GROUP 1 AUTOMOTIVE









Via Email: director@fasb.org

September 20, 2010

Mr. Russell Golden Technical Director Financial Accounting Standards Board 401 Merritt 7 P.O. Box 5116 Norwalk, Connecticut 06856-5116

Re: File Reference No. 1840-100; Exposure Draft – Proposed Accounting Standards Update, Contingencies (Topic 450), Disclosure of Certain Loss Contingencies

Dear Mr. Golden:

The undersigned six publicly-traded automotive retailers welcome the opportunity to comment on the Exposure Draft of the Proposed Accounting Standards Update, Disclosure of Certain Loss Contingencies, an amendment of Contingencies Topic 450 ("Exposure Draft").

To assist the Technical Director in understanding our position on the Exposure Draft, we offer the following information regarding our industry. Collectively representing approximately \$36 billion in revenue last year with over 58,000 employees combined worldwide in the \$1 trillion automotive retail industry, our companies market and sell a wide range of automotive products and services, including new and used vehicles, parts and accessories, vehicle maintenance and repair services, and related finance and insurance products. Companies in the automotive retail industry are named in numerous lawsuits in the ordinary course of business. However, most of these lawsuits involve low-levels of liability exposure. While we are often named in product liability cases involving automotive manufacturers, in most cases we are entitled to full indemnification by the manufacturers. We also encounter lawsuits that involve customer complaints and disputes (e.g., slip and fall cases), bodily injury claims resulting from on-the-road accidents, employment matters, contractual disputes and other matters that are common for the automotive retail industry.

With respect to the Exposure Draft, we appreciate that the Board has proposed revisions to the prior exposure draft. However, we believe that the proposed changes to the current disclosure requirements are not necessary, would not improve financial reporting disclosures and could mislead the readers of our financial statements. In short, we do not support the release of this proposed draft and believe the existing "SFAS 5" guidance addresses contingency disclosures appropriately.

Our main concerns are summarized as follows:

- Companies should not be prohibited from considering insurance and indemnification coverage when assessing materiality and determining loss contingency disclosures.
- The impact of the Exposure Draft on the potential waiver of the attorney-client privilege is potentially detrimental, in particular since the Exposure Draft lacks a prejudicial exemption from the disclosure requirements.
- Disclosure of remote loss contingencies is unnecessary and could confuse or mislead readers of financial statements.

We will expand on each of these points in the following discussion:

Companies should not be prohibited from considering insurance and indemnification coverage when assessing materiality and determining loss contingency disclosures. As currently drafted, the Exposure Draft would not permit companies to consider the possibility of recovery from insurance or other indemnification arrangements when assessing the materiality of a loss contingency. Our companies, like many others, have placed great emphasis on managing our risk exposure. Insurance coverage often times is instrumental in determining the materiality of loss contingency exposure. While we recognize that insurance coverage can be uncertain and is potentially subject to litigation, failure to consider such information in determining materiality of loss contingency disclosures because such recoveries are contingent is contradictory to the fact that the underlying loss contingency is, in and of itself, also contingent. Insurance coverage is a significant factor that should be considered in assessing materiality of a particular claim, especially when there is a history of recoveries under insurance coverage for recurring types of claims. Under this proposed standard, we will be required to increase the number of contingencies disclosed, which will dilute the significance of the disclosure of material contingencies and outweigh the benefits of the increased disclosures for insured claims.

In addition, not allowing us to consider contractual or other indemnification obligations of third parties will also require us to describe contingencies that involve low-levels of liability exposure. As automotive retailers, we are in the chain of distribution for products made by automotive manufacturers. As such, we are almost always named as additional defendants in product liability cases for which the relevant manufacturer is contractually obligated to indemnify us. We seek, and often times receive, letters of confirmation of such indemnity obligations by our manufacturer partners, similar to a coverage letter that we receive in insurance cases. We rely on these indemnification agreements as a material obligation of our manufacturers in assessing our long term business relationship. Furthermore, in most product liability cases, the automotive manufacturers assume and control the defense against the relevant claims. As a result, we will not be in a position to make the relevant assessments and to comply with the disclosure requirements under the Exposure Draft. Ironically, the proposed disclosure requirements would require us to disclose as loss contingencies matters that are not loss contingencies at all.

The impact of the Exposure Draft on the potential waiver of the attorney-client privilege is potentially detrimental, in particular since the Exposure Draft lacks a prejudicial exemption from the disclosure requirements. We believe that the Exposure Draft would require the disclosure of highly prejudicial information relating to loss contingencies, and such disclosures could result in the waiver of the attorney-client privilege. Currently, Topic 450-20-50-1 requires us to disclose the nature of a loss contingency and, in some circumstances, the dollar amount actually accrued in order to make the financial

statements not misleading. The disclosure requirements under the Exposure Draft could require us to disclose prejudicial information. Plaintiff's attorneys could use this information to increase the likelihood of settling litigation, to unduly influence the trier of fact, such as a jury, judge, mediator or arbitrator, or to pursue additional plaintiffs. Such disclosures could be misconstrued as admissions of liability, prejudice our ability to adequately defend ourselves and increase our costs related to litigation, all to the detriment of our stakeholders. In addition, since such disclosures would be a direct result of consultation with our legal advisors, we may be forced to waive the attorney-client privilege, which would further disadvantage us in lawsuits and harm our stockholders.

The proposed tabular reconciliation requirements would provide opposing parties the ability to analyze changes in our accruals, which could allow them to decipher critical information related to their respective claims and our litigation strategy. Disclosing amounts accrued will likely provide a minimum threshold for negotiating scenarios. In addition, we disagree that aggregating disclosures by class addresses these concerns, since we may be unable to achieve an adequate level of discretion through aggregation.

Further, disclosure of remote loss contingencies could encourage plaintiffs to inflate the claimed damages, thereby forcing us to disclose information that could be prejudicial towards us or force us to settle claims on less favorable terms.

Disclosure of remote loss contingencies is unnecessary and could confuse or mislead readers of financial statements. The disclosure of remote loss contingencies as required in the Exposure Draft would be simply not practical or operational and too subjective. The process of identifying remote contingencies that could have a potentially severe impact is much too subjective. In addition, requiring the prediction of the severity of a matter in its early stages could result in irrelevant disclosures that might divert the attention of the financial statement users away from more pertinent contingency disclosures. This proposed disclosure requirement could lead companies like us to conservatively disclose all remote contingencies, based on the fear of being second-guessed by investors and regulators with the benefit of "20/20" hindsight. Combining disclosure of remote contingencies with other more probable contingencies could be confusing to shareholders and potential investors, restricting their ability to distinguish the truly significant loss contingencies from the inconsequential.

In addition, we believe that concerns regarding disclosure of loss contingencies are currently addressed for public registrants under the purview of the Securities and Exchange Commission. In addition to the "SFAS 5" disclosures required in our financial statements, each of the undersigned are reporting entities under the Securities and Exchange Act of 1934 and, as such, have certain obligations to disclose in their public filings under "Risk Factors," as well as in "Legal Proceedings," those matters that, after careful consideration of rules and regulations of the Securities and Exchange Commission, rise to the level of disclosure under Items 503(c) and 103 of Regulation S-K. Each of us is required to provide certifications on a quarterly basis, confirming as to the truth, accuracy and adequacy of the disclosures contained in the respective filings. As such, we should be given discretion to make the appropriate assessments of what should be disclosed and to avoid disclosing those lawsuits which are speculative, frivolous and would otherwise result in disclosing misleading information in our respective financial statements.

Our duty and obligation is to manage and protect the assets of our companies and to manage exposure to all types of risk whenever possible in order to protect the investment of our shareholders. Further, the disclosure of remote loss contingencies distorts the potential liability of the company and wrongly projects its negative potential effects on cash flows.

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For the foregoing reasons, we urge the FASB to maintain the existing disclosure requirements, which we believe are adequate and sufficient to provide readers of our financial statements meaningful information regarding loss contingencies. We recommend that, at minimum, the FASB amend the proposed disclosure requirements to (1) permit companies to consider all factors, including insurance and indemnification arrangements, in evaluating loss contingencies, (2) adopt a specific exemption from disclosing information that would be prejudicial to the reporting company, and (3) remove the disclosure requirement with respect to remote loss contingencies to avoid confusing or misleading readers of financial statements. We also recommend that any amendments to the existing requirements become effective for fiscal years ending after December 15, 2011.

Respectfully Submitted,

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