JNET NEWSLETTER

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Global Japanese Practice

KPMG

cutting through complexity

Published since 1997, *Jnet* is issued quarterly to update you on audit, accounting, tax, and other business issues relevant to Japanese companies operating in the United States.

Issue 1 – 2014

Contents

2014 Global Audit Committee Survey

To help identify the pressing challenges and concerns that are top of mind for audit committees today, KPMG's 2014 Global Audit Committee Survey captures the views of nearly 1,500 audit committee members around the world on a range of timely issues—from the top challenges facing companies in the year ahead and the audit committee's increasing workload, to corporate performance, the effectiveness of the CFO and finance organization, and the quality of the information directors receive about the company's key risks.

As highlighted in the following pages, our survey identifies broad international trends and provides detailed country data on audit committee challenges and concerns in different geographies. Generally, we continue to find that audit committees in countries where corporate governance and audit committee practices are more deeply rooted tend to be more confident in their oversight; yet, audit committee members in every country we surveyed cite opportunities for improvement.

Audit committees have a unique perspective on the risks facing the business; their vantage point sheds important light for the full board—as well as management and auditors. As directors help guide their companies forward in the challenging months ahead, our survey findings can serve as an important tool for benchmarking current practices, identifying gaps and emerging risks, and sparking robust conversations about how audit committees and boards can strengthen their oversight and keep pace in an increasingly complex and fast-changing world.

KPMG's Audit Committee Institute

Key Findings:

- **Regulation, uncertainty and volatility, and operational risk are top challenges today.** Perhaps not surprisingly, most audit committees around the world point to regulation and the impact of public policy initiatives, economic and political uncertainty, and operational risk and controls as the risks posing the greatest challenges for their companies.
- **The audit committee's job continues to grow more difficult.** Nearly half of audit committee members indicate that, given the audit committee's expertise and heavy agenda, it is "increasingly difficult" to oversee major risks—e.g., cyber risk and IT, the risk management processes, and global compliance—in addition to the committee's core responsibilities. A significant number of others said their board has recently reallocated or rebalanced risk responsibilities or created a new committee to address specific risks (or may consider doing so in the near future).
- **The quality of information about cyber risk, technology and innovation, and global systemic risk is falling short.** While audit committees rate much of the information they receive about key risks facing the company— legal/regulatory compliance, operational risk, public policy developments—as "good" or "generally good," many say information about cyber security, emerging technologies, and the company's growth and innovation plans needs improvement. Audit committees also want to better understand the company's global systemic risks and supply chain dependencies.

- **Most companies don't have a CFO succession plan in place.** Only about 40 percent of survey respondents said their company has a formal succession plan in place for the CFO—and clear performance objectives to evaluate the CFO's performance. Audit committees would like to see the CFO contributing more to the company's strategy and risk management efforts, as well as "developing talent and bench strength."
- **Leading indicators and non-financial drivers of long-term performance are often elusive.** Measuring and monitoring key *non-financial* drivers of long-term performance—particularly talent, innovation, and brand reputation—continues to pose challenges for many companies, as does identifying "leading indicators" that show where the company is headed and whether its strategy is on track.
- **Internal audit should also be looking at risk management, IT, and operational risk—but may lack necessary skills and resources.** More than 80 percent of survey respondents said internal audit's role should extend beyond the adequacy of financial reporting and controls, to include other key risks facing the business; however, only 50 percent said internal audit currently has the skills and resources to be effective in the role they envision.

For more information, download the full report below.

Download Now
2014 Global Audit Committee Survey >

http://www.kpmginstitutes.com/aci/insights/2014/pdf/2014-global-aci-survey-web.pdf

Questions?

If you have any questions about this article please reach out to your KPMG engagement team or email us at us-kpmg-jp@kpmg.com.

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Analysis of Proposed Competent Authority, Advance Pricing Agreement Guidelines

Overview

On November 22, 2013, the IRS released two notices (Notice 2013-78 and Notice 2013-79) containing draft revenue procedures providing guidance and instructions with respect to requesting competent authority (CA) assistance and advance pricing agreements (APAs).

These long-awaited draft revenue procedures represent substantial changes from the current 2006 revenue procedures, and are consistent with the objectives of the Advance Pricing and Mutual Agreement Program (APMA), which is the IRS department that handles CA and APA matters, to enhance integration between CA matters and APAs and to increase transparency and efficiency in these processes.

Overall, these proposed changes are welcome as they should improve the efficient allocation of resources on the part of taxpayers and APMA alike and should provide enhanced clarity to taxpayers about CA and APA processes. Most significantly, perhaps, they reflect an interest by APMA to further work with taxpayers to try to address proactively through the CA and APA processes cross-border controversies arising within the U.S. income tax treaty network. In an environment where these transfer pricing controversies are generally increasing in number every year, the IRS is committed to making dispute resolution mechanisms more effective.

Willingness to Consider more Cases

APMA is willing to consider issues and cases that were not generally accepted in the past. One important change: matters arising as a result of taxpayer-initiated positions (*i.e.,* adjustments initiated by taxpayers themselves that directly or indirectly result in double taxation) may be permitted into the CA process unless, for example, the issue evinces after-the-fact tax planning or fiscal evasion. Furthermore, APMA will be available for informal consultations on general matters concerning CA issues, including whether a CA issue exists, and whether a taxpayer has exhausted all effective and practical remedies to reduce its liability under foreign law for foreign tax credit purposes.

Increased Transparency between APMA and Taxpayers

APMA is requiring more transparency in the process with taxpayers, including additional information provided up front, and in the intergovernmental processes.

The new draft revenue procedures provide new prefiling procedures applicable to both APAs and CA cases, including mandatory submission of a prefiling memorandum depending on the nature of the issues or the adjustment amount involved.

For APAs, a prefiling memorandum is required if the taxpayer wishes to file a unilateral APA request to cover an issue

that is eligible for coverage by a bilateral or multilateral APA or if the taxpayer seeks to file an abbreviated APA request.

For CA cases, a prefiling memorandum is required for the following issues:

- A foreign-initiated adjustment in which the total adjustments exceed $10 million for all years combined
- A taxpayer-initiated position;
- A request for discretionary limitation on benefits relief
- If the taxpayer believes double tax has arisen outside the context of an examination (such as withholding tax cases).

For *both* APAs and CA cases, a prefiling memorandum is required if the issues involve any of the following:

- The license or transfer of intangibles in connection with, or the development of intangibles under, an intangible development arrangement
- Global trading arrangements
- Unincorporated branches, pass-through entities, hybrid entities, or entities disregarded for U.S. tax purposes.

There is also a revised listing of the standard specifications for the content of a request for CA assistance and APAs. The additional information that will be required by these changes is generally information that had been previously requested by APMA as part of its due diligence for APAs and CA cases. Now, this information will be provided earlier in the APA or CA process so that APMA can perform its initial evaluation more effectively. Also, a proposed draft APA (based upon the APMA APA template) will now be included as an attachment to the APA submission.

The authors would expect that this increased initial complexity and "front-loading" of these processes should lead, in most instances, to a more focused postfiling due diligence stage by APMA and, accordingly, an overall decrease in case processing time.

Increased transparency also extends to the intergovernmental processes, in both APA and CA cases, with the U.S.'s treaty partners. For example, the draft CA revenue procedure states that the U.S. CA may seek to initiate a CA case in the absence of a taxpayer-initiated CA request or may require that the scope of a CA case be expanded.

The draft APA revenue procedure also provides additional guidance regarding APA rollbacks. Generally, a taxpayer may request an APA rollback in its APA request or within three months after the APA request is filed. In the current APA revenue procedure, taxpayers can request an APA rollback at any time prior to executing the APA.

Another change made more explicit is that APMA reserves the right to pursue an APA rollback to any or all of the taxpayer's open pre-APA years. The burden is now placed on the taxpayer to explain why a rollback of the APA should not be considered and APMA may decline to initiate the APA process or suspend or terminate the process, if it has already begun, if the taxpayer refuses to accept a rollback. Furthermore, throughout the APA process, the taxpayer and the IRS must execute consent agreements, general or restricted, to extend the statute of limitations for each proposed APA or rollback years.

There is also a new proposed deadline for bilateral or multilateral APA requests, which is that the filing with the IRS must occur within 60 days following the filing of the APA request with a foreign CA. This proposed deadline will ensure that both APMA and the foreign CA receive the APA request at the same time and can proceed on a consistent time line for negotiation.

Taxpayers must also provide to one CA any information or analyses that it provides to the other CA. However, APMA will work with taxpayers to develop efficient procedures for disseminating information (such as through the use of indices) in order to minimize administrative burdens on taxpayers. In addition, APMA may require taxpayers to make presentations jointly to the U.S. and foreign CAs during the APA or CA processes.

Enhanced Efficiency and Coordination for Taxpayers With respect to Multiple APMA Processes

The draft revenue procedures also propose changes that can further enhance efficiencies by allocating taxpayer and APMA resources effectively through the better integration of CA, accelerated competent authority process (ACAP), and APA processes; this would also include procedures for filing an abbreviated APA request in certain circumstances.

In this situation, for example, if the material facts and issues are consistent throughout the years at issue, a taxpayer may (i) request CA assistance

with respect to filed years for which adjustments have been raised, (ii) roll forward the CA resolution through ACAP to filed years for which adjustments have not yet been raised but are likely to be made, and (iii) file an abbreviated APA request to obtain certainty for prospective years. This can permit taxpayers to resolve difficult or recurring transfer pricing issues for a number of years in a combined, better coordinated process. The authors would anticipate that this would be welcomed by the foreign CAs, some of whom may face resource issues or who look for improved efficiencies.

A further efficiency is the future release of standardized templates for such items as (i) protective claim and notification letters for CA cases and (ii) covered issue diagrams and certain financial data templates for APAs.

Abbreviated APA Requests: APA Renewals and Other Cases

The APA draft revenue procedure provides that a taxpayer may seek permission to submit an abbreviated APA request in the situation discussed above and also in cases involving renewals of current APAs or for small case APAs. Abbreviated APA requests would require less information than an initial APA request, resulting in a decreased dedication of resources by both the taxpayer and APMA, particularly in the initial stages of the APA process, due to the familiarity with the taxpayer's facts and circumstances and economic situation.

The opportunity to submit an abbreviated request for an APA renewal could serve as a substantial improvement to the APA process, particularly since many taxpayers having APAs have already renewed them more than once. The authors would hope that such a change would also be adopted ultimately by the foreign CAs to enhance symmetry in APA submissions.

APA Submissions Serving As Penalty Protection

The draft revenue procedure for APAs provides that a complete APA request (updated and supplemented as required) will be a factor in determining whether the taxpayer has met the documentation requirements of Reg. Section 1.6662-6(d)(2)(iii) for the proposed APA years. Providing taxpayers with potential penalty protection as part of the APA process is a long-awaited provision as it should mitigate the need for taxpayers to prepare transfer pricing documentation during the period in which the APA is under negotiation.

Effective Dates

The IRS and the Treasury Department have requested that comments on these proposed revenue procedures be submitted in writing on or before March 10, 2014. Once comments are received, the IRS will issue final revenue procedures that will be effective for all APAs or CA cases received on or after the day that the revenue procedures are published in the Internal Revenue Bulletin. By agreement between the taxpayer and APMA, the APA draft revenue procedure may apply to any APAs resulting from requests pending on the effective date of the revenue procedure. Taxpayers submitting APAs or CA cases in advance of the effective date still may want to consider the policies and procedures contemplated in these drafts, particularly to the extent that they can be employed to facilitate these processes or provide avenues of additional recourse for taxpayers.

This article represents the views of the authors only, and does not necessarily represent the views or professional advice of KPMG LLP.

The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

Questions?

If you have any questions about this article please reach out to your KPMG engagement team or the contacts listed with this article.

2014 M&A Outlook Survey Report

M&A Expected to Rebound in 2014

Foreword

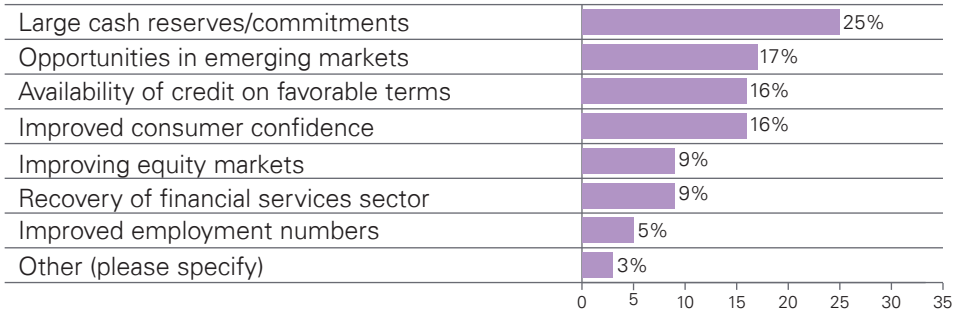
This past year provided several reasons for executives to feel optimistic about the economy. The Dow Jones surpassed 15,000 points, companies have been issuing IPOs at a record pace and Europe appears to have stabilized. However, despite a few large deals, such as Verizon Communications' announced purchase of Vodafone's 45 percent share of Verizon Wireless for $130 billion, the M&A market has been relatively tame. For the first nine months of 2013, global deal volume decreased almost 13 percent while global deal value increased two percent, according to Thomson Reuters.

Several factors indicate that deal volume should become more active. Companies continue to hold massive amounts of cash and interest rates remain at historic lows. However, uncertainty concerning the Federal Reserve's monetary policy and the implementation of healthcare reform, coupled with stubbornly high unemployment, is keeping Corporate America cautious. In order to gain a better understanding of the current M&A market, KPMG and *Mergers & Acquisitions* magazine have conducted a survey of over 1,000 M&A professionals, including those at U.S. corporations, private equity (PE) firms, and investment banks.

Deal Activity Expected to Be Solid

In general, survey participants felt relatively positive about the deal environment. Approximately 63 percent of respondents said that they planned to be acquirers in 2014.

Q: Which factor do you think will most facilitate deal activity in 2014?



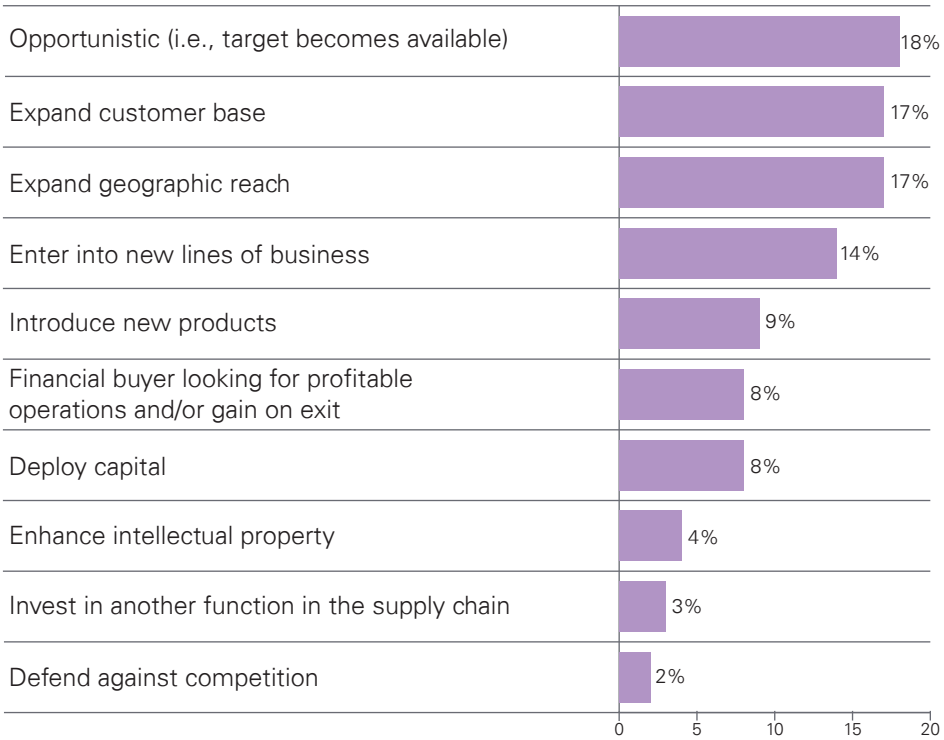
Twenty-one percent said their companies planned to initiate one acquisition in 2014 and 16 percent said they planned to initiate two deals. Only 16 percent said that their companies were not planning any acquisitions in 2014.

When asked why they expected their companies and clients to engage in more deals in 2014, numerous respondents cited an improving economy, less economic uncertainty, and pent-up demand. One corporate development officer at a diversified industrial company said he was planning for an increase in M&A because of the existence of "better economic conditions and less uncertainty." As one optimistic investment banker said, deals should increase "because next year can't possibly be as bad as this year."

Several factors should facilitate deal activity in the coming year. The largest percentage of respondents (25 percent) cited large cash reserves. Other important factors were opportunities in emerging markets (17 percent), improved consumer confidence (16 percent), availability of credit on favorable terms (16 percent), and improving equity markets (9 percent).

Dan Tiemann, Americas Transactions & Restructuring lead for KPMG, agrees that M&A should begin to pick up in the near future. "Executives are reassured by the improving global economy and decreasing uncertainty. Large cash reserves and attractive investment opportunities should result in more deal-making for U.S. companies. "PE buyers should also become more active in the next 12–18 months, according to Marc Moyers, KPMG National Sector Leader for PE. He said, "Many PE funds have large amounts of uninvested capital and are seeking attractive opportunities, especially in emerging markets and in industries that exhibit the potential for above average growth."

Q: Beyond increasing revenues or cutting costs, what is the primary reason you will initiate a deal in 2014?



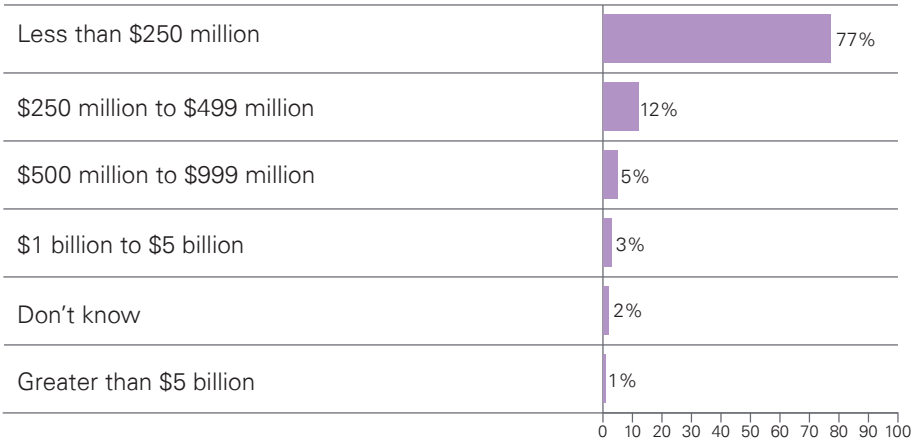
Another significant percentage sought to introduce new products (9 percent). When asked if their companies' deal motivation has changed in the last two years, several respondents said that they were focusing less on cost cutting and more on growth. As one oil and gas executive said, "We are changing from divesting non-core operations to expanding new operating areas."

Growth Motivates Deals

Which factors are motivating today's deal- makers? Respondents said that their primary reasons for making an acquisition were opportunistic (18 percent), to expand their customer base (17 percent), and to expand their geographic reach (17 percent).

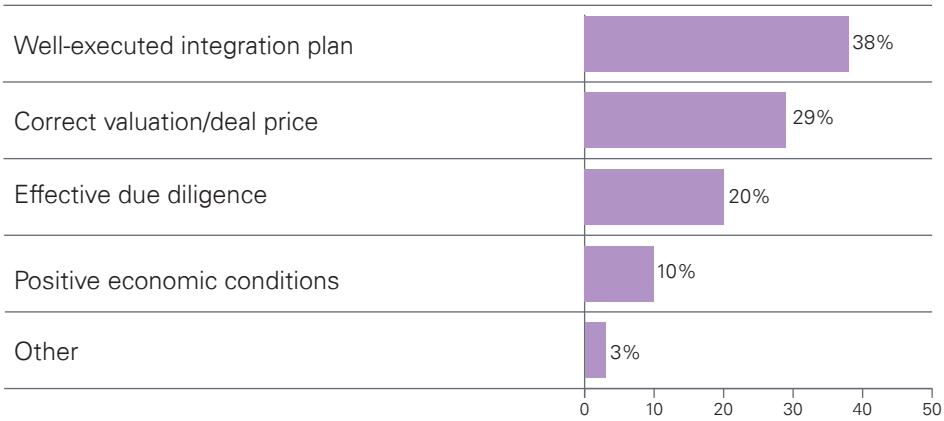
Last year saw several blockbuster deals; however, the middle-market is expected to be the most active sector. Respondents confirmed that deal size is expected to remain on the smaller side.

Q: What do you anticipate the average enterprise value per acquisition for your company will be in 2014?



Over three-quarters (77 percent) of respondents said that they expected their deals to be valued at $250 million or less. Twelve percent of respondents said their companies would be involved in deals valued between $250 million and $499 million and just three percent said their companies would be doing deals valued between $1 billion and $5 billion. KPMG's Phil Isom, Principal and U.S. Lead of Corporate Finance and Restructuring, said he continues to see these smaller deals dominating the marketplace. "Despite many structural improvements, today's economy is still uncertain and these smaller deals are easier to finance and integrate," he said.

Q: What factor is most important for deal success?



Creating shareholder value is a notoriously challenging process. According to the largest percentage of respondents (38 percent), the most important factor for deal success is a well-executed integration plan.

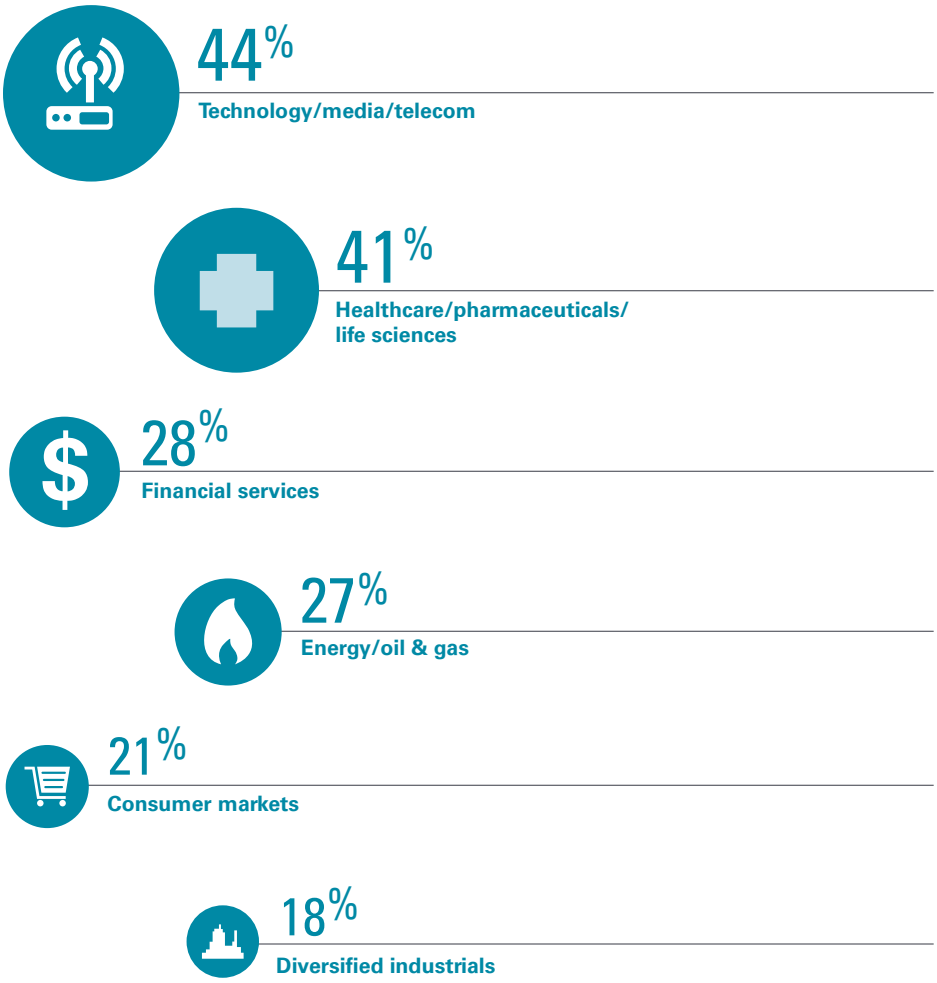
Respondents also said that having the correct valuation and deal price was important (29 percent), as was effective due diligence (20 percent). Less important (10 percent) were general economic conditions.

Industry Trends and Challenges

There were no surprises in terms of industries in which the M&A professionals expected to see the most activity.

Q: Which two industries do you think will be most active overall in M&A in 2014?[1]

The largest percentage of respondents (44 percent) said that the most active industries would be technology, telecom, and media; a close second was healthcare, pharmaceuticals, and life sciences (41 percent). Respondents also expected active acquisitions in financial services (28 percent) and energy (27 percent). Tiemann said that "the industries where there are the most structural changes and those where regulations are prevalent create the most opportunities for consolidation. Increased and changing regulations concerning healthcare and financial services, enhanced oil and gas production, and the constantly evolving world of technology will generate increased investment opportunities."



1. Multiple responses permitted.

Each industry is dealing with a different M&A landscape and a different set of challenges. In general, dealmakers were challenged by valuation disparities and the lack of suitable targets. Those whose industries were subject to government oversight, also noted the difficulty of dealing with an uncertain regulatory environment. The industry responses are made up of more than 100 M&A executives per industry.

Technology/Media/Telecom

According to the technology executives, the most important trends that will drive M&A next year are converging technologies (52 percent), cloud computing (43 percent), data analytics (43 percent), mobility (43 percent) and social networking (20 percent).[2] The primary reasons those in this sector were seeking out deals were to acquire tuck-in acquisitions, to enhance new products (19 percent), to enter into new revenues growth areas (18 percent), to expand technology platforms (14 percent), and to expand their customer base (14 percent). Deal making was most challenged by the valuation disparity between buyers and sellers (51 percent), the limited inventory of suitable targets (24 percent), the difficulty in identifying suitable targets (23 percent), and problems with buyer/target alignment on post-deal execution strategy (19 percent).[2]

Healthcare/Pharmaceuticals/Life Sciences

Not surprisingly, the number one trend behind M&A in this sector was expected to be the industry response to the Affordable Care Act, cited by 73 percent of healthcare executives. Other important trends include consolidation of core businesses/responding to competition (61 percent), product service growth (22 percent), and geographic growth (17 percent).[2] The most common challenges for healthcare M&A are expected to be uncertainty in the regulatory environment (62 percent), valuation disparities between buyers and sellers (38 percent), the inability to forecast future performance (37 percent), and the difficulty in identifying suitable targets (27 percent).[2] When asked how they anticipated dealing with the new healthcare exchanges, 38 percent of healthcare executives said they were uncertain; 30 percent intended to maintain company-based health insurance; 24 percent did not plan on making any changes; and eight percent intended to shift employees to exchanges as soon as practicable.

Financial Services

The most important financial services trend driving M&A is expected to be consolidation of core businesses/competition (48 percent). Other key trends are increasing regulations that favor scale (42 percent), geographic growth (27 percent), technological advances (25 percent),and product and service growth (23 percent). The most common challenges for those interested in pursuing financial services M&A include uncertainty in the regulatory environment (57 percent), valuation disparity between buyers and sellers (34 percent), the inability to forecast future performance (34 percent), and the identification of suitable targets (32 percent). Executives predict that the most attractive sectors in financial services will be financial technology (20 percent), banking (18 percent), specialty finance (16 percent), and insurance (16 percent).[2]

Energy/Oil & Gas

According to oil & gas respondents, the most important trends driving M&A in this sector will be new technologies, including fracking (52 percent), geographic growth (35 percent), product/service growth (18 percent), and customer growth (13 percent). The issues that will most challenge deal makers in this industry are expected to be uncertainty in the regulatory environment (38 percent), valuation disparities between buyers and sellers (37 percent), volatile energy prices (36 percent), and the inability to forecast future performance (28 percent). Consumer Markets Consumer markets' executives say that the key trends driving acquisitions in this sector will be consolidation of core businesses/competition (62 percent), product/service growth (40 percent), geographic growth (31 percent), and customer growth (30 percent).[2] In terms of divestitures, consumer markets respondents say that their companies will be most motivated by the opportunity to sell non-core businesses (62 percent), the opportunity to monetize a successful business (44 percent), and the opportunity to sell an unprofitable business (35 percent).[2] The biggest challenges to deal making in this sector are the valuation disparities between buyers and sellers (53 percent), the inability to forecast future performance (40 percent), difficulties in identifying suitable targets (32 percent), and buyer/target alignment on post-deal strategy (20 percent).

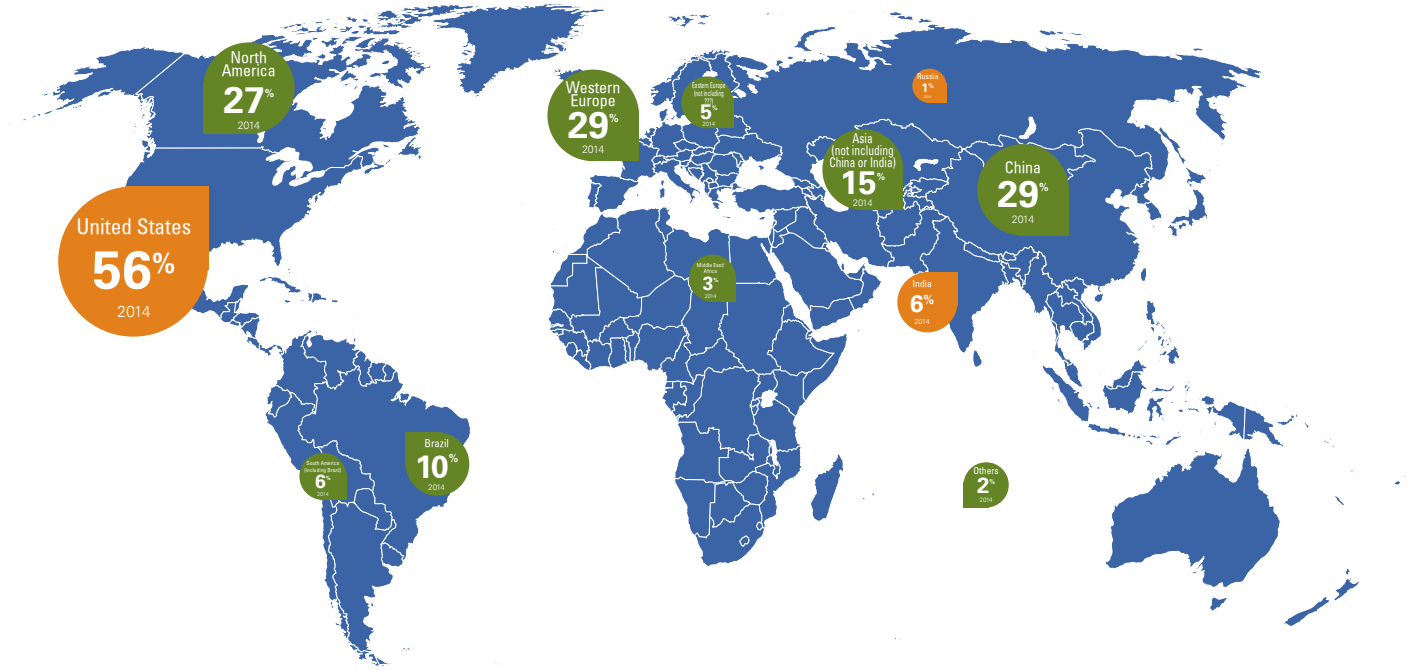
Diversified Industrials

The key trends that will drive M&A in diversified industrials include market access (44 percent), cost cutting (43 percent), consolidation of the supplier base (38 percent), and technology advancement (28 percent).[2] The key trends that will drive divestitures are the opportunity to sell a non-core business (69 percent), the opportunity to sell an unprofitable business (38 percent), and the opportunity to monetize a successful business (35 percent).[2] Executives in this sector said that the most common challenges to deal making would be valuation disparity between

2. Multiple responses permitted.

buyers and sellers (59 percent), the inability to forecast future performance (42 percent), the identification of suitable targets (34 percent), and buyer/target alignment on post-deal strategy (19 percent).

U.S. Expected to Lead Deal Activity



Q: Which two regions or countries do you think will have the most active M&A markets in 2014?

The vast majority of respondents (83 percent) expect the United States and North America to be the most popular deal destination. Other regions where M&A is expected to be robust are Western Europe (29 percent), China (29 percent), and Asia, not including China and India (15 percent).[3] Isom explained that "in today's high-risk investment environment, North America's relative fiscal health and growth rate make it a profitable investment destination. The European debt crisis is creating many opportunities and those seeking growth are always attracted to emerging markets."

Due Diligence and Lack of Opportunities Challenge Deal Makers

In terms of due diligence, respondents said that their greater challenges were presented by the assessment of volatility for future revenue streams (34 percent). Other important due diligence challenges included assessing a target's quality of earnings (19 percent), assessing the quality of a target's assets (11 percent), diligence issues surrounding the cost synergy analysis (9 percent), and the cultural assessment of the target (9 percent).

Tax issues should also be considered as early as possible, according to Lisa Madden, KPMG's Leader M&A Tax. "An important part of any deal is an analysis of tax issues and implications," she said. "The tax landscape is constantly evolving as the government issues new regulations, and buyers and sellers need to be aware of how any possible changes may affect deal structures and future profitability." The vast majority of respondents said that they do consider tax implications at the outset of a deal (70 percent). Another 26 percent said that tax issues are considered after key deal terms and structures are decided. A large

3. Multiple responses permitted.

percentage of respondents (39 percent) said that tax considerations make deals more complex and challenging to tackle.

Similarly, integration issues also present significant challenges and should be considered as early as possible. The most significant integration issues for respondents were cultural and human resources issues (30 percent), followed by product and services integration and rationalization (20 percent), accounting and finance transformation (12 percent), and customer and supplier integration and rationalization (11 percent).

Despite general optimism about activity levels in the coming year, respondents were very conscious of existing challenges. Almost one-third (32 percent) of survey respondents said that they thought deal activity would be most inhibited by a lack of suitable opportunities. Other issues that they thought would slow deal flow included recessionary fears and the current slow growth environment (29 percent), regulatory considerations (18 percent), and the availability or cost of debt financing (12 percent).

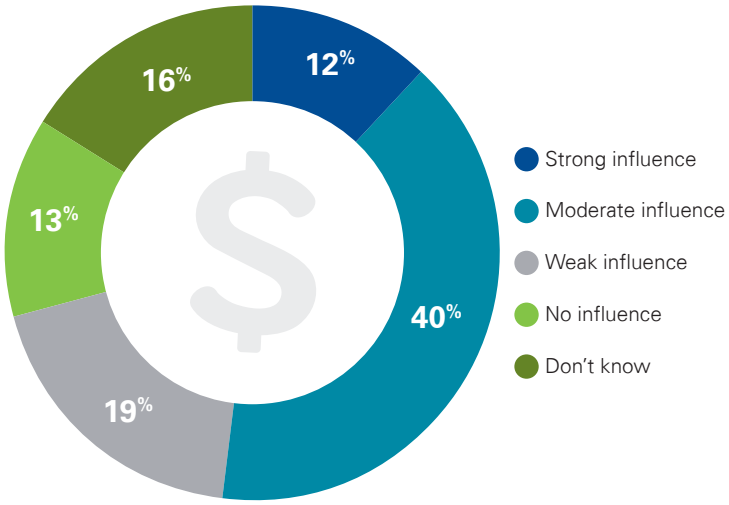
Deal Makers Consider Government Actions

How do the actions of the Federal Reserve affect the decision to raise capital? According to respondents, 40 percent said that Fed policy had a "moderate" effect; 32 percent thought Fed policy had a "weak" or no effect on the decision to raise capital or refinance.

The anticipated increase in interest rates was also not expected to have a clear-cut impact on M&A. Over half (53 percent) said it was too early to tell, 30 percent said higher rates would not affect deals, and 17 percent said they thought deal volume would decrease. In our survey, 39 percent of respondents said that they were not sure if they would be accessing the credit markets in 2014; 36 percent said that they were planning to and 19 percent said that they would not.

Interestingly, almost half of respondents (50 percent) did not think that reduced government spending would have any impact on M&A. The same percentage of respondents thought reduced spending would cause acquisitions to increase (9 percent) as to decrease (9 percent).

Q: How much influence does the Federal Reserve's monetary policy have on your decision to raise or refinance capital? Please select one choice.



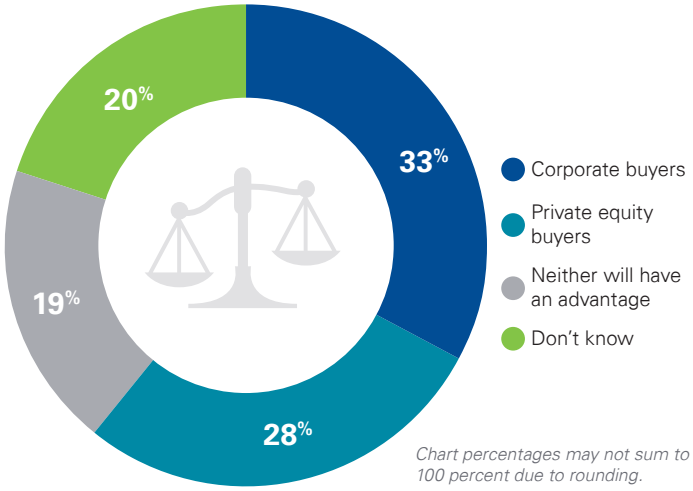
Corporate Buyers Have a Slight Edge

When asked who would have an advantage in 2014, corporate buyers or PE funds, 33 percent of respondents said that they thought corporate buyers would have an advantage, 28 percent said they thought PE buyers would have an advantage, and 19 percent said they did not think either one would have an advantage.

Respondents noted that they thought corporate buyers had the advantage because they were able to pay a higher price due to their ability to realize synergies. They also noted that corporations had large amounts of cash and the increased value of their stock to use as currency.

Respondents overwhelmingly (61 percent) thought that a sale to a strategic buyer would be the preferred exit strategy for a seller. Seventeen percent said that they thought the sale to a financial buyer was preferred, 12 percent said an IPO was the preferred exit, and 11 percent believed that it was preferable to refinance or raise debt capital.

Q: Who will have more of an advantage in 2014—corporate buyers or private equity buyers?



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Q: Which exit strategy will be most preferred by companies in 2014?

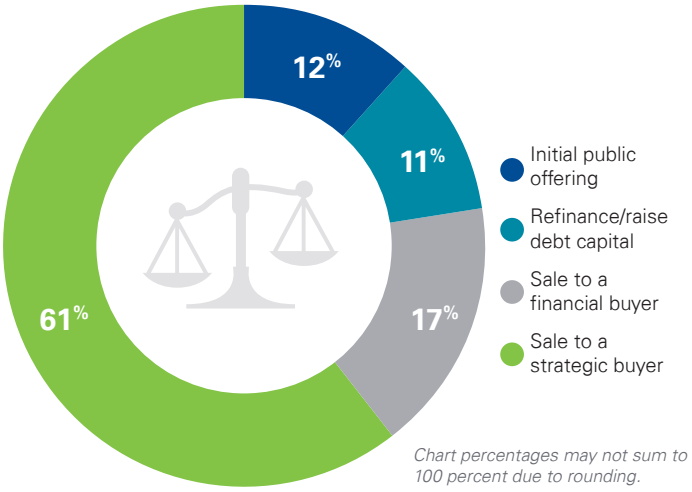

Chart percentages may not sum to 100 percent due to rounding.

Conclusion

Corporations and PE funds have large amounts of investable capital and executives feel relatively positive about the current deal environment. Interest rates are low, the U.S. economy is improving, and global issues such as the European debt crisis are being resolved.

Despite these factors, M&A has not been as active as expected in 2013. However, the executives in our survey expect deal making to pick up and expect to seek growth opportunities through acquisitions in 2014. As the M&A market improves, acquirers still face due diligence challenges in assessing targets' volatile revenue streams, quality of earnings, and quality of assets. Therefore, a robust due diligence and integration process is needed to make sure these acquisitions add stakeholder value.

Questions?

If you have any questions about this article please reach out to your KPMG engagement team or email us at us-kpmg-jp@kpmg.com.

Self-Driving Cars: Are We Ready?

A Message From Gary Silberg

A year ago, KPMG's Automotive team released a white paper about self-driving vehicles. That report, *Self-Driving Cars: The Next Revolution,* focused on the emerging technologies and the profound impact self-driving vehicles could have in reshaping our roads, our cities and our lives.[1]

A year later the momentum around self-driving vehicles is astonishing. In some ways, the industry is moving even faster than we predicted. Rarely does a day go by without another announcement about a new technological breakthrough or a new joint venture. Traditional automotive manufacturers are teaming up with high tech companies; innovative start-ups are seeking and finding investors. The landscape is shifting before our eyes.

But the introduction of disruptive innovation is fraught with risks. No matter how great the potential of self-driving vehicles, its trajectory will be determined by markets. And those markets are composed of people—consumers—who will ultimately adopt or reject the technology.

So this year, KPMG LLP went directly to consumers to ask the all-important question: If self-driving vehicles were available and safe, would you use them?

We conducted focus groups with vehicle owners in Los Angeles, California; Chicago, Illinois; and Iselin, New Jersey. We also leveraged insights into current sentiment about self-driving technologies using KPMG's Mass Opinion Business Intelligence (MOBI™) capability. Our research yielded three important insights into when, why and how consumers might use self-driving vehicles.

1. There's a distinct self-driving value proposition. Get it right and consumers will clamor (and pay) for the technology.
2. Get ready for the post-powertrain ecosystem. Acceleration time from 0–60 mph may not matter in the self-driving era. Consumers might well buy their self-driving cars from high-tech companies.
3. The growth in self-driving mobility on demand services could mark the end of the two-car family.

The report that follows discusses our findings and the implied opportunities and risks ahead for everyone within the automotive ecosystem. We hope you find the report illuminating and that we will have a chance to discuss our findings with you in the near future.

Gary Silberg
Partner, KPMG LLP
National Industry Leader Automotive

Questions?

If you have any questions about this article please reach out to your KPMG engagement team or email us at us-kpmg-jp@kpmg.com.

For more information, download the full report below.

Download Now

Self-Driving Cars: Are We Ready? >

http://www.kpmg.com/US/en/IssuesAndInsights/ArticlesPublications/Documents/self-driving-cars-are-we-ready.pdf

1. "Self-Driving Cars: The Next Revolution", KPMG and the Center for Automotive Research, 2012, available online: http://www.kpmg.com/US/en/IssuesAndInsights/ArticlesPublications/Documents/self-driving-cars-next-revolution.pdf

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Auditing & Accounting Update

In this section, we provide brief updates on regulatory developments in auditing and accounting that may impact Japanese companies in the United States. Further discussion of the issues can be found in KPMG's Department of Professional Practice's Defining Issues http://search.kpmginstitutes.com/?bigi=1&q=Defining+Issues&x=0&y=0

Revenue Recognition: Boards Completing Redeliberations

In their joint meeting held on October 30,2013, the FASB and IASB reached tentative decisions about collectibility, constraint on variable consideration, and licenses. In a separate meeting, the FASB discussed its due process procedures and directed its staff to draft the final standard, which is expected to be issued in the first quarter of 2014.

Go to Defining Issues 13-47 >
https://www.kpmg.com/CN/en/IssuesAndInsights/ArticlesPublications/Newsletters/Defining-Issues/Documents/Defining-Issues-O-1311-47.pdf

SEC Proposes Crowdfunding Rules

On October 23, 2013, the SEC proposed rules for selling securities through crowdfunding. The proposal, which does not limit the types of securities that may be sold or prescribe a method for valuing the securities, includes a framework that would regulate the funding portals and the brokers that issuers of securities would be required to use to facilitate their crowdfunding offerings.

Selling securities through crowdfunding would allow startups and small businesses to legally raise capital from non-accredited investors and would alleviate some of the regulatory burden that a company faces when it raises capital by selling its securities.

Go to Defining Issues 13-48 >
http://www.kpmginstitutes.com/financial-reporting-network/insights/2013/pdf/di-13-48-sec-crowdfunding.pdf

AICPA Issues Practice Aid on Goodwill Impairment Testing

The AICPA issued an accounting and valuation guide (Practice Aid) on goodwill impairment testing for preparers, auditors, and valuation professionals. The Practice Aid includes detailed examples of goodwill impairment tests and addresses common practice issues.

Go to Defining Issues 13-50 >
http://www.kpmginstitutes.com/financial-reporting-network/insights/2013/pdf/di-13-50-aicpa-goodwill.pdf?utm_source=page&utm_medium=/financial-reporting-network/insights/2013/di-13-50-aicpa-goodwill.aspx&utm_campaign=download

FASB Proposes Removing Development Stage Entity Concept

On November 7, 2013, the FASB proposed FASB ASU, *Elimination of Certain Financial Reporting Requirements*, which would eliminate the distinction between development stage entities and other reporting entities under U.S. GAAP, and would eliminate differential accounting requirements for development stage entities.

Go to Defining Issues 13-51 >
http://www.kpmginstitutes.com/financial-reporting-network/insights/2013/pdf/di-13-51-dse-proposal.pdf?utm_source=page&utm_medium=/financial-reporting-network/insights/2013/di-13-51-dse-proposal.aspx&utm_campaign=download

FASB Endorses PCC Proposals, Will Consider Goodwill for Public Companies

The FASB added to its agenda a project to consider changing the accounting for goodwill for public companies, and endorsed two recommendations from the Private Company Council (PCC) about the accounting for goodwill and a simplified hedge accounting approach. The PCC's proposal about goodwill would allow private companies to amortize goodwill and test for impairment only when a trigger event occurs. A second PCC proposal would allow a private company to use a simplified hedge accounting approach for certain receive-variable, pay-fixed interest rate swaps.

Go to Defining Issues 13-52 >
http://www.kpmginstitutes.com/financial-reporting-network/insights/2013/pdf/di-13-52-fasb-pcc-proposals.pdf

FEI Conference on Current Financial Reporting Issues

The annual Financial Executives International financial reporting issues conference held on November 18-19, 2013 primarily focused on FASB and IASB joint projects, developments at the SEC and PCAOB, and other accounting and financial reporting topics. Panelists at the conference represented those organizations, industry, and accounting firms, and responded to questions from an audience that included financial statement preparers, users, and auditors.

Go to Defining Issues 13-54 >
http://www.kpmg.com/CN/en/IssuesAndInsights/ArticlesPublications/Newsletters/Defining-Issues/Documents/Defining-Issues-O-1312-54.pdf

PCAOB Proposes Amendments to Require Communication in the Auditor's Report of Certain Participants in the Audit

The PCAOB proposed amendments that are designed to improve the transparency of audits. The proposed amendments, which the PCAOB re-issued for public comment, would require the auditor to communicate in the auditor's report (1) the name of the engagement partner and (2) certain information about other independent public accounting firms and other persons not employed by the auditor that participated in the audit. The PCAOB has not yet proposed an effective date for the proposed amendments.

Go to Defining Issues 13-55 >
http://www.kpmginstitutes.com/financial-reporting-network/insights/2013/pdf/di-13-55-pcaob-audit-communication.pdf

IFRS Convergence Not Probable on Impairment and Classification and Measurement of Financial Instruments

Convergence with IFRS does not seem probable on impairment and classification and measurement based on the FASB's latest tentative decisions. The FASB tentatively decided to continue to pursue the *lifetime expected credit loss model* for impairment. For classification and measurement, the FASB decided to no longer pursue the *solely principal and interest model* for assessing the contractual cash flows of financial assets, and to retain the current bifurcation requirements for hybrid financial assets.

Go to Defining Issues 13-56 >
http://www.kpmginstitutes.com/financial-reporting-network/insights/2013/pdf/di-13-56-financial-instruments.pdf

AICPA Issues Practice Aid on Acquired In-Process Research and Development Assets

In January 2014, the AICPA issued an accounting and valuation guide (Practice Aid) about assets acquired to be used in research and development (R&D) activities. The Practice Aid is intended for preparers, auditors, and valuation professionals and includes detailed discussion about initial recognition of in-process R&D at the time of a business combination or asset acquisition, subsequent accounting, and valuation methodologies, and includes a comprehensive example.

Go to Defining Issues 14-4 >
http://www.kpmg.com/CN/en/IssuesAndInsights/ArticlesPublications/Newsletters/Defining-Issues/Documents/Defining-Issues-O-1401-04.pdf

Divergence Increases on Classification and Measurement of Financial Assets

In its meeting on January 29, 2014, the FASB decided not to continue to pursue the business model assessment on classification and measurement. The Board also decided not to pursue an approach that focuses on the business activities that an entity uses in acquiring and managing the financial assets.

Go to Defining Issues 14-5 >
http://www.kpmginstitutes.com/financial-reporting-network/insights/2014/pdf/defining-issues-14-5-classification.pdf

IASB Finalizes New Hedge Accounting Model

The IASB issued general hedge accounting standard, which aligns hedge accounting under IFRS more closely with risk management, and will result in more hedging strategies that are used for risk management qualifying for hedge accounting. The new standard does not fundamentally change the three types of hedging relationships or the requirement to measure and recognize

ineffectiveness. However, assessing the effectiveness of a hedging relationship under IFRS will require more judgment than under the previous standard, and applying the new guidance in some areas remains complex.

Go to Defining Issues 14-6 >
http://www.kpmginstitutes.com/financial-reporting-network/insights/2014/pdf/defining-issues-14-6-iasb-hedge.pdf?utm_source=page&utm_medium=/financial-reporting-network/insights/2014/defining-issues-14-6-iasb-hedge.aspx&utm_campaign=download

FASB Issues New Private Company Guidance

On December 23, 2013, the FASB and Private Company Council issued new guidance for private companies including the Private Company Decision-Making Framework (the Framework) and a new definition of a public business entity. Standard setters will use that definition to identify entities that should be excluded from the Framework and to determine the scope of new accounting standards that provide exceptions or alternatives to U.S. GAAP for private companies.

Go to Defining Issues 14-7 >
http://www.kpmg.com/CN/en/IssuesAndInsights/ArticlesPublications/Newsletters/Defining-Issues/Documents/Defining-Issues-O-1402-07.pdf

Questions?

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Tax Update

In this section of Jnet, we provide brief updates on legislative, judicial, and administrative developments in tax that may impact Japanese companies operating in the United States.

January 2014

Guidance for Accounting Method Changes under the Final Repair Regulations

On January 24, the IRS issued Rev. Proc. 2014-16 that describes the procedural rules that taxpayers must follow to change a method of accounting to comply with the final "repair regulations." The final repair regulations are effective for tax years beginning on or after January 1, 2014.

The revenue procedure modifies the procedures for obtaining the automatic consent of the Commissioner for certain changes in methods of accounting for amounts paid to acquire, produce, or improve tangible property. It also provides procedures for obtaining automatic consent to change to (1) a reasonable method for self-constructed assets, and (2) a permissible method for certain costs related to real property acquired through a foreclosure or similar transaction.

It does not address method changes under the proposed disposition regulations. Those procedures are expected to be released in the near future.

LB&I Directive – No Challenge to Treatment of Certain "Milestone Payments" Paid to Investment Bank

On January 27, the IRS Large Business and International (LB&I) division issued a directive stating that if certain requirements are satisfied, the LB&I examiner is not to challenge a taxpayer's treatment of eligible "milestone payments" made as part of certain business acquisitions and for which the taxpayer incurs a success-based fee paid to an investment bank (LB&I-04-0114-001). The LB&I directive applies only with respect to investment banker fees incurred by either an acquiring corporation or a target corporation.

The LB&I directive explains that Rev. Proc. 2011-29 provides a safe harbor for allocating success-based fees paid or incurred for certain transactions generally allowing a taxpayer to treat 70% of such fee as a deductible amount with the remaining 30% of the fee to be capitalized. Rev. Proc. 2011-29, however, does not provide a safe harbor for "milestone payments."

Under the LB&I directive, examiners are instructed not to challenge a taxpayer's treatment of eligible milestone payments if the taxpayer 1) have not deducted more than 70% of any eligible milestone payment, 2) is not contesting its liability for the eligible milestone payment, and satisfies one of the following:

- For tax years ended on or after April 8, 2011, the taxpayer timely elects the Rev. Proc. 2011-29 safe harbor for the covered transaction;
- If a taxpayer is unable to elect the Rev. Proc. 2011-29 safe harbor because the taxpayer makes eligible milestone payments prior to the year in which the success-based fee would be paid, taxpayer documents its intention to elect the safe harbor and in fact makes the safe harbor election upon successful closing of the transaction; or

- For tax years ended before April 8, 2011, the taxpayer's return position meets the requirements of LB&I Directive 04-0511-012 with regard to success-based fees paid or incurred.

Texas – Decision to Broaden Scope of Qualifying Expenses for COGS Deduction

A Texas state appeals court held that a subsidiary of an integrated oilfield services company was entitled to a cost of goods sold (COGS) deduction for costs associated with removing and disposing of drilling mud waste *(Combs v. Newpark Resources,* No. 03-12-00515-CV).

Under Texas franchise tax law, taxable "margin" is the lesser of:

- 70% of total revenue, or
- Total revenue minus either (1) cost of goods sold (COGS) or (2) compensation and benefits

The COGS statute allows a company to deduct "all direct costs of acquiring or producing goods," and up to 4% of other "indirect or administrative overhead costs." Generally, only entities that own and sell real or tangible personal property can elect to deduct COGS, and an election to deduct COGS applies to the combined group as a whole.

In this case, the parent company's primary business activity involved the manufacture, sale, injection, and removal of drilling mud which is injected into an oil well hole as it is being drilled, to cool and lubricate the drill, as well as to facilitate the removal of rock, soil, and other waste material from the hole. Several subsidiaries were involved in its drilling-mud operations—including one that claimed the disputed COGS expenses (that subsidiary removed nonhazardous waste materials from drilling sites, transported the waste to underground disposal sites, and injected the waste into the sites for permanent disposal).

On audit, the Comptroller disallowed the deduction on the basis that the disposal and removal of drilling waste was a service that did not qualify for as COGS for Texas franchise tax purposes. The trial court held in favor of the taxpayer. The Comptroller filed an appeal.

On appeal, the central issue was whether the subsidiary was entitled to a COGS deduction for its labor and materials associated with the waste removal services.

The Comptroller appeared to argue that the subsidiary must be viewed in isolation to determine the eligibility of its expenses as COGS. Thus, because the subsidiary did not own or sell goods, it was not entitled to deduct its labor and materials as COGS. In contrast, the taxpayer argued that the Comptroller must look at the overall combined group's business to determine whether the expenses of each group member were eligible to be deducted as COGS.

After analyzing a number of statutory provisions illustrating that a combined group must be viewed as a whole, the appeals court concluded that it would be inconsistent to: …consider a combined group as a single taxable entity, require each member to take the same general deduction, but nevertheless treat each member as an isolated entity for purposes of determining eligibility to take the cost-of-goods-sold deduction.

December 2013

Senate Bill to Extend Expired Tax Provisions

On December 19, Senate Majority Leader Harry Reid (D-Nev.) introduced a bill (S. 1859) to extend 57 tax relief provisions (the "extenders") expiring on December 31, 2013. However, Congress failed to act on it before adjourning in 2013. It is unclear when Congress will address the expired provisions in 2014.

Among the 57 provisions previously identified in a JCT report issued on January 11, 2013 that expired at the end of 2013 are the following items:

- The research and experimentation tax credit
- Exemptions under subpart F for active financing income
- Look-through treatment of payments between related controlled foreign corporations (CFCs) under the foreign personal holding company rules
- 15-year straight line depreciation for qualified leasehold, retail, and restaurant improvements
- Additional first-year "50% bonus" depreciation
- Increased expensing of property under section 179
- A variety of energy-related provisions and biofuel incentives
- The work opportunity tax credit

- Parity of tax treatment of employer-provided parking and mass transit benefits
- Deduction for state and local sales taxes

Finance Committee Staff Discussion Draft of Energy Tax Incentive Reforms

On December 18, the Senate Finance Committee released a "staff discussion draft" of proposals concerning reform of energy tax incentives.

Under current law, there are 42 different energy tax incentives—including a dozen preferences for fossil fuels, 10 different incentives for renewable fuels and alternative vehicles, and six different credits for clean electricity. Of the 42 different energy incentives, 25 are temporary and expire every year or two years. The credits for clean electricity alone have been adjusted 14 times since 1978. According to the Finance Committee release, if Congress continues to extend current incentives, they will cost nearly $150 billion over 10 years.

The Finance Committee staff discussion draft proposes a smaller number of targeted and simple energy incentives that would be intended to be flexible enough to accommodate advances among fuels and technologies of any type—whether renewable, fossil, or anything in between. The proposals are intended to promote domestic energy production and reduce pollution. Specifically, the discussion draft offers proposals to:

- Establish a new, technology-neutral tax credit for the domestic production of clean electricity
- Establish a new, technology-neutral tax credit for the domestic production of clean transportation fuel
- Consolidate almost all of the existing energy tax incentives into these two new credits, with appropriate transition relief
- Provide businesses and investors with greater certainty by making the new incentives long enough to be effective, but phasing them out once clearly defined goals have been met

The package of reforms draws heavily from proposals offered by both Republican and Democratic members of the Senate Finance Committee.

Proposed Regulations on Treatment of Research Credit Among Controlled Group Members

On December 12, the Treasury Department and IRS released proposed regulations (REG-159420-04) concerning the calculation of the research credit for a controlled group that includes one or more foreign corporations that derive foreign-source gross receipts.

The traditional method of computing the research credit allows a taxpayer a credit equal to 20% of its qualified research expenses (QREs) for the tax year in excess of a base amount. The base amount is determined in part by reference to average gross receipts in earlier tax years. The larger those average gross receipts are, generally a smaller amount of the QREs will be allowed the 20% credit.

All members of a controlled group of taxpayers—corporations, partnerships, trusts, estates, and sole proprietors—must compute the credit as if they are a single taxpayer, and allocate the group credit among them. Regulations provide that, because of the single-taxpayer group computation, transactions between members of the group are generally disregarded. A provision in the Code says that a foreign corporation, in computing its research credit, is to count only gross receipts that are effectively connected with the conduct of a trade or business in the United States, Puerto Rico, or a U.S. possession.

In 2006, IRS examiners took the position in published guidance that a U.S. taxpayer that is in a controlled group with a more-than-50% owned controlled foreign corporation (CFC) is not to exclude gross receipts from sales to the CFC. The 2006 guidance did not limit this position to situations in which the CFC had gross receipts from non-U.S. third party sales of the same property or services. In 2010, a federal district court held that the IRS could not enforce this position, and that the law allows a controlled group to exclude all intragroup gross receipts in computing its research credit *(Procter & Gamble Company v. United States,* 733 F.Supp.2d 857 (S.D. Ohio 2010)). Following that decision, the IRS stopped enforcing the 2006 position. However, the IRS and Treasury turned to work on developing regulations addressing the issue.

The proposed regulations would require a controlled group to count the gross receipts from an intragroup sale of tangible or intangible property, or of services, if there is a foreign corporation in the controlled group that sells that same property or services to a third party in a transaction that is not effectively

connected with the conduct of a trade or business in the United States, Puerto Rico, or a U.S. possession.

For example, if a U.S. parent receives gross receipts from selling goods to its foreign corporate subsidiary, and the subsidiary sells those goods to a third party in a sale that is not effectively connected with the conduct of a trade or business within the United States, Puerto Rico, or a U.S. possession, the foreign subsidiary does not recognize any gross receipts from the sale, but the U.S. parent would not be able to exclude the gross receipts from its sale to the foreign subsidiary.

The preamble to the proposed regulations explains that the IRS and Treasury believe that a complete exclusion of gross receipts in that situation distorts the base amount, and thus distorts the amount of credit that Congress intended to be allowed.

Comments concerning the proposed regulations must be received by March 13, 2014. A public hearing on the proposed regulations is scheduled for April 23, 2014.

November 2013

Proposed Procedures for Competent Authority Assistance and APAs

On November 22, the IRS released two notices (Notice 2013-78 and Notice 2013-79) containing "draft" revenue procedures with respect to competent authority (CA) assistance and advance pricing agreements (APAs).

These draft revenue procedures represent substantial changes from the current revenue procedures that were issued in 2006. These changes reflect a desire by the IRS to enhance integration between Competent Authority matters and APAs and to increase transparency and efficiency in these processes. These draft revenue procedures are out for comments, which are due by March 10, 2014.

The proposed revision of procedures for Competent Authority (CA) assistance under tax treaties (contained in Notice 2013-78):

- Clarifies that CA issues may arise as a result of taxpayer-initiated positions
- Makes clear that the offices of the U.S. CA are available for informal consultations on CA-related issues
- States that U.S. CA may seek to initiate a mutual agreement procedure (MAP) case in the absence of a MAP request or may require that the scope of a MAP case be expanded
- Provides new pre-filing procedures applicable to MAP cases, including mandatory submission of a pre-filing memorandum depending on the nature of the issues or the adjustment amount involved
- Provides a revised listing of the standard specifications for the content of a request for CA assistance in various types of cases
- Elaborates on potential interactions of requests for CA assistance, accelerated competent authority process (ACAP) and APAs

The proposed revision of procedures for APAs (contained in Notice 2013-79):

- Provides expanded pre-filing procedures, including mandatory submission of a pre-filing memorandum in cases raising certain issues
- Provides for a new filing deadline for bilateral and multilateral APA requests
- Provides a revised listing of the specifications for the content of APA requests
- Clarifies that a complete APA request (updated and supplemented as required) will be a factor in determining whether the taxpayer has met the documentation requirements of Reg. section 1.6662-6(d)(2)(iii) for the proposed APA years
- Describes new general practices that will be followed after an APA request has been filed with respect to, among other things, issuing case plans, conducting due diligence, and conveying its views on APA requests to the taxpayer
- Increased coordination between requests for APAs, requests for CA assistance and ACAP including procedures for filing an abbreviated APA request in certain circumstances
- Provides that there may be coordination with applicable IRS offices to pursue an APA rollback to any or all of the taxpayer's open pre-APA years, regardless of whether the taxpayer requests an APA rollback

- Provides that a taxpayer may seek permission to submit an abbreviated APA request in cases involving renewals of current APAs

Senate Finance Discussion Draft of International Tax Reform Proposals

On November 19, Senator Max Baucus (D-MT) released a discussion draft outlining possible reforms to the international tax provisions of the Internal Revenue Code. The draft envisions two possible approaches, Option Y and Option Z, each of which would represent a substantial change in how the United States taxes international operations of US- based corporate groups through controlled foreign corporations (CFCs).

- Option Y: Under current law, income earned by CFCs is generally not subject to US tax until distributed to US shareholder unless it is characterized as a form of "subpart F income." Option Y keeps subpart F income subject to immediate US taxation but exempts other income of CFCs when earned or distributed. However, Option Y significantly modifies the definition of subpart F income to include income subject to a foreign tax rate of less than a specified rate (tentatively set at 80% of the US corporate tax rate) as well as income generated with respect to services rendered to US persons or property imported into the United States. Moreover, the exemption would only be available to 10 percent corporate US shareholders.
- Option Z: Option Z requires the immediate inclusion of all income of a CFC by its US shareholders. Option Z allows exclusion of a portion (tentatively set at 40 percent) of "active foreign market income" in computing the amount included in the US shareholder's taxable income.
- Foreign Tax Credits (FTCs): FTCs remain available under each option. Under Option Y, no FTC would be available with respect to distributions qualify for complete exemption. Under Option Z, FTCs attributable to "active foreign market income" would be reduced to reflect the partial exclusion.
- Interest Expense: Both options would apportion a fraction of a US shareholder's interest expense to exempt income of its CFCs (i.e., the wholly exempt income under Option Y or the partially excluded "active foreign market income under Option Z) and would permanently disallow such amounts.
- Transition Rules: Under both options, accumulated deferred earnings of a CFC as of the effective date would be includible by its corporate US shareholders and subject to a 20 percent tax, payable in installments over eight years.
- Intangibles: Definition of intangible property in the international context would include going concern value and goodwill as well as any item whose value is not attributable to tangible property or the services of an individual.
- Base Erosion Transactions: The draft includes a complex provision designed to prevent reduction of the US tax base.
- Check-the-Box Rule: All business entities wholly owned within a group of CFCs would be treated as corporations, effectively repealing the "check-the-box" rules for foreign entities belonging to a single group.
- Others: The draft proposes changes with respect to portfolio debt exemption, PFICs, FIRPTA, sourcing of income from inventory sales, sales of interests in partnerships engaged in a US trade or business, reinsurance transactions with foreign affiliates.

LB&I Directive – IRS Enforcement Process When Taxpayers Do Not Comply with IDRs

On November 4, the IRS Large Business and International (LB&I) division posted an LB&I directive setting forth a new, more stringent enforcement process when taxpayers do not timely comply with information document requests (IDRs) or do not provide complete responses to an IDR by the response date (LB&I-04-1113-009). The LB&I directive is effective January 2, 2014, but a transition rule will apply.

The LB&I directive provides that the three-step IDR enforcement process of issuing a delinquency notice, a pre-summons letter, and a summons is mandatory. LB&I managers are encouraged to be actively involved early in the IDR process. All IRS exam teams are directed to discuss with taxpayers currently under examination the new requirements no later than December 15, 2013.

Questions?

If you have any questions about this article please reach out to your KPMG engagement team or the contact listed with this article.

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