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Technical Line

SEC – final rule

How to apply the SEC's new requirements for registered debt issued or guaranteed by subsidiaries

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What you need to know

- The SEC's new rules for registered debt securities make it easier for a registrant to qualify for an exception to the requirement that it file separate financial statements for subsidiary issuers and guarantors.
- The rules also significantly streamline, and in some cases eliminate, the disclosures a registrant must provide in lieu of the subsidiary's audited financial statements.
- The rules require certain enhanced narrative disclosures, including the terms and conditions of the guarantees and how the legal obligations of the issuer and guarantor, as well as other factors, may affect payments to holders of the debt securities.
- Affected registrants should consider how their disclosures will change and evaluate whether they need to change their processes to comply with the rules.
- The rules are effective 4 January 2021. Earlier compliance is permitted.

Overview

The Securities and Exchange Commission (SEC) has adopted **final rules** that make it easier for a registrant to qualify for an exception to the requirement to file separate audited financial statements of a subsidiary issuer or guarantor of registered debt securities. The amended rules also significantly streamline the disclosures a registrant must provide when it omits subsidiary financial statements, and they allow some companies to stop providing the disclosures earlier than under the legacy rules.

Building a better working world

The changes will be most significant for registrants that have been (1) filing separate audited financial statements of subsidiary issuers or guarantors but now qualify to provide summarized financial information and narrative disclosures instead or (2) providing condensed consolidating financial information but now qualify under one of four safe harbors to not provide any financial disclosure and provide only narrative disclosures instead.

The SEC also amended the disclosure requirements when securities of an affiliate of the issuer are pledged as collateral for registered securities.

This Technical Line provides information to help registrants interpret and apply the amended eligibility and disclosure requirements for subsidiary issuers and guarantors of debt securities in Rule 3-10 of Regulation S-X and newly created Rule 13-01, respectively, as well as the amended disclosure requirements in newly created Rule 13-02 when securities of an affiliate are pledged as collateral. The publication also discusses the conditions that must be met to omit the separate audited financial statements of subsidiary issuers and guarantors and the nature, extent and timing of the required disclosures.

A comprehensive example that illustrates the key concepts discussed is provided in the Appendix.

Debt securities issued or guaranteed by subsidiaries

Eligibility criteria to omit separate audited financial statements

Like the legacy rules, amended Rule 3-10 allows companies to provide abbreviated disclosures in lieu of separate audited financial statements of subsidiary issuers and guarantors in certain cases.

Disclosures under the amended rules are provided in all cases only if they are material.

But the amended rules expand the legacy exceptions by focusing on the parent's role in the offering. That is, the rules now allow companies to provide abbreviated disclosures in lieu of separate audited financial statements of subsidiary issuers and guarantors if the parent company is (1) an issuer or co-issuer (jointly and severally) or (2) the full and unconditional guarantor of the registered securities of a consolidated subsidiary issuer.

To be a "full and unconditional" guarantor, the parent company must be obligated by the guarantee to make a scheduled payment immediately upon the subsidiary issuer's failure to do so. Further, the holders of the guaranteed debt securities must have immediate legal recourse against the parent guarantor for its failure to pay.

Other eligibility conditions

In addition to the above criteria, the following conditions must be met to omit the separate subsidiary issuer and guarantor audited financial statements:

- The consolidated audited financial statements of the parent company have been filed.
- The subsidiary issuer/guarantor is consolidated in the parent company's financial statements. (The subsidiary is no longer required to be 100% owned by the parent.)
- The guaranteed security is debt or debt-like.

The substance, rather than the form, of a security determines whether it is debt or debt-like. This condition is met when there is a contractual obligation to pay a fixed sum at a fixed time and, when the payment obligation is cumulative, a set amount of interest is to be paid. The SEC did not intend for "set amount of interest" to mean a fixed amount. That is, floating and adjustable rate securities and indexed securities can be debt-like, provided the payment obligation is set in the debt instrument and can be determined from objective indices (e.g., the London Interbank Offered Rate, the Secured Overnight Financing Rate) or other factors that are outside the issuer's discretion.

Materiality

The amended rules include a provision that allows a registrant to omit any of the specified disclosures if they are not material. The rules also list four safe harbor fact patterns that allow a company to omit any financial information and provide only narrative disclosures.

The amended rules also include a provision that requires the registrant to provide incremental disclosure about subsidiary guarantors (but not subsidiary issuers) beyond what is specified based on whether the registrant deems that information material to an evaluation of the sufficiency of the guarantee.

How we see it

To determine whether a specified disclosure can be omitted, registrants should evaluate whether there is a substantial likelihood that the disclosure would have been viewed by a reasonable investor as having significantly altered the "total mix" of information made available.

The materiality threshold for including additional information about subsidiary guarantors beyond what is specified in the rules is different because it is limited to information that is material *to an evaluation of the sufficiency of the guarantee*. The SEC narrowed this materiality provision in its final rule in response to concerns that the broader materiality provision proposed would not be operational. Examples of the evaluation of materiality are discussed further in each section below.

Narrative disclosures

Once the registrant determines it has met the eligibility criteria in amended Rule 3-10 to omit the separate audited financial statements of its subsidiary issuers and guarantors, it must comply with the disclosure requirements in Rule 13-01 and Exhibit 22 of Item 601 of Regulation S-K. These include requirements to make certain narrative disclosures about the issuers and guarantors, the terms and conditions of the guarantees, and how the rights and obligations of the issuers and guarantors, as well as other factors, may affect payments to holders of the debt securities.

Description and identification of subsidiary issuers and guarantors

The amended rules draw a distinction between the "description" and the "identification" of the issuers and guarantors of the debt securities. A registrant must provide a description of the issuer and the guarantor(s) (collectively, the obligor group) in its Rule 13-01 disclosure and supplement this with an identification of the legal entities included in the obligor group in Exhibit 22 to its periodic reports and any registration statement related to an offering of guaranteed debt.

Exhibit 22, which may not be omitted based on any materiality assessment, must identify the registered debt securities and identify the parent company and each subsidiary in the obligor group and identify whether the entity is an issuer, co-issuer or guarantor. Exhibit 22 does not need to list an entity more than once if its role is clearly indicated. A hyperlink to an exhibit in an earlier filing is permitted if that exhibit remains accurate.

Terms and conditions of guarantees

Registrants are required to describe the terms and conditions of the guarantees. The SEC said in the adopting release that these disclosures should address any limitations and conditions of a subsidiary's guarantee, whether it is joint and several with other guarantees, and any release provisions. The narrative disclosures also are required to include descriptions of:

- How payments to holders of the guaranteed securities may be affected by the composition of and relationships among the members of the obligor group and subsidiaries that are not part of the obligor group
- Any other factors that may affect the guarantor's payments to holders

The purpose of these disclosures is to help investors evaluate the sufficiency of the guarantee in the event of a default by the issuer. For example, a registrant might describe the relative seniority of the guarantee obligations within a guarantor subsidiary's capital structure. It also might explain how obligated entities could gain access to the assets of entities outside of the obligor group (e.g., in a liquidation, reorganization.)

The SEC said examples of "other factors" include contractual or statutory restrictions on dividends or enforceability of the guarantee, as well as the rights of any noncontrolling interest (NCI) holder. The SEC said the purpose of disclosing information about NCIs is to "more directly provide insight into any competing common equity interest in the assets or revenues of a subsidiary." That is, through its ability to exercise significant influence over a subsidiary guarantor, an NCI holder could materially affect payments to holders.

How we see it

The requirement to disclose factors that may affect payments to holders is new, and registrants will need to make the disclosures about subsidiaries in the obligor group that have NCIs and other restrictions that may affect their guarantees.

We believe a registrant can develop these disclosures by evaluating what would happen to the payments to holders in various situations, including assuming financial difficulty of the members of the obligor group (including liquidation).

Financial disclosures

Safe harbor fact patterns

As mentioned above, the financial disclosures required by Rule 13-01 only need to be provided if they are material. To help a registrant evaluate whether it can omit financial disclosure, the SEC identified four fact patterns in which the financial information may always be omitted. Before preparing the financial disclosures specified by Rule 13-01, a registrant should first determine whether its facts match one of the following safe harbors:

- The assets, liabilities and results of operations of the obligor group are not materially different from those reported in the registrant's consolidated financial statements.
- The obligor group has no material assets, liabilities or results of operations.
- The issuer is a finance subsidiary, the parent company has provided a full and unconditional guarantee, and none of the parent company's other subsidiaries provides a guarantee.
- A finance subsidiary and the parent company are joint and several co-issuers, and none of the parent company's other subsidiaries provides a guarantee.

For purposes of applying the safe harbor, a finance subsidiary is defined as a subsidiary that has no assets or operations other than those related to the administration of debt securities. If one of the safe harbors apply and the financial information is omitted, the registrant must identify the fact pattern and provide the narrative disclosures. The SEC said that "this provides greater certainty as to the circumstances when the omission of financial disclosures may be appropriate while continuing to provide investors with basic reasons as to its omission."

The SEC acknowledged there could be other situations in which financial information may be omitted, based on the registrant's principles-based materiality assessment that is tailored to its relevant facts and circumstances. When one of the four safe harbor fact patterns doesn't apply, companies that omit financial disclosure on the basis of immateriality would not be required to explain why they believe it is not material.

How we see it

The safe harbors will allow an eligible registrant to omit even abbreviated financial information without having to perform a quantitative and qualitative analysis of materiality. However, companies may be reluctant to omit financial disclosures in other circumstances because their materiality assessments could be subsequently challenged by the SEC staff.

Summarized financial information

General

Registrants are required to disclose summarized financial information (SFI), as defined under Rule 1-02(bb) of Regulation S-X, of the obligor group. At a minimum, SFI must include the following balance sheet and income statement line items, if applicable:

- Current assets, noncurrent assets, current liabilities, noncurrent liabilities and, when applicable, redeemable preferred stocks and noncontrolling interests
- Net sales or gross revenues, gross profit, income/loss from continuing operations, net income/loss and net income/loss attributable to the group

In a change from the legacy rules, the abbreviated financial information is not required to include cash flow information because the SEC believes investors should focus on the registrant's consolidated cash flow information.

Information about all eligible subsidiary issuers and guarantors can be combined with that of the parent company in one column of summarized financial information.

Combined presentation

Information about subsidiary issuers and guarantors may be combined with the parent company into a single column of SFI for the obligor group, unless further disaggregation is required (see discussion below). SFI for the obligor group must be presented eliminating intercompany transactions and resulting balances among the entities in the obligor group. Intercompany balances and transactions between the obligor group and non-obligors must be presented as separate line items in the SFI. In addition, transactions and balances with other related parties outside the consolidated entity must also be presented separately.

For example, revenue transactions and the related receivables with non-obligated consolidated entities and similar transactions and balances with other related parties will each require additional line items in the SFI. Separate line items may also be required for other types of transactions and balances with non-obligated consolidated entities and related parties, such as purchases of inventory and the related accounts payable, interest payments and the related debt balances, among others.

However, an investment in a non-obligated subsidiary on the books of an obligated subsidiary must be excluded from the SFI, irrespective of how the investment is accounted for by the obligated subsidiary (e.g., consolidated, equity method, cost method).[1] The SEC adopted this presentation requirement because a non-obligated subsidiary has no payment obligation under the debt securities. Instead, as discussed above, narrative disclosures might explain how the obligated subsidiary could gain access to the assets of non-obligated subsidiaries in which it holds an investment.

While the amended rules do not require financial disclosure about non-obligated subsidiaries, a registrant can elect to provide it separately. If it does, we recommend that the disclosure conform in all material respects to the form and content of the required SFI.

How we see it

The SEC believes that excluding non-obliged subsidiaries from the SFI will result in better comparability. However, because this method is not based on any existing accounting or reporting standard, registrants may need to change their processes to comply with the rules and appropriately report SFI.

Disaggregation of the obligor group's SFI

When the required narrative information about the terms and conditions of the guarantees applies to one or more, but not all, issuers and guarantors, separate SFI for those entities may need to be presented. For example, separate SFI may be required due to differing limitations on subsidiary guarantees or different holders of NCIs.

The SEC said that a registrant should consider materiality and exercise judgment when assessing whether the obligor group's SFI must be disaggregated. The registrant should consider both quantitative factors, such as the financial significance of the potentially disaggregated issuers and guarantors, and qualitative factors, such as the facts and circumstances that apply to each entity. If disaggregation is required but the separate SFI of the affected guarantors can be easily explained and understood, narrative disclosure would be sufficient. However, the SEC said it expects narrative disclosure to be sufficient in lieu of disaggregated SFI only in limited circumstances, such as when the affected guarantors constitute a similar percentage of each line item in the SFI.

The SEC provided registrants with the flexibility to select the location of the disclosures.

Additional SFI line items

Additional line items may be required in the SFI if they would be material to an evaluation of the sufficiency of the guarantee. The SEC provided an example in which substantially all of the obligor group's noncurrent assets consist of goodwill. If the registrant in this example concludes that the disclosure would be material, it should present goodwill as a separate line item in the SFI.

How we see it

Deciding whether to present an additional line item in the SFI will require judgment. The goodwill example illustrates that holders of a guaranteed security might be interested in knowing that the noncurrent assets reflected in the SFI consist almost entirely of intangible assets that cannot be sold separately to raise funds.

Registrants should add line items to the SFI if they believe holders might draw inappropriate conclusions about the sufficiency of the guarantee without more detail. If needed, registrants should reflect these items as separate lines in the SFI, rather than in a narrative disclosure or footnotes to the SFI.

Basis of preparation

SFI must be accompanied by a note that "briefly describes" its basis of presentation. The note should address the mechanics of combination and, if applicable, the treatment of related party items and disaggregated entities.

Periods to be presented

The amended rules require a registrant to provide the balance sheet SFI as of the end of its most recent fiscal year and interim period (if interim financial statements are included in the filing).

Income statement SFI is only required for the registrant's most recent fiscal year in annual reports. In quarterly reports, income statement SFI is only required for the year-to-date (YTD) period. In a registration statement related to an offering of guaranteed securities, income

statement SFI is only required for the most recent annual period and the YTD interim period if interim financial statements are required in the registration statement. This is a change from the legacy rules that require financial disclosures for all periods for which a registrant presents its financial statements in a filing.

The following table illustrates the balance sheet and income statement SFI that would be presented in the SEC filings of a calendar-year company:

SEC filing type	Balance sheet SFI	Income statement SFI
Q1 Form 10-Q	31 March 20XY and 31 December 20XX	YTD 31 March 20XY
Q2 Form 10-Q	30 June 20XY and 31 December 20XX	YTD 30 June 20XY
Q3 Form 10-Q	30 September 20XY and 31 December 20XX	YTD 30 September 20XY
Registration statement filed 5 October 20XX*	30 June 20XY and 31 December 20XX	Year ended 31 December 20XX and YTD 30 June 20XY
Form 10-K	31 December 20XY	Year ended 31 December 20XY

* Before filing its 30 September 20XY Form 10-Q.

Location of disclosures

The SEC provided registrants with the flexibility to select the location of the disclosures. As a result, a registrant can provide the disclosures outside of its financial statements in all cases. This is a change from the legacy rules that require the disclosures to be included as a footnote to the registrant's consolidated financial statements. A registrant can elect to provide the disclosures in its financial statement footnotes or it can provide them in management's discussion and analysis (MD&A). The disclosures can also be placed immediately after Risk Factors or in a prospectus immediately after pricing information.

A registrant that elects to present the information in its annual financial statements must include the information in an audited footnote. Information placed outside of the annual financial statements does not need to be audited. While disclosures presented outside the registrant's financial statements would not be subject to its internal control over financial reporting, they would be subject to its disclosure controls and procedures and management's certifications.

How we see it

We expect most registrants to elect to place the disclosures outside of their audited financial statements, and we believe that the Liquidity and Capital Resources section of MD&A is the most logical (and likely to be the most common) location. Underwriters of a registered debt offering may request that the independent auditor provide comfort on this financial information. If the information is presented outside of the financial statements, comfort letter procedures would be limited to "procedures performed and findings obtained" (i.e., "tickmark comfort").

Recently acquired subsidiary issuers or guarantors

The amendments eliminate the legacy requirement for a registration statement to provide separate pre-acquisition audited financial statements for a recently acquired subsidiary issuer or guarantor. However, disclosure of pre-acquisition SFI for these entities may be required in a registration statement for the offer and sale of guaranteed debt securities. Pre-acquisition

SFI is required when a subsidiary issuer or guarantor is acquired after the date of the most recent annual or interim balance sheet in the registration statement and it is a significant acquired business as defined by Regulation S-X.

The SEC leveraged its existing rules by requiring significance to be measured using Rule 3-05 of Regulation S-X, *Financial statements of businesses acquired or to be acquired*. Therefore, pre-acquisition SFI disclosures would generally be required only when the registrant must provide Rule 3-05 financial statements of the acquired business.

How we see it

SFI for a recently acquired subsidiary issuer or guarantor may be required before the registrant has filed the audited financial statements of the acquired business under Rule 3-05. For instance, SFI will be required before pre-acquisition financial statements are filed when the significance of a subsidiary issuer or guarantor exceeds 20%, but is not more than 50%, and the registration statement is filed or becomes effective within the grace period provided by Rule 3-05(b)(4)(B).

Suspending the disclosure obligations

Parent companies with fewer than 300 record holders of the registered debt securities may no longer have to provide disclosures.

A subsidiary issuer or guarantor that does not qualify for an exception to filing its separate audited financial statements must continue filing until the reporting obligation is suspended. The reporting obligation can only be suspended if the debt securities are not listed on a national exchange. If that condition is met, a subsidiary can suspend its reporting obligation using Section 15(d)(1) of the Exchange Act if, on the first day of any fiscal year other than the fiscal year in which the Securities Act registration statement related to the debt securities became effective, there are fewer than 300 record holders (or 1,200 record holders in the case of a bank, savings and loan, or bank holding company) of the class of debt securities. The reporting obligation can also be suspended at any time during a fiscal year if the conditions in Exchange Act Rule 12h-3 are met.[2,3] The amended rules did not change the process for suspending these reporting obligations.

The amended rules continue to exempt a subsidiary issuer or guarantor from filing separate audited financial statements under Exchange Act Rule 12h-5 if it qualifies for an exception and the registrant provides the required disclosures. However, the amended rules no longer require a registrant to provide the Rule 13-01 disclosures as long as the debt securities are outstanding. A registrant can cease providing these disclosures once the subsidiary's reporting obligations have been suspended under the Exchange Act. The SEC noted that issuers and investors are free to negotiate contractual terms that require ongoing disclosures.

How we see it

We expect some registrants will be able to discontinue providing disclosures about existing subsidiary issuers and guarantors when they implement the new rules because some of these debt securities likely are held by a relatively small number of institutional investors and may already qualify to suspend their reporting obligations under Exchange Act Rule 15d-1. As a first step to implement the amended rules for existing guaranteed debt, registrants should work with legal counsel to evaluate the reporting obligations imposed by the Exchange Act and any relevant contractual provisions.

Affiliates whose securities are pledged as collateral

Today, it is rare for a registrant that pledges the securities of an affiliate as collateral for registered securities to be required by S-X Rule 3-16 to provide the separate audited financial statements of that affiliate. This is because the securities typically include a provision that removes the collateral upon triggering the SEC requirement to provide separate financial statements.

To encourage registrants to offer registered securities without these collateral reductions that can disadvantage investors, the SEC replaced the disclosure requirements of Rule 3-16 with new Rule 13-02, which requires disclosures about such affiliates similar to those about subsidiary issuers and guarantors. Key considerations about the amended rules are discussed below.

Materiality

The disclosures are required if they are material. This replaces the provisions in Rule 3-16 requiring separate audited financial statements based on a bright-line significance test based on the value of the collateral.

Narrative disclosures

Rule 13-02 requires certain narrative disclosures, including descriptions of the securities pledged as collateral, each affiliate whose securities are pledged, the terms and conditions of the collateral arrangement, the events or circumstances that would require delivery of the collateral, and whether a trading market exists for the pledged securities.

Financial disclosures

SFI of the affiliates is also required under Rule 13-02, if material. Unlike the SFI for the obligor group for guaranteed securities, the financial information of all subsidiaries consolidated by an affiliate would be included in the SFI even if those subsidiaries' securities are not pledged as collateral. When there are multiple affiliates whose securities have been pledged as collateral, disaggregation of the SFI may be required, if disclosures about the items addressed in the narrative disclosures apply to one or more, but not all, of the affiliates.

Non-consolidated affiliates

In the rare cases when an affiliate whose securities have been pledged as collateral is not a consolidated subsidiary, the registrant must provide any additional financial and narrative information material for investors to evaluate the pledge; the information must be sufficient so that it is not misleading and might include separate financial statements of the unconsolidated affiliate.

Effective date and transition

The amended rules are effective 4 January 2021, but earlier compliance is permitted. Registrants can apply them now to new registration statements and periodic reports on Forms 10-Q and 10-K.[4] Registrants that elect to apply the new rules before the effective date may not revert to the legacy rules.

Registrants must comply with the amended rules in their Exchange Act reports for fiscal periods ending after the effective date or in periodic reports for periods ending after the effective date of a registration statement in which they applied the amended rules early.

When effective or upon early compliance, the amended rules about collateralized debt securities apply to existing debt securities that are not structured to release the collateral if the Rule 3-16 disclosure requirements are triggered and to any new collateralized debt securities issued on or after the compliance date. The legacy rules will continue to apply to existing collateralized debt securities that are structured to release the collateral if the Rule 3-16 requirements are triggered.

Next steps

- Registrants with outstanding guaranteed debt securities should evaluate whether they qualify to make narrative and SFI disclosures rather than separately filing audited financial statements for subsidiary issuers and guarantors.
- Registrants that are using a legacy exception to provide condensed consolidating financial information about subsidiary issuers and guarantors should evaluate whether one of the four new safe harbor fact patterns apply so they can provide only narrative disclosures.
- Registrants should work with their legal counsel to evaluate whether reporting for outstanding guaranteed debt securities can be suspended entirely by implementing the new rules early.
- Registrants that determine that SFI will be required should evaluate whether they need to change their processes and systems to comply with the new rules.
- New issuers of guaranteed debt securities should consider implementing any processes needed to comply with the amended rules early to avoid the cost of preparing disclosures under the legacy requirements and subsequently transitioning to the amended rules.

Endnotes:

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1 Regulation S-X Rule 13-01(a)(4)(iii) requires subsidiaries that are not issuers or guarantors to be excluded from SFI.

2 Rule 12h-3 provides that the duty to file reports under Section 15(d) for a class of securities is suspended immediately upon the filing of a certification on Form 15, provided that the issuer has fewer than 300 holders of record, fewer than 500 holders of record where the issuer's total assets have not exceeded $10 million on the last day of each of the preceding three years, or, in the case of a bank, a savings and loan holding company, or a bank holding company, 1,200 holders of record; the issuer has filed its Section 13(a) reports for the most recent three completed fiscal years and for the portion of the year immediately preceding the date of filing the Form 15 or the period since the issuer became subject to the reporting obligation; and a registration statement has not become effective or was required to be updated pursuant to Exchange Act Section 10(a)(3) during the fiscal year.

3 Alternatively, foreign private issuers (FPIs) are permitted to terminate Exchange Act reporting pursuant to the requirements of Exchange Act Rule 12h-6.

4 The amended rules also apply to FPIs, which are directed to the new rules in the relevant filing forms. The SEC also eliminated the legacy requirement for a parent company that is an FPI to reconcile the financial disclosures to US GAAP when its financial statements are not prepared under US GAAP or IFRS IASB. Canadian parent companies that are eligible to utilize the multijurisdictional disclosure system (MJDS) are not affected by the amended rules and should provide disclosures in accordance with applicable Canadian disclosure standards.

Appendix: Example disclosure

Background

Parent Company Inc., a multinational consumer goods registrant, is a calendar-year registrant with consolidated subsidiaries A, B and C. In 2019, Parent Company issued $100 million of registered debt securities that are fully and unconditionally guaranteed by Subsidiaries A and B on a joint and several basis. Subsidiary C is not obligated under the indenture. Parent Company has elected to comply early with the amended rules (i.e., the Rule 13-01 disclosure requirements) in its 31 March 2020 Form 10-Q. It will provide the disclosures in its MD&A in the Liquidity section.

Parent Company and Subsidiaries A and B constitute the Obligor Group, and Parent Company considered the following additional facts when preparing its disclosures:

- Investor X has a 25% noncontrolling interest in Subsidiary B.
- Approximately 75% of the Obligor Group's noncurrent assets consist of goodwill.
- The Obligor Group has material intercompany sales and related accounts receivable with Subsidiary C and a related-party loan receivable from unconsolidated Sister Company Y. Interest income from the loan receivable is immaterial.

The example disclosures provided below are summarized. We expect that registrants may include more detail regarding the legal provisions of the indenture and guarantees.

Illustration 1 — Financial and nonfinancial disclosure about issuers and guarantors of our Senior Notes

As discussed in Note X to the consolidated financial statements, "Debt," in 2019, we, as the parent company, issued $100 million of Senior Notes that remain outstanding at 31 March 2020. The Senior Notes are guaranteed by Subsidiary A, our cleaning products operation, and Subsidiary B, our household appliances operation. There are no significant restrictions on the ability of the guarantors to make distributions to us. Our remaining consolidated subsidiary, Subsidiary C, is not obligated under the Senior Notes indenture.

The following is a description of the terms and conditions of the guarantees:

- The guarantors fully and unconditionally and jointly and severally guarantee the payment of the principal and premium (if any) and interest on the Senior Notes. If we fail to make a scheduled payment, Subsidiaries A and B are obligated to make it immediately and, if they do not, any holder of the Senior Notes may immediately bring suit directly against them for payment of all amounts due and payable.
- The guarantees are senior unsecured obligations of the guarantors that rank equal with all existing and future senior debt of the guarantors and are senior to all subordinated debt. However, the guarantees are effectively subordinated to any secured debt of the guarantors.
- The guarantees are subject to release in the following circumstances: (i) the sale, disposition, exchange or other transfer (including through merger, consolidation or otherwise) of the capital stock of a guarantor made in a manner not in violation of the indenture; or (ii) the designation of a guarantor as an "Unrestricted Subsidiary" under the indenture.

In addition, each guarantee is limited to an amount that will not render the guarantee, as it relates to each guarantor, voidable under applicable law relating to fraudulent conveyances or fraudulent transfers. If a guarantor were to become a debtor in a case under the US Bankruptcy Code, a court may decline to enforce its guarantee of the Senior Notes. This may occur when, among other factors, it is found that the guarantor originally received less than fair consideration for the guarantee and the guarantor would be rendered insolvent by enforcement of the guarantee.

On the basis of historical financial information, operating history and other factors, we believe that each of the guarantors, after giving effect to the issuance of its guarantee of the Senior Notes when the guarantee was issued, was not insolvent and did not and has not incurred debts beyond its ability to pay such debts as they mature. The Company cannot predict, however, what standard a court would apply in making these determinations or that a court would agree with our conclusions in this regard.

Illustration 2 — Basis of preparation explanatory note

Basis of preparation of the Summarized Financial Information

The following tables include summarized financial information of Parent Co. (issuer), Subsidiary A (guarantor) and Subsidiary B (guarantor) (together, the obligor group). Investments in and equity in the earnings of Subsidiary C, which is not a member of the obligor group, have been excluded.

The summarized financial information of the obligor group is presented on a combined basis with intercompany balances and transactions between entities in the obligor group eliminated. The obligor group's amounts due from, amounts due to and transactions with Subsidiary C have been presented in separate line items, if they are material. In addition, a loan receivable from Sister Company Y (an unconsolidated related party) is presented separately.

Investor X holds a 25% noncontrolling interest in Subsidiary B and has a representative on its Board of Directors. Also, Investor X could file suit to prevent Subsidiary B from performing under its guarantee, which could potentially delay or prevent payments to holders of the Senior Notes in the event of default. Therefore, summarized financial information for Subsidiary B is presented separately.

For the three months ended 31 March 2020, Subsidiary B's net income attributable to Investor X is $2.5 million. At 31 March 2020 and 31 December 2019, Investor X's non-controlling interest in Subsidiary B's equity is $13.75 million and $16.25 million, respectively.

Illustration 3 — SFI of the obligor group

Summarized Statements of Income (mil $)	3 months ended 31 March 2020	
	Parent Co. Inc. and Subsidiary A	Subsidiary B
Net sales to unrelated parties	175	58
Net sales to non-obligor subsidiaries	20	-
Gross profit	90	30
Income from continuing operations	45	10
Net income	45	10

Summarized Balance Sheets (mil $)	Parent Co. Inc. and Subsidiary A		Subsidiary B	
	31-Mar-20	31-Dec-19	31-Mar-20	31-Dec-19
ASSETS				
Receivables due from non-obligor subsidiaries	14	25	-	-
Other current assets	100	200	100	125
Total current assets	114	225	100	125
Goodwill	345	345	-	-
Loan receivable from Sister Company Y	34	25	-	-
Other noncurrent assets	25	30	55	60
Total noncurrent assets	404	400	55	60
LIABILITIES				
Current liabilities	80	150	50	70
Noncurrent liabilities	400	400	50	50

Illustration 4 — Exhibit 22. Subsidiary guarantors and issuers of guaranteed securities

Exhibit 22. Subsidiary guarantors and issuers of guaranteed securities

$100 million of Senior Notes	Issuer	Guarantor
Parent Company Inc.	X	
Subsidiary A		X
Subsidiary B		X