Contingencies

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, requiring an entity to separately evaluate each contingent liability 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. In addition to providing general disclosure guidance on both gain and loss contingencies, ASC 450 discusses specific application of the guidance to unasserted claims, litigation, guarantees, and events occurring after the date of the financial statements but before their issuance, all of which are common in the life sciences industry.

ASC 450 defines a loss contingency as 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.” Accrual of an estimated loss contingency through a charge against earnings is required if it is probable that an asset has been impaired or a liability has been incurred as of the date of the financial statements and the amount of the loss can be reasonably estimated. If the estimated amount of loss is within a range of amounts, and some amount within the range of loss appears to be a better estimate than any other amount within the range, companies must accrue that amount. If no amount within the range of loss is a better estimate than any other amount, companies must accrue the minimum amount within that range of loss. Disclosure of the nature of the accrued loss
and, in some circumstances, the amount accrued may be required so that the financial statements are not misleading. With respect to unrecognized loss contingencies, ASC 450-20-50-3 and 50-4 note the following:

**ASC 450-20**

<table>
<thead>
<tr>
<th>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:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. An accrual is not made for a loss contingency because any of the conditions in paragraph 450-20-25-2 are not met.</td>
</tr>
<tr>
<td>b. An exposure to loss exists in excess of the amount accrued pursuant to the provisions of paragraph 450-20-30-1.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>50-4 The disclosure in the preceding paragraph shall include both of the following:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. The nature of the contingency</td>
</tr>
<tr>
<td>b. An estimate of the possible loss or range of loss or a statement that such an estimate cannot be made.</td>
</tr>
</tbody>
</table>

A gain contingency arises if the outcome of future events may result in a possible gain or benefit to an entity (e.g., pending litigation whose outcome would result in a benefit). Unlike a loss contingency, a gain contingency is usually not reflected in the financial statements and should not be recorded in the financial statements before the contingency is realized. However, as stated in ASC 450-30-50-1, “[a]dequate 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.”

**Industry Issues**

The Q&As in the sections below discuss guidance on contingency-related topics that frequently affect life sciences entities.

**Product Recalls**

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 the FDA or other regulators.

**Question**

How should the liability recognition criteria of ASC 450-20-25 be applied to a product recall obligation?
Answer

When the guidance in ASC 450-20 is applied to product recalls, the obligating event triggering liability recognition is the announcement of a 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 or is mandated by regulators. Product recall costs should be recorded upon announcement as an operating cost in the financial statements rather than as an extraordinary item because they result from an inherent business risk.¹

Offers to Settle Litigation

One of the major uncertainties in the life sciences industry is the risk of litigation. Class actions, individual suits, and actions brought by government agencies are not uncommon, and such contingencies may need to be accounted for or disclosed in the financial statements (e.g., a potential future obligation related to an uncertain amount resulting from past activities). With respect to pending or threatened litigation, ASC 450 requires the accrual of a loss contingency if certain criteria are met. Entities will often make offers to settle existing litigation; the accounting for the offer should be based on existing facts and circumstances associated with the litigation and related settlement.

Question

Does an offer by management to settle litigation need to be accrued in the financial statements?

Answer

An offer to settle litigation creates a strong presumption that it is probable that a liability has been incurred. The settlement offer presumably 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 indicates that a probable obligation existed as of the date of the financial statements.

In limited circumstances, it might be possible to overcome the presumption that an offer to settle litigation triggers accrual of a liability and establishes a low end of the range. However, rebutting the presumption should be a high hurdle to overcome and should be based on persuasive evidence to the contrary. At a minimum, the evidence would need to substantiate that it is remote that (1) the offer will be accepted and (2) further negotiations will lead to an out-of-court settlement. One form of such evidence could be an unequivocal representation from legal counsel. A company that believes that the presumption has been overcome should consider consulting with its accounting advisers.

¹ In January 2015, the FASB issued ASU 2015-01 to eliminate the concept of extraordinary items from U.S. GAAP. The ASU became effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2015, and early adoption was permitted if the guidance was being applied as of the beginning of the fiscal year of adoption.
Example

Company X is in the medical device business. Over the past year, X 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 annual financial statements, X offers to settle the litigation for $1 million. Management of X contends that this offer was made solely to accelerate the process of resolving the dispute. The plaintiff has not responded to the offer. Company X believes that if the matter ultimately goes to trial, the plaintiff will not prevail with its claim.

The offer to settle is 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 loss can be reasonably estimated. Company X should consider the guidance in ASC 450-20-30-1 in determining the appropriate amount to accrue. The amount of the offer establishes the low end of the range. If this amount is accrued, X must also disclose any additional exposure to loss in its financial statements if the disclosure requirements in ASC 450-20-50-3 are met.

Connecting the Dots

An entity should carefully consider all facts and circumstances when assessing whether an “offer” has been extended to settle litigation. For example, when the offer hinges on a counterparty’s performance of certain actions to which the entity believes the counterparty is not likely to agree, the entity may conclude that an offer has not been extended.

Accounting for Litigation Settlements When One or More Elements Exist

While some legal settlements in the life sciences industry involve only a single element (e.g., a claim or lawsuit over patent infringement), challenges often arise when a litigation settlement contains multiple elements.

Question

How should an entity account for a litigation settlement involving multiple elements?

Answer

An entity should identify each item given and received in the arrangement and determine whether such items should be recognized. In a speech delivered at the 2007 AICPA Conference on Current SEC and PCAOB Developments, Eric West, associate chief accountant in the SEC’s Office of the Chief Accountant, addressed how an entity should account for litigation settlements containing more than one element:

Elements of the Arrangement

To properly account for this arrangement, a company must identify each item given and received and determine whether those items should be recognized. We have found that errors generally occur when registrants don’t fully consider the nature of each item. . . .

Allocating Consideration to Each Item

An additional challenge that may arise when accounting for a litigation settlement is determining the proper allocation of consideration among the recognizable elements. While EITF [Issue] 00-21 [ASC 605-25] 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. To the extent that one of the elements of the arrangement just can’t be valued, we believe that a residual
approach may be a reasonable solution. In fact, we have found that many companies are not
able to reliably estimate the fair value of the litigation component of any settlement and have not
objected to judgments made when registrants have measured this component as a residual. In a few
circumstances companies have directly measured the value of the litigation settlement component.
[Footnote omitted]

### Example

Mr. West gave the following example of a litigation settlement:

> Assume 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.

In this arrangement, the items given include cash and licenses, and the items received include
the promise to drop the patent infringement lawsuit, the covenant not to sue, and the license
to use the patents. After identifying these items and determining whether to recognize them,
the company must use the relative fair value method or another approach (e.g., the residual
value approach if one of the elements cannot be valued) to determine the proper allocation of
consideration among the recognizable elements. Mr. West further clarified:

> In the fact pattern that I just described, the company may be able to calculate the value of
the settlement by applying a royalty rate to the revenues derived from the products sold using
the patented technology during the infringement period. Admittedly, this approach requires judgment
and we are willing to consider reasonable judgments.

### Connecting the Dots

In addition to determining the allocation of consideration to the recognized elements, life
sciences entities are also encouraged to consider the appropriate classification of litigation
settlements within their income statement, particularly when the plaintiff is a customer of the
terity. As noted in Mr. West’s speech:

In the fact pattern that I’ve talked about so far it would be appropriate to record the consideration
allocated to the litigation within operating expenses since the company did not have a prior
relationship with the plaintiff. However, we believe that a different answer may result if the plaintiff is
also a customer of the defendant. Assume a company settles a claim for over billing its customers for
an amount that is in excess of the amounts they over billed. The company believed that the excess
payment was necessary to preserve the customer relationship and had induced the customer to
settle the claim. In this case we do not believe that classification of the entire payment as a settlement
expense would be consistent with existing GAAP. Since the settlement payment was made to the
company’s customers, we believe that the payment is within the scope of EITF [Issue] 01-9. As you
may know, this EITF addresses the accounting for consideration given by a vendor to a customer.
The scope is broadly written and includes all consideration given by a vendor to a customer. It also
requires that cash consideration paid be classified as a reduction of revenues unless the vendor
receives an identifiable benefit and the fair value of that benefit can be reliably measured. In this fact
pattern, we believe that the excess amount paid to the customer represents both a payment to retain
the customer and settle the litigation. However, if the company is unable to determine the fair value of
each of these components, we believe that EITF 01-9 requires the entire payment to be classified as a
reduction of revenues. Had the company been able to directly value the litigation, classification of that
portion of the settlement payment as an expense may have been appropriate. [Footnote omitted]
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.

Accounting for Liabilities When Demand for Payment Is Not Probable, and Whether Legally or Contractually Required Liabilities Can Be Derecognized on the Basis of a Probability Assessment

In the life sciences industry, obligations to a third party, such as a customer or patent holder, may arise as a result of a law or contract that may be unknown to the third party. Such obligations (e.g., a royalty liability required by contract for the use of a patent) should not be accounted for as loss contingencies under ASC 450-20 even if the third party is unaware of the obligation and is unlikely to demand payment. Further, if an entity believes that a liability for which payment is required by law or contract will ultimately be settled for less than the stated legal obligation, the entity should not derecognize the liability (or a portion of the liability).

Question 1

Is a liability for which payment is required by law or contract a loss contingency accounted for under ASC 450-20 if it is uncertain whether the creditor is aware of the obligation and will demand payment?

Answer

No. In general, the probability of payment is irrelevant if settlement of the liability is required by law or contract. That is, other than deferred revenues, liabilities established by law or contract should be recorded at their stated amounts unless there is guidance under U.S. GAAP that requires otherwise.

Paragraph 36 of FASB Concepts Statement 6 states that a liability has the following three essential characteristics:

• “[I]t 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.”

• “[T]he duty or responsibility obligates a particular entity, leaving it little or no discretion to avoid the future sacrifice.”

• “[T]he transaction or other event obligating the entity has already happened.”

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 performance of an obligation will be required in the future does not allow the entity to choose to avoid the future sacrifice or relieve it of the obligation.
When the obligating event has occurred, the probability of payment is irrelevant to 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 conclusion is supported by analogy to paragraph B21 of the Basis for Conclusions of FASB Interpretation 48 (superseded), 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” and “noted that consideration of examination risk is not consistent with the characteristics of an asset or a liability.”

In this context, “examination risk” represents the risk that a taxing authority would examine a particular tax position. In the Basis for Conclusions of FASB Interpretation 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 contract. The existence of the law or the contract constitutes an assertion of the claim. This conclusion is supported by analogy to paragraph B20 of the Basis for Conclusions of FASB Interpretation 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]” and “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.”

**Question 2**

If an entity believes that a liability that is not deferred revenue, and for which payment is required by law or contract, will ultimately be settled for less than the stated legal obligation, can the liability be derecognized on the basis of a probability assessment of whether and, if so, when the creditor will demand payment?

**Answer**

No. ASC 405-20-40-1 states the following:

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.
Example

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 in 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 under the royalty agreements. The liability should be adjusted upward as sales are made and should be adjusted downward only when the liability is paid or otherwise extinguished.

The contract requires Y to make royalty payments on the basis of sales volume. Therefore, Y is under an obligation to the patent holder as the equipment is sold (i.e., Y has a present duty to the patent holder). Company Y’s uncertainty about whether a patent holder will audit the sales volume does not allow it to avoid future payment. Therefore, Y should not record a royalty liability for future sales until those sales actually occur. Further, if a patent holder cannot be located, the contractual liability should not be reduced until the liability derecognition guidance in ASC 405-20-40-1 has been met, which could be when the escheat laws for the particular jurisdiction are complied with and the obligation no longer exists.

Events Occurring After the Date of the Financial Statements

Information that becomes available after the balance sheet date but before issuance of the financial statements may indicate that an asset was impaired or a liability incurred before the date of the financial statements. In the life sciences industry, events that occur after the balance sheet date may serve as confirmation of a condition that existed as of the balance sheet date (e.g., the settlement of litigation that arose during prior periods covered by the financial statements and for which no liability had previously been recorded).

However, events occurring after the balance sheet date, such as the passage of new legislation, may be indicative of conditions that did not exist as of the balance sheet date. Financial statement disclosures about such events are required only if omission of such disclosures would cause the financial statements to be misleading.

Question

If legislation giving rise to a liability is enacted after the balance sheet date but before issuance of the financial statements, should a liability be accrued as of the balance sheet date?

Answer

No. The enactment of a law after the balance sheet date but before issuance of the financial statements would be accounted for as a nonrecognized subsequent event (because the newly enacted law does not provide evidence about conditions that existed as of the balance sheet date). The entity should consider whether it is required to disclose the event to keep the financial statements from being misleading.
Example

Entity A, a public entity with a December 31, 20X1, year-end, operates in the pharmaceutical industry and is subject to proposed legislation that will impose an excise tax on existing branded pharmaceuticals as of 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 balances as of a date before the balance sheet date, a liability should be accrued. However, the obligating event in this case is the enactment of the legislation, and A did not incur a liability before this event even though the tax was assessed on preexisting branded pharmaceuticals; 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.

Favorable Legal Settlements

Usually, financial statements do not reflect contingencies that might result in gains since to do so might be to recognize income before it is realized. Entities should provide adequate disclosures about contingencies that might result in gains and should be careful to avoid misleading implications regarding the likelihood of realization. The term “probable” is relevant to the accounting for a loss contingency, but it is irrelevant to the accounting for a gain contingency. Realization must be assured beyond a reasonable doubt before a gain contingency can be recognized in the financial statements. Therefore, substantially all uncertainties, if any, about the timing and amount of realization of gain contingencies should be resolved before the contingencies are recognized in the financial statements.

Question

Upon the receipt of a favorable verdict in a court case, is recognition of a gain contingency appropriate?

Answer

Because of the numerous uncertainties inherent in a litigation proceeding, gain contingencies resulting from legal settlements generally cannot be recognized in income until cash or other forms of payment are received. This threshold for recognition often results in the deferral of a gain even after a court rules in favor of a plaintiff.

Example

Company R was a plaintiff in a class action lawsuit against several drug manufacturers. After a lengthy appeals process, a settlement was reached. The funds were placed in an escrow account since an agreement had not been reached regarding the allocation of the settlement between the attorneys and each respective plaintiff. Because R does not know the timing or amount of cash to be received, gain recognition is inappropriate at this point.
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).
- Lack of disclosure or insufficient detail about what triggered a significant current-period accrual for a contingency when no loss or a significantly lower amount was accrued in prior periods (i.e., the lack of “early warning” disclosures in prior periods).
- Insufficient detail about judgments and assumptions underlying significant accruals.
- Insufficient detail about (and untimely reporting of) new developments related to loss contingencies and the effect of such developments on current and future periods.
- Inconsistency among disclosures in the footnotes, in other sections of the filing (e.g., risk factors and legal proceedings), and outside the filing (e.g., in press releases and earnings calls). In addition, if different registrants are parties to a claim, the SEC staff may also review the counterparty’s filings and comment if the information is not consistent.
- 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 in 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 pertain to the life sciences industry, see Deloitte’s November 2017 SEC Comment Letters — Including Industry Insights.

Loss Contingencies

Examples of SEC Comments

- 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.
- We note that you have evaluated your potential exposure related to [Matter A] and have established a loss contingency of $[X] to cover your probable and estimable liabilities as of September 30, 2016. If there is at least a reasonable possibility that a loss exists in excess of the amount accrued, please revise to either disclose an estimate (or, if true, state that the estimate is immaterial in lieu of providing quantified amounts) of the additional loss or range of loss or state that such an estimate cannot be made. Please refer to ASC 450-20-50-3 to 4 and include your proposed disclosures in your response.
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.

In addition, 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 SEC 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 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.

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 A — Glossary of Standards and Other Literature

The standards and other literature below were cited or linked to in this publication.

**AICPA Literature**
Accounting and Valuation Guide *Assets Acquired to Be Used in Research and Development Activities*

AICPA Issues Paper, *Identification and Discussion of Certain Financial Accounting and Reporting Issues Concerning LIFO Inventories*

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

**FASB Accounting Standards Updates (ASUs)**


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

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

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 2017-09, Compensation — Stock Compensation (Topic 718): Scope of Modification Accounting

ASU 2017-07, Compensation — Retirement Benefits (Topic 715): Improving the Presentation of Net Periodic Pension Cost and Net Periodic Postretirement Benefit Cost

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

ASU 2017-01, Business Combinations (Topic 805): Clarifying the Definition of a Business
ASU 2016-20, Technical Corrections and Improvements to Topic 606, Revenue From Contracts With Customers


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

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


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

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

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

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

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

ASU 2016-02, Leases (Topic 842)


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

ASU 2015-02, Consolidation (Topic 810): Amendments to the Consolidation Analysis

ASU 2015-01, Income Statement — Extraordinary and Unusual Items (Subtopic 225-20): Simplifying Income Statement Presentation by Eliminating the Concept of Extraordinary Items

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 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
Appendix A — Glossary of Standards and Other Literature

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

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

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 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 2010-20, Receivables (Topic 310): Disclosures About the Credit Quality of Financing Receivables and the Allowance for Credit Losses

ASU 2009-13, Revenue Recognition (Topic 605): Multiple-Deliverable Revenue Arrangements — a consensus of the FASB Emerging Issues Task Force

**FASB Accounting Standards Codification (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 280, Segment Reporting

ASC 320, Investments — Debt and Equity Securities

ASC 321, Investments — Equity Securities

ASC 323, Investments — Equity Method and Joint Ventures

ASC 325, Investments — Other

ASC 326, Financial Instruments — Credit Losses

ASC 330, Inventory

ASC 350, Intangibles — Goodwill and Other

ASC 360, Property, Plant, and Equipment

ASC 410, Asset Retirement and Environmental Obligations
ASC 420, Exit or Disposal Cost Obligations
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ASC 480, Distinguishing Liabilities From Equity
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ASC 606, Revenue From Contracts With Customers
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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 820, Fair Value Measurement
ASC 825, Financial Instruments
ASC 830, Foreign Currency Matters
ASC 840, Leases
ASC 842, Leases
ASC 845, Nonmonetary Transactions
ASC 915, Development Stage Entities
ASC 958, Not-for-Profit Entities
ASC 985, Software
**Proposed FASB Accounting Standards Updates (Proposed ASUs)**

Proposed ASU 2018-200, *Leases (Topic 842): Targeted Improvements*


FASB Proposed Accounting Standards Update 2017-280, *Consolidation (Topic 812): Reorganization*


Proposed ASU 2017-220, *Compensation — Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting*

Proposed ASU 2017-210, *Inventory (Topic 330): Disclosure Framework — Changes to the Disclosure Requirements for Inventory*

Proposed ASU 2017-200, *Debt (Topic 470): Simplifying the Classification of Debt in a Classified Balance Sheet (Current Versus Noncurrent)*


Proposed ASU 2015-310, *Notes to Financial Statements (Topic 235): Assessing Whether Disclosures Are Material*

**Other FASB Proposal**


**FASB Statements (Pre-Codification Literature)**

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Statement No. 160, *Noncontrolling Interests in Consolidated Financial Statements — an amendment of ARB No. 51*

Statement No. 141(R), *Business Combinations*

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FASB Interpretation No. 46 (revised December 2003), *Consolidation of Variable Interest Entities*
**FASB Concepts Statements**
No. 5, *Recognition and Measurement in Financial Statements of Business Enterprises*

No. 6, *Elements of Financial Statements*

**EITF Issues (Pre-Codification Literature)**
Issue 09-4, “Seller Accounting for Contingent Consideration”

Issue 08-1, “Revenue Arrangements With Multiple Deliverables”

Issue 04-5, “Determining Whether a General Partner, or the General Partners as a Group, Controls a Limited Partnership or Similar Entity When the Limited Partners Have Certain Rights”

Issue 01-9, “Accounting for Consideration Given by a Vendor to a Customer (Including a Reseller of the Vendor’s Products)”

Issue 01-8, “Determining Whether an Arrangement Contains a Lease”

Issue 00-21, “Revenue Arrangements With Multiple Deliverables”

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Non-GAAP Financial Measures

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33-10403, *Updates to Commission Guidance Regarding Accounting for Sales of Vaccines and Bioterror Countermeasures to the Federal Government for Placement Into the Pediatric Vaccine Stockpile or the Strategic National Stockpile*

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**SEC Regulation S-K**
Item 10(e), “General; Use of Non-GAAP Financial Measures in Commission Filings”

Item 103, “Business; Legal Proceedings.”

**SEC Regulation S-X**
Rule 3-05, “Financial Statements of Businesses Acquired or to Be Acquired”

Rule 3-09, “Separate Financial Statements of Subsidiaries Not Consolidated and 50 Percent or Less Owned Persons”

Rule 3-14, “Special Instructions for Real Estate Operations to Be Acquired”
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”

**SEC Staff Accounting Bulletins (SABs)**

SAB Topic 1.M, “Financial Statements; Materiality”

SAB Topic 5.Y, “Miscellaneous Accounting; Accounting and Disclosures Relating to Loss Contingencies”

SAB Topic 11.A, “Miscellaneous Disclosure; Operating-Differential Subsidies”

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SAB Topic 13.A.4, “Revenue Recognition; Selected Revenue Recognition Issues; Fixed or Determinable Sales Price”

SAB Topic 13.B, “Revenue Recognition; Disclosures”

SAB 116, “Staff Accounting Bulletin No. 116”

SAB 118, codified as SEC Staff Accounting Bulletin Topic 5.EE, “Miscellaneous Accounting; Income Tax Accounting Implications of the Tax Cuts and Jobs Act”

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IRC Section 78, “Gross Up for Deemed Paid Foreign Tax Credit”

IRC Section 163(j), “Interest; Limitation on Business Interest”

IRC Section 199, “Income Attributable to Domestic Production Activities”

IRC Section 383, “Special Limitations on Certain Excess Credits, Etc.”

IRC Section 787, “Termination of Private Foundation Status”

IRC Section 965, “Treatment of Deferred Foreign Income Upon Transition to Participation Exemption System of Taxation”

IRC Section 4191, “Medical Devices”

**International Standards**

IFRS 16, *Leases*

IFRS 15, *Revenue From Contracts With Customers*

IFRS 11, *Joint Arrangements*

IFRS 3, *Business Combinations*

IAS 20, *Accounting for Government Grants and Disclosure of Government Assistance*
## Appendix B — Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>AFS</td>
<td>available for sale</td>
</tr>
<tr>
<td>AICPA</td>
<td>American Institute of Certified Public Accountants</td>
</tr>
<tr>
<td>AMT</td>
<td>alternative minimum tax</td>
</tr>
<tr>
<td>AOCI</td>
<td>accumulated other comprehensive income</td>
</tr>
<tr>
<td>API</td>
<td>active pharmaceutical ingredient</td>
</tr>
<tr>
<td>APIC</td>
<td>additional paid-in capital</td>
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<tr>
<td>ASC</td>
<td>FASB Accounting Standards Codification</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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<tr>
<td>BEAT</td>
<td>base erosion anti-abuse tax</td>
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<tr>
<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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<tr>
<td>BOLI</td>
<td>bank-owned life insurance</td>
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<td>CAM</td>
<td>critical audit matter</td>
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<tr>
<td>C&amp;DI</td>
<td>SEC Compliance and Disclosure Interpretation</td>
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<tr>
<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>CODM</td>
<td>chief operating decision maker</td>
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<td>COLI</td>
<td>corporate-owned life insurance</td>
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<td>CRO</td>
<td>contract research organization</td>
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<tr>
<td>CTA</td>
<td>cumulative translation adjustment</td>
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<td>DCPs</td>
<td>disclosure controls and procedures</td>
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<tr>
<td>DTA</td>
<td>deferred tax asset</td>
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<tr>
<td>DTL</td>
<td>deferred tax liability</td>
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<tr>
<td>EBITDA</td>
<td>earnings before interest, taxes, depreciation, and amortization</td>
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<td>EITF</td>
<td>FASB Emerging Issues Task Force</td>
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<th>Abbreviation</th>
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<tr>
<td>E&amp;P</td>
<td>earnings and profits</td>
</tr>
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<td>EPS</td>
<td>earnings per share</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<tr>
<td>FAQ</td>
<td>frequently asked question</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>
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<tr>
<td>FIFO</td>
<td>first in, first out</td>
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<td>FIN</td>
<td>FASB Interpretation Number (superseded)</td>
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<td>FOB</td>
<td>free on board</td>
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<tr>
<td>GAAP</td>
<td>generally accepted accounting principles</td>
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<td>GILTI</td>
<td>global intangible low-taxed income</td>
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<td>GPO</td>
<td>group purchasing organization</td>
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<td>IAS</td>
<td>International Accounting Standard</td>
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<td>International Accounting Standards Board</td>
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<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>
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<tr>
<td>IPO</td>
<td>initial public offering</td>
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<tr>
<td>IPR&amp;D</td>
<td>in-process research and development</td>
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<tr>
<td>IRC</td>
<td>Internal Revenue Code</td>
</tr>
<tr>
<td>IRS</td>
<td>Internal Revenue Service</td>
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<tr>
<td>IT</td>
<td>information technology</td>
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<tr>
<td>LIFO</td>
<td>last in, first out</td>
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<tr>
<td>LLC</td>
<td>limited liability company</td>
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<td>Abbreviation</td>
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<td>--------------</td>
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<tr>
<td>LP</td>
<td>limited partnership</td>
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<tr>
<td>M&amp;A</td>
<td>merger and acquisition</td>
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<tr>
<td>MD&amp;A</td>
<td>Management’s Discussion and Analysis</td>
</tr>
<tr>
<td>MDET</td>
<td>medical device excise tax</td>
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<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>
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<tr>
<td>OCI</td>
<td>other comprehensive income</td>
</tr>
<tr>
<td>OEM</td>
<td>original equipment manufacturer</td>
</tr>
<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
</tr>
<tr>
<td>PBE</td>
<td>public business entity</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>PCD asset</td>
<td>purchased financial asset with credit deterioration</td>
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<td>PRV</td>
<td>priority review voucher</td>
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<tr>
<th>Abbreviation</th>
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<tbody>
<tr>
<td>PTRS</td>
<td>probability of technical and regulatory success</td>
</tr>
<tr>
<td>Q&amp;A</td>
<td>question and answer</td>
</tr>
<tr>
<td>R&amp;D</td>
<td>research and development</td>
</tr>
<tr>
<td>R&amp;E</td>
<td>research and experimentation</td>
</tr>
<tr>
<td>REMS</td>
<td>risk evaluation and mitigation strategy</td>
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<tr>
<td>ROU</td>
<td>right-of-use</td>
</tr>
<tr>
<td>SAB</td>
<td>SEC Staff Accounting Bulletin</td>
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<tr>
<td>SEC</td>
<td>Securities and Exchange Commission</td>
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<tr>
<td>SFC</td>
<td>specified foreign corporation</td>
</tr>
<tr>
<td>SIFMA</td>
<td>Securities Industry and Financial Markets Association</td>
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<tr>
<td>T.D.</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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<td>VIE</td>
<td>variable interest entity</td>
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<td>WAC</td>
<td>wholesaler acquisition cost</td>
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Contacts

If you have any questions about this publication, please contact the following Deloitte industry specialists:

**Chris Cooper**
U.S. Audit Leader — Life Sciences and Health Care
Deloitte & Touche LLP
+1 973 602 6623
ccooper@deloitte.com

**Jeff Ellis**
Life Sciences Industry Professional Practice Director
Deloitte & Touche LLP
+1 412 338 7204
jeellis@deloitte.com

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

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