations is meant to highlight transactions and activities driving material changes period-over-period and to facilitate an understanding of the registrant's results of operations.

The discussion should focus on the key factors that caused disclosed changes and not merely list the numeric or percentage changes in the line items of the statement of operations. Furthermore, any known trends or uncertainties that could reasonably be expected to materially impact the company should also be discussed, including foreshadowing potential impairments or restructuring activity.

Some of the recurring comments observed in this year's analysis include requests for expanded discussion of:

- changes, including the underlying reasons, in the revenues and costs at the segment or geographic location level;
- changes, including the underlying reasons, in sales, especially with regard to changes in price, volume and foreign exchange effects; and
- the impact of economic trends on results of operations.

In the overview, we noted various trends impacting the global footprint of the automotive industry. We recommend that registrants monitor their own changes closely to make sure their MD&A evolves appropriately, in particular with regard to the impact of foreign currency and the cost implications of moving production .

Sample comments

(1) Please provide investors with a more comprehensive analysis of operating income/(loss) at the consolidated level and reportable segment level for each period presented. In this regard, your current discussion and analysis appears to be a repeat of information easily obtainable from your consolidated financial statements and reportable segment footnote. The discussion and analysis should provide investors with sufficient information to understand the material factors impacting the historical results as seen through the eyes of management along with an understanding of the trends and uncertainties that may impact future operating income, both positively and negatively. Please refer to Item 303(a) of Regulation S-K and Section 501.12.b.2.of the Financial Reporting Codification for guidance.

(2) We see that throughout MD&A, you attribute fluctuations in sales and revenues to increases or decreases in volume, price realization, mix of products and changes in dealer inventory. In addition, your discussion about geographic regions references higher or lower sales in the regions. In future filings please include sufficient disclosures about the specific reasons for fluctuations in sales and revenues and, to the extent material to an understanding of your financial statements and other disclosure, why revenues fluctuated in different geographic locations. Consider disclosing whether these changes represent any known trends or uncertainties that could have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations. Please refer to Item 303(A)(3) of Regulation S-K and Financial Reporting Release No. 33-8350.

(3) You state in your discussion of cost of sales that material commodity prices increased. In future filings, please quantify the impact of increased commodity prices and other material factors that are responsible for changes in your cost of sales.

Please also include a discussion and analysis of all known trends or uncertainties regarding material commodity pricing and an assessment of the effectiveness of your efforts to recover increased material costs through contract renegotiation and pass- through arrangements to the extent material to your results of operations.

Liquidity and capital resources

Item 303(a)(1) and (2) of Regulation S-K contain the requirements for registrants to discuss liquidity and capital resources in MD&A (while these are technically separate areas, they are frequently combined in most registrant's disclosures).

The discussion and analysis of liquidity and capital resources is meant to provide the reader with a clear understanding of the company's ability to generate cash and to meet its short-term and long-term liquidity and capital resource requirements.

The emphasis on this discussion increased significantly following the financial crisis and is likely to remain a focus of the SEC staff in the current economic environment. Some of the requested disclosures relate specifically to income taxes as it relates to cash balances held overseas. The registrant's assertion with regard to permanent reinvestment can impact domestic liquidity as well as have significant tax implications.

The discussion of liquidity and capital resources should focus on the key factors that impact the company's cash flows. It should not be a mere repetition of what is already apparent in the statement of cash flows. For example the SEC staff would expect details of the underlying drivers for changes in working capital and not just references to the accounts which had changed. Additionally, it should include a discussion of material commitments, how those commitments will be funded, and material changes, if any, in the company's capital resources.

Some of the common SEC staff comments include requests for:

- expanded discussion of the underlying reasons for the changes in cash flows;
- disclosure of cash held in foreign jurisdictions and the potential tax consequences associated with repatriating the cash to the US;
- discussion of minimum debt ratio requirements and the company's actual ratios as of period end;
- expanded disclosure of sources and uses of capital resources, e.g., the unused portion of credit facilities, planned capital expenditures and reasons for changes from prior periods, and the amount and reason for contributions to pension plans in excess of minimum requirements;
- inclusion of expected interest payments on outstanding debt in the table of contractual obligations; and
- inclusion of expected pension contributions either within the table or in the footnotes to the table of contractual obligations.

Changes in the global footprint of the Automotive sector, as well as ongoing uncertain economic conditions in the US, will likely result in a continued focus on overseas cash disclosures.

Sample comments

(1) We note that cash provided by operating activities significantly increased by over 33% in the current year period compared to the prior year period. You attributed the increase to reduced working capital needs and improved cash-based earnings. Please expand your disclosure to discuss the working capital needs that were reduced and why and how operating cash was directly impacted in this regard. Also, use of the term "cash-based earnings" may be a reference to an impermissible non-GAAP measure pursuant to Item 10(e) of Regulation S-K. Please explain to us (i) what "cash-based earnings" represents, (ii) how it is derived, (iii) how it truly is reflective of cash, and, (iv) how the measure complies with the cited guidance.

(2) It appears that your analysis in regard to the decrease in cash generated from operating activities for fiscal 2012 from 2011 does not substantially account for the $119.4 million variance. The factors identified as contributing to this variance appear to total to a decrease of $192 million. Please advise and revise your disclosure as appropriate.

(3) Please expand your disclosures in future filings to discuss the underlying reasons for changes in working capital components, with specific discussions for accounts and notes receivable. Given the impact that changes in your receivables had on your cash flows from operations, please also consider whether a discussion of financial measures such as day's sales outstanding would be relevant to a reader of your financial statements. Given the 33% increase in accounts and notes receivable, net, from December 31, 2011 to December 31, 2012, please also discuss the factors that led to a net reduction in the allowance for doubtful accounts from December 31, 2011 to December 31, 2012. See Section IV.B of the SEC Interpretive Release No. 33-8350. Please show us supplementally what the revised disclosure will look like.

Where you can find more information

- SEC Financial Reporting Manual (*Topic 9 – Management discussion and analysis of financial position and results of operations*

  (http://www.sec.gov/divisions/corpfin/cffinancialreportingmanual.pdf)

- SEC Financial Reporting Policies: *Section 500 – Information outside of financial statements*

- PwC Dataline No. 2013-27, *Highlights of the 2013 AICPA National Conference on Current SEC and PCAOB Developments*

Income taxes

Income taxes continues to be a source of frequent SEC comments. This is not surprising given the significant judgment required, coupled with the impact of the current economic environment on incentives to maximize tax revenues, as well as growing demand in international markets which may create disparity between where cash is generated and where it is needed. The SEC staff's comments have focused on the impact higher earnings in foreign jurisdictions has on the effective tax rate and valuation allowance assessment. We expect this to remain an area of focus for this year's reporting cycle.

The SEC has emphasized the need to clearly disclose the amount of income in countries with low tax rates, reasons for changes in the effective tax rate, and the tax impact if overseas cash was repatriated.

As noted above, certain income tax assumptions and policies should also be considered in the liquidity discussion in MD&A, especially with regard to assertions of indefinite reinvestment. The SEC staff has asked for quantification and disclosure of cash held in foreign jurisdictions (where significant) compared to the US, and disclosure of the range of possible tax consequences associated with repatriating cash from foreign jurisdictions. Such disclosure is even more important when foreign operations are significant or effective tax rates are low.

It is also common for the SEC staff to encourage transparent disclosures in situations in which a registrant generates a significant amount of profit from jurisdictions with very low tax rates. These disclosures should include any expected changes in the future mix of profit by jurisdiction or expected changes in a jurisdiction's tax rate.

The SEC staff continues to scrutinize registrants' assessments of the realizability of deferred tax assets. Specifically, certain registrants have asserted that the recent economic downturn is an aberration and therefore have placed less weight on recent historical results when determining whether a deferred tax asset is more likely than not to be realized. Registrants are reminded that cumulative losses in recent years represent a significant source of objective negative evidence that is difficult to overcome. In our analysis of comments letters, we also noted that the SEC staff has requested additional disclosures on the rationale and the timing of the release of valuation allowance reserves.

We highlight here a few of the disclosures not specifically required by ASC 740, *Income Taxes*, but expected when preparing statements in accordance with Regulation S-X or Staff Accounting Bulletins:

- the source of income (loss) before tax expense (benefit) classified between foreign and domestic (SX item 4.08);
- the amounts applicable to US federal income taxes, foreign income taxes, and other income taxes stated separately for each major component of income tax expense (i.e., current and deferred) (SX item 4.08); and
- the aggregate dollar and per-share effects of temporary tax exemptions or "tax holidays", and a description of the factual circumstances, including the date on which the special tax status will terminate (SAB Topic 11C).

Sample comments

(1) To the extent that cash held outside of the US is material to your liquidity, in future filings please: (i) enhance your liquidity disclosure to quantify the amount of foreign cash and cash equivalents at the end of your reporting period, (ii) address the potential impact on your liquidity of having this cash outside the United States and (iii) include a statement, if true, that you would need to accrue and pay taxes if such foreign cash was repatriated.

(2) You disclose that you had a tax benefit of $64 million related to the release of a valuation allowance on your Canadian Operations. We note that had you not released the valuation your tax expense of $201 million would have been 32% higher and net income would have decreased by 15%. In future filings please provide a discussion of material changes in your tax valuation and the underlying reasons. Refer to Section 501.04 of the Financial Reporting Codification for guidance.

Where you can find more information

- PwC Tax Accounting Services Thought Leadership: Deferred taxes on foreign earnings: A road map
- PwC Tax Accounting Services NewsAlert: Tax Accounting Considerations Related to Lapsing Subpart F Provisions
- PwC Tax Accounting Services Insights: Foreign currency tax accounting
- PwC Guide to Accounting for Income Taxes: Chapter 5 - Valuation allowance, Chapter 11 – Outside basis differences and other special areas; and Chapter 15 – Financial statement presentation and disclosure
- PwC Dataline No. 2013-29, *2013* Year End Accounting and Reporting Considerations: *Leading practices, lessons learned, and reminders*

Segment reporting

Segment disclosures are designed to provide information to the financial statement user to provide a better understanding of the company's performance, assess its prospects for future cash flows and to make more informed judgments about the company as a whole. Segment presentation and disclosures should be based on the information the company uses to make operating decisions and to assess performance of their business.

Proving similar economic characteristics amongst aggregated operating segments continues to be an area of focus by the SEC staff.

We continue to see frequent SEC staff comments on registrants' segment disclosures. These comments are focused on providing investors with a better understanding of the operational results of each segment, and may include a request for an explanation of significant changes from the previous period and fluctuating margin trends. The SEC staff also continues to focus on the aggregation of operating segments. The SEC staff frequently issues comments to understand the company's rationale for aggregating operating segments, focusing specifically on how the economic characteristics of the aggregated operating segments are similar. In considering this requirement, the SEC staff questions aggregation when the financial measures used to evaluate economic similarity are not the most relevant measures and when past results differ significantly from the registrant's expectation of long-term trends. As companies evaluate their disclosure in this area, they should consider whether recent developments in the economy, or changes in their business suggest that the economic similarities have diverged such that aggregation is no longer appropriate.

In addition to enhanced operational results by reportable segment and reportable segment aggregation, comment trends observed in this year's analysis include:

- a lack of or inadequate disclosures on net sales by geographic location, product lines and major customers; and
- requests to describe the impact announced changes in the business, new development or operational structure may have on segments.

As part of their filing reviews, the SEC staff may review companies' analyst presentations as well as other sources of public information for consistency with the information provided in segment disclosures. Our experience is that comments about a registrant's segment reporting can also lead to questions about a registrant's determination of its reporting units for goodwill impairment testing.

With increasing M&A activity expected, registrants should consider whether acquisitions have an impact on segment reporting, for example, whether there have been any changes to the Chief Operating Decision Maker ("CODM") package or segment management roles.

Sample comments

(1) You identify that each of your twelve North American production facilities is an operating segment. We note some of these facilities produce different types of products and employ varying manufacturing processes. Please tell us how you concluded it was appropriate to aggregate. As part of your aggregation analysis, please provide us with an analysis that includes sales, gross margin, and operating profit information for each of your identified operating segments for the last five years, as well as the nine-month period ended September 30, along with any other information you believe would be useful to help us understand how the operations are all economically similar. Please also address any differences in the trends these financial indicators depict (e.g. if gross profit margin is decreasing for one operation and increasing for another).

(2) In future filings, please significantly expand your discussion of this segment's operating results to provide a robust discussion of the results of operations related to the operational activities. Your discussion should include items such as units produced, average selling price and cost per unit, quantities sold to other segments as well as total sales to third parties. Please provide us your proposed disclosure revisions as part of your response.

(3) We note that you do not disclose quantitative information about your products and services. Please tell us how you considered the guidance in FASB ASC 280-10-50-40 requiring disclosure of revenues from external customers for each product and service (or each group of similar products and services) unless it is impracticable to do so. If it is impracticable, you should disclose that fact.

Where you can find more information

- PwC Dataline No. 2013-27, *Highlights of the 2013 AICPA National Conference on Current SEC and PCAOB Developments*
- PwC Dataline No. 2013-29, *2013* Year End Accounting and Reporting Considerations: *Leading practices, lessons learned, and reminders*

Compliance

Compliance errors usually require amended filings in order to correct them.

While many registrants spend significant effort on preparing the financial statements and disclosures, an equally important item that can be overlooked is compliance with the instructions relating to signatures, certifications and exhibits.

For electronic filings, the general rules and regulations are outlined in Regulation S-T, while Regulation S-K contains the specific considerations for the filings made under the Securities Act of 1933 and the Exchange Act of 1934.

Errors in these areas do not typically require significant effort to remediate, however, often can only be fixed through an amended filing. In their comments, the SEC staff often requests amendments to any filings in which they identify compliance errors.

Recurring comments include missing exhibits, incomplete/insufficient signatories (including inaccurate job titles provided with them), or missing required certifications. Comments were also provided on incorrect dates or language being used in the certifications.

When preparing their year-end financial statements, registrants should revisit guidance referenced above to ensure compliance with the requirements. We recommend that particular attention is paid to the dating and language on certifications, as detailed in Regulation S-K Item 601(b)(31), and required exhibits including material contracts as required by Regulation S-K Item 601(b)(10).

Sample comments

(1) Please amend your filing to provide signatures on behalf of the registrant by its principal financial officer, and by at least the majority of the board of directors or persons performing similar functions. See General Instruction D to Form 10-K.

(2) We note that exhibit 10.1 to the Form 10-Q for the quarter ended September 30, 2012 which you incorporate by reference omits the schedules and exhibits to the second amended and restated credit agreement. Unlike Item 601(b)(2) of Regulation S-K, there is no provision in Item 601(b)(10) of Regulation S-K for omitting schedules or similar attachments. Please refile the second amended and restated credit agreement with all attachments in your next periodic report under the Exchange Act.)

Where you can find more information

Regulations S-K and S-T are available on the SEC's website

Regulation S-X presentation requirements

SEC Regulation S-X sets out the form, content, and requirements for financial statements furnished or filed with the SEC.

The SEC staff often raises questions on presentation requirements, such as separately reporting revenue generated from products and services on the face of the income statement, as required in some cases under Rule 5-03 of Regulation S-X.

Other common comments include questions on “other” categories of current or non-current assets and liabilities, specifically whether they contain items above the 5% threshold for separate presentation. Further details can be found in Rule 5-02 Items 8, 17, 20 and 24 of Regulation S-X.

In certain circumstances, proforma or additional financial statements and/or condensed or consolidating financial information will be required – for example, when there are material acquisitions or disposals, guarantors of registered debt or significant equity investees. These rules can be complex. Registrants should consider the financial reporting requirements associated with any material transaction or event.

Sample comments

(1) We note that you have provided condensed consolidating financial information in accordance with Rule 3-10 of Regulation S-X for the 7% senior notes due 2022, the 8.25% senior notes due 2020 and the 8.75% notes due 2020. We note that the Indenture for each of these notes contains certain subsidiary guarantor release provisions, including a provision permitting the company to release a subsidiary guarantor during a "Suspension Period." Please explain why you believe the guarantors are full and unconditional as required by Rule 3-10 of Regulation S-X in light of the provision that allows for a release of the guarantor during a "Suspension Period."

(2) Please separately present the amount of revenues and corresponding costs of revenues for services provided related to tolling arrangements, if material. Refer to Rule 5-03 of Regulation S-X.

(3) We refer you to Rule 5-02-20 & 24 of Regulation S-X. Please tell us and provide a tabular disclosure within a footnote showing the nature of various components along with their quantified amounts recorded within the Other Accrued Liabilities and Other Long- Term Liabilities line items, or advise us why you are not required to do so.

(4) We note the "Parts and service sales" revenue stream line item on the face of your Consolidated Statements of Income. To the extent that this line item includes both product and services, tell us what consideration you gave to separately disclosing revenues and cost of revenues by products and services pursuant to Rules 5-03(b)(1) and (2) of Regulation S-X.

Where you can find more information

- Regulations S-X is available on the SEC’s website

Loss contingencies

When the FASB voted to remove the Disclosure of Certain Loss Contingencies project from its agenda in July 2012, it cited the need for improved compliance with existing disclosure. The SEC staff continues to emphasize in public remarks and comment letters the need for registrants to better comply with existing guidance related to ASC 450, *Contingencies*.

The SEC continues to comment on disclosures that do not provide an estimate of loss or range of potential loss.

The guidance in ASC 450-20-50 requires disclosure of certain loss contingencies that do not meet the conditions for an accrual, including material loss contingencies that are considered probable but not reasonably estimable, and those that are at least reasonably possible (but not probable), regardless of whether they are reasonably estimable. For contingencies that meet the criteria for disclosure, registrants should disclose the nature of the contingency and an estimate of the possible loss or range of loss (or a statement that such an estimate cannot be made).

For loss contingencies that are reasonably possible but not probable, the SEC staff has focused on the sufficiency of registrant disclosures regarding the nature of the contingency and the possible range of estimates. The SEC staff has indicated it will not take exception to disclosure of reasonably possible ranges of loss in the aggregate for all contingencies. Below are some of the observations made by the SEC staff in public remarks and comment letters:

- It would be considered unusual if a company could not reasonably estimate a range of loss for at least some of its contingencies. If an estimate cannot be provided, provide reasons why not and what efforts have been made to develop an estimate.
- More robust disclosures would be expected as matters progress over time.
- The guidance in ASC 450 does not permit reporting entities to avoid disclosing an estimate solely because an estimate cannot be made "with precision" or "with confidence."
- The recognition of a material accrual for a contingent liability related to a historical event should not be the first disclosure regarding the contingency.

Registrants should avoid attributing the inability to record or disclose an estimate of loss to the fact that such amount cannot be predicted with certainty. In such cases, the SEC staff often points out that ASC 450-20 does not require that contingencies be certain for accounting or disclosure purposes, and will ask the registrant to explain such disclosure.

Sample comments

(1) For your potential product liability and other tort claims, environmental matters, workers' compensation and other contingencies, please disclose the amount or range of reasonably possible losses or a statement that such amount cannot be estimated. If the reasonably possible range of loss is immaterial to the financial statements, please provide a statement to that effect. Refer to ASC 450-20-50 and SAB Topic 5:Y for guidance.

(2) We note that in many instances you disclose that you believe the outcome of your contingencies is uncertain and you are unable to reasonably estimate your range of possible loss. It appears in many cases these matters have been on-going for extended periods. We would expect that as contingencies progress, the range of possible loss would become clearer with the passage of time and developments arising from the proceedings. For each matter you discuss in your filing where you present the above conclusion, please provide us with an analysis of why you believe a range of possible loss is not reasonably estimable.

Where you can find more information

- PwC Dataline No. 2013-29, *2013* Year End Accounting and Reporting Considerations: *Leading practices, lessons learned, and reminders*
- PwC Dataline No. 2013-27, *Highlights of the 2013 AICPA National Conference on Current SEC and PCAOB Developments*

Accounting for indebtedness

The prolonged period of low interest rates has made debt attractive and as a result, increased offerings have increased the SEC staff's focus on debt-related disclosures. The majority of SEC staff comments request registrants to provide more detail on material financial covenants and to explicitly state whether they are compliant.

Registrants should ensure they disclose significant terms of material debt agreements (e.g., lending source, amount owed, maturity date, interest rate) and of debt modifications.

The economic uncertainity has resulted in increased focus on transparent debt covenant compliance disclosures.

If registrants have obtained waivers related to non-compliance with debt covenants, the details of such waiver should be disclosed as well as a statement to the effect that the specific debt covenants were not met. Registrants should also consider additional disclosures for debt agreements that contain:

- acceleration clauses that may accelerate the maturity of debt;
- borrowings outstanding under certain revolving credit arrangements or that require a lock-box arrangement;
- provisions that may restrict a registrant's ability to pay dividends;
- callable debt at the option of the creditor if the debtor is in violation of a provision of the debt agreement; and
- make-whole premiums (both disclosure and accounting recognition).

Pursuant to Item 303 of Regulation S-K, the SEC staff has requested expanded discussion in the MD&A around debt covenant financial ratios, including the actual ratios when it is reasonably likely that they will not be met, debt ratings (or the implication of changes in ratings), and restrictions under debt agreements.

Rule 3-10 of Regulation S-X provides relief from filing the full financial statements of a subsidiary/parent that guarantees registered debt when certain conditions are met. There are specific disclosures required when a registrant qualifies for such relief which can be complicated and time consuming to prepare, especially when doing so for the first time. Registrants should ensure they adequately plan the time and resources to prepare these disclosures.

Sample comment

(1) We note you classified $x million of debt maturing in the next twelve months as a non-current liability because of your ability and intent to refinance the debt on a long-term basis considering the availability under your revolving credit facility. However, we also note your disclosure that you only have $y million of available capacity under your revolving credit facility after giving consideration to outstanding commercial paper borrowings and certain letters of credit. Please tell us why the amount excluded from current liabilities should not be reduced to the amount available for refinancing under the revolving credit facility. Please address the guidance in ASC 470- 10-45-14 through 20.

(2) We note that you were in compliance with covenants on your long-term debt after giving consideration to waivers and amendments received during the fiscal year 2012. In this regard, please tell us, and revise to disclose in greater detail the terms of the waivers obtained for certain defaults relating to unfunded liabilities associated with the company's benefit plans. Your response and revised disclosure should include, but not be limited to, a discussion of the waiver(s) granted, the period of the waiver, and the likelihood that you will comply with the covenant at the next measurement date.

Where you can find more information

- PwC Dataline No. 2013-29, *2013* Year End Accounting and Reporting Considerations: *Leading practices, lessons learned, and reminders*

Non-GAAP measures

The SEC staff continues to emphasize the requirements surrounding the use of non-GAAP financial measures, and cautions registrants against the use of non-GAAP measures that may be misleading.

When non-GAAP financial information is presented in periodic reports filed with the SEC, registrants are required by Item 10(e) of Regulation S-K to include:

The SEC has cautioned registrants from presenting non-GAAP measures that may be misleading.

- the reasons why management believes that the non-GAAP measure is relevant to investors;
- the additional purposes, if any, for which management uses the non-GAAP measure;
- the most directly comparable GAAP financial measure with equal or greater prominence to facilitate comparability among other registrants; and
- a reconciliation to the comparable GAAP measure.

Below are some of the circumstances that have generated recent comment letters reviewed in our analysis:

- undue prominence to non-GAAP measures, e.g., presentation of full non-GAAP income statements;
- differences between information conveyed through web sites, press releases, analyst calls and SEC filings;
- use of terminology that implies a non-GAAP measure is a standard measure, e.g., a measure that includes adjustments to the standard definition of EBITDA should not be labeled "EBITDA";
- inappropriate use of a non-GAAP measure that excludes normal cash expenses necessary to operate the business, e.g., advertising costs or salaries; and
- presentation of constant currency financial information within MD&A. Such presentation is viewed as non-GAAP by the SEC.

When evaluating whether to disclose non-GAAP measures, which measures to disclose, and how to present them, registrants should ensure that they understand and adhere to the rules (including Regulation G). We also note that the SEC staff may review press releases, listen to earnings calls and raise comments on the presentation of non-GAAP measures as a result, in particular if there are inconsistencies between these items and the MD&A, which is supposed to help investors understand the business through the eyes of management.

Sample comments

(1) Please explain to us the basis for the statement that adjusted EBITDA and adjusted operating income are the key metrics on how investors and analysts evaluate the company's stock price. In that regard, we do not see where you discuss adjusted EBITDA or adjusted operating income in your press releases or earnings calls within the prior fiscal year.

(2) Within your quarterly reconciliation of EBITDA to Adjusted EBITDA, you have included a line item referred to as "Nonrecurring charges." It is our understanding these adjustments to arrive at the amount you disclose as "Adjusted EBITDA" are in accordance with your credit agreement. However, Item 10(e) of Regulation S-K prohibits adjusting a non-GAAP financial performance measure to eliminate or smooth items identified as non-recurring, infrequent or unusual, when the nature of the charge or gain is such that it is reasonably likely to recur within two years or there was a similar charge or gain within the prior two years. Please tell us the nature and amounts of these "nonrecurring charges," and revise or tell us why you believe referring to these items as "nonrecurring charges" is in accordance with Item 10(e) of Regulation S-K. Refer to question 102.03 within the Non-GAAP Financial Measures Compliance & Disclosure Interpretations section of our website.

Where you can find more information

- PwC Dataline No. 2013-27, *Highlights of the 2013 AICPA National Conference on Current SEC and PCAOB Developments*

- SEC Financial Reporting Manual (*Topic 8 – Non-GAAP measures of financial performance, liquidity and net worth)*

  (http://www.sec.gov/divisions/corpfin/cffinancialreportingmanual.pdf)

Impairments

The SEC is particularly focused on disclosure of key judgements and assumptions used in impairment assesssments.

Impairment assessments typically require a high degree of judgment. Disclosures about those judgments continues to be a focus in SEC staff comment letters and the SEC staff has emphasized the importance of foreshadowing disclosures if there is a reasonable likelihood of a material impairment in future periods. The SEC staff has stated that the goodwill of a reporting unit may be at risk of an impairment if the fair value is not "substantially in excess" of its carrying value. When evaluating whether a reporting unit's fair value "substantially" exceeds its carrying value, registrants may need to consider the level of uncertainty associated with the methods and assumptions used in the fair value estimation process. In cases where a reporting unit's fair value is not substantially in excess of its carrying value, the SEC staff typically requests that management make the following disclosures:

- the amount of goodwill assigned to the reporting unit;
- the percentage by which the fair value of the reporting unit exceeded its carrying value as of the date of the most recent step one analysis;
- key assumptions used in the assessment and the uncertainties in those judgements;
- a description of potential events and/or changes in circumstances that could reasonably be expected to negatively affect the key assumptions; and
- any relevant sensitivity analysis or secondary valuation technique utilized.

With the adoption of the provisions of Accounting Standard Update (ASU) No. 2011-08 and ASU No. 2012-02, which permit an entity to assess qualitative factors when assessing impairments, the disclosure of the judgments made by management, and assumptions utilized when doing so, will become increasingly important.

There may also be an increased focus on impairments as a result of any changes in the operational footprint of registrants (for example in response to the factors highlighted in the overview), including restructuring related to the rationalization of facilities and removal of excess production capacity. Companies impacted by these events will need to carefully assess potential impairments on both long lived assets and goodwill in accordance with the requirements.

Sample comment

(1) We note your disclosures regarding impairment of long lived assets and intangible assets. In the interest of providing readers with better insight into management's judgments in accounting for long lived assets and intangible assets, please disclose the following: How you group long lived assets for impairment and your basis for that determination; How you determine when long lived assets should be tested for impairment; How frequently you evaluate for the types of events and circumstances that may indicate impairment; and Sufficient information to enable a reader to understand what method you apply in estimating the fair value of your long lived assets.

If any material long lived assets or asset groups have a carrying value less than their corresponding undiscounted cash flows and the fair value is not substantially in excess of the carrying value, please disclose the nature of the assets and their carrying value and convey how close their carrying value is to fair value. Please also disclose key assumptions you made and describe any potential events and/or changes in circumstances that could reasonably be expected to negatively affect those key assumptions.

(2) We note in recent reporting periods, you state in your filings that you do not believe your market capitalization compared to total shareholders' equity at period end, is an indication that goodwill is impaired. We note you cite various macro-economic events and circumstances as your basis for conclusion. However, we further note in your stock performance graph that you compare your stock performance to the S&P 500 Materials Index. We note the Materials Index and the S&P 500 in general have recovered since 2008, while your stock price has not. We also note your debt ratings provided by the three primary rating agencies for your long-term debt. Please further explain to us why you believe at December 31, 2012, your stock price is not depressed as a result of company specific factors.

Where you can find more information

- PwC Dataline No. 2011-08: Goodwill impairment, FASB issues guidance that simplifies goodwill impairment test and allows early adoption
- PwC Dataline No. 2012-08: Indefinite-lived intangible asset impairment
- PwC Global Guide to Accounting for Business Combinations and Non-controlling Interests: Chapter 11 – Accounting for goodwill post-acquisition – US GAAP
- PwC Dataline No. 2013-29, *2013* Year End Accounting and Reporting Considerations: *Leading practices, lessons learned, and reminders*

Other areas

While generally less prevalent in terms of overall volume of comments in the automotive sector, there are a number of areas that are no less important in terms of impact, and where we recommend registrants consider the types of comments being raised.

Statement of cash flows

Particular focus is needed for the cashflow presentation of complex or unusual transactions.

Errors in the Statement of Cash Flows, such as the incorrect presentation of non-cash items, and inappropriate gross vs. net presentation, are the top causes of restatements in registrants' financial statements, especially those related to complex or unusual transactions.

The SEC staff most commonly questions the net presentation of items, or asks for improved descriptions of individual line items if the nature of the item is unclear.

Sample comment

(1) We note your net presentation of (repayments) borrowings on notes payable floor plan non-trade within the Financing Activities section of the Consolidated Statements of Cash Flows. Please explain how this line item meets the criteria for net presentation within the Consolidated Statements of Cash Flows. See FASB ASC 230-10-45-7 through 230-10- 45-9.

(2) Please tell us what debt instruments gave rise to the following line items included under financing activities on your statement of cash flows: Net borrowings (repayments) under loans payable, Proceeds from long-term debt, Principle payments on long-term debt. Please demonstrate to us how you have determined that netting borrowings/payment under loans payable is appropriate under ASC Topic 230. Additionally, in future periodic filings please revise the titles to clarify which debt instruments are causing the movements in cash flows.

Disclosure Controls and Procedures

Registrants are required by Item 307 and Item 308 of Regulation S-K to disclose their conclusions on the effectiveness of disclosure controls and procedures ("DCP") and internal control over financial reporting ("ICFR"), and disclose any material changes in ICFR.

SEC staff comments identify incomplete or missing disclosures, for example, failure to disclose changes in ICFR related to the remediation of a material weakness, a recently acquired business or the implementation of a new financial reporting system.

Sample comment

(1) We note your disclosure that your chief executive officer, chief financial officer, and corporate controller have evaluated your disclosure controls and procedures as of a date within 90 days before the filing date of your quarterly report. Please amend your future filings to disclose management's conclusion regarding the effectiveness of your disclosure controls and procedures as of the end of the period covered by the quarterly report. Refer to Part III.F of Management's Reports on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports, Release No. 33-8238, available on our website at www.sec.gov/rules/final/33-8238.htm.

(2) We see that you were apprised of allegations of the intentional misstatements in October 2011 and immediately commenced an investigation. Please tell us when that investigation was completed. Discuss the results of the investigation, including whether you identified any material weaknesses in internal control or disclosure controls and procedures. Tell us any remediation efforts that you put into place. As a related matter, please tell us how the results of the investigation were considered in evaluating internal control over financial reporting at March 31, 2012 and disclosure controls and procedures during each period presented. In this regard, we reference Item 308(a)(3) of Regulation S-K which states that management is not permitted to conclude that a registrant's ICFR is effective if there are one or more material weaknesses identified in the registrant's ICFR.

State sponsors of terrorism

Although the volume of comments relating to state sponsors of terrorism has declined, this appears to be because most registrants have already assessed their operations and transactions with these countries, and have updated their websites and disclosures as required.

The SEC staff has asked questions relating to the activities of subsidiaries, joint ventures or other entities related to the registrant, quoting newspaper articles or registrants' individual websites where they believe there are indications of interaction with state sponsors of terrorism.

These questions include requesting details on past, current and anticipated interactions with currently designated state sponsors of terrorism or entities which they control, covering direct and indirect arrangements, agreements, products and services, and any other interactions.

Cuba, Iran, Sudan and Syria are designated as state sponsors of terrorism. The current list can be found on the State Department's website at http://www.state.gov/j/ct/list/c14151.htm

Sample comment

(1) We note from your website that you have business activities in the Middle East, Africa and the Caribbean. Syria, Sudan and Cuba, countries located in those regions, are identified by the State Department as state sponsors of terrorism and are subject to U.S. economic sanctions and export controls. Your 10-K does not include disclosure regarding those countries. Please describe to us the nature and extent of any past, current, and anticipated contacts with Syria, Sudan or Cuba, whether through subsidiaries, affiliates, distributors, resellers, joint venture partners or other direct or indirect arrangements. For instance, we note that an article discussing your agreement with your joint venture partner reports that the venture is already selling its light trucks in countries including Syria. In addition, the venture's website states that it conducts business in Sudan. We also note that another joint venture partner's website states that it conducts business with Syria and Sudan, and that its subsidiary's website lists a distributor in Cuba. Your response should describe any products, components, or technologies you have provided to or received from Syria, Sudan or Cuba, and any agreements, commercial arrangements, or other contacts you have had with the governments of those countries or entities controlled by their governments.

Recall and warranty reserves

Recall and warranty reserves are other areas that normally involve significant judgment or estimates and may be subject to comment. At the 2013 AICPA National Conference in December 2013, the SEC's Division of Enforcement noted that significant reserves were among the focus areas for the newly created Financial Reporting and Auditing Task Force, which will use technological tools and academic studies to identify financial accounting fraud.

The SEC staff is particularly focused on current period changes or adjustments to provisions and often question whether the registrant has appropriately considered the implications of the underlying drivers of adjustments on the continued appropriateness of the overall model used to estimate the reserves. They may also consider any such current period adjustments as an indication that the liabilities and expenses recognized in prior periods may have been incomplete or inaccurate. Changes in local regulations around product recall, such as those occurring in China, may result in questions from the SEC staff on how these have been considered.

Sample comment

(1) We note that your warranty liability for each period presented includes adjustments to the provisions. In future filings, please disclose the nature of these adjustments as well as the amount that relates to foreign currency translation for each period presented. Please show us in your supplemental response what the revisions will look like.

(2) We note from your disclosure in footnote B that in the first, second, and fourth quarters of fiscal 2012, you recognized significant adjustments to the warranty accrual for changes in estimates. In light of the $123 million charge made in the first quarter of fiscal 2012, please tell us why you believe the warranty accrual at October 31, 2011 was appropriate.

Also, please tell us if you have recognized any additional charges to warranty expense related to changes in estimates subsequent to October 31, 2012.

Business combinations

As registrants prepare disclosures related to acquisitions, the guidance in ASC 805, *Business Combinations*, specifically ASC 805-10-50-1 through 7, should be carefully considered. Comments in the past year have primarily focused on deficiencies in the required disclosures. Additionally, although not extensive in the automotive sector, SEC staff comments focused on the descriptions of the method and significant assumptions companies used to determine the fair value of assets acquired. As M&A activity picks up, this is an area where the automotive sector may see an increase in comments.

With M&A activity expected to increase, and with the trend towards collaboration agreements and joint ventures for R&D centers or other means of developing new technology such as fuel cells, we could see increased complexity of the transactions considered business combinations and a related increase in SEC staff focus in this area.

Sample comment

(1) We note from the statement of cash flows it appears that the purchase price of the 2012 acquisitions was material to the balance sheet. Please provide for us and revise your notes to the financial statements to disclose the total purchase price of the acquisitions, details of the purchase price allocation including the fair value of the assets and liabilities acquired, the amount of goodwill allocated to the purchase and the reasons the purchase price resulted in goodwill. Your disclosure should also include the revenue and earnings of the combined entity as though the business combinations that occurred during the current year had occurred as of the beginning of the comparable prior annual reporting period (supplemental pro forma information). See guidance in ASC Topics 805-10-50- 2(h), 805-20-50 and 805-30-50. Please note that a purchase price allocation should be provided even if the amounts are preliminary and may result in additional adjustments.

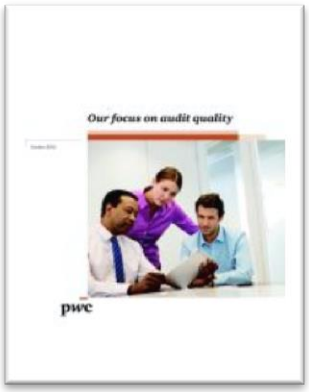
About PwC's Automotive Practice

PwC's global automotive practice leverages its extensive experience in the industry to help companies solve complex business challenges with efficiency and quality. One of PwC's global automotive practice's key competitive advantages is Autofacts®, a team of automotive industry specialists dedicated to ongoing analysis of sector trends. Autofacts provides our team of more than 4,600 automotive professionals and our clients with data and analysis to assess implications, make recommendations, and support decisions to compete in the global marketplace.

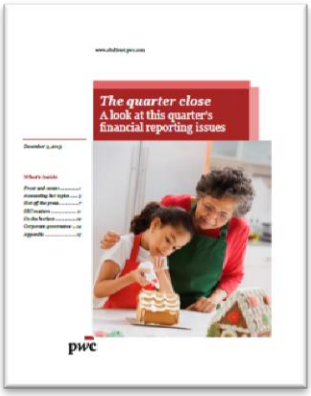
Additional publications that may assist you:

Last year, we launched ***Our focus on audit quality***, PwC's 2012 audit quality report, which is still relevant to delivering high-quality and value to our clients. The report describes the actions we have taken, and continue to take, in support of our commitment to performing high-quality audits on a sustained basis - our highest priority.

The report provides additional transparency for capital market participants, including information about our internal and external inspection results and our actions responsive to those results. It also contains our 2012 transparency report, which provides information about our structure, systems, and other practices that promote audit quality.



Our Focus on Quality



The quarter close *A look at this quarter's financial reporting issues*

The quarter close *A look at the quarter's financial reporting issues—Directors edition*

For more information, please contact any of the following:

Richard Hanna
Global and US Automotive Leader
richard.hanna@us.pwc.com
(313) 878-8754

Sharad Jain
US Automotive Assurance Leader
sharad.p.jain@us.pwc.com
(313) 594-3018

Scott Schueller
US Automotive Quality Leader
scott.j.schueller@us.pwc.com
(414) 213-9546

Larry Dodyk
Partner, Accounting Services
National Professional Services Group
lawrence.dodyk@us.pwc.com
(973) 236-7213

Simon Barlow
Senior Manager, SEC Services
National Professional Services Group
simon.c.barlow@us.pwc.com
(973) 236-4964

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