



KPMG LLP
345 Park Avenue
New York, N.Y. 10154-0102

Telephone +1 212 758 9700
Fax +1 212 758 9819
Internet www.us.kpmg.com

December 3, 2018

Brent J. Fields, Secretary,
Security and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

SEC Release No. 33-10526; 34-83701; File No. S7-19-18
Financial Disclosures About Guarantors and Issuers of Guaranteed Securities and Affiliates Whose Securities Collateralize a Registrant's Securities

Dear Mr. Secretary:

We appreciate the opportunity to respond to the Securities and Exchange Commission's (SEC or Commission) request for comments on the proposed rules, *Financial Disclosures About Guarantors and Issuers of Guaranteed Securities and Affiliates Whose Securities Collateralize a Registrant's Securities* (Proposed Rules or Proposal). KPMG LLP continues to support the ongoing efforts of the SEC's *Disclosure Effectiveness Initiative* to improve the public company disclosures provided to investors for purposes of making their investing and voting decisions.

In our response to *Effectiveness of Financial Disclosures about Entities Other than the Registrant*¹, we discussed the need to streamline reporting by reducing the disclosure requirements in Rule 3-10 of Regulation S-X and reconsider the requirement for full audited financial statements of each collateralizing entity in Rule 3-16 of Regulation S-X. While the Proposed Rules are generally consistent with our comments provided in 2015, we recommend the Commission:

- balance the compliance burden of registrants with the needs of investors to streamline the disclosures of the guarantor's and collateralizing entity's financial information that is consistent with generally accepted accounting principles (GAAP) and the financial statements of the registrant;
- provide registrants additional guidance on, or examples of, supplemental disclosures of material information;
- eliminate disclosures that require registrants to explain why certain information is immaterial;
- identify a *single* consistent location for the proposed disclosures, reflective of investor feedback on the level of auditor involvement sufficient for their needs;
- consider the impact of not requiring foreign private issuers (FPIs) that use an accounting framework other than U.S. GAAP or International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IASB) (IASB IFRS) to reconcile Summarized Financial Information² to U.S. GAAP; and
- provide detailed transition guidance to registrants upon adoption of the new rules.

¹ [KPMG comment letter](#) on *Effectiveness of Financial Disclosures about Entities Other than the Registrant*, SEC Release Nos. 33-9929, 34-75985, IC-31849, November 30, 2015, pages 10-12.

² As defined in Release No.33-10526; 34-83701; File No. S7-19-18, page 24.

Summarized Financial Information

We support the Commission's proposal permitting registrants to provide Summarized Financial Information on a combined basis rather than condensed consolidating information as currently required by S-X Rule 3-10. It is our experience that preparing condensed consolidating information presents challenges and is time-consuming for registrants. Eliminating the requirement to provide separate financial information of the non-obligated subsidiaries, unless considered material, streamlines the financial reporting process.

Offering options for the methods of accounting to exclude the non-obligor group in the Summarized Financial Information enables registrants to choose the method that best fits their circumstances. The methods of accounting permitted should be aligned with existing principles in the underlying accounting framework to anchor such methods to accounting principles widely known by the investment community. On that basis, we suggest the following methods be referenced in the final rule: equity method³, cost method⁴, or combined financial information⁵ of the issuer and guarantor group (i.e., exclusion of the non-obligated subsidiaries entirely). Further, defining these acceptable methods promotes consistency between registrants.

While we do support streamlining the guarantor disclosure, we believe that reducing the financial information required to be disclosed as proposed may only reduce the disclosure preparation process for a limited number of registrants. Regardless of the method of accounting selected, we foresee complexities and unintended consequences in presenting the Summarized Financial Information as proposed that require consideration. For example, registrants with complex debt structures may not experience a reduction in preparing a guarantor disclosure that excludes the non-obligor group (using one of the above suggested methodologies) when they must account for the non-obligor subsidiaries for consolidation purposes. Depending on the location of such disclosures, auditors may also be required to audit the information for consolidation purposes, with additional efforts required to audit the disclosure reflecting different accounting.

Proposed Additional Disclosure Requirements

Proposed Rules 13-01(a)(5) and 13-02(a)(5) require disclosures in addition to those required by Rules 13-01(a)(4) and 13-02(a)(4), respectively, when such information is material to an investment decision. The Proposal provides one example of material related party revenues requiring disclosure. While relevant, this single example does not provide registrants with the breadth of supplemental disclosures required. We recommend the Commission clarify either in the final rule or in supplemental implementation guidance, the disclosure's objective – i.e., what

³ Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 323, *Investments – Equity Method and Joint Ventures*.

⁴ FASB ASC Subtopic 325 – 20, *Cost Method Investments*.

⁵ FASB ASC 810, *Consolidation* (e.g., ASC 810-10-45-10 and ASC 810-10-551B).

information is considered relevant and why it should be disclosed, and expand the examples to drive consistent application by registrants in similar industries or with similar operations.

The SEC's existing materiality framework steers the information that registrants must disclose for the benefit of investors and to prevent financial statements from being misleading. We are not aware of other regulatory requirements that require registrants to disclose the omission of required disclosures when they are immaterial. Requiring registrants to disclose which disclosures have been omitted because they are immaterial and the materiality considerations would be inconsistent with current practice and unnecessary. Further, disclosure explaining why such information is immaterial is unlikely to be useful to investors and has the potential to obscure important information. We recommend the Commission eliminate this disclosure requirement.

Disclosure Location and Auditor Involvement

The location of the required disclosures should be consistent between periods and provide investors with information necessary to facilitate informed decision making. The flexibility to provide the proposed disclosures in different locations will likely result in inconsistencies in disclosures and varied levels of reliance on the disclosures by investors.

We recommend the Commission consider auditors' involvement in comfort letters with respect to this information when finalizing these rules. Auditors are generally requested to provide comfort letters in connection with registered offerings. Under PCAOB AS 6101, *Letters for Underwriters and Certain Other Requesting Parties*, auditors are subject to certain limitations when providing comfort letters. We recommend the Commission consider feedback received from underwriters as to whether this level of auditor involvement is sufficient for their purposes. Consistent with our observations above, the work necessary to provide comfort on the Summarized Financial Information may not result in a decrease in effort or cost for either auditors or registrants given complexities in combining financial information. For example, if a registrant elects to combine financial information using the equity method, the supporting schedules and information will need to be prepared and then audited or read to consider whether such information is materially inconsistent with information appearing in the financial statements⁶, depending on the location of the disclosures.

FPIs

We have concerns regarding the Proposal's recommendation that FPIs that use an accounting framework other than U.S. GAAP or IASB IFRS are not required to reconcile the Summarized Financial Information to U.S. GAAP. These reconciliations are intended to provide investors with information that is presented in accordance with a more widely recognized GAAP (i.e., U.S. GAAP and IASB IFRS) so that the investor has the necessary financial information to make

⁶ PCAOB AS 2710, *Other Information in Documents Containing Audited Financial Statements*.

informed investment decisions. While we acknowledge this reporting is not common among registrants, not requiring this reconciliation ignores consistent application of such reconciliations required for other financial information, hinders the objective of providing the investor with all relevant information, and therefore appears to contradict the view that the Summarized Financial Information of issuers and guarantors is material to the investor. We recommend the Commission consider this observation when finalizing the rule.

Transition Guidance

In our view, detailed transition guidance provided within the final rule or issued shortly thereafter facilitates implementation of a new rule. On that basis, we encourage the Commission to provide detailed transition guidance within the final rule that addresses the effective date, considers filing timing and assists with various reporting requirements.

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We appreciate the opportunity to respond to the request for comments on the Proposed Rules. If you have any questions regarding our comments or other information included in this letter, please do not hesitate to contact Jeffrey Jones (([REDACTED] or [REDACTED])) or Timothy Brown (([REDACTED] or [REDACTED])).

Very truly yours,

KPMG LLP

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cc:

Jay Clayton, Chairman
Kara M. Stein, Commissioner
Robert J. Jackson Jr., Commissioner
Hester M. Peirce, Commissioner
Elad L. Roisman, Commissioner
William Hinnman, Director, Division of Corporation Finance
Kyle Moffatt, Chief Accountant, Division of Corporation Finance
Wesley Bricker, Chief Accountant
William D. Duhnke III, Chairman, Public Company Accounting Oversight Board
Russell G. Golden, Chairman, Financial Accounting Standards Board