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Business Combinations — SEC Reporting Considerations
Carve-Out Transactions
Comparison of IFRS Standards and U.S. GAAP
Consolidation — Identifying a Controlling Financial Interest
Contingencies and Loss Recoveries
Contracts on an Entity's Own Equity
Convertible Debt
Current Expected Credit Losses
Disposals of Long-Lived Assets and Discontinued Operations
Distinguishing Liabilities From Equity
Earnings per Share
Environmental Obligations and Asset Retirement Obligations
Equity Method Investments and Joint Ventures
Equity Method Investees — SEC Reporting Considerations
Fair Value Measurements and Disclosures
Foreign Currency Transactions and Translations
Income Taxes
Initial Public Offerings
Leases
Noncontrolling Interests
Non-GAAP Financial Measures
Revenue Recognition
SEC Comment Letter Considerations, Including Industry Insights
Segment Reporting
Share-Based Payment Awards
Statement of Cash Flows
# Acknowledgments and Contact Information

We would like to thank the following individuals for their contributions to this publication:

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jana Allen</td>
<td>Courtney Clifford</td>
</tr>
<tr>
<td>Joseph Bakutes</td>
<td>Kevin Conrad</td>
</tr>
<tr>
<td>James Barker</td>
<td>Peggy Cullen</td>
</tr>
<tr>
<td>Greg Bartholomew</td>
<td>Mark Hanulak</td>
</tr>
<tr>
<td>Chris Chiriatti</td>
<td>Rich Holtz</td>
</tr>
<tr>
<td>Jonathan Howard</td>
<td>Pat Johnson</td>
</tr>
<tr>
<td>Rob Moynihan</td>
<td>Lisa Smith</td>
</tr>
<tr>
<td>Teri Asarito</td>
<td>Geri Driscoll</td>
</tr>
<tr>
<td>David Eisenberg</td>
<td></td>
</tr>
</tbody>
</table>

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### About Deloitte’s Life Sciences and Health Care Practice

Deloitte and its subsidiaries have approximately 312,000 professionals with a single focus: serving our clients and helping them solve their toughest problems. Deloitte’s Life Sciences and Health Care practice is among the largest in the world, leveraging the extensive knowledge, skills, and experience of over 24,000 professionals in 90 countries. Our practice offers a distinctive menu of professional services delivered in an integrated approach that address all segments of the life sciences and health care industry. We work in four key business areas — audit, advisory, tax, and consulting — but our real strength comes from combining the talents of those groups to address clients’ needs. *Bloomberg Businessweek* and *Fortune* consistently rank our organization among the best places in which to work, which is good news for our talent and our clients alike. When the best people tackle the most compelling challenges, everyone wins.

If you have any questions about this publication or ways in which we can help your organization, please contact the following Deloitte industry specialists.

**Jeff Ellis**  
U.S. and Global Audit Leader — Life Sciences  
Life Sciences Industry Professional Practice Director  
Deloitte & Touche LLP  
+1 412 338 7204  
jeellis@deloitte.com

**Dennis Howell**  
Senior Consultation Partner, Accounting and Reporting Services  
Life Sciences Deputy Industry Professional Practice Director  
Deloitte & Touche LLP  
+1 203 761 3478  
dhowell@deloitte.com
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Preface

March 2020

To our clients, colleagues, and other friends:

The life sciences ecosystem encompasses a vast array of entities that discover, develop, and manufacture health care products. Such entities include pharmaceutical manufacturers; biotechnology companies; medical device, diagnostic, and medical equipment manufacturers; and service companies such as drug distributors, contract research organizations (CROs), contract manufacturing organizations (CMOs), and health technology companies.

Finance and accounting professionals in the industry face complex issues and must exercise significant judgment in applying existing rules to matters such as research and development (R&D) costs, acquisitions and divestitures, consolidation, contingencies, revenue recognition, income taxes, financial instruments, and financial statement presentation and disclosure. The 2020 edition of Deloitte’s Life Sciences Industry Accounting Guide (the “Guide”) addresses these and other relevant topics affecting the industry this year. It includes interpretive guidance, illustrative examples, recent standard-setting developments (through February 28, 2020), and key differences between U.S. GAAP and IFRS® Standards. In addition, this Guide discusses the outlook for the life sciences industry in 2020. Further, while many of the key accounting and financial reporting considerations stemming from the coronavirus disease 2019 (COVID-19) outbreak are related to topics addressed in this Guide, we encourage you to review Deloitte’s March 25, 2020, Financial Reporting Alert, which discusses accounting and financial reporting considerations associated with COVID-19 that are broadly applicable as well as those that apply specifically to the life sciences industry.

Appendix B lists the titles of standards and other literature we cited, and Appendix C defines the abbreviations we used.

This Guide is available on the Deloitte Accounting Research Tool (DART).

We hope this Guide helps you navigate the various accounting and reporting challenges you face. We encourage you to contact your Deloitte team for additional information and assistance.

Sincerely,

Jeff Ellis       Dennis Howell
U.S. and Global Audit Leader —     Senior Consultation Partner, Accounting
Life Sciences        and Reporting Services
Life Sciences Industry Professional   Life Sciences Deputy Industry Professional
          Practice Director             Practice Director
Deloitte & Touche LLP     Deloitte & Touche LLP
Chapter 6 — Contingencies and Loss Recoveries

6.1 Introduction

ASC 450 defines a contingency as an “existing condition, situation, or set of circumstances involving uncertainty . . . that will ultimately be resolved when . . . future events occur or fail to occur.” In the life sciences industry, contingencies often arise as a result of product liability issues; patent litigation cases, such as suits filed against the entity for patent infringement (e.g., generic at-risk launches); and compliance issues related to pricing, promotions, or manufacturing standards. In addition, for biotech and pharmaceutical firms, environmental issues and remediation proceedings have been the subject of considerable public and legislative discussion and initiatives. As a result, accounting standard setters such as the FASB, AICPA, and SEC have emphasized the accounting for and disclosure of environmental liabilities in the financial statements.

In the life sciences industry, a single event could trigger multiple contingencies or other elements, requiring an entity to separately evaluate each element to determine its appropriate recognition, measurement, and classification. For example, a regulatory action may result in the incurrence of incremental costs related to product recalls, leading to a change in product strategy, adjustments to customer sales allowances, or other events. Further, a litigation settlement may contain multiple elements, including cash payments, required future services, rights to IP, and other agreements or concessions between the parties.

The accounting for and disclosures about contingencies under ASC 450 differ depending on whether the contingency could result in a gain or a loss. The ASC master glossary defines a loss contingency as follows:

<table>
<thead>
<tr>
<th>ASC Master Glossary</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Loss Contingency</strong></td>
</tr>
<tr>
<td>An existing condition, situation, or set of circumstances involving uncertainty as to possible loss to an entity that will ultimately be resolved when one or more future events occur or fail to occur. The term loss is used for convenience to include many charges against income that are commonly referred to as expenses and others that are commonly referred to as losses.</td>
</tr>
</tbody>
</table>

Contingent liabilities are liabilities for which the possible loss outcome is unknown or uncertain, such as from pending litigation or product warranties. The likelihood that a liability has been incurred ranges from “remote” to “reasonably possible” to “probable.” The ASC master glossary’s definitions of these terms provide no quantitative thresholds (see below), and accordingly, entities may need to exercise judgment when applying the terms.
6.2 Loss Contingencies

Accrual of a loss contingency is required when (1) it is probable that a loss has been incurred and (2) the amount can be reasonably estimated. An entity must determine the probability of the uncertain event and demonstrate its ability to reasonably estimate the loss from it to accrue a loss contingency. Loss contingencies that do not meet both of these criteria for recognition may need to be disclosed in the financial statements.

Typically, accounting literature uses either a probability-based model or a fair value model when dealing with uncertainty related to losses. The probability-based recognition guidance in ASC 450-20 differs from that in other Codification topics that use a fair value objective to measure liabilities. Measurement of a liability at fair value requires consideration of events whose occurrence is less than probable, since “[f]air value is not an estimate of the ultimate settlement amount or the present value of an estimate of the ultimate settlement amount.” Therefore, recognition of the fair value of an obligation results in recognition of some obligations for which the likelihood of future settlement, although more than zero, is less than probable from a loss contingencies perspective.

1 Quoted from paragraph B18 in the Background Information and Basis for Conclusions of FIN 47.
### 6.2.1 Scope

All loss contingencies should be evaluated under ASC 450-20 unless the contingency is within the scope of another source of authoritative literature that specifically prescribes an alternate accounting model. The table below contains a nonexhaustive list of examples of contingencies or uncertainties that are within the scope of other authoritative literature.

<table>
<thead>
<tr>
<th>ASC Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASC 270</td>
<td>“[C]ontingencies and other uncertainties that could be expected to affect the fairness of presentation of financial data at an interim date.” (ASC 450-10-60-1)</td>
</tr>
<tr>
<td>ASC 275</td>
<td>“[D]isclosure of certain risks and uncertainties that stem from the nature of an entity's operations and from significant concentrations in certain aspects of an entity's operations, many of which are noninsured or underinsured risks.” (ASC 450-20-60-1)</td>
</tr>
<tr>
<td>ASC 340-30</td>
<td>Contingencies related to “insurance and reinsurance contracts that do not transfer insurance risk.” (ASC 450-10-60)</td>
</tr>
<tr>
<td>ASC 326</td>
<td></td>
</tr>
<tr>
<td>ASC 330-10</td>
<td></td>
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<tr>
<td>ASC 405-30</td>
<td></td>
</tr>
<tr>
<td>ASC 410-20</td>
<td></td>
</tr>
<tr>
<td>ASC 410-30</td>
<td>Environmental remediation liabilities that are otherwise not within the scope of ASC 410-20.</td>
</tr>
<tr>
<td>ASC 460-10</td>
<td></td>
</tr>
<tr>
<td>ASC 470-60</td>
<td></td>
</tr>
<tr>
<td>ASC 606-10</td>
<td></td>
</tr>
<tr>
<td></td>
<td>For contracts with customers, estimating and constraining variable consideration (e.g., a sale with a right of return) included in the transaction price.</td>
</tr>
</tbody>
</table>
### Table Continued

| ASC 610-20 | For contracts with counterparties that are not customers, estimating and constraining variable consideration included in the transaction price. |
| ASC 610-30 | When the amount of monetary assets to be received is uncertain in an involuntary conversion (destruction or damage of a nonmonetary asset). |
| ASC 710, 712, 715, and 718 | Contingencies and uncertainties related to stock issued to employees, employment-related costs, including deferred compensation contracts and withdrawal from multiemployer plans. However, certain postemployment benefits are included within the scope of ASC 450. |
| ASC 720-20 | • “[C]ontingencies associated with a multiple-year retrospectively rated insurance contract accounted for as insurance.” (ASC 450-10-60-5)  
• “[C]ontingencies related to an insurance contract or reinsurance contract that does not, despite its form, provide for indemnification of the insured or the ceding company by the insurer or reinsurer against loss or liability.” (ASC 450-20-60) |
| ASC 740-10 | Income tax uncertainty. |
| ASC 805-10 | • “[C]ontingent obligations for contractual termination benefits and curtailment losses under employee benefit plans that will be triggered by the consummation of the business combination.” (ASC 450-10-60-7)  
• Contingencies recorded at fair value, if determinable. |
| ASC 840 | “Classification effects of a provision in a lease that requires lessee indemnifications for environmental contamination caused by the lessee during its use of the property.” (ASC 450-20-60-16) |
| ASC 842 | “[V]ariable lease payments.” (ASC 450-20-60-15) |
| ASC 860-10 | “[C]ontingencies related to agreements to repurchase receivables (or to repurchase the related property) that have been sold or otherwise assigned.” (ASC 450-20-60-17) |
| ASC 944-20 and ASC 944-40 | • “[C]ontingencies associated with multiple-year retrospectively rated” contracts. (ASC 450-10-60-5)  
• “[C]ontingencies related to the risk of loss that is assumed by a property and casualty insurance entity or reinsurance entity when it issues an insurance policy covering risk of loss from catastrophes.” (ASC 450-20-60-19) |
| ASC 954-450 | “[C]ontingencies related to malpractice claims.” (ASC 450-20-60-21) |
6.2.1.1 Differentiating Between Contingent Liabilities and Contractual or Legal Liabilities

Contingent liabilities involve uncertainty about whether a loss has been incurred. The key when an entity is distinguishing between a contingent liability that is within the scope of ASC 450-20 and a contractual or legal liability is for the entity to determine whether there is uncertainty regarding whether the entity is obligated to pay another party. Contractual or legal liabilities are debts or obligations between two or more parties that are typically settled by the transfer of cash, assets, or services, and there is generally little to no uncertainty about the likelihood of occurrence of the future settlement.

Paragraph 36 of FASB Concepts Statement 6 states that a “liability has three essential characteristics: (a) it embodies a present duty or responsibility to one or more other entities that entails settlement by probable future transfer or use of assets at a specified or determinable date, on occurrence of a specified event, or on demand, (b) the duty or responsibility obligates a particular entity, leaving it little or no discretion to avoid the future sacrifice, and (c) the transaction or other event obligating the entity has already happened.”

The probability of payment is irrelevant if settlement of the liability is required by law or by contract. That is, other than deferred revenues, liabilities established by law or contract should be recorded at their stated amounts unless the guidance in U.S. GAAP requires otherwise. Section 8.8 of Deloitte’s Revenue Roadmap specifically addresses the accounting for breakage in situations in which the customer is not expected to exercise all of its contractual rights to goods or services in a revenue contract.

If an entity is required by current laws, regulations, or contracts to make a future payment associated with an event that has already occurred, that event imposes a present duty upon the entity. An entity’s uncertainty about whether an obligee will require performance does not allow the entity to choose to avoid the future sacrifice; nor does the uncertainty relieve the entity of the obligation.

When the obligating event has occurred, the probability of payment is not relevant in the determination of whether a contractual or legal obligation is a liability or a loss contingency. That is, when the obligating event has occurred, the entity has incurred a liability; accordingly, there is no contingency. This is supported by analogy to paragraph B21 in the Background Information and Basis for Conclusions of FIN 48, which states that the “Board also considered the guidance in paragraphs 26 and 36 of Concepts Statement 6 on the characteristics of an asset and a liability. The Board noted that consideration of examination risk is not consistent with the characteristics of an asset or a liability.”

In the context of uncertainty regarding income taxes, “examination risk” represents the risk that a taxing authority would examine a particular tax position. In the Background Information and Basis for Conclusions of FIN 48, the Board rejected the idea that accounts payable, for example, should be recorded on the basis of the amount that an entity would ultimately pay if the creditor filed suit to collect the liability.

This conclusion is further supported by analogy to ASC 410-20-25-15, which states that an “unambiguous requirement that gives rise to an asset retirement obligation coupled with a low likelihood of required performance still requires recognition of a liability.”
In addition, a liability is not an unasserted claim or assessment under ASC 450-20 if the satisfaction of
the liability is required by law or by contract. The existence of the law or the contract asserts the claim.
This conclusion is supported by analogy to paragraph B20 in the Background Information and Basis for
Conclusions of FIN 48, which states that the "Board considered the guidance on unasserted claims in
paragraph 38 of Statement 5 [codified in ASC 450-20-55-14 and 55-15]. The Board does not believe that
guidance is applicable to tax positions because a tax return is generally required to be filed based on the
provisions of tax law."

Once recognized, a contractual or legal liability that is not deferred revenue (i.e., a contract liability under
ASC 606) should be derecognized only once the conditions for liability derecognition in ASC 405-20-40-1
have been met.

**ASC 405-20**

**40-1** Unless addressed by other guidance (for example, paragraphs 405-20-40-3 through 40-4 or paragraphs
606-10-55-46 through 55-49), a debtor shall derecognize a liability if and only if it has been extinguished. A
liability has been extinguished if either of the following conditions is met:

- a. The debtor pays the creditor and is relieved of its obligation for the liability. Paying the creditor includes
the following:
  1. Delivery of cash
  2. Delivery of other financial assets
  3. Delivery of goods or services
  4. Reacquisition by the debtor of its outstanding debt securities whether the securities are cancelled or
     held as so-called treasury bonds.

- b. The debtor is legally released from being the primary obligor under the liability, either judicially or by the
    creditor. For purposes of applying this Subtopic, a sale and related assumption effectively accomplish
    a legal release if nonrecourse debt (such as certain mortgage loans) is assumed by a third party in
    conjunction with the sale of an asset that serves as sole collateral for that debt.

A contractual or legal liability is subject to the above liability derecognition guidance regardless of
whether an entity believes that on the basis of a probability assessment, such a liability can be settled for
less than the stated legal obligation.

Example 6-1 and 6-2 below illustrate the accounting for a liability for which payment is required by law
or contract, even though detection and settlement may be uncertain.

**Example 6-1**

**Probability Assessment Related to Sales Tax Liability for Which Payment Is Required by Law, but
Detection and Settlement Are Uncertain**

Entity Z has sold goods in Jurisdiction Y for 15 years and continues to sell them. By law, those sales would be
subject to sales tax in Y if Z had nexus there. To assess whether Z has sales tax nexus in Y and should record
a sales tax liability, Z diligently reviews prior-period sales records and interviews sales managers. Through this
analysis, Z determines and documents that sales tax nexus in Y has existed for the past 15 years. Therefore,
Z’s products have always been taxable and subject to sales tax collection; however, Z has never collected sales
tax or filed sales tax returns in Y. Entity Z has never been audited or contacted regarding a sales tax audit by
taxing authorities in Y. Entity Z believes that the risk of detection by the taxing authorities in Y is low. However,
Z believes that if the taxing authorities in Y were presented with all of the facts about Z’s activities, it is probable
that Y would assert that Z is liable for uncollected sales taxes and demand payment. Entity Z believes that Y
would settle for an amount less than the full liability.
Chapter 6 — Contingencies and Loss Recoveries

Example 6-1 (continued)

Entity Z should record a sales tax liability on the basis of its sales activities for the full amount that it is legally obligated to remit to the taxing authorities in Y. The sale of goods triggers the obligation to make the related sales tax payments. In measuring its sales tax liability, Z may not consider that the risk of detection by the taxing authorities in Y is low. Further, Z must assume that the taxing authorities in Y have all of the relevant facts about Z’s operations in Y. Interest and penalties should also be included in the estimate of the liability if the imposition of interest and penalties is required by law.

Note that some state taxing authorities may have a widely understood administrative practice and precedent in which, in the event of an examination and in the absence of a voluntary disclosure agreement, the taxing authority would look back no more than a certain number of years to determine the amount of sales tax deficiency due. Alternatively, a statute of limitations may exist. Thus, Z should evaluate whether the taxing authorities in Y will assess Z back to the first year of taxable sales (i.e., the full 15 years) or whether the liability will be limited by a statute of limitations or Y’s administrative policies. In performing this evaluation, Z must use judgment to determine what constitutes “widely understood.” If Z asserts that an administrative practice and precedent is widely understood, Z should document the basis of that assertion as well as any evidence to support it. Such evidence may include reliable knowledge of the taxing authority’s past dealings with Z on the same tax matter when the facts and circumstances were similar. An assessment of what Z believes it could negotiate as a settlement with the taxing authority would generally not represent a “widely understood” administrative practice and precedent.

Similarly, Z should also adjust its liability to the extent that its customers have paid use tax on any portion of Z's sales during any part of the look-back period. However, because the obligating event is the sale of goods, Z should not record a sales tax liability for future sales until those sales actually occur.

Entity Z should regularly assess its sales tax obligations in the jurisdictions in which it conducts business. If Z has any uncertainty about those obligations, Z might need to obtain legal opinions. Sales tax liabilities should be adjusted upward as sales are made and should be adjusted downward only when the liability is paid or otherwise extinguished. (Note that sales taxes are not within the scope of ASC 740.)

Example 6-2

Royalty Liability for Which Payment Is Required by Contract, but Detection and Settlement Are Uncertain

Company Y manufactures medical equipment and has a contractual obligation to pay, on the basis of sales volume, royalties to various patent holders. The amount of royalties paid each period is calculated by Y. In accordance with this obligation, patent holders have the right to audit Y’s sales volume, but they have rarely exercised this right.

Company Y should record a royalty liability for the full amount that it is contractually obligated to pay according to the royalty agreements. The contracts require Y to make royalty payments on the basis of sales volume. Therefore, Y is under an obligation to the patent holders as the equipment is sold (i.e., Y has a present duty to the patent holders). The liability should be adjusted upward as sales are made and should be adjusted downward only when the liability is paid or otherwise extinguished in accordance with ASC 405-20-40-1.

In a scenario whereby a patent holder cannot be located, Y should consider whether liability derecognition has occurred once the escheat laws of the relevant jurisdiction are complied with and the obligation no longer exists. Company Y's uncertainty about whether a patent holder will audit the sales volume does not allow it to avoid future payment. Finally, Y should not record a royalty liability for future sales until those sales actually occur.
6.2.1.2 Elements of a Litigation Settlement

There may be litigation settlements in which the settlement agreement includes past obligations and disputes and modifies the ongoing contractual terms of the business relationship. When accounting for a litigation settlement that also includes a separate element (such as a revenue element) and bifurcating the elements, an entity should consider a speech made by Eric West, then associate chief accountant in the SEC's Office of the Chief Accountant, at the 2007 AICPA Conference on Current SEC and PCAOB Developments. We consider the interpretive guidance shared by Mr. West to be relevant and useful to private companies in addition to SEC registrants. Mr. West summarized a settlement arrangement as follows:

[A] company pays cash and conveys licenses to a plaintiff in order to settle a patent infringement and misappropriation of trade secrets claim. In exchange for the payment and licenses given, the company receives a promise to drop the patent infringement lawsuit, a covenant not to sue with respect to the misappropriation of trade secrets claim, and a license to use the patents subject to the litigation.

Mr. West noted that the different elements of the arrangement should be identified and that this identification requires an understanding of the nature of each item. In addition to the litigation settlement component, there could also be recognizable intangible assets related to the covenant not to sue and for patent licenses received. Regarding the license to patents given to the plaintiff, Mr. West noted:

If the licenses are expected to be used by the plaintiff in their operations, it may be appropriate for the company to recognize revenue or income with a corresponding increase in litigation settlement expense. However, if the licenses are given as part of a litigation defense strategy and don't have value to the plaintiff, it seems unlikely that any revenue should be recognized.

With respect to the amount of consideration to allocate to each element of the transaction, Mr. West noted the following:

While EITF 00-21 was written for multiple element revenue arrangements, we believe that its allocation guidance is also useful to determine how to allocate consideration paid in a multiple element legal settlement. In this regard, we believe that it would be acceptable to value each element of the arrangement and allocate the consideration paid to each element using relative fair values. [Footnote omitted]

Although Mr. West’s speech refers to the separation guidance in the multiple-element guidance in EITF 00-21 (subsequently codified in ASC 605-25), which has been superseded by ASC 606, we believe that it is still appropriate for an entity to consider the principles of separation of performance obligations within the revenue guidance in ASC 606 for similar fact patterns as described by Mr. West. ASC 606 includes guidance on how to allocate consideration to different elements of a contract with a customer that are partially within the scope of ASC 606 and partially within the scope of another topic, as shown below.
A contract with a customer may be partially within the scope of this Topic and partially within the scope of other Topics listed in paragraph 606-10-15-2.

a. If the other Topics specify how to separate and/or initially measure one or more parts of the contract, then an entity shall first apply the separation and/or measurement guidance in those Topics. An entity shall exclude from the transaction price the amount of the part (or parts) of the contract that are initially measured in accordance with other Topics and shall apply paragraphs 606-10-32-28 through 32-41 to allocate the amount of the transaction price that remains (if any) to each performance obligation within the scope of this Topic and to any other parts of the contract identified by paragraph 606-10-15-4(b).

b. If the other Topics do not specify how to separate and/or initially measure one or more parts of the contract, then the entity shall apply the guidance in this Topic to separate and/or initially measure the part (or parts) of the contract.

Connecting the Dots

In an agreement that contains a settlement of a litigation component and a revenue contract with a customer, an entity should bifurcate the revenue element and the nonrevenue element (i.e., litigation) and allocate the consideration to both elements in a manner consistent with Mr. West's remarks and ASC 606. There may be situations in which the entity has clear, compelling evidence that there is little to no value related to the litigation settlement; in those situations, the entire arrangement should be accounted for as a single element under ASC 606. When the entity determines that the entire arrangement should be accounted for as a single element under ASC 606, allocating consideration for the entire arrangement to the revenue element may be appropriate; however, we do not believe that the entity should apply the residual method, in which all proceeds are allocated to the revenue element by default.

The discussion above applies to both gain and loss contingencies that are settled by entering into a revenue contract with a customer. See Section 3.2.5 of Deloitte's Revenue Roadmap for further discussion of contracts that include both revenue and nonrevenue elements. Section 7.2.2 of the Revenue Roadmap addresses estimating stand-alone selling prices, including application of the residual method.

6.2.1.3 Income Statement Classification for Settlements With Customers and Vendors

When determining the appropriate income statement classification of a litigation settlement when the settlement counterparty is a customer, the entity should first look to the guidance on consideration payable to a customer in ASC 606-10-32-25 through 32-27 to determine whether the consideration is for a distinct good or service for which the entity can reasonably estimate fair value and, if so, classify such settlement payments in accordance with applicable U.S. GAAP. For example, a litigation element may be accounted for in accordance with ASC 450, or inventory purchases may be accounted for in accordance with ASC 330.
If settlement consideration payable to a customer is in exchange for a distinct good or service but the fair value cannot be reasonably estimated, the settlement consideration should be recognized as a reduction in transaction price. For example, in a litigation settlement with a customer, an entity may determine that an element of the consideration pertains to settling the litigation and therefore is representative of a distinct benefit. The entity may have historical experience in settling similar cases and therefore may be able to readily determine the distinct litigation settlement benefit; however, unless the entity can reasonably estimate the fair value of the litigation settlement element, the entire settlement amount should be accounted for as a reduction in transaction price. For additional information regarding consideration payable to a customer, see Section 6.5 of Deloitte’s Revenue Roadmap.

Connecting the Dots
In certain circumstances, life sciences entities may need to exercise significant judgment in determining whether a litigation settlement involves a customer. For example, when the plaintiff is a governmental entity and the life sciences entity participates in governmental programs (e.g., Medicare or Medicaid), the life sciences entity (1) should consider whether the payment made to the governmental entity represents a payment made to a customer and (2) is encouraged to document its judgments related to income statement classification of the settlement contemporaneously.

Similarly, regarding classification of the settlement when payments are received from a vendor, entities should consider ASC 705-20, as discussed in Section 6.5.2.1 of Deloitte’s Revenue Roadmap, as well as the gain contingency recognition guidance, as discussed below and in Chapter 3 of Deloitte’s Contingencies Roadmap.

6.2.2 Recognition

<table>
<thead>
<tr>
<th>ASC 450-20</th>
</tr>
</thead>
<tbody>
<tr>
<td>25-1 When a loss contingency exists, the likelihood that the future event or events will confirm the loss or impairment of an asset or the incurrence of a liability can range from probable to remote. As indicated in the definition of contingency, the term loss is used for convenience to include many charges against income that are commonly referred to as expenses and others that are commonly referred to as losses. The Contingencies Topic uses the terms probable, reasonably possible, and remote to identify three areas within that range.</td>
</tr>
<tr>
<td>25-2 An estimated loss from a loss contingency shall be accrued by a charge to income if both of the following conditions are met:</td>
</tr>
<tr>
<td>a. Information available before the financial statements are issued or are available to be issued (as discussed in Section 855-10-25) indicates that it is probable that an asset had been impaired or a liability had been incurred at the date of the financial statements. Date of the financial statements means the end of the most recent accounting period for which financial statements are being presented. It is implicit in this condition that it must be probable that one or more future events will occur confirming the fact of the loss.</td>
</tr>
<tr>
<td>b. The amount of loss can be reasonably estimated.</td>
</tr>
</tbody>
</table>

The purpose of those conditions is to require accrual of losses when they are reasonably estimable and relate to the current or a prior period. Paragraphs 450-20-55-1 through 55-17 and Examples 1–2 (see paragraphs 450-20-55-18 through 55-35) illustrate the application of the conditions. As discussed in paragraph 450-20-50-5, disclosure is preferable to accrual when a reasonable estimate of loss cannot be made. Further, even losses that are reasonably estimable shall not be accrued if it is not probable that an asset has been impaired or a liability has been incurred at the date of an entity's financial statements because those losses relate to a future period rather than the current or a prior period. Attribution of a loss to events or activities of the current or prior periods is an element of asset impairment or liability incurrence.
When an entity obtains information before the financial statements are issued or available to be issued indicating that it is probable that a future event will confirm a financial statement loss that occurred on or before the date of the financial statements, the entity should accrue such a loss contingency provided that the loss can be reasonably estimated.

A contingent liability is not recognized when either (1) it is not probable that a future event will confirm that a loss had been incurred on or before the date of the financial statements or (2) the amount of the loss is not reasonably estimable. The entity should carefully evaluate whether appropriate disclosure is necessary to keep the financial statements from being misleading.

For an entity to recognize a loss contingency, ASC 450 requires that it be probable that one or more future events will occur or fail to occur, thereby confirming a loss. ASC 450-20-20 categorizes loss contingencies on the basis of the likelihood of occurrence as follows:

<table>
<thead>
<tr>
<th><strong>ASC 450-20 — Glossary</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Probable</strong></td>
</tr>
<tr>
<td>The future event or events are likely to occur.</td>
</tr>
<tr>
<td><strong>Reasonably Possible</strong></td>
</tr>
<tr>
<td>The chance of the future event or events occurring is more than remote but less than likely.</td>
</tr>
<tr>
<td><strong>Remote</strong></td>
</tr>
<tr>
<td>The chance of the future event or events occurring is slight.</td>
</tr>
</tbody>
</table>

Although ASC 450-20-20 defines each of those terms, it provides no quantitative thresholds. The word “probable” is not intended to require virtual certainty before a loss is accrued. However, “likely to occur” is a higher threshold than “more likely than not,” which is generally considered to be a minimum of a 50.1 percent chance of occurrence.

“Probable” is discussed in paragraph 49 of the Background information and Basis for Conclusions of FASB Statement 114:

“[P]robable’ . . . has, in the case of banks, come to mean ‘virtually certain,’ rather than ‘more likely than not,’” and “the ‘probable’ requirement as it is sometimes applied has unduly delayed loss recognition . . . of problem assets.” The Board did not intend “probable” to mean “virtually certain to occur.” The Statement 5 definition of probable states that “the future event or events are likely to occur” (emphasis added). The Board recognizes that application of the term probable in practice requires judgment, and to clarify its intent the Board has reiterated the guidance in paragraph 84 of Statement 5 in paragraph 10 of this Statement. The term probable is used in this Statement consistent with its use in Statement 5. This Statement does not specify how a creditor should determine that it is probable that it will be unable to collect all amounts due according to a loan’s contractual terms.

The application of a probable threshold is also addressed in ASU 2014-15, which discusses “probable” in the context of determining what constitutes substantial doubt about an entity’s ability to continue as a going concern. Further, ASU 2014-15 observes that “probable” in the ASC master glossary’s definition of “substantial doubt about an entity’s ability to continue as a going concern” carries the same meaning that it does in ASC 450’s definition of the word. The ASU’s general discussion of a Board member’s dissenting view indicates, in part:

As mentioned in paragraph BC17, a commonly cited academic paper (Boritz, 1991) noted that the threshold for the substantial doubt likelihood of an entity being unable to meet its obligations is between 50 and 70 percent. The guidance in this Update increases that threshold to probable, which many assert as being in the 70–75 percent range.
While we believe that diversity in practice exists related to what percentage likelihood of an event’s occurrence entities consider “probable” to represent, we generally believe that in a manner consistent with the discussion in ASU 2014-15, the use of “probable” would require at least a 70 percent chance of occurrence.

A loss contingency is recognized only when the likelihood of a future event’s occurrence indicates that it is probable that a loss has occurred (under the assumption that the loss contingency is also reasonably estimable). If the likelihood of a future event’s occurrence is only reasonably possible, entities should provide appropriate disclosures as required under ASC 450-20-50, although loss accrual is not appropriate. For events for which the likelihood that a loss has been incurred is remote, recognition is not appropriate and disclosure is not required under ASC 450-20; however, entities should use judgment in determining whether omitting disclosures would cause the financial statements to be misleading. For additional discussion of disclosure considerations, see Section 6.2.5 below and Section 2.8 of Deloitte’s Contingencies Roadmap.

Entities may need to consider various factors and apply considerable judgment in determining the likelihood of occurrence of a future event or the nonoccurrence of a future event that will confirm whether a loss has been incurred on the date of the financial statements. Specifically, in the case of class action lawsuits or litigation, entities may need to consider (among other things) the opinion of in-house or external legal counsel, the entity’s history and experience with similar cases, prior case law, how the entity intends to respond, and the nature of the settlement mechanism.

6.2.2.1 Litigation, Claims, and Assessments

A common uncertainty that many life sciences entities will encounter is the risk of litigation. Class actions, product liabilities, lawsuits, and actions brought by government agencies are not uncommon, and an entity may need to accrue or disclose contingencies related to the risk of such litigation (e.g., the potential future obligation to pay an uncertain amount as a result of past activities) in the financial statements.

Adverse consequences of litigation could include the obligation to pay damages, the imposition of fines and penalties, the need to repay consideration from a revenue contract that was previously received, and even discontinuation of certain operations. Further, the entire nature of the entity may change as a result of the litigation (e.g., the entity may seek protection from the litigation through bankruptcy).

Types of litigation that an entity may face include the following:

- Antitrust.
- Restraint of trade.
- Breach of contract.
- Patent infringement.
- Product liability.
- Violation of federal securities laws.
- Government actions.
- Discrimination.
- Environmental protection matters.
- Violation of wage and price guidelines or controls.
• Renegotiation of government contracts.
• Income tax disputes.
• Violation of other laws and regulations (e.g., the Foreign Corrupt Practices Act).

In determining whether an accrual is required in connection with litigation, claims, and assessments, an entity should consider various factors that include, but are not limited to, the following:

• The nature of the settlement mechanism — The parties involved may have agreed to use a settlement mechanism other than the court system that is binding on the parties. Accordingly, it is necessary to evaluate, on the basis of the specific facts and circumstances, the ability of the party that is subject to an adverse legal judgment to appeal the matter.

• The progress of the case — If the planned appeal is not the entity's first appeal of an adverse judgment (i.e., the entity has been unsuccessful in prior appeals of the judgment), the entity should consider the results, findings, or both of the earlier rulings when assessing its evidence for and against liability recognition.

• The opinions or views of legal counsel and other advisers:
  • A legal analysis usually will include counsel's opinion regarding the likelihood that the entity will prevail on appeal. For example, a legal opinion may state counsel's belief that the entity's chance for a successful appeal is probable, more likely than not, or reasonably possible. The terms "probable" and "reasonably possible" do not have precise quantitative thresholds and may be interpreted and applied differently by different parties, as described above. The entity's management should understand the meaning of such terms and how they are being used in a legal opinion related to the entity's specific facts and circumstances to compare management's assertions about the likelihood of success on appeal with those of counsel.
  • Management should review the basis for counsel's conclusions and assess whether the reasons cited by counsel to support its assessment are consistent with the evidence used by the entity to support its decision about whether to record a loss contingency.
  • Management should fully consider any qualifications or conditions that counsel identified as affecting its assessment. In interpreting language used by counsel to explain its conclusion, management may find it helpful to consider the guidance applicable to audits of financial statements contained in AICPA AU-C Section 620 and AU-C Section 501.
  • Counsel's opinion is a critical piece of evidence that needs to be analyzed carefully. Counsel's expression of an opinion that an entity will be successful on appeal does not, in itself, support a conclusion that an accrual of a loss is not warranted. In addition, ASC 450-20-55-12(c) notes that "the fact that legal counsel is unable to express an opinion that the outcome will be favorable to the entity should not necessarily be interpreted to mean that the condition in paragraph 450-20-25-2(a) is met." However, when the entity has received an adverse legal judgment, counsel's inability to express an opinion may leave the entity with insufficient positive evidence to overcome the judgment.

• The experience of the entity or other entities in similar cases — The prior experiences of the entity or other entities with similar litigation may provide additional evidence about the entity's likelihood of success. For example, management could consider possible outcomes specific to (1) certain jurisdictions, (2) certain courts, (3) the use of certain defense strategies, or (4) other related aspects of the litigation.

• Prior case law for similar cases — Gaining an understanding of prior case law may enable the entity to identify certain precedents that could affect the likelihood of its success.
• Management’s decision regarding how the entity intends to respond:
  ○ Although certain adverse legal judgments may be appealed, the entity's decision to appeal will depend on a variety of factors. The entity should consider its specific facts and circumstances when assessing the likelihood that it will seek an appeal.
  ○ Because an adverse legal judgment may involve multiple components, the entity should analyze each component thoroughly to determine whether a litigation accrual should be recorded. For example, the entity should determine whether it will appeal all components of the judgment or only selected components.

• The entity’s intended basis for an appeal — As discussed above, an understanding of the legal basis for the entity’s appeal, combined with a review of prior case law or the experiences of the entity or other entities in similar cases, may serve as evidence that helps the entity gauge the likelihood that it will prevail on appeal.

• The audit committee’s assessment of the entity’s opportunity for appeal — The audit committee’s assessment of the entity's opportunity for appeal, considered along with the assessments of internal or outside counsel and the entity's management, may constitute additional information about the entity’s defense strategy and its chances for success on appeal.

Example 1 in ASC 450-20-55-18 through 55-21 and Cases A through D of Example 2 in ASC 450-20-55-22 through 55-35 illustrate the accounting for various litigation scenarios.

6.2.2.2 Injury or Damage Caused by Products Sold

ASC 450-20

55-2 If it is probable that a claim resulting from injury or damage caused by a product defect will arise with respect to products or services that have been sold, accrual for losses may be appropriate. The condition in paragraph 450-20-25-2(a) would be met, for instance, with respect to a drug product or toys that have been sold if a health or safety hazard related to those products is discovered and as a result it is considered probable that liabilities have been incurred. The condition in paragraph 450-20-25-2(b) would be met if experience or other information enables the entity to make a reasonable estimate of the loss with respect to the drug product or the toys.

Life sciences entities may be subject to recalls on their products (e.g., medical devices, pharmaceutical drugs). While some product recalls are voluntary (e.g., the drug manufacturer has chosen to take the drug off the shelves or notified consumers and doctors to stop using the product or return it), other recalls may be required by law or a regulator (e.g., the FDA).

In a situation whereby a company is not otherwise required by law or a regulator to initiate a product recall, the obligating event triggering liability recognition for the costs (i.e., repurchasing inventory) associated with a voluntary product recall would generally be the announcement of the recall. Except as provided for in a warranty arrangement, a company has no legal obligation or duty associated with product design or manufacturing defects after the product is sold. Because there is no legal obligation, there is no event that gives rise to a probable loss until a recall is announced voluntarily.
Alternatively, there could be a situation in which a company concludes that on the basis of current laws or regulations, it is probable that such a law or regulation will require the company to initiate a product recall as a result of adverse events or conditions associated with the product in the distribution channel (i.e., inventory that has been sold but yet to be consumed). In such a situation, the obligating event triggering liability recognition for the costs of the recall is the existence of the current law or regulation, and liability recognition for the estimated costs of the recall would generally be required once a company has concluded that it is probable that such a law or regulation will require a recall and the associated costs can be reasonably estimated. Further, such a conclusion could be reached before formal notification by a regulator that a recall will be mandated.

The above discussion regarding the obligation associated with a product recall does not take into account those situations in which a product may have caused harm or damage that could result in potential loss against a company. In such a situation, a loss contingency would be recorded once the loss is deemed probable and reasonably estimable in accordance with ASC 450-20-25-2. Further, entities should consider whether the nature of a product recall calls into question the potential impairment of any inventory on hand.

Unless other authoritative literature requires costs incurred to fulfill product recalls to be classified in a particular manner (i.e., the guidance in ASC 606 on consideration for a product returned from a customer), they should be classified as operating costs in the financial statements because they result from an inherent business risk.

### Example 6-3

**Voluntary Recall Initiated by the Company**

Big Pharma develops and manufactures health care products, including medicines and vaccines to advance wellness, prevention, treatments, and cures. In May and June, Big Pharma distributes 25,000 bottles of a pediatric drug to various distributors. The drug is commonly used to reduce fever and relieve symptoms from conditions such as the flu and a common head cold.

In August, Big Pharma discovers that 8,500 of the bottles, specifically the 3 ounce cherry flavor, were distributed with the incorrect dosage cups. The dosage instruction provides dosing in teaspoons, while the dosage cups included in the packaging were labeled in tablespoons. Since 1 tablespoon contains 3 teaspoons, Big Pharma is concerned that the usage of the tablespoon dosage cups could result in dangerous overdoses if the cups’ labeling was overlooked.

There is no law or regulation in place requiring Big Pharma to recall the drugs for including the incorrect dosage cups. In addition, there have been no consumer lawsuits brought against Big Pharma for shipping the 3 ounce bottles of the drug in the cherry flavor with incorrect dosage cups. However, Big Pharma weighs the potential overdose risks of consumers’ overlooking the measurement metric on the dosage cup and decides to voluntary recall the product. On August 11, 20X9, Big Pharma announces the recall for the 8,500 affected bottles and will recognize a liability upon announcement of the recall for the estimated costs incurred to remove and replace the bottles from distributors and retail stores and notify consumers. Because Big Pharma was not otherwise required by law to initiate the product recall, the obligating event triggering the liability recognition is the announcement of the recall on August 11. Any liability related to potential consumer lawsuits would be accounted for according to ASC 450-20, separately from the costs Big Pharma expects to incur related to the recall.
Example 6-4

Recall Required by a Regulator

Medical Device Co. develops and manufactures infusion pumps that are sold to various hospitals and clinics. The devices are used to infuse certain medication into a patient's circulatory system.

In March, Medical Device Co. discovers that one of its products, Infusion Y, was prone to malfunction because of a faulty liquid-crystal display (LCD). Although there have been no incidences reported or litigation brought against Medical Device Co., the Infusion Y devices are unsafe for use in the LCD's current state, and if the faulty LCD were reported to the FDA, the FDA would mandate a product recall and bar Medical Device Co. from selling the Infusion Y product.

In March, Medical Device Co. announces a product recall to (1) refund the hospitals and clinics that bought the Infusion Y product and (2) reacquire all sold inventory.

Although the recall is announced in April and the regulator has not yet provided formal notification of a mandated recall for the Infusion Y product, Medical Device Co. had determined in March that it was probable that the FDA would require the company to recall the product upon discovery of the faulty LCD. Further, Medical Device Co. concluded that sufficient information was available in March to make a reasonable estimate for the cost of the recall. Accordingly, Medical Device Co. should record a liability for the product recall in March, before the April recall announcement or a regulator-mandated recall. Any liability related to potential lawsuits would be accounted for according to ASC 450-20, separately from the costs Medical Device Co. expects to incur related to the recall.

6.2.3 Measurement

**ASC 450-20**

| 30-1 | If some amount within a range of loss appears at the time to be a better estimate than any other amount within the range, that amount shall be accrued. When no amount within the range is a better estimate than any other amount, however, the minimum amount in the range shall be accrued. Even though the minimum amount in the range is not necessarily the amount of loss that will be ultimately determined, it is not likely that the ultimate loss will be less than the minimum amount. Examples 1–2 (see paragraphs 450-20-55-18 through 55-35) illustrate the application of these initial measurement standards. |

Once the recognition criteria under ASC 450-20-25-2 are met, entities should accrue the estimated loss by a charge to income. If the amount of the loss is a range, the amount that appears to be a better estimate within that range should be accrued. If no amount within the range is a better estimate, the minimum amount within the range should be accrued, even though the minimum amount may not represent the ultimate settlement amount.

The estimate of a contingent liability should be made independently from any possible claim for recovery. For example, entities may enter into certain insurance contracts to protect themselves from a litigation loss, but the presence of insurance does not relieve the entity from being the primary obligor.

6.2.3.1 Offer to Settle Litigation

Entities will often make offers to settle litigation. We believe that an offer by management to settle litigation creates a presumption that it is probable that a liability has been incurred. The settlement offer establishes a low end of the range under ASC 450-20-30-1, resulting in accrual of a liability. Withdrawal of a settlement offer before acceptance and before issuance of the financial statements generally would not change this conclusion since the existence of the offer provides evidence that the company may be willing to settle the litigation for at least that amount.
The presumption that a settlement offer triggers accrual of a liability and the establishment of a low end of the range is generally thought of as a high hurdle to overcome, and its rebuttal should be based on persuasive evidence. The evidence should substantiate that it is not probable that (1) the offer will be accepted and (2) further negotiations will lead to an out-of-court settlement for which the entity will owe payment to the counterparty. In certain circumstances, an out-of-court settlement may be the only realistic litigation strategy because a trial is deemed too risky. In such circumstances, the extension of an offer to settle out of court is a strong indicator that the entity will ultimately settle with the counterparty for an equal or greater amount. Accordingly, when an offer has been extended to settle out of court, it must be at least reasonably possible that the litigation will be settled via court proceedings or arbitration in an amount that could be higher or lower than the offer. A company that believes that the presumption has been overcome should consider consulting with its accounting advisers.

**Connecting the Dots**

An entity should carefully consider all facts and circumstances when assessing whether an “offer” has been extended to settle litigation. Questions may arise about when a formal offer has been made versus parties’ exploring potential settlement amounts. In making this determination, entities should consider whether approval from additional members of management or the board of directors is required to constitute a formal offer to settle. Further, the evidence available to substantiate that an offer does not constitute the low end of the range is often subjective, and care should be taken when the entity is evaluating whether the presumption can be overcome.

**Example 6-5**

**Offer to Settle Litigation**

Company X is in the medical device business and has been named as the defendant in a lawsuit alleging personal injury resulting from use of one of its surgical devices. After year-end but before issuance of the financial statements, X offers to settle the litigation for $10 million. The plaintiff has not responded to the offer, and X believes that if the matter ultimately goes to trial, the outcome is uncertain. Company X’s management believes that the parties are still far from deciding on a settlement value, and therefore the plaintiff is not likely to accept the offer. However, given the significant exposure X faces in a trial, it is probable that the matter will eventually be settled.

The offer to settle is significant objective evidence that it is probable that a liability has been incurred as of the date of the financial statements and that the amount of the offer constitutes the minimum amount in the range and should be accrued in the financial statements in accordance with ASC 450-20-30-1. Company X must also disclose any additional reasonably possible exposure to loss in its financial statements if the disclosure requirements in ASC 450-20-50-3 are met.

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**6.2.4 Remeasurement and Derecognition of a Contingent Liability**

**6.2.4.1 Remeasurement**

Unlike a contractual or legal liability, whose measurement is established on the basis of the contract or law, the initial and subsequent measurement of a contingent liability in accordance with ASC 450-20-30 may involve a number of judgments. These uncertainties may necessitate the continual evaluation and remeasurement of the contingent liability as new information becomes available. Such remeasurement in accordance with ASC 450-20-30 could produce an estimated amount that is lower or higher when compared with the amount previously recognized, thereby resulting in a reduction or increase, respectively, of the contingent liability. If the new information indicates a reduction of the previously recognized liability, such a reduction should not be viewed as tantamount to derecognition of the
contingent liability. That is, the remeasurement of a previously recognized contingent liability on the basis of the receipt of new information that supports a lower estimated probable loss should not be viewed as a partial derecognition of a loss whose occurrence was and continues to be considered probable; rather, it should be viewed and accounted for as a change in estimate in accordance with ASC 250.

There may also be circumstances in which sufficient and reliable data no longer are available to support an estimate that was previously made for a contingent liability whose occurrence remains probable. For example, an entity may recognize a contingent liability on the basis of an actuarial analysis of historical loss data, but the availability of settlement data during recent periods may have declined significantly because of external factors. The decrease in the availability of recent loss data may have diminished the entity's ability to reasonably estimate the amount of the previously recognized contingent liability. However, the entity may believe that it is still probable that one or more future events will confirm that a liability has been incurred. Therefore, while the entity concludes that a loss associated with the contingent liability remains probable, it will nonetheless need to assess whether the previously accrued amount continues to represent an appropriate estimate or if another estimate should be made on the basis of the recent circumstances surrounding the availability of recent data, which could result in a reduction, or even a complete reversal, of the previously recognized loss. We believe that when the entity is evaluating whether it is appropriate to remeasure a contingent liability in such a circumstance, the entity should carefully support remeasurement with compelling, and sufficiently reliable evidence that provides a reasonable basis for the entity to conclude that there has been a change in its previous judgment regarding the amount of the estimated loss to accrue. Further, clear disclosure of the change in facts and circumstances should be considered.

6.2.4.2 Derecognition When Settlement Is No Longer Considered Probable

A contingency that fails to meet one or both of the two criteria in ASC 450-20-25-2 does not reach the threshold for recognition in the financial statements. However, when those criteria have been met, questions may arise about when it is appropriate for an entity to derecognize a previously recognized contingent liability when settlement is no longer considered probable.

For example, an entity may recognize a contingent liability related to the probable incurrence of a loss because of pending litigation. Subsequently and on the basis of the facts and circumstances surrounding the litigation, the entity may conclude that such a loss is no longer considered probable, even though the matter is not subject to legal release or statute of limitations given the noncontractual nature of the contingency. In such a scenario, derecognition of the contingent liability would be reasonable given the conclusion that a loss is no longer considered probable. However, the assessment of whether a contingency is likely to occur often involves considerable subjectivity. In those cases, it may be prudent to reduce or reverse an existing accrual only when the evidence is reasonably clear or compelling that a loss is no longer considered probable. When determining the sufficiency of evidence to support derecognition, entities should consider the potential that derecognition in certain circumstances could be misleading to the users of the financial statements because it could inappropriately communicate that the liability has been extinguished when the contingency still exists. Clear disclosure of the change in the accrual and the underlying facts and circumstances should be provided.

Example 6-6 below illustrates a scenario in which derecognition of a contingent liability may be appropriate when settlement is no longer considered probable.
**Example 6-6**

**Derecognition of a Contingent Liability**

Company S is a defendant in a lawsuit filed in 20X2 by a competitor, Company Z. In 20X4, a jury finds in favor of Z and awards damages of $10 million. Company S’s management determines that it is probable that a liability has been incurred despite its intent to appeal the verdict, and S recognizes a loss in the 20X4 financial statements. In December 20X8, the appeals court sets aside the previous jury verdict and remands the case back to the lower court for another trial. Company S has obtained an opinion from its legal counsel that says S has meritorious defenses and that the outcome of the new trial is uncertain after taking into account the reasons for the findings of the appeals court. Company S therefore derecognizes the previously recognized contingent liability given that it has determined that the evidence supported a conclusion that it was no longer probable that it would incur a loss in accordance with the litigation.

Company S should ensure that it has properly disclosed the change in facts and circumstances in the financial statements. In addition, although this illustrative example is provided to present the analysis an entity may undertake to determine when to derecognize a contingent liability, as a practical matter, entities may often find it challenging to obtain sufficiently compelling evidence to support a conclusion to reverse some or all of an existing contingent liability before complete elimination of the uncertainty. Company S will need to consider the totality of evidence available, including counsel’s views.

**6.2.5 Disclosures**

**6.2.5.1 Disclosure Considerations Under ASC 450-20 and ASC 275**

Disclosures of loss contingencies required under ASC 450-20 are intended to provide the readers of financial statements with an understanding of risks and how they could potentially affect the financial statements.

Accrual accounting requires that estimates be made in current-period financial statements to reflect current events and transactions, the effects of which may not be precisely determinable until some future period. The final results may not match original expectations. Uncertainty about the outcome of future events is inherent in economics, and that fact should be understood in reading reports on economic activities, such as published financial statements. A business, to a great extent, is a function of the environment in which it operates. Thus, it can be affected by changing social, political, and economic factors. In addition, every entity is subject to uncertain future events that may affect the entity or the industry in which it operates. These uncertainties may or may not be considered contingencies as defined by ASC 450-10-20. As a result, the disclosures required by ASC 275-10-50 supplement and, in many cases, overlap the disclosures required by ASC 450-20-50.

Not all uncertainties inherent in the accounting process give rise to contingencies as that word is used in ASC 450. Estimates are required in financial statements for many of an entity’s ongoing and recurring activities. The fact that an estimate is involved does not by itself constitute the type of uncertainty referred to in the definition of a contingency in ASC 450-10-20. For example, the fact that estimates are used to allocate the known cost of a depreciable asset over the period of use by an entity does not make depreciation a contingency; the eventual expiration of the use of the asset is not uncertain. Thus, depreciation of assets is not a contingency as discussed in ASC 450-10-55-2, and depreciation should be accounted for as described in ASC 360-10-35. In addition, matters related to depreciation (e.g., recurring repairs, maintenance, and overhauls) are similarly outside the scope of ASC 450. Amounts owed for services received, such as advertising and utilities, are not contingencies even though the accrued amounts may have been estimated; there is nothing uncertain about the fact that those obligations have been incurred.
Nearly all financial statement amounts require some degree of estimation. For example, inventories stated at cost must be measured against estimated market value less an estimate for disposal, various accrued liabilities require estimation of services received or amounts due, and accounts payable are subject to future adjustment because of such possibilities as improper billing or inadequate product quality or performance. All of these amounts usually are subject to reasonable estimation. However, many lawsuits that may create a material liability are not recorded because one or both conditions for recognition of a contingent liability are not met; they are nonetheless disclosed to the extent that a loss is reasonably possible.

Neither ASC 450-20 nor any other example of authoritative literature contains definitive guidelines on measuring the difference between estimates that are affected by uncertainty that can be estimated reasonably and those that cannot be estimated reasonably. Although estimates generally include some level of uncertainty, they are not necessarily loss contingencies. Thus, estimates regarding events in the normal course of business have frequently been included in the financial statements without specific disclosure since ASC 450-20-50 requires disclosure of only contingencies. ASC 275-10-50 extends disclosure requirements to numerous risks and uncertainties, many of which are not considered contingencies.

**ASC 450-20**

**Accruals for Loss Contingencies**

**50-1** Disclosure of the nature of an accrual made pursuant to the provisions of paragraph 450-20-25-2, and in some circumstances the amount accrued, may be necessary for the financial statements not to be misleading. Terminology used shall be descriptive of the nature of the accrual, such as estimated liability or liability of an estimated amount. The term *reserve* shall not be used for an accrual made pursuant to paragraph 450-20-25-2; that term is limited to an amount of unidentified or unsegregated assets held or retained for a specific purpose. Examples 1 (see paragraph 450-20-55-18) and 2, Cases A, B, and D (see paragraphs 450-20-55-23, 450-20-55-27, and 450-20-55-32) illustrate the application of these disclosure standards.

**50-2** If the criteria in paragraph 275-10-50-8 are met, paragraph 275-10-50-9 requires disclosure of an indication that it is at least reasonably possible that a change in an entity's estimate of its probable liability could occur in the near term. Example 3 (see paragraph 450-20-55-36) illustrates this disclosure for an entity involved in litigation.

**Unrecognized Contingencies**

**50-2A** The disclosures required by paragraphs 450-20-50-3 through 50-6 do not apply to loss contingencies arising from an entity's recurring estimation of its allowance for credit losses. (See paragraph 310-10-50-21.)

**Pending Content (Transition Guidance: ASC 326-10-65-1)**

**50-2A** The disclosures required by paragraphs 450-20-50-3 through 50-6 do not apply to credit losses on instruments within the scope of Topic 326 on measurement of credit losses. (See paragraph 310-10-50-21.)

**50-3** Disclosure of the contingency shall be made if there is at least a reasonable possibility that a loss or an additional loss may have been incurred and either of the following conditions exists:

a. An accrual is not made for a loss contingency because any of the conditions in paragraph 450-20-25-2 are not met.

b. An exposure to loss exists in excess of the amount accrued pursuant to the provisions of paragraph 450-20-30-1.

Examples 1–3 (see paragraphs 450-20-55-18 through 55-37) illustrate the application of these disclosure standards.
### ASC 450-20 (continued)

**50-4** The disclosure in the preceding paragraph shall include both of the following:

a. The nature of the contingency  
b. An estimate of the possible loss or range of loss or a statement that such an estimate cannot be made.

**50-5** Disclosure is preferable to accrual when a reasonable estimate of loss cannot be made. For example, disclosure shall be made of any loss contingency that meets the condition in paragraph 450-20-25-2(a) but that is not accrued because the amount of loss cannot be reasonably estimated (the condition in paragraph 450-20-25-2(b)). Disclosure also shall be made of some loss contingencies that do not meet the condition in paragraph 450-20-25-2(a) — namely, those contingencies for which there is a reasonable possibility that a loss may have been incurred even though information may not indicate that it is probable that an asset had been impaired or a liability had been incurred at the date of the financial statements.

**50-6** Disclosure is not required of a loss contingency involving an unasserted claim or assessment if there has been no manifestation by a potential claimant of an awareness of a possible claim or assessment unless both of the following conditions are met:

a. It is considered probable that a claim will be asserted.  
b. There is a reasonable possibility that the outcome will be unfavorable.

**50-7** Disclosure of noninsured or underinsured risks is not required by this Subtopic. However, disclosure in appropriate circumstances is not discouraged.

### ASC 275-10

**50-7** Various Topics require disclosures about uncertainties addressed by those Topics. In particular, Subtopic 450-20 specifies disclosures to be made about contingencies that exist at the date of the financial statements. In addition to disclosures required by Topic 450 and other accounting Topics, this Subtopic requires disclosures regarding estimates used in the determination of the carrying amounts of assets or liabilities or in disclosure of gain or loss contingencies, as described below.

**50-8** Disclosure regarding an estimate shall be made when known information available before the financial statements are issued or are available to be issued (as discussed in Section 855-10-25) indicates that both of the following criteria are met:

a. It is at least reasonably possible that the estimate of the effect on the financial statements of a condition, situation, or set of circumstances that existed at the date of the financial statements will change in the near term due to one or more future confirming events.  
b. The effect of the change would be material to the financial statements.

**50-9** The disclosure shall indicate the nature of the uncertainty and include an indication that it is at least reasonably possible that a change in the estimate will occur in the near term. If the estimate involves a loss contingency covered by Subtopic 450-20, the disclosure also shall include an estimate of the possible loss or range of loss, or state that such an estimate cannot be made. Disclosure of the factors that cause the estimate to be sensitive to change is encouraged but not required. The words reasonably possible need not be used in the disclosures required by this Subtopic.
ASC 275-10 (continued)

50-11 This Subtopic's disclosure requirements are separate from and do not change in any way the disclosure requirements or criteria of Topic 450; rather, the disclosures required under this Subtopic supplement the disclosures required under that Topic as follows:

a. If an estimate (including estimates that involve contingencies covered by Topic 450) meets the criteria for disclosure under paragraph 275-10-50-8, this Subtopic requires disclosure of an indication that it is at least reasonably possible that a change in the estimate will occur in the near term; Topic 450 does not distinguish between near-term and long-term contingencies.

b. An estimate that does not involve a contingency covered by Topic 450, such as estimates associated with long-term operating assets and amounts reported under profitable long-term contracts, may meet the criteria in paragraph 275-10-50-8. This Subtopic requires disclosure of the nature of the estimate and an indication that it is at least reasonably possible that a change in the estimate will occur in the near term.

50-12 If a loss contingency meets the criteria for disclosure under both Topic 450 and paragraph 275-10-50-8, this Subtopic requires disclosure that it is at least reasonably possible that future events confirming the fact of the loss or the change in the estimated amount of the loss will occur in the near term.

In addition to the primary disclosures required under ASC 450-20, ASC 275 requires certain additional disclosure requirements when it is reasonably possible that a change in estimate will occur in the near term. The disclosure requirements under ASC 450-20 and ASC 275 are summarized below.

<table>
<thead>
<tr>
<th>Possibility That a Loss Has Been Incurred</th>
<th>Ability to Estimate a Loss</th>
<th>Disclosure Requirements of ASC 450-20 and ASC 275</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reasonably possible</td>
<td>May or may not be reasonably estimable</td>
<td>Disclose all of the following:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• “The nature of the contingency” (e.g., a description of the patent infringement). See ASC 450-20-50-4(a).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• “An estimate of the possible loss or range of loss or a statement that such an estimate cannot be made.” See ASC 450-20-50-4(b).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• A statement indicating that it is at least reasonably possible that the estimated amount of the loss will change in the near term if (1) “[i]t is at least reasonably possible that the estimate . . . will change in the near term’ and (2) “the effect of the change would be material.” See ASC 275-10-50-8.</td>
</tr>
<tr>
<td>Probable</td>
<td>Not reasonably estimable</td>
<td>Disclose both of the following:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• “The nature of the contingency” (e.g., a description of the patent infringement). See ASC 450-20-50-4(a).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• A statement that the amount of the loss cannot be reasonably estimated. See ASC 450-20-50-4(b).</td>
</tr>
</tbody>
</table>
### Possibility That a Loss Has Been Incurred | Ability to Estimate a Loss | Disclosure Requirements of ASC 450-20 and ASC 275
--- | --- | ---
Probable | Reasonably estimable | Disclose all of the following:
- “The nature of the contingency” (e.g., a description of the patent infringement). “The term reserve shall not be used for an accrual made pursuant to paragraph 450-20-25-2; that term is limited to an amount of unidentified or unsegregated assets held or retained for a specific purpose.” See ASC 450-20-50-1 and ASC 450-20-50-4(a).
- The total amount of the loss that has been recognized (if such disclosure is required to ensure that the financial statements are not misleading). See ASC 450-20-50-1.
- A statement indicating that it is at least reasonably possible that the estimated amount of the loss will change in the near term if (1) “it is at least reasonably possible that the estimate . . . will change in the near term” and (2) “the effect of the change would be material.” See ASC 275-10-50-8.
- The exposure to loss in excess of the amount accrued under ASC 410-30 if there is at least a reasonable possibility that such excess loss may have been incurred. The disclosure should include both of the following:
  - “The nature of the contingency.”
  - “An estimate of the possible loss or range of loss or a statement that such an estimate cannot be made.” See ASC 450-20-50-3 and 50-4.

Remote | Not reasonably estimable | No specific disclosure requirements related to remote contingencies; however, disclosures may be provided if their omission could cause the financial statements to be misleading.

### SEC Considerations
ASC 450-20-50-4 requires disclosures about the nature of any material contingency, including the amounts that might be paid, if a loss is at least reasonably possible. In addition, SEC Regulation S-K, Item 303, requires discussion of items that might affect a company’s liquidity or financial position in the future, including contingent liabilities.

The SEC staff has consistently commented on and challenged registrants’ compliance with the disclosure requirements in ASC 450-20. For example, Scott Taub, then deputy chief accountant in the SEC’s Office of the Chief Accountant, noted the following in a speech at the 2004 AICPA Conference on Current SEC and PCAOB Developments:

Given [the requirement to record an accrual if payment is both probable and estimable and the requirement to disclose the nature of any material contingency, including the amounts that might be paid, if a loss is at least reasonably possible], the recording of a material accrual for a contingent liability related to an event that occurred several years before should not be the first disclosure regarding that contingency. Rather, disclosures regarding the nature of the contingency and the amounts at stake should, in most cases, have already been provided. Disclosures should discuss the nature of the contingency and the possible range of losses for any item where the maximum reasonably possible loss is material. Vague or overly broad disclosures that speak merely to litigation, tax, or other risks in general, without providing any information about the specific kinds of loss contingencies being evaluated are not sufficient.
Furthermore, I should point out that Statement 5 and Interpretation 14 [codified as ASC 450-20] require accrual for probable losses of the most likely amount of the loss. While the low end of a range of possible losses is the right number if no amount within the range is more likely than any other, I find it somewhat surprising how often “zero” is the recorded loss right up until a large settlement is announced. [Footnote omitted]

The SEC staff made similar remarks at subsequent conferences, including the 2010 AICPA Conference on Current SEC and PCAOB Developments. To ensure compliance with the requirements in ASC 450-20, registrants should continually review their disclosures and update them as additional information becomes available.

Non-SEC registrants may also consider the preceding SEC staff remarks given that the disclosure objectives outlined by the staff would generally be expected to apply to the financial statements of non-SEC registrants as well.

### 6.2.5.2 Disclosure of Unasserted Claims

ASC 450-20-50-6 indicates that a disclosure of a loss contingency involving an unasserted claim is not required “unless both of the following conditions are met:

a. It is considered probable that a claim will be asserted.

b. There is a reasonable possibility that the outcome will be unfavorable.”

However, we believe that this exception is specific to unasserted claims and therefore should not be used by analogy beyond unasserted claims. An entity must evaluate all of the facts and circumstances in determining whether to disclose such a loss contingency.

### 6.2.5.3 Disclosure of Loss Contingencies Occurring After Year-End

ASC 855-10-50-2 requires an entity to disclose a nonrecognized subsequent event if it is “of such a nature that [it] must be disclosed to keep the financial statements from being misleading.” Although this is a matter of judgment, it would seem prudent for an entity to disclose any matter that could materially affect its financial position, results of operations, or trend of operations. In addition, an entity should consider disclosing any accruals made in the subsequent reporting period as a nonrecognized subsequent event within the current-period financial statements if the accruals (1) are unusual or material to earnings of the current reporting period or (2) materially affect the trend of earnings.

Disclosures about a loss or loss contingency occurring after year-end should include (1) the nature of the loss or loss contingency and (2) an estimate of the amount or range of loss or possible loss or a statement that such an estimate cannot be made. If the effect on the entity’s financial position is material, it may be useful for the entity to provide supplemental pro forma financial data reflecting the loss as if it had occurred as of the date of the financial statements.

### 6.2.6 Subsequent-Event Considerations

Entities should have processes in place to capture and evaluate events that occur after the balance sheet date but before the financial statements are issued or are available to be issued to determine whether the events should be recognized in the current-period financial statements or in the subsequent-period financial statements. This section discusses whether an entity should recognize subsequent events related to loss contingencies.

The recognition, measurement, and disclosure principles related to loss contingencies described in this chapter apply to the period after the balance sheet date but before the financial statements are issued or are available to be issued.
ASC 450-20 includes guidance related to the accounting for subsequent events. ASC 450-20-25-2(a) indicates that an entity should consider “[i]nformation available before the financial statements are issued or are available to be issued” when determining whether it is probable that an asset had been impaired or that a liability had been incurred.

**ASC 450-20**

25-2 An estimated loss from a loss contingency shall be accrued by a charge to income if both of the following conditions are met:

a. Information available before the financial statements are issued or are available to be issued (as discussed in Section 855-10-25) indicates that it is probable that an asset had been impaired or a liability had been incurred at the date of the financial statements. Date of the financial statements means the end of the most recent accounting period for which financial statements are being presented. It is implicit in this condition that it must be probable that one or more future events will occur confirming the fact of the loss.

b. The amount of loss can be reasonably estimated.

The purpose of those conditions is to require accrual of losses when they are reasonably estimable and relate to the current or a prior period. Paragraphs 450-20-55-1 through 55-17 and Examples 1–2 (see paragraphs 450-20-55-18 through 55-35) illustrate the application of the conditions. As discussed in paragraph 450-20-50-5, disclosure is preferable to accrual when a reasonable estimate of loss cannot be made. Further, even losses that are reasonably estimable shall not be accrued if it is not probable that an asset has been impaired or a liability has been incurred at the date of an entity’s financial statements because those losses relate to a future period rather than the current or a prior period. Attribution of a loss to events or activities of the current or prior periods is an element of asset impairment or liability incurrence.

25-6 After the date of an entity’s financial statements but before those financial statements are issued or are available to be issued (as discussed in Section 855-10-25), information may become available indicating that an asset was impaired or a liability was incurred after the date of the financial statements or that there is at least a reasonable possibility that an asset was impaired or a liability was incurred after that date. The information may relate to a loss contingency that existed at the date of the financial statements, for example, an asset that was not insured at the date of the financial statements. On the other hand, the information may relate to a loss contingency that did not exist at the date of the financial statements, for example, threat of expropriation of assets after the date of the financial statements or the filing for bankruptcy by an entity whose debt was guaranteed after the date of the financial statements. In none of the cases cited in this paragraph was an asset impaired or a liability incurred at the date of the financial statements, and the condition for accrual in paragraph 450-20-25-2(a) is, therefore, not met.

The guidance in ASC 450 indicates that entities should consider events that occur before the financial statements are issued or are available to be issued when determining whether it is probable that a loss event occurred before the balance sheet date. ASC 450 does not specifically address events occurring after the balance sheet date that provide additional information related to the measurement of a loss contingency; however, entities should consider the subsequent-event guidance that is codified in ASC 855-10.
ASC 855-10

Recognized Subsequent Events

Evidence About Conditions That Existed at the Date of the Balance Sheet

25-1 An entity shall recognize in the financial statements the effects of all subsequent events that provide additional evidence about conditions that existed at the date of the balance sheet, including the estimates inherent in the process of preparing financial statements. See paragraph 855-10-55-1 for examples of recognized subsequent events.

55-1 The following are examples of recognized subsequent events addressed in paragraph 855-10-25-1:

a. If the events that gave rise to litigation had taken place before the balance sheet date and that litigation is settled after the balance sheet date but before the financial statements are issued or are available to be issued, for an amount different from the liability recorded in the accounts, then the settlement amount should be considered in estimating the amount of liability recognized in the financial statements at the balance sheet date.

b. Subsequent events affecting the realization of assets, such as receivables and inventories or the settlement of estimated liabilities, should be recognized in the financial statements when those events represent the culmination of conditions that existed over a relatively long period of time. For example, a loss on an uncollectible trade account receivable as a result of a customer’s deteriorating financial condition leading to bankruptcy after the balance sheet date but before the financial statements are issued or are available to be issued ordinarily will be indicative of conditions existing at the balance sheet date. Thus, the effects of the customer’s bankruptcy filing shall be considered in determining the amount of uncollectible trade accounts receivable recognized in the financial statements at balance sheet date.

Pending Content (Transition Guidance: ASC 326-10-65-1)

55-1 The following are examples of recognized subsequent events addressed in paragraph 855-10-25-1:

a. If the events that gave rise to litigation had taken place before the balance sheet date and that litigation is settled after the balance sheet date but before the financial statements are issued or are available to be issued, for an amount different from the liability recorded in the accounts, then the settlement amount should be considered in estimating the amount of liability recognized in the financial statements at the balance sheet date.

b. Subsequent events affecting the realization of assets, such as inventories, or the settlement of estimated liabilities, should be recognized in the financial statements when those events represent the culmination of conditions that existed over a relatively long period of time.

Nonrecognized Subsequent Events

Evidence About Conditions That Did Not Exist at the Date of the Balance Sheet

25-3 An entity shall not recognize subsequent events that provide evidence about conditions that did not exist at the date of the balance sheet but arose after the balance sheet date but before financial statements are issued or are available to be issued. See paragraph 855-10-55-2 for examples of nonrecognized subsequent events.

55-2 The following are examples of nonrecognized subsequent events addressed in paragraph 855-10-25-3:

c. Settlement of litigation when the event giving rise to the claim took place after the balance sheet date but before financial statements are issued or are available to be issued

d. Loss of plant or inventories as a result of fire or natural disaster that occurred after the balance sheet date but before financial statements are issued or are available to be issued

g. Entering into significant commitments or contingent liabilities, for example, by issuing significant guarantees after the balance sheet date but before financial statements are issued or are available to be issued.
Some nonrecognized subsequent events may be of such a nature that they must be disclosed to keep the financial statements from being misleading. For such events, an entity shall disclose the following:

a. The nature of the event
b. An estimate of its financial effect, or a statement that such an estimate cannot be made.

Connecting the Dots
ASC 450 and ASC 855 provide guidance on how to evaluate events occurring after the balance sheet date. The period through which subsequent events must be evaluated differs for (1) SEC filers and “conduit bond obligor[s] for conduit debt securities that are traded in a public market (a domestic or foreign stock exchange or an over-the-counter market, including local or regional markets)” and (2) entities that are neither SEC filers nor conduit bond obligors. SEC filers and conduit bond obligors should evaluate events that occur through the date on which the financial statements are issued, whereas entities that are neither SEC filers nor conduit bond obligors should evaluate events that occur through the date on which the financial statements are available to be issued. To determine whether an entity is a conduit bond obligor, entities should consult the definitions of “SEC filer” and “conduit debt securities” in the ASC master glossary.

If an event takes place after the balance sheet date but before the financial statements are issued or are available to be issued, and the event indicates that it is probable that an asset has been impaired or a liability has been incurred as of the balance sheet date, the event is considered a recognized subsequent event. The event provides additional evidence of the loss incurred before the balance sheet date and should be reflected in the financial statements.

Examples of events that provide additional information about conditions that existed as of the balance sheet date and therefore should be accounted for as recognized subsequent events include the following:

- An unfavorable court ruling in a lawsuit. The company had previously determined that the likelihood of an unfavorable outcome would be remote or reasonably possible but now considers it probable.
- A litigation settlement that indicates a loss amount different from that previously recognized in the financial statements.
- The identification of asset misappropriation that occurred on or before the balance sheet date for which no loss had previously been recognized.

If events provide additional information that an asset had been impaired or a liability had been incurred as of the balance sheet date, but the amount of the loss cannot be reasonably estimated before the financial statements are issued or are available to be issued, the entity should consider whether disclosures are made in accordance with Section 6.2.5.1.
A loss should be recognized only when events confirm that an asset had been impaired or a liability had been incurred as of the balance sheet date. If a loss contingency that did not exist as of the balance sheet date occurs after the balance sheet date but before the financial statements are issued or are available to be issued, the entity would not recognize the loss as of the balance sheet date but may need to disclose it as a subsequent event to keep the financial statements from being misleading.

The enactment of a law that gives rise to a liability after the balance sheet date but before the financial statements are issued or are available to be issued is a nonrecognized subsequent event. The newly enacted law does not provide evidence of conditions that existed as of the balance sheet date. However, the entity should consider whether it is required to disclose the event to keep the financial statements from being misleading.

**Example 6-7**

Entity A, a public entity with a December 31, 20X1, year-end, operates in the health tech industry and is subject to proposed legislation that will impose an excise tax on software-related revenue transactions commencing on or after June 30, 20X1. The legislation is expected to be enacted after year-end but before the issuance of the financial statements. Entity A believes that because the legislation is probable and is related to revenue transactions for the year ended December 31, 20X1, a liability should be accrued. However, the obligating event in this case is the enactment of the legislation, before which A did not incur a liability even though a tax is expected to be assessed on 20X1 sales; thus, no liability should be accrued as of December 31, 20X1. Instead, the impact of the new legislation is a nonrecognized subsequent event, and A should consider whether it is required to disclose the event to keep the financial statements from being misleading.

### 6.3 Gain Contingencies

The standard for recognition of gain contingencies is substantially higher than that for recognition of loss contingencies. ASC 450-30 indicates that a gain contingency should usually not be recognized before realization.

**ASC 450-30**

**25-1** A contingency that might result in a gain usually should not be reflected in the financial statements because to do so might be to recognize revenue before its realization.

A gain contingency should not be recognized even if realization is considered probable. The notion of “probable” is relevant in accounting for a loss contingency, but it is not relevant in accounting for a gain contingency.

### 6.3.1 Scope

All gain contingencies should be evaluated under ASC 450-30-25-1 unless another source of authoritative literature specifically prescribes a different accounting model. The illustration below provides a nonexhaustive list of examples of uncertainties related to the timing or amounts of future cash flows to be received that are within the scope of other literature.
<table>
<thead>
<tr>
<th>Standard</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASC 606-10</td>
<td>Seller's estimation and constraint of estimates of the transaction price related to variable consideration (including a sale with a right of return) promised in a contract with a customer. (ASC 450-10-60-3)</td>
</tr>
<tr>
<td>ASC 610-20</td>
<td>Seller's estimation and constraint of estimates of the transaction price in a contract for the sale of a nonfinancial asset or in-substance nonfinancial asset in a contract with a party other than a customer. (ASC 450-10-60-3)</td>
</tr>
<tr>
<td>ASC 720-20</td>
<td>“[R]ecognition of insurance recoveries by an entity insured through a purchased retroactive insurance contract,” other than for core insurance operations of an insurance entity. (ASC 450-30-60-4)</td>
</tr>
<tr>
<td>ASC 805-20</td>
<td>Indemnification assets acquired as part of a business combination. If an acquirer cannot determine the acquisition-date fair value of a contingency during the measurement period, it recognizes the contingency at its estimated amount if (1) “it is probable that an asset existed or that a liability had been incurred at the acquisition date” and (2) “[t]he amount of the asset or liability can be reasonably estimated.” These requirements are similar to those in ASC 450 related to loss contingencies.</td>
</tr>
<tr>
<td>ASC 805-30</td>
<td>Contingent consideration related to the receipt of previously transferred consideration for the purchase of a business.</td>
</tr>
<tr>
<td>ASC 815-10</td>
<td>Contingent consideration arrangements accounted for as a derivative.</td>
</tr>
<tr>
<td>ASC 840-10</td>
<td>Lessor accounting for contingent rental income. (ASC 450-30-60-5)</td>
</tr>
<tr>
<td>ASC 842-30</td>
<td>Lessor accounting for variable lease payments for sales-type leases, direct financing leases, or operating leases. (ASC 450-30-60-5)</td>
</tr>
<tr>
<td>Section F.3.4 of Deloitte’s Consolidation Roadmap</td>
<td>Contingent consideration accounting by the seller upon a subsidiary’s deconsolidation or derecognition of a group of assets that is a business.</td>
</tr>
</tbody>
</table>

### 6.3.2 Application of the Gain Contingency Model

ASC 450-30-25-1 refers to the recognition of revenue “before its realization.” We believe that the realization of a gain occurs at the earlier of when the gain is realized or is realizable. This belief is based on paragraph 83 of FASB Concepts Statement 5, which states, in part:

> Revenues and gains of an enterprise during a period are generally measured by the exchange values of the assets (goods or services) or liabilities involved, and recognition involves consideration of two factors, (a) being realized or realizable and (b) being earned, with sometimes one and sometimes the other being the more important consideration.
a. **Realized or realizable.** Revenues and gains generally are not recognized until realized or realizable. Revenues and gains are realized when products (goods or services), merchandise, or other assets are exchanged for cash or claims to cash. Revenues and gains are realizable when related assets received or held are readily convertible to known amounts of cash or claims to cash. Readily convertible assets have (i) interchangeable (fungible) units and (ii) quoted prices available in an active market that can rapidly absorb the quantity held by the entity without significantly affecting the price. [Footnote omitted]

Significant judgment is often required to determine when realization of a gain has occurred. Substantially all uncertainties about the realization of a gain contingency should be resolved before the gain contingency is considered realized or realizable and recognized in the financial statements. A gain is realized when cash or a claim to cash has been received and the cash (or claim to cash) is not subject to refund or clawback. A claim to cash supporting realization of a gain will often be in the form of a receivable. Such receivables may arise through (1) legally binding contractual arrangements detailing payment terms or (2) evidence provided by an insurer that all contingencies have been resolved and that the insurer will pay the insured party’s claim with no right to repayment. It may be appropriate to recognize a gain contingency when it is realizable, although we would generally not expect this to be a common occurrence. A gain is realizable when assets received or held are readily convertible to a known amount of cash (or claim to cash).

The conclusion that (1) a gain has been realized or (2) assets are readily convertible to cash in a known amount and therefore the gain is realizable must be supported by a thorough analysis of all relevant facts and circumstances related to the gain contingency. For an entity to recognize a gain contingency, the claim to cash must meet the definition of an asset in paragraph 25 of FASB Concepts Statement 6, which states that “[a]ssets are probable future economic benefits obtained or controlled by a particular entity as a result of past transactions or events” (footnote omitted).

**Connecting the Dots**

Often, upon a litigation settlement determined by the courts or other authoritative bodies, an agreement is executed that outlines the payments to be made by one or both of the parties and the timing thereof. In these situations, there is no longer a gain contingency because the agreement represents a claim to cash, and therefore the gain has been realized. The executed agreement represents a contractual receivable since there are no contingencies remaining. The party expecting to receive cash proceeds would assess the contractual receivable for impairment.
In reaching a conclusion that a gain has been realized or is realizable, an entity should consider the nonexhaustive list of factors in the illustration below.

In addition to the factors identified above, the entity should also consider additional facts and circumstances, the nature of the agreement, and consulting with accounting advisers as further discussed below.

<table>
<thead>
<tr>
<th>Additional Facts and Circumstances</th>
<th>An entity meeting all the aforementioned criteria should consider its individual facts and circumstances to determine whether any additional factors lead it to conclude that realization or realizability has not yet occurred.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nature of the Agreement</td>
<td>An oral agreement may be legally binding in certain situations. For example, to recognize revenue within the scope of ASC 606, an entity must have a contract with a customer that is agreed to “in writing, orally, or in accordance with other customary business practices.” This requirement is based on the FASB’s conclusion that a revenue contract must be enforceable by law for an entity to recognize the rights and obligations arising from the contract. Gain contingencies, by their nature, are generally expected to occur less frequently than revenue transactions. Accordingly, it is considerably less likely that oral evidence or sufficient history establishing a customary business practice would have occurred that would constitute a legally binding contract. Therefore, we would generally expect that a written agreement would need to be in place for a gain contingency to be recognized.</td>
</tr>
<tr>
<td>Consultation With Accounting Advisers</td>
<td>Given the high recognition threshold that needs to be reached before a gain contingency should be recognized, entities may determine that consultation with their accounting advisers is warranted when evaluating exactly when realization or realizability of a gain contingency has occurred. For example, while the realization principle described above does not mandate that cash be received before realization can be deemed to have occurred, in many situations, the timing of receipt of cash may coincide with the timing of when all remaining uncertainties surrounding the gain contingency have been resolved.</td>
</tr>
</tbody>
</table>
6.3.3 Legal Disputes and Legislative or Regulatory Approval

Because of the number of uncertainties inherent in a litigation proceeding, gain contingencies resulting from favorable legal settlements generally cannot be recognized in income until cash or other forms of payment are received. Gain recognition typically is not appropriate when a favorable legal settlement remains subject to appeal or other potential reversals. Often, gain contingency recognition will be deferred even after a court rules in favor of a plaintiff.

Although an entity may be certain that it will receive proceeds from a legal settlement because there is no possibility of additional appeals, other uncertainties may remain that indicate that the gain has not yet been realized. Examples 6-8 and 6-9 below illustrate contrasting scenarios in which the ultimate amount to be received is not estimable in one case and is known in the other.

**Example 6-8**

**Legal Dispute — Cash Is Received in Escrow: Amount Not Estimable**

Company R is a plaintiff in a class action lawsuit against several drug manufacturers. After a lengthy appeals process, a final settlement is reached. The drug manufacturers place the funds in an escrow account because there is no agreement on how to allocate the settlement among the attorneys and the respective plaintiffs. Because R does not know the amount of cash to be received, gain recognition is inappropriate.

**Example 6-9**

**Legal Dispute — Cash Is Received in Escrow: Amount Known**

Assume the same facts as in Example 6-8, except that the amount to be paid to Company R and to all other plaintiffs is known. In addition, the cash has already been placed in escrow and will be paid by the court-appointed escrow holder after it performs various administrative tasks (i.e., preparing and processing the wire payments to plaintiffs). None of the other plaintiffs are contesting the outcome or allocation of the settlement. The cash is nonrefundable to the drug manufacturers, and there is no potential for appeal or reversal. Company R has not identified any additional facts or circumstances related to this gain contingency that call into question whether the gain has been realized. After consulting with its accounting advisers, R concludes that gain recognition is appropriate with the provision of sufficient disclosure about the status of realization. Company R's realized claim to payment as detailed in the agreement would represent a contractual receivable subject to an impairment assessment.

If a legal settlement is reached but is pending regulatory or legislative approval, gain recognition is not appropriate until all required levels of regulatory and legislative approval have been obtained. This is the case even if the entity can demonstrate that the settlement meets all criteria that are evaluated by a regulatory body when it is determining whether to grant approval.

6.3.4 Gain Contingency Disclosures

ASC 450-30

50-1 Adequate disclosure shall be made of a contingency that might result in a gain, but care shall be exercised to avoid misleading implications as to the likelihood of realization.
Even if insurance proceeds resulting in a gain or other gain contingencies are not recognized in the financial statements because of unresolved uncertainties, timely disclosure of the insurance gain contingency should be considered. Disclosures might include (1) the nature of the gain contingency, including description of any remaining uncertainties; (2) the parties involved; (3) the timeline of previous events; (4) an expected timeline for resolving the remaining uncertainties; and (5) the amount of the gain contingency, including consideration of uncertainties in the determination of the amount. If the entity is unable to determine the timeline for resolution or an estimate of the amount to ultimately be realized, the factors the entity considered in making these conclusions may need to be disclosed and updated in future financial statements as additional information becomes available.

The entity should take care to avoid making misleading disclosures about the likelihood, timing, or amount of the potential gain contingency. Disclosures should also include the entity's accounting policy for the recognition of recovery proceeds of previously recognized losses as well as proceeds expected to be received in excess of previously recognized losses.

### 6.3.5 Subsequent-Event Considerations

Entities should evaluate events that occur after the balance sheet date but before the financial statements are issued or are available to be issued to determine whether the events should be recognized in the current-period financial statements or in the subsequent-period financial statements.

The recognition, measurement, and disclosure principles related to gain contingencies that are described in this section apply to the period after the balance sheet date but before the financial statements are issued or are available to be issued.

The resolution of a gain contingency that results in a gain after the balance sheet date but before the financial statements are issued or are available to be issued generally should not be considered a recognized subsequent event. ASC 855-10-15-5(c) indicates that gain contingencies “are rarely recognized after the balance sheet date but before the financial statements are issued or are available to be issued” and provides a cross-reference to ASC 450-30-25-1, which states that a “contingency that might result in a gain usually should not be reflected in the financial statements because to do so might be to recognize revenue before its realization.”

### 6.4 Loss Recoveries

#### 6.4.1 Overview

Previous sections of this chapter address the accounting for loss and gain contingencies. This section addresses the accounting for recoveries pertaining to a previously recognized financial statement loss (e.g., an impairment of an asset or incurrence of a liability), as well as recoveries from business interruption insurance. Insured losses might result from partial or full destruction of an entity's property or equipment because of fire, earthquake, hurricane, or other natural disasters, as well as losses that arise from asbestos exposure or environmental matters. Insured losses can also come in the form of insured director and officer costs as well as from fraudulent activities undertaken by employees. Loss recoveries may be received from litigation settlements, insurance proceeds, or reimbursement of an employee's fraudulent activities through liquidation of the employee's assets.
Questions may arise about how and when to account for insurance proceeds or other recoveries received. This section addresses the four accounting models that an entity should consider when determining the recognition and measurement of expected proceeds related to a recovery: (1) loss recovery model, (2) gain contingency model, (3) determinable mix of the loss recovery and gain contingency models (the “determinable mix model”), and (4) indeterminable mix of the loss recovery and gain contingency models (the “indeterminable mix model”).

<table>
<thead>
<tr>
<th>Model</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss recovery model</td>
<td>An asset for which realization is probable should be recognized only up to the amount of the previously recognized loss. The analysis of whether recovery is probable is consistent with the guidance on loss contingency recognition in Section 6.2.</td>
</tr>
<tr>
<td>Gain contingency model</td>
<td>Recovery proceeds related to a loss that has not been recognized in the financial statements should be accounted for as a gain contingency as described in Section 6.3.</td>
</tr>
<tr>
<td>Determinable mix model</td>
<td>A combination of the loss recovery and gain contingency models is applied when recovery proceeds are expected to exceed the amount of the previously recognized loss. The probable recovery proceeds equal to the amount of the recognized loss should be accounted for by using the loss recovery model. The expected proceeds in excess of the recognized loss should be accounted for by using the gain contingency model. For an entity to apply the determinable mix model, there must be a direct linkage between the recovery proceeds and the specifically identifiable recognized loss. See Section 6.4.4 for additional information.</td>
</tr>
<tr>
<td>Indeterminable mix model</td>
<td>An indeterminable mix of the loss recovery and gain contingency models results from a situation in which there is either no clear evidence that the amount of the recovery proceeds is a recovery of previously recognized losses or costs (i.e., there is no direct linkage) or the amount of the loss or costs previously incurred is not objectively quantifiable (i.e., the losses or costs are not specific, incremental, identifiable costs or losses). Under these circumstances, the application of the gain contingency model would be appropriate for the entire amount of the recovery proceeds. See Section 6.4.4 for additional information.</td>
</tr>
</tbody>
</table>

These four models are based on the loss contingency model and the gain contingency model, both of which are codified in ASC 450. In addition, the accounting for recovery proceeds builds upon ASC 450, drawing from other parts of current and superseded U.S. GAAP, including guidance on involuntary conversions (ASC 610-30); how to account for the impact of the September 11, 2001, terrorist attacks (EITF Issue 01-10); and environmental obligations (ASC 410-30). Sections 6.4.2 (below) and 6.4.3 describe how these additional sources of U.S. GAAP form the basis for the accounting for recovery proceeds.

### 6.4.2 Involuntary Conversions

Insurance is often maintained to mitigate losses in the event of property damage or casualty losses. The recognized loss and the associated recovery proceeds (through insurance proceeds or other source of recovery) are treated as two separate events and therefore two separate units of account. The principle underlying this separation, which is the basis for the accounting models described in Sections 6.4.3 and 6.4.4, is derived from the involuntary conversion guidance codified in ASC 610-30.
An involuntary conversion of a nonmonetary asset to monetary assets and the subsequent reinvestment of the monetary assets is not equivalent to an exchange transaction between an entity and another entity. The conversion of a nonmonetary asset to monetary assets is a monetary transaction, whether the conversion is voluntary or involuntary, and such a conversion differs from exchange transactions that involve only nonmonetary assets. To the extent the cost of a nonmonetary asset differs from the amount of monetary assets received, the transaction results in the realization of a gain or loss that shall be recognized.

Involuntary conversions of nonmonetary assets to monetary assets are monetary transactions for which gain or loss shall be recognized even though an entity reinvests or is obligated to reinvest the monetary assets in replacement nonmonetary assets. However, the requirement of this Subtopic with respect to gain recognition does not apply to an involuntary conversion of a last-in, first-out (LIFO) inventory for which replacement is intended but not made by year-end and the taxpayer does not recognize gain for income tax reporting purposes. Paragraph 270-10-45-6(b) provides an exception for the liquidation of a LIFO inventory at an interim date if replacement is expected by year-end. Accordingly, that exception applies to an involuntary conversion of a LIFO inventory if replacement is expected by year-end.

In some cases, a nonmonetary asset may be destroyed or damaged in one accounting period, and the amount of monetary assets to be received is not determinable until a subsequent accounting period. In those cases, gain or loss shall be recognized in accordance with Topic 450.

When a nonmonetary asset (e.g., property) is involuntarily converted to a monetary asset (e.g., an insurance receivable), an entity must recognize the effects of the monetary transaction even if the proceeds are reinvested (voluntarily or by requirement) in the replacement or repair of the nonmonetary asset. The loss of a nonmonetary asset and subsequent monetary recovery through insurance are therefore accounted for as two separate units of account.

Example 6-10

**Involuntary Conversion**

A fire destroys Company X's operating plant. Company X must write off the plant, recognizing a loss, regardless of its decision or the insurance company's requirements to use the proceeds to replace or repair the plant. Any insurance proceeds received are accounted for separate and apart from the incurred loss.

If the property or equipment is destroyed or damaged in one period and the recovery proceeds are not determinable until a subsequent period, X recognizes the loss when incurred, without consideration of the possible recognition of a monetary recovery (e.g., cash proceeds).

6.4.3 *Loss Recovery and Gain Contingency Models*

In determining whether an asset can be recognized for expected proceeds (e.g., proceeds from an insurance policy), an entity must first consider the amount of the expected proceeds in comparison to the related previously recognized loss, if any. This comparison is illustrated below in the context of the loss recovery and gain contingency models.
Although not codified, paragraph 16 of EITF Issue 01-10 notes that a gain is “a recovery of a loss not yet recognized in the financial statements or an amount recovered in excess of a loss recognized in the financial statements.” Consequently, a loss recovery could be defined as the inverse: recovery proceeds up to the amount of the financial statement loss incurred. The recognition threshold for a loss recovery is that it is probable, as indicated by ASC 410-30-35-8, which states that “an asset relating to the recovery shall be recognized only when realization of the claim for recovery is deemed probable.”

An asset related to a recovery should be recognized for a previously recognized financial statement loss when the recovery is probable. The amount greater than the previously recognized loss or a recovery of a loss not yet recognized in the financial statements should be treated as a gain contingency.

ASC 410-30 addresses the accounting for recovery proceeds related to environmental remediation liabilities. Although that guidance is specific to environmental matters, an entity should apply the recognition and measurement principles in ASC 410-30-35-8 and 35-9 when determining the appropriate recognition of other loss recoveries unrelated to environmental matters.

### ASC 410-30

**35-8** The amount of an environmental remediation liability should be determined independently from any potential claim for recovery, and an asset relating to the recovery shall be recognized only when realization of the claim for recovery is deemed probable. The term *probable* is used in this Subtopic with the specific technical meaning in paragraph 450-20-25-1.

**35-9** If the claim is the subject of litigation, a rebuttable presumption exists that realization of the claim is not probable.
A company that incurs a loss attributable to impairment of an asset or incurrence of a liability and expects to recover all or a portion of that loss through an insurance claim should record an asset for the amount considered probable of recovery from the insurance claim (not to exceed the amount of the total losses recognized). Subsequent recognition of amounts greater than an amount initially deemed probable of recovery from an insurance claim should be only of those amounts considered probable of recovery to the extent that they do not exceed actual additional covered losses or direct, incremental costs incurred to obtain the insurance recovery. Any recovery expected that is greater than covered losses or direct, incremental costs incurred represents a gain contingency and therefore requires a higher recognition threshold, as described throughout this section.

A conclusion that a potential insurance recovery is probable may involve significant judgment and should be based on all relevant facts and circumstances. Insurance proceeds that will result in a gain generally should be recognized at the earlier of when the proceeds are realized or realizable. Such insurance proceeds are realized when the insurance carrier settles the claim and no longer contests payment. Payment alone does not mean that realization has occurred if such payment is made under protest or is subject to refund. Recognition of the proceeds may be appropriate after consideration of the conditions outlined in Section 6.3.2. Further, an entity should analyze insurance proceeds accounted for as a loss recovery by applying the “probable” criterion used when determining a loss contingency (whether an asset has been impaired or a liability has been incurred), as outlined in Section 6.2.2.

SEC Considerations

The guidance in ASC 410-30-35-9 is consistent with the SEC staff's interpretive guidance in Question 2 of SAB Topic 5.Y (codified in ASC 450-20-S99-1). However, additional disclosure requirements are included in footnote 49 of that guidance, which addresses uncertainties regarding the legal sufficiency of insurance claims or solvency of insurance carriers:

The staff believes there is a rebuttable presumption that no asset should be recognized for a claim for recovery from a party that is asserting that it is not liable to indemnify the registrant. Registrants that overcome that presumption should disclose the amount of recorded recoveries that are being contested and discuss the reasons for concluding that the amounts are probable of recovery.

For an entity to determine whether its receipt of an insurance recovery is probable, the entity will most likely need to understand, among other factors, the solvency of the insurance carrier and have sufficient dialogue and historical experience with the insurer related to the type of claim in question to assess likelihood of payment. Further, consultation with legal counsel may be necessary.

6.4.4 Determinable and Indeterminable Mix Models

When there is no clear evidence that the amount of the recovery proceeds is a recovery of previously recognized losses or incremental costs (i.e., there is no direct linkage) or the amount of the loss or costs previously incurred is not objectively quantifiable (i.e., specifically identifiable), the application of the gain contingency model would be appropriate for the entire amount of the recovery proceeds. The determinable mix model, which encompasses both the loss recovery model and the gain contingency model, and the indeterminable mix model, which results in the application of the gain contingency model to probable recovery proceeds, are illustrated below.
The probable recovery proceeds equal to the amount of the recognized loss should be accounted for by using the loss recovery model. The expected proceeds in excess of the recognized loss should be accounted for by using the gain contingency model.

**Determinable Mix Model**

- **Gain Contingency**: $10 probable insurance proceeds directly related to $5 recognized loss
- **Loss Recovery**: $0
- **$5 recognized loss directly related to insurance proceeds**

* Gain contingency model for $5 proceeds in excess of $5 recognized loss.
** Loss recovery model for $5 proceeds up to $5 recognized loss.

Application of the gain contingency model for the entire amount of the probable proceeds is illustrated below.

**Indeterminable Mix Model**

- **Gain Contingency**: $10 probable insurance proceeds not directly related to $5 recognized loss
- **$0**
- **$5 recognized loss not directly related to insurance proceeds**

* Gain contingency model for all probable proceeds.

Examples 6-11 and 6-12 below illustrate the application of the determinable mix model and the indeterminable mix model.

**Example 6-11**

**Determinable Mix Model**

An earthquake destroys Company R's corporate headquarters. At the time of the earthquake, the net book value of the corporate headquarters is $350,000. Company R's insurance policy covers fair market value of the property, and R has a $50,000 deductible. In accordance with the insurance policy, the fair market value of the corporate headquarters is based on a third-party appraisal before the earthquake. Company R carefully analyzes the provisions of the insurance policy regarding the deductible. Using an external expert, R determines that the fair value of the corporate headquarters before the earthquake was $500,000.

In the same period as the earthquake, the insurance adjuster communicates to R that once the fair value is determined, an amount equal to the fair market value of the property, reduced by the deductible, will be paid to R, and the amount will not be subject to refund. Because this is a determinable mix of a loss recovery and a gain contingency, in the current period in which the earthquake occurs, R recognizes a loss of $350,000 for the net book value of the destroyed corporate headquarters and a corresponding insurance recovery receivable of $350,000. The loss recovery receivable is recognized because R concludes that it is probable that the insurance recovery will be realized.
Example 6-11 (continued)

Because it is probable that the insurance recovery will be realized and the fair value of the facility was determined to be well above the net book value of the corporate headquarters, we believe that it would be appropriate for R to recognize the entire $350,000 loss recovery in the period in which the loss on the property is recognized. In a scenario in which there is sufficient evidence to support the insurance payment (in this case, $450,000, which represents the $500,000 fair market value of the property reduced by the $50,000 deductible) will exceed the amount of recognized loss (in this case, $350,000), it would be appropriate for R to recognize an insurance recovery receivable in an amount of $350,000 and apply the deductible to the deferred gain, which represents the excess amount of fair market value over the net book value of the property.

The deferred gain is the $100,000 difference between (1) the expected insurance proceeds of $450,000 and (2) the $350,000 recognized recovery receivable. Such a gain contingency should not be recognized until all contingencies are resolved and the insurance proceeds are realized. In this example, R may conclude that the $100,000 is realized once the adjuster pays or confirms the related covered amount (the fair value of the corporate headquarters) and the amount is no longer contested or subject to refund.

Evidence to Support Probable Receipt of $350,000 Insurance Proceeds

To recognize the $350,000 recovery receivable, R considered whether it had sufficient evidence to support recognition of the full amount of the loss recovery receivable. If, for example, the external expert had determined the fair value of the corporate headquarters to be $400,000 rather than $500,000, it may have been more difficult for R to conclude that the full $350,000 loss recovery asset would have been received because there would have been no excess (i.e., cushion) of fair value over the net book value of the property. In these situations, an entity could consider consulting with its accounting advisers.

Example 6-12

Indeterminable Mix Model

Company T joins a class action lawsuit against Wholesaler Y because Y has overcharged for various service fee transactions over the past 10 years. Wholesaler Y and T enter into a settlement agreement, subject to the final approval of the claims administrator, for an estimated amount of $35 million payable to T over the next 5 years. Company T concludes that it is probable that T will receive at least $35 million from the settlement. The settlement agreement includes the recovery of actual and estimated overcharges, punitive damages, payment to avoid further cost of litigation, and payment to restore a collaborative business relationship.

The recovery of the overcharges amount is based on actual and estimated overcharges over the past 10 years. Company T is unable to determine a direct linkage between (1) what represents cost recovery of the previously recognized overcharges and (2) punitive damages. Further, Y contends in all legal proceedings that the lawsuit is without merit and that T has not previously incurred any losses. From Y’s perspective, it is settling the lawsuit to restore a collaborative business relationship rather than to repay T’s incurred losses. Accordingly, the amount of the loss previously incurred is not objectively quantifiable.

For T to characterize an amount as a loss recovery, the amount should represent the reimbursement of specific, incremental, identifiable costs previously incurred. Company T determines that it is unable to objectively determine how much of the settlement represents recovery of previously recognized overcharges. Therefore, T applies the gain contingency model to the entire amount of the settlement. Uncertainties remain regarding the settlement’s approval, and therefore, T should defer recognition of the gain until sufficient information is available for T to conclude that the gain is realized or realizable.

6.4.5 Balance Sheet Presentation — Offsetting

An entity that purchases insurance from a third-party insurer generally remains primarily obligated for insured liabilities; however, the entity should carefully evaluate the insurance contract and applicable laws. Under U.S. GAAP, offsetting assets and liabilities is appropriate only when a right of setoff exists.
ASC 210-20-20 defines the right of setoff as “a debtor’s legal right, by contract or otherwise, to discharge all or a portion of the debt owed to another party by applying against the debt an amount that the other party owes to the debtor.” A receivable for a probable insurance recovery should not be offset against the associated liability for balance sheet classification purposes unless all four of the criteria in ASC 210-20-45-1 are met.

<table>
<thead>
<tr>
<th>ASC 210-20</th>
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<tbody>
<tr>
<td><strong>45-1</strong> A right of setoff exists when all of the following conditions are met:</td>
</tr>
<tr>
<td>a. Each of two parties owes the other determinable amounts.</td>
</tr>
<tr>
<td>b. The reporting party has the right to set off the amount owed with the amount owed by the other party.</td>
</tr>
<tr>
<td>c. The reporting party intends to set off.</td>
</tr>
<tr>
<td>d. The right of setoff is enforceable at law.</td>
</tr>
</tbody>
</table>

It is not appropriate to offset insurance recoveries against liabilities recorded in accordance with ASC 450 unless the requirements of ASC 210-20 are met. In most situations, we believe that a right of setoff would not exist under ASC 210-20 because, generally, an insurance receivable and claim liability would be with different counterparties. For example, insurance proceeds received by the reporting entity are usually from a third-party insurer, whereas the contingent liability related to claim liabilities would be to a party other than the third-party insurer.

If criteria (a), (b), and (d) in ASC 210-20-45-1 are met, an offsetting presentation in the financial statements is not representationally faithful when a right to offset exists but the entity does not intend to set off, as noted in criterion (c). Acknowledgment of the intent to set off by the reporting entity and, if applicable, demonstration of the execution of the setoff in similar situations could satisfy criterion (c).

6.4.6 Income Statement Classification of Loss Recoveries and Gain Contingencies

ASC 220-30-45-1 addresses the income statement presentation related to business interruption insurance and allows an entity to “choose how to classify business interruption insurance recoveries in the statement of operations, as long as that classification is not contrary to existing generally accepted accounting principles (GAAP).” Further, ASC 410-30 provides guidance on the income statement presentation of environmental remediation costs and related recoveries, such as insurance recoveries. ASC 410-30-45-4 states that “environmental remediation-related expenses shall be reported as a component of operating income in income statements that classify items as operating or nonoperating. Credits arising from recoveries of environmental losses from other parties shall be reflected in the same income statement line.”

Although authoritative income statement classification guidance does not exist for many other types of loss recoveries, such as involuntary conversions, we believe that entities in practice have generally applied the guidance in ASC 410-30 by analogy when determining the appropriate classification of other loss recoveries.
For recoveries in which the recovery proceeds exceed the incurred loss, resulting in a gain, an entity should consider other authoritative literature, including applicable SEC requirements such as SEC Regulation S-X, when determining whether classification of the gain within the related income statement line item as the loss recovery is appropriate. Depending on the nature of the gain, entities should consider whether the appropriate classification is operating or nonoperating. We believe that entities should provide sufficient disclosure, if material, to enable a financial statement user to determine in which financial statement line item the gain has been recognized.

6.4.7 Subsequent-Event Considerations

Entities should evaluate events that occur after the balance sheet date but before the financial statements are issued or are available to be issued to determine whether the events should be recognized in the current-period financial statements or in the subsequent-period financial statements.

The recognition, measurement, and disclosure principles related to loss recoveries that are described in this chapter apply to the period after the balance sheet date but before the financial statements are issued or are available to be issued.

After the balance sheet date, there may be a recovery of a loss that exceeds the amount of a loss previously recognized on or before the balance sheet date, resulting in a gain after the balance sheet date. The recovery should be treated as two separate units of account:

- **Loss recovery** — The amount of the recovery equal to the previously recognized loss.
- **Gain contingency** — The amount of the recovery in excess of the previously recognized loss.

The recognition of these two units of account will differ in a manner that is consistent with the different loss recovery models described in this chapter. A recovery asset (e.g., a receivable) for the amount of the recovery equal to the previously recognized loss should be accounted for as a recognized or nonrecognized subsequent event in a manner that is consistent with the recognition threshold for loss contingencies.

If an event occurs after the balance sheet date but before the financial statements are issued or are available to be issued, and the event indicates that a loss recovery is probable (or the loss recovery has been received) for a loss incurred on or before the balance sheet date, the event provides additional evidence of the recovery and should be accounted for as a recognized subsequent event. Examples might include (1) the probable receipt of insurance proceeds equaling the loss incurred related to a plant that was destroyed on or before the balance sheet date or (2) proceeds from a lawsuit settlement in the amount of a previous loss incurred for litigation that arose on or before the balance sheet date.

The amount of the recovery in excess of the previously recognized loss would generally be accounted for as a nonrecognized subsequent event because to realize the gain recovery would be to recognize revenue before it is realized as described in ASC 450-30-25-1. Accounting for the two units of account by using separate recognition thresholds is consistent with the subsequent-event treatment of loss contingencies and gain contingencies discussed earlier in this chapter. Further, the treatment of the loss recovery and the gain contingency as two separate units of account is consistent with the involuntary conversion guidance in Section 6.4.2.
6.5 SEC Comment Letter Themes Related to Contingencies

The SEC staff continues to closely monitor SEC registrants' contingency disclosures, and it comments when such disclosures do not comply with U.S. GAAP or SEC rules and regulations.

The staff has continued to comment on:

- Lack of specificity regarding the nature of the matter.
- Lack of quantification of amounts accrued, if any, and possible loss or range of loss (or disclosure about why such an estimate cannot be made).
- Insufficient detail about judgments and assumptions underlying significant accruals.
- Use of unclear language in disclosures (e.g., not using terms that are consistent with accounting literature, such as “probable” or “reasonably possible”) and failure to consider the disclosure requirements of ASC 450, SAB Topic 5.Y, and SEC Regulation S-K, Item 103.
- Lack of disclosure of an accounting policy related to accounting for legal costs (when material) and uncertainties in loss contingency recoveries, including (1) whether ranges of reasonably possible losses are disclosed gross or net of anticipated recoveries from third parties, (2) risks regarding the collectibility of anticipated recoveries, and (3) the accounting policy for uncertain recoveries.

Below are examples of certain SEC staff comments that registrants in the life sciences industry and other industries have received regarding their accounting for contingencies. For more information about SEC comment letter themes that are relevant to the life sciences industry, see Deloitte's SEC Comment Letter Roadmap.

6.5.1 Loss Contingencies

Examples of SEC Comments

<table>
<thead>
<tr>
<th>Examples of SEC Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>• With respect to the cyber-security incident and related assessments and litigation, please tell us your consideration of the requirement in ASC 450-20-50-4.b. to disclose an estimate of the possible loss or range of loss or to disclose that such an estimate cannot be made.</td>
</tr>
<tr>
<td>• We note your disclosure regarding the . . . claims that the litigation trust filed against you and certain of your current and former officers and directors relating to [Matter A]. . . . Please expand your disclosure to specify your estimate of reasonably possible loss or the range of reasonably possible loss pertaining to this matter. If you have not prepared an estimate and are unable to estimate such amount or range, you must include a statement that such an estimate cannot be made to comply with FASB ASC 450-20-50-3 and 4. If this is the case, disclose the amount of damages that are being sought and which have been quantified, and identify any aspects of the litigation for which the amount of damages claimed remain unspecified. Also revise your disclosure to conform to the terminology guidance in FASB ASC 450-20-50-1, or clarify your reserve reference.</td>
</tr>
</tbody>
</table>

The SEC staff often asks about estimates of reasonably possible losses or comments when a registrant omits disclosure of a loss or range of losses because its estimates lack “precision and confidence.” If an estimate of the loss or range of losses cannot be made, the staff expects registrants to (1) disclose, in accordance with ASC 450-20-50-4, that such an estimate cannot be made and (2) demonstrate that they at least attempted to estimate the loss or range of losses before concluding that an estimate cannot be made. In such cases, the staff has commented that registrants should disclose the specific factors that limited their ability to reasonably estimate the loss or range of losses and has asked about registrants' quarterly procedures related to such estimates. The factors disclosed should be specific to the loss.
contingency in question and could include representations that (1) claims do not specify an amount of damages, (2) there are a large number of plaintiffs, or (3) the case is in its early stages.

If a registrant discusses a potential contingency in its earnings calls, the SEC staff is likely to seek more information about the contingency and to inquire about whether the related disclosures are appropriate. The staff encourages registrants to clearly disclose the “full story” regarding their loss contingencies because recognition of such contingencies requires a high degree of professional judgment. Further, the staff has noted that disclosures related to loss contingencies should be continually evaluated over time as facts and circumstances change.

The SEC staff may also ask about (1) the basis for a registrant’s accrual (e.g., factors supporting an accrual, such as trends in claims received and rejected), (2) the timing of a loss contingency’s recognition, and (3) the disclosure of a loss contingency. In addition, when a material settlement is disclosed during the period, the staff may review prior-period disclosures to determine whether such disclosures were appropriate (i.e., whether the registrant should have provided early-warning disclosures about the possibility of incurring or settling a loss in future periods to help financial statement users understand these risks and how they could potentially affect the financial statements) or whether an accrual should have been recognized in a prior period.

### 6.5.2 Litigation Contingencies

In addition to complying with ASC 450, public entities must separately meet the requirements of SEC Regulation S-K, Item 103, when disclosing litigation matters because while those requirements are similar to the requirements of ASC 450, they are not identical. Also, to address concerns related to a registrant’s contention that providing too much information may be detrimental to efforts to litigate or settle matters, the SEC staff has indicated that registrants do not need to separately disclose each asserted claim; rather, they may aggregate asserted claims in a logical manner as long as the disclosure complies with ASC 450.
Appendix B — Titles of Standards and Other Literature

The following are the titles of standards and other literature mentioned in this Guide:

**AICPA Literature**

**Accounting and Valuation Guides**
*Assets Acquired to Be Used in Research and Development Activities*
*Valuation of Privately-Held-Company Equity Securities Issued as Compensation*

**Audit and Accounting Guide**
*Revenue Recognition*

**Issues Papers**
*Identification and Discussion of Certain Financial Accounting and Reporting Issues Concerning LIFO Inventories*
*86-2, Accounting for Options*

**Other**
*AICPA Technical Q&A Section 2260.03, “Other Assets; Legal Expenses Incurred to Defend Patent Infringement Suit”*

**FASB Literature**

**ASC Topics**
*ASC 205, Presentation of Financial Statements*
*ASC 210, Balance Sheet*
*ASC 220, Income Statement — Reporting Comprehensive Income*
*ASC 230, Statement of Cash Flows*
*ASC 235, Notes to Financial Statements*
*ASC 250, Accounting Changes and Error Corrections*
*ASC 260, Earnings per Share*
*ASC 270, Interim Reporting*
*ASC 275, Risks and Uncertainties*
*ASC 280, Segment Reporting*
Appendix B — Titles of Standards and Other Literature

ASC 310, Receivables
ASC 320, Investments — Debt and Equity Securities
ASC 321, Investments — Equity Securities
ASC 323, Investments — Equity Method and Joint Ventures
ASC 326, Financial Instruments — Credit Losses
ASC 330, Inventory
ASC 340, Other Assets and Deferred Costs
ASC 350, Intangibles — Goodwill and Other
ASC 360, Property, Plant, and Equipment
ASC 405, Liabilities
ASC 410, Asset Retirement and Environmental Obligations
ASC 420, Exit or Disposal Cost Obligations
ASC 450, Contingencies
ASC 460, Guarantees
ASC 470, Debt
ASC 480, Distinguishing Liabilities From Equity
ASC 505, Equity
ASC 605, Revenue Recognition
ASC 606, Revenue From Contracts With Customers
ASC 610, Other Income
ASC 705, Cost of Sales and Services
ASC 710, Compensation — General
ASC 712, Compensation — Nonretirement Postemployment Benefits
ASC 715, Compensation — Retirement Benefits
ASC 718, Compensation — Stock Compensation
ASC 720, Other Expenses
ASC 730, Research and Development
ASC 740, Income Taxes
ASC 805, Business Combinations
ASC 808, Collaborative Arrangements
ASC 810, Consolidation
ASC 815, Derivatives and Hedging
ASC 835, Financial Instruments
ASC 840, Leases
ASC 842, Leases
ASC 845, Nonmonetary Transactions
ASC 860, Transfers and Servicing
ASC 915, Development Stage Entities
ASC 930, Extractive Activities — Mining
ASC 942, Financial Services — Depository and Lending
ASC 944, Financial Services — Insurance
ASC 946, Financial Services — Investment Companies
ASC 948, Financial Services — Mortgage Banking
ASC 954, Health Care Entities
ASC 958, Not-for-Profit Entities
ASC 960, Plan Accounting — Defined Benefit Pension Plans
ASC 985, Software

**ASUs**

ASU 2010-27, Other Expenses (Topic 720): Fees Paid to the Federal Government by Pharmaceutical Manufacturers — a consensus of the FASB Emerging Issues Task Force

ASU 2011-06, Other Expenses (Topic 720): Fees Paid to the Federal Government by Health Insurers — a consensus of the FASB Emerging Issues Task Force

ASU 2014-02, Intangibles — Goodwill and Other (Topic 350): Accounting for Goodwill — a consensus of the Private Company Council

ASU 2014-09, Revenue From Contracts With Customers (Topic 606)

ASU 2014-10, Development Stage Entities (Topic 915): Elimination of Certain Financial Reporting Requirements, Including an Amendment to Variable Interest Entities Guidance in Topic 810, Consolidation

ASU 2014-15, Presentation of Financial Statements — Going Concern (Subtopic 205-40): Disclosure of Uncertainties About an Entity’s Ability to Continue as a Going Concern

ASU 2014-16, Derivatives and Hedging (Topic 815): Determining Whether the Host Contract in a Hybrid Financial Instrument Issued in the Form of a Share Is More Akin to Debt or to Equity — a consensus of the FASB Emerging Issues Task Force

ASU 2015-14, Revenue From Contracts With Customers (Topic 606): Deferral of the Effective Date

ASU 2015-16, Business Combinations (Topic 805): Simplifying the Accounting for Measurement-Period Adjustments


ASU 2016-02, Leases (Topic 842)
Appendix B — Titles of Standards and Other Literature

ASU 2016-08, Revenue From Contracts With Customers (Topic 606): Principal Versus Agent Considerations (Reporting Revenue Gross Versus Net)

ASU 2016-09, Compensation — Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting

ASU 2016-10, Revenue From Contracts With Customers (Topic 606): Identifying Performance Obligations and Licensing

ASU 2016-11, Revenue Recognition (Topic 605) and Derivatives and Hedging (Topic 815): Rescission of SEC Guidance Because of Accounting Standards Updates 2014-09 and 2014-16 Pursuant to Staff Announcements at the March 3, 2016 EITF Meeting

ASU 2016-12, Revenue From Contracts With Customers (Topic 606): Narrow-Scope Improvements and Practical Expedients

ASU 2016-13, Financial Instruments — Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments


ASU 2016-16, Income Taxes (Topic 740): Intra-Entity Transfers of Assets Other Than Inventory

ASU 2016-17, Consolidation (Topic 810): Interests Held Through Related Parties That Are Under Common Control


ASU 2016-20, Technical Corrections and Improvements to Topic 606, Revenue From Contracts With Customers

ASU 2017-01, Business Combinations (Topic 805): Clarifying the Definition of a Business

ASU 2017-04, Intangibles — Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment

ASU 2017-05, Other Income — Gains and Losses From the Derecognition of Nonfinancial Assets (Subtopic 610-20): Clarifying the Scope of Asset Derecognition Guidance and Accounting for Partial Sales of Nonfinancial Assets

ASU 2017-11, Earnings per Share (Topic 260); Distinguishing Liabilities From Equity (Topic 480); Derivatives and Hedging (Topic 815): (Part I) Accounting for Certain Financial Instruments With Down Round Features, (Part II) Replacement of the Indefinite Deferral for Mandatorily Redeemable Financial Instruments of Certain Nonpublic Entities and Certain Mandatorily Redeemable Noncontrolling Interests With a Scope Exception

ASU 2017-12, Derivatives and Hedging (Topic 815): Targeted Improvements to Accounting for Hedging Activities

ASU 2017-13, Revenue Recognition (Topic 605), Revenue From Contracts With Customers (Topic 606), Leases (Topic 840), and Leases (Topic 842): Amendments to SEC Paragraphs Pursuant to the Staff Announcement at the July 20, 2017 EITF Meeting and Rescission of Prior SEC Staff Announcements and Observer Comments (SEC Update)

ASU 2017-14, Income Statement — Reporting Comprehensive Income (Topic 220), Revenue Recognition (Topic 605), and Revenue From Contracts With Customers (Topic 606) (SEC Update)

ASU 2018-01, Leases (Topic 842): Land Easement Practical Expedient for Transition to Topic 842

ASU 2018-07, Compensation — Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting

ASU 2018-08, Not-For-Profit Entities (Topic 958): Clarifying the Scope and the Accounting Guidance for Contributions Received and Contributions Made

ASU 2018-10, Codification Improvements to Topic 842, Leases

ASU 2018-11, Leases (Topic 842): Targeted Improvements


ASU 2018-17, Consolidation (Topic 810): Targeted Improvements to Related Party Guidance for Variable Interest Entities

ASU 2018-18, Collaborative Arrangements (Topic 808): Clarifying the Interaction Between Topic 808 and Topic 606

ASU 2018-20, Leases (Topic 842): Narrow-Scope Improvements for Lessor

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ASU 2019-04, Codification Improvements to Topic 326, Financial Instruments — Credit Losses, Topic 815, Derivatives and Hedging, and Topic 825, Financial Instruments

ASU 2019-05, Financial Instruments — Credit Losses (Topic 326): Targeted Transition Relief

ASU 2019-08, Compensation — Stock Compensation (Topic 718) and Revenue From Contracts With Customers (Topic 606): Codification Improvements — Share-Based Consideration Payable to a Customer

ASU 2019-10, Financial Instruments — Credit Losses (Topic 326), Derivatives and Hedging (Topic 815), and Leases (Topic 842): Effective Dates

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No. 6, Elements of Financial Statements

No. 8, Conceptual Framework for Financial Reporting — Chapter 8, Notes to Financial Statements
**Proposed ASUs**

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No. 2015-340, Government Assistance (Topic 832): Disclosures by Business Entities About Government Assistance

No. 2017-200, Debt (Topic 470): Simplifying the Classification of Debt in a Classified Balance Sheet (Current Versus Noncurrent)

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No. 2019-770, Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting


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IFRS 3, Business Combinations

IFRS 5, Non-Current Assets Held for Sale and Discontinued Operations

IFRS 9, Financial Statements

IFRS 10, Consolidated Financial Statements

IFRS 11, Joint Arrangements

IFRS 12, Disclosure of Interests in Other Entities

IFRS 15, Revenue From Contracts With Customers

IFRS 16, Leases

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IAS 27 (Revised 2011), Separate Financial Statements
IAS 32, Financial Instruments: Presentation
IAS 37, Provisions, Contingent Liabilities and Contingent Assets
IAS 38, Intangible Assets
IAS 40, Investment Property

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Section 163(j), “Interest; Limitation on Business Interest”
Section 199, “Income Attributable to Domestic Production Activities”
Section 382, “Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change”
Section 383, “Special Limitations on Certain Excess Credits, etc.”
Section 409A “Inclusion in Gross Income of Deferred Compensation Under Nonqualified Deferred Compensation Plans”
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Topic 2, “Other Financial Statements Required”
Topic 3, “Pro Forma Financial Information”
Topic 5, “Smaller Reporting Companies”
Topic 7, “Related Party Matters”
Topic 9, “Management’s Discussion and Analysis of Financial Position and Results of Operations (MD&A)”
Topic 10, “Emerging Growth Companies”

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Proposed Rule Release
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Item 201, “Market Price of and Dividends on the Registrant’s Common Equity and Related Stockholder Matters”
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Item 404, “Transactions With Related Persons, Promoters and Certain Control Persons”
Item 407, “Corporate Governance”
Item 503, “Prospectus Summary”
Item 601, “Exhibits”

Regulation S-X
Rule 1-02(w), “Definitions of Terms Used in Regulation S-X (17 CFR part 210); Significant Subsidiary”
Article 2, “Qualifications and Reports of Accountants”
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Rule 3-10, “Financial Statements of Guarantors and Issuers of Guaranteed Securities Registered or Being Registered”
Rule 3-14, “Special Instructions for Real Estate Operations to Be Acquired”
Rule 3-16, “Financial Statements of Affiliates Whose Securities Collateralize an Issue Registered or Being Registered”
Rule 4-08(g), “General Notes to Financial Statements: Summarized Financial Information of Subsidiaries Not Consolidated and 50 Percent or Less Owned Persons”
Rule 4-08(h), “General Notes to Financial Statements: Income Tax Expense”
Rule 4-08(n), “Accounting Policies for Certain Derivative Instruments”
Article 8, “Financial Statements of Smaller Reporting Companies”
Rule 10-01(b), “Interim Financial Statements: Other Instructions as to Content”
Article 11, “Pro Forma Financial Information”
Rule 11-01 “Presentation Requirements”

**SAB Topics**
No. 1.M, “Financial Statements; Materiality”
No. 5.A, “Expenses of Offering”
No. 5.Y, “Miscellaneous Accounting; Accounting and Disclosures Relating to Loss Contingencies”
No 11.A, “Miscellaneous Disclosure; Operating-Differential Subsidies”
No. 13, “Revenue Recognition”
No. 14.B, “Share-Based Payment; Transition From Nonpublic to Public Entity Status”
No. 14.D.1, “Certain Assumptions Used in Valuation Methods; Expected Volatility”
SAB 116, “Staff Accounting Bulletin No. 116”

**SEC Securities Act of 1933 General Rules and Regulations**
Rule 144, “Persons Deemed Not to be Engaged in a Distribution and Therefore Not Underwriters — General Guidance”

**Superseded Literature**

**EITF Issues**
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Issue 01-10, “Accounting for the Impact of the Terrorist Attacks of September 11, 2001”
Issue 02-16, “Accounting by a Customer (Including a Reseller) for Certain Consideration Received From a Vendor”
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No. 95, *Statement of Cash Flows*

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No. 123(R), *Share-Based Payment*

No. 133, *Accounting for Derivative Instruments and Hedging Activities*

No. 141, *Business Combinations*

No. 141(R), *Business Combinations*

No. 160, *Noncontrolling Interests in Consolidated Financial Statements* — an amendment of ARB No. 51
# Appendix C — Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>ABO</td>
<td>accumulated benefit obligation</td>
</tr>
<tr>
<td>AFS</td>
<td>available for sale</td>
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<tr>
<td>AI</td>
<td>artificial intelligence</td>
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<tr>
<td>AICPA</td>
<td>American Institute of Certified Public Accountants</td>
</tr>
<tr>
<td>AMT</td>
<td>alternative minimum tax</td>
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<td>API</td>
<td>active pharmaceutical ingredient</td>
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<td>APIC</td>
<td>additional paid-in capital</td>
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<td>ASC</td>
<td>FASB Accounting Standards Codification</td>
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<td>ASR</td>
<td>accelerated share repurchase</td>
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<td>ASU</td>
<td>FASB Accounting Standards Update</td>
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<td>BCF</td>
<td>beneficial conversion feature</td>
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<td>BEAT</td>
<td>base erosion anti-abuse tax</td>
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<td>BEMTA</td>
<td>base erosion minimum tax amount</td>
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<td>BPD</td>
<td>branded prescription drug</td>
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<td>CAGR</td>
<td>compound annual growth rate</td>
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<td>CAM</td>
<td>critical audit matter</td>
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<td>CCF</td>
<td>cash conversion feature</td>
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<td>CECL</td>
<td>current expected credit loss</td>
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<td>CFC</td>
<td>controlled foreign corporation</td>
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<td>CFR</td>
<td>Code of Federal Regulations</td>
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<td>CMO</td>
<td>contract manufacturing organization</td>
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<td>CODM</td>
<td>chief operating decision maker</td>
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<td>CRO</td>
<td>contract research organization</td>
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<td>CSR</td>
<td>corporate social responsibility</td>
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<tr>
<td>DTA</td>
<td>deferred tax asset</td>
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<table>
<thead>
<tr>
<th>Abbreviation</th>
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<tbody>
<tr>
<td>DTL</td>
<td>deferred tax liability</td>
</tr>
<tr>
<td>EBITDA</td>
<td>earnings before interest, taxes, depreciation, and amortization</td>
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<tr>
<td>ED</td>
<td>exposure draft</td>
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<tr>
<td>EDGAR</td>
<td>SEC electronic data gathering, analysis, and retrieval system</td>
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<td>EGC</td>
<td>emerging growth company</td>
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<td>EITF</td>
<td>Emerging Issues Task Force</td>
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<td>ESPP</td>
<td>employee stock purchase plan</td>
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<td>EU</td>
<td>European Union</td>
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<td>FASB</td>
<td>Financial Accounting Standards Board</td>
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<td>FDA</td>
<td>Food and Drug Administration</td>
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<tr>
<td>FDII</td>
<td>foreign derived intangible income</td>
</tr>
<tr>
<td>FIFO</td>
<td>first in, first out</td>
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<tr>
<td>FIN</td>
<td>FASB Interpretation</td>
</tr>
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<td>FOB</td>
<td>free on board</td>
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<td>FRM</td>
<td>SEC Division of Corporation Finance Financial Reporting Manual</td>
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<tr>
<td>FVTOCI</td>
<td>fair value through other comprehensive income</td>
</tr>
<tr>
<td>GAAP</td>
<td>generally accepted accounting principles</td>
</tr>
<tr>
<td>GILTI</td>
<td>global intangible low-taxed income</td>
</tr>
<tr>
<td>GPO</td>
<td>group purchasing organization</td>
</tr>
<tr>
<td>HFI</td>
<td>held for investment</td>
</tr>
<tr>
<td>HFS</td>
<td>held for sale</td>
</tr>
<tr>
<td>IAS</td>
<td>International Accounting Standard</td>
</tr>
<tr>
<td>IASB</td>
<td>International Accounting Standards Board</td>
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<tr>
<td>Abbreviation</td>
<td>Description</td>
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<tr>
<td>IFRIC</td>
<td>IFRS Interpretations Committee</td>
</tr>
<tr>
<td>IFRS</td>
<td>International Financial Reporting Standard</td>
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<tr>
<td>IIR</td>
<td>investigator-initiated research</td>
</tr>
<tr>
<td>IP</td>
<td>intellectual property</td>
</tr>
<tr>
<td>IPO</td>
<td>initial public offering</td>
</tr>
<tr>
<td>IPR&amp;D</td>
<td>in-process research and development</td>
</tr>
<tr>
<td>IRC</td>
<td>Internal Revenue Code</td>
</tr>
<tr>
<td>IRS</td>
<td>Internal Revenue Service</td>
</tr>
<tr>
<td>ISO</td>
<td>incentive stock option</td>
</tr>
<tr>
<td>IT</td>
<td>information technology</td>
</tr>
<tr>
<td>LCD</td>
<td>liquid-crystal display</td>
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<tr>
<td>LIBOR</td>
<td>London Interbank Offered Rate</td>
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<tr>
<td>LIFO</td>
<td>last in, first out</td>
</tr>
<tr>
<td>LLC</td>
<td>limited liability company</td>
</tr>
<tr>
<td>M&amp;A</td>
<td>merger and acquisition</td>
</tr>
<tr>
<td>MD&amp;A</td>
<td>Management's Discussion &amp; Analysis</td>
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<tr>
<td>MSL</td>
<td>medical science liaison</td>
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<tr>
<td>NFP</td>
<td>not-for-profit entity</td>
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<tr>
<td>NOL</td>
<td>net operating loss</td>
</tr>
<tr>
<td>NQSO</td>
<td>non-qualified stock option</td>
</tr>
<tr>
<td>NSO</td>
<td>nonstatutory option</td>
</tr>
<tr>
<td>OCI</td>
<td>other comprehensive income</td>
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<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
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<tr>
<td>OEM</td>
<td>original equipment manufacturer</td>
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<tr>
<td>PBE</td>
<td>public business entity</td>
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<tr>
<td>PBO</td>
<td>projected benefit obligation</td>
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<tr>
<td>PCAOB</td>
<td>Public Company Accounting Oversight Board</td>
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<tr>
<td>PCC</td>
<td>Private Company Council</td>
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<tr>
<td>PP&amp;E</td>
<td>property, plant, and equipment</td>
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<td>PRV</td>
<td>priority review voucher</td>
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<tr>
<td>PTRS</td>
<td>probability of technical and regulatory success</td>
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<tr>
<td>Q&amp;A</td>
<td>question and answer</td>
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<tr>
<td>R&amp;D</td>
<td>research and development</td>
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<tr>
<td>R&amp;E</td>
<td>research and experimentation</td>
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<tr>
<td>REMS</td>
<td>risk evaluation and mitigation strategy</td>
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<td>ROC</td>
<td>return on capital</td>
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<td>ROU</td>
<td>right of use</td>
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<td>SaaS</td>
<td>software as a service</td>
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<tr>
<td>SAB</td>
<td>Staff Accounting Bulletin</td>
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<tr>
<td>SEC</td>
<td>Securities and Exchange Commission</td>
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<tr>
<td>SME</td>
<td>small to medium-sized entity</td>
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<tr>
<td>SPPI</td>
<td>solely payments of principal and interest</td>
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<tr>
<td>SRC</td>
<td>smaller reporting entity</td>
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<tr>
<td>S&amp;P 500</td>
<td>Standard &amp; Poor's 500 Index</td>
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<tr>
<td>TD</td>
<td>Treasury Decision</td>
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<td>TRG</td>
<td>transition resource group</td>
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<td>UTB</td>
<td>unrecognized tax benefit</td>
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<tr>
<td>VIE</td>
<td>variable interest entity</td>
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<tr>
<td>VWAP</td>
<td>volume-weighted average daily market price</td>
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</tbody>
</table>
The following is a list of short references for the Acts mentioned in this Guide:

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<tr>
<th>Abbreviation</th>
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<tbody>
<tr>
<td>FAST Act</td>
<td>Fixing America's Surface Transportation Act</td>
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<td>JOBS Act</td>
<td>Jumpstart Our Business Startups Act</td>
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<td>Securities Act</td>
<td>Securities Act of 1933</td>
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<td>TCJA</td>
<td>Tax Cuts and Jobs Act of 2017</td>
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