Risk Factors Comparison 2024-02-21 to 2023-03-09 Form: 10-K

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Risks Related to Our Business and Operations If we are unable to successfully execute on our business strategy, if our strategy proves to be ineffective, or if we improperly align new strategies with our vision, our business, financial performance and growth could be adversely affected. Our business, results of operations and financial condition depend on our ability to execute our business strategy. See " Our Business Strategy " under " Item 1. Business " included in this Annual Report on Form 10- K. There are significant risks involved with the execution of these initiatives, including significant business, economic and competitive uncertainties, many of which are outside of our control. Accordingly, we cannot predict whether we will succeed in implementing these strategic initiatives, and even if we do succeed, we may not realize the expected benefits of our strategy. It could take several years to realize any direct financial benefits from these initiatives, if any direct financial benefits from these initiatives are achieved at all. We may not properly leverage or make the appropriate investment in technology advancements, which could result in the loss of any sustainable competitive advantage in products, services and processes. Our business is dependent on information technology, particularly as we execute our digital transformation strategy. Robust information technology systems, platforms and products are critical to our operating environment, digital online products and competitive position. We **have made and continue to make investments to improve our information technology infrastructure. Such improvements are often complex, costly and time consuming. If implementation of such improvements are delayed, or if we encounter unforeseen problems with our new systems and processes or in migrating away from our existing systems and processes, our operations and our ability to manage our business could be negatively impacted as we may experience disruptions in our business operations, loss of customers, loss of revenue or damage to our reputation. We** may not be successful in structuring our technology or developing, acquiring, implementing or consolidating technology systems which are competitive and responsive to the needs of our customers. We might lack sufficient resources to continue to make the significant technology investments to effectively compete with our competitors. Certain technology initiatives that management considers important to our long- term success will require capital investment, have significant risks associated with their execution, and could take several years to implement. If we are unable to develop and implement these initiatives in a cost- effective, timely manner or at all, it could damage our relationships with our customers and negatively impact our financial condition and results of operations. There can be no assurance that others will not acquire or develop similar or superior technologies sooner than we do or that we will acquire technologies on an exclusive basis or at a significant price advantage. **In addition, we may not timely or effectively develop or enhance services or business processes to respond to emerging technological trends, including artificial intelligence, or our competitors may be able to develop or enhance services or business processes sooner or more effectively.** If we do not accurately predict, prepare and respond to new kinds of technology innovations, market developments and changing customer needs, our revenues, profitability and long- term competitiveness could be materially adversely affected. Unsuccessful implementation of business initiatives to reduce costs and align our business to our digital operating model, or unintended consequences of the implementation of such initiatives, may adversely affect our business. We have taken certain steps to reduce the cost of our operations, improve efficiencies, and realign our organization and staffing to better match our market opportunities and digital initiatives. For example, ~~during~~ **following** the **sale** ~~third quarter~~ of ~~2021~~ **the ADESA U. S. physical auction business,** we **implemented** ~~initiated a multi- year cost management project focused on making~~ permanent changes in our operating model and our cost structure ~~,~~ **to** ~~reengineering~~ --- **reengineer** the way we do business and ultimately ~~reducing~~ **reduce** our costs to provide services. **We have** ~~Following the sale of the ADESA U. S. physical auction business, we~~ continued to restructure our business to reflect the current market and asset- light digital model, reallocate our resources towards the highest growth initiatives, consolidate our platforms, transition to cloud- based solutions and leverage a global shared services model. We expect to continue to ~~take similar steps in the future~~ **implement cost reduction and business alignment initiatives** as we seek to realize operating synergies, achieve our target operating model and profitability objectives, and more closely reflect changes in the strategic direction of our business. These changes could be disruptive to our business, and we may experience a loss of accumulated knowledge, loss of continuity and inefficiency, adverse effects on employee morale, loss of key personnel and other retention issues during transitional periods. These initiatives can require a significant amount of time and focus, which may divert attention from operating and growing our business. If we fail to achieve some or all of the expected benefits of our cost reduction and business alignment initiatives, it could have an adverse effect on our competitive position and market share, business, financial condition and results of operations. We operate in a highly competitive industry. If we are not successful in competing with our known competitors and / or disruptive new entrants, then our market position or competitive advantage could be threatened and our business and results of operations could be adversely impacted. We face significant competition for the supply of used vehicles, the buyers of those vehicles and the floorplan financing of these vehicles. Our principal sources of competition historically have come from: (1) direct competitors (e. g., Manheim, ACV Auctions, EBlock and NextGear Capital), (2) new entrants, including new vehicle remarketing venues and dealer financing services, and (3) other participants in the automotive industry with vehicle remarketing capabilities (e. g., rental car companies, automobile retailers and wholesalers). We also face increasing competition from online wholesale and retail marketplaces (generally without any meaningful physical presence) and from our own customers when they sell directly to end users through such platforms rather than remarket vehicles through our marketplaces. Increased competition could result in price reductions, reduced margins or loss of market share. Our future success also depends on our ability to respond to evolving industry trends, changes in customer requirements and new technologies. If new industry trends take hold, including adverse trends such as a market reversal towards physical auctions or the simultaneous listing and selling of vehicles on multiple online sales platforms in North America, the automotive remarketing industry' s economics could significantly change, which could cause us to lose vehicle volume and market share, and our business, revenues and profitability could be negatively impacted. Some of our competitors may have greater financial and marketing resources than we do, may be able to respond more quickly to evolving industry dynamics and changes in customer requirements, or may be able to devote greater resources to the development, promotion and sale of new or emerging services and technologies. If we are unable to compete successfully or to successfully adapt to industry changes, our business, revenues and profitability could be materially adversely affected. In addition, if one or more of our competitors were to merge or partner with another of our competitors, the change in the competitive landscape could adversely affect our ability to compete effectively. Our competitors may also establish or strengthen cooperative relationships with our current or future data providers, technology partners, or other parties with whom we have relationships, thereby limiting our ability to develop, improve, and promote our solutions. We may not be able to compete successfully against current or future competitors, and competitive pressures may harm our revenue, business, and financial results. Our marketplace businesses currently compete with a number of physical auction companies and online wholesale and retail vehicle selling platforms. The dealer- to- dealer space in particular is experiencing a digital disruption as competitors and new market participants introduce new technologies. If the number of vehicles sold through our marketplaces decreases due to these competitors or other industry changes, or if **we** ~~BacklotCars and TradeRev~~ are unable to compete and gain market share in the dealer- to- dealer space, our revenue and profitability may be negatively impacted. In addition, our long- lived assets could also become subject to impairment. At the national level, AFC' s competition includes NextGear Capital, a subsidiary of Cox Enterprises, Inc., other specialty lenders, banks and financial institutions. At the local level, AFC faces competition from banks, credit unions and independent auctions who may offer floorplan financing to local auction customers ~~. Such entities typically service only one or a small number of auctions~~ . Some of our industry competitors who operate wholesale car auctions on a national scale may endeavor to capture a larger portion of the floorplan financing market. AFC offers its customers competitive rates and fees and competes primarily on the basis of quality of service, convenience of payment, scope of services offered to solve customer pain points and historical and consistent commitment to the sector. In addition, AFC offers a workforce in close proximity to its customers. If the number of loans originated and serviced decreases due to these competitors, our revenue and profitability may be negatively impacted. Decreases in the supply of used vehicles coming to the wholesale market has impacted and may continue to impact sales volumes, which has adversely affected and may continue to adversely affect our revenues and profitability. **We are dependent on the supply of used vehicles in the wholesale market, and our financial performance depends, in part, on conditions in the automotive industry.** The automotive industry has experienced unprecedented market conditions, caused in part by supply chain issues, the shortage of semiconductors and associated delays in new vehicle production. **In recent years,** ~~These~~ **these** factors have resulted in significant fluctuations in used vehicle values and declines in vehicle volumes in the wholesale market ~~. We expect this volatility to continue~~ . In particular, the number of new and used vehicles that are leased by consumers affects the supply of vehicles coming to the wholesale market in future periods as the leases mature. As manufacturers and other lenders decrease the number of new vehicle lease originations and extend the terms of some of the existing leases, the number of off- lease vehicles available for the wholesale industry declines. Volumes of off- lease vehicles in subsequent periods will be affected by total new vehicle sales and the future leasing behavior of manufacturers and lenders; therefore, we are not able to accurately predict the volume of vehicles coming to the wholesale market. The supply of off- lease vehicles coming to wholesale channels is also affected by the market value of used vehicles compared to the residual value of those vehicles per the lease terms. In most cases, the lessee and the dealer have the ability to purchase the vehicle at the residual price at the end of the lease term. Generally, as market values of used vehicles rise, the number of vehicles purchased at residual value by the lessees and dealers increases, thus decreasing the number of off- lease vehicles available to the wholesale market. As a result, lower volumes of off- lease vehicles available to the wholesale market is expected to continue and will likely continue to adversely affect our revenues and profitability. Further, macroeconomic factors, including inflationary pressures, rising interest rates, volatility of oil and natural gas prices and declining consumer confidence impact the affordability and demand for new and used vehicles. Declining economic conditions present a risk to our operations and the stability of the automotive industry. In addition, the supply of vehicles coming to the wholesale market could be impacted by changes to the broader automotive industry. For example, ~~if consumer behavior and~~ **an increased demand for** ~~vehicle ownership trends move from vehicles with internal combustion engines to~~ electric vehicles ~~,~~ **could cause** the number of vehicles coming to the wholesale market ~~could~~ **to** decline ~~,~~ **and** the ancillary services we provide ~~could~~ **to** decline or change ~~, we could incur expenses associated with the purchase and installation of charging stations at our facilities and our revenues and profitability may be adversely affected~~ . Further, technology is being developed to produce automated, driverless vehicles that could reduce the demand for, or replace, traditional vehicles, including the used vehicles on our marketplaces. Additionally, ride- hailing and ride- sharing services are becoming increasingly popular as a means of transportation and may decrease consumer demand for the used vehicles that are offered on our marketplaces, particularly as urbanization increases. If we are unable to or otherwise fail to successfully adapt to such industry changes, our business, financial condition and results of operations could be materially and adversely affected. Used vehicle prices impact fee revenue per unit and conversion rates and may impact the supply of used vehicles, loan losses at AFC and could adversely affect our profitability. The volume of new vehicle production, accuracy of lease residual estimates, interest rate fluctuations, customer demand and changes in regulations, among other things, all potentially affect the pricing of used vehicles. Used vehicle prices may affect the volume of vehicles entered for sale in our marketplaces and the demand for those used vehicles, the fee revenue per unit, marketplace conversion rates, loan losses for our dealer financing business and our ability to retain customers. When used vehicle prices are high, ~~used vehicle dealers~~ **dealer customers** may retail more of their trade- in vehicles on their own rather than selling them in the wholesale channel. A sustained reduction in used vehicle pricing could result in a potential loss of consignors, an increase in loan losses at AFC and decreased profitability. Our marketplace businesses also sell vehicles that have been purchased (e. g., inherited vehicles, vehicles returned or vehicles purchased by ~~ADESA~~ **OPENLANE** Europe and others). When a vehicle is purchased and then resold, rather than sold on a consignment basis, we are exposed to inventory risks, including losses from theft, damage and obsolescence. In addition, when vehicles are purchased, we are subject to changes in vehicle values, which could adversely affect our revenue and profitability. AFC is exposed to credit risk with our dealer borrowers, which could adversely affect our profitability and financial condition. AFC is subject to credit risk resulting from defaults in payment by our dealer customers on our floorplan loans. Furthermore, a weak economic environment, decreased demand for used vehicles, disruptions in pricing of used vehicle inventory or consumers' lack of access to financing could exert pressure on our dealer customers resulting in higher delinquencies, bankruptcies, repossessions and credit losses. There can be no assurances that our monitoring of our credit risk as it affects the collectability of these loans and our efforts to mitigate credit risk through appropriate underwriting policies and loss- mitigation strategies are, or will be, sufficient to prevent an adverse impact in our profitability and financial condition. We may be unable to meet our customers' expectations, which could impact customer retention and adversely affect our operating results and financial condition. We believe our future success depends in part on our ability to respond to changes in customer requirements and our ability to meet regulatory requirements for our customers. Many of our customers, including our financial institution customers, are subject to significant and evolving regulations. We work to develop strong relationships and interactive dialogue with our customers to better understand current trends and customer needs **. Our success will also depend, in part, on our ability to provide customers with a user- friendly digital experience** . If we are not successful in meeting our customers' expectations, our customer relationships could be negatively affected and result in a loss of future business, which would adversely affect our operating results and financial condition. Our business and operating results would be adversely affected if we lose one or more significant customers. Loss of business from, or changes in the consignment patterns of, our key customers could have a material adverse effect on our business and operating results. Generally, commercial and dealer customers do not make binding long- term commitments to us regarding consignment volumes. Many of our customer agreements can be terminated by the customer for convenience on advance written notice, which provides our customers with the opportunity to renegotiate their agreements with us or to award more business to our competitors. Any such customer could reduce its overall supply of vehicles for our marketplaces, seek protection under the bankruptcy laws, or otherwise seek to materially change the terms of its business relationship with us at any time. There is no guarantee that we will be able to retain or renew existing agreements, maintain relationships with any of our customers or business partners on acceptable terms or at all, or collect amounts owed to us from customers or business partners. Any such change could harm our business and operating results. While no single customer accounted for 10 % or more of our consolidated revenues in ~~2022~~ **2023** , the loss of, or material reduction in business from, our key customers could have a material adverse effect on our business and operating results. If we fail to attract and retain key personnel, or have inadequate succession planning, we may not be able to execute our business strategies and our financial results could be negatively affected. Our success depends in large part on the talents and efforts of our executives and other key employees, including those with digital capabilities. Our future success will depend upon our ability to continue to identify, hire, develop, motivate and retain talented personnel. If we lose the services of one or more of our key personnel, or if one or more key personnel joins a competitor or otherwise competes with us, we may not be able to effectively implement our business strategies **or maintain customer relationships,** and our business could be materially adversely affected ~~. Many of our key personnel have extensive experience with our business and have established business relationships with customers and suppliers and, as a result, if we lose key personnel, we may have difficulty in executing our business plan and strategy, retaining and attracting customers on favorable terms and providing acceptable levels of customer service~~ . In addition, our failure to put in place adequate succession plans for key roles or the failure of key personnel to successfully transition into new roles could have an adverse effect on our business and operating results. The unexpected or abrupt departure of one or more of our key personnel and the failure to effectively transfer knowledge and effect smooth key personnel transitions may have an adverse effect on our business ~~resulting from the loss of such person' s skills, knowledge of our business, and years of industry experience~~ . Further, leadership changes have occurred and will continue to occur from time to time and we cannot predict whether significant resignations will occur or whether we will effectively manage leadership transitions. We may face risks related to these and other transitions in our leadership team. If we cannot effectively manage leadership transitions and management changes in the future, our reputation and future business prospects could be adversely affected. If we fail to effectively identify, value, manage, and complete acquisitions and subsequent integrations, divestitures and other strategic transactions, our operating results, financial condition and growth prospects could be adversely affected. Acquisitions have been a significant part of our growth strategy and have enabled us to further broaden and diversify our service offerings. Our strategy generally includes acquisitions of companies, products, services and technologies to expand our online, digital and mobile capabilities ~~and the acquisition and integration of additional facilities~~ . Acquisition of businesses requires substantial time and attention of management personnel and may also require additional equity or debt financings. Further, integration of newly established or acquired businesses is often disruptive **. We may incur various expenses in identifying, investigating and pursuing suitable opportunities, whether or not the transactions are completed** . There can be no assurance that we will identify appropriate targets, will acquire such businesses on favorable terms, will be able to successfully integrate such organizations into our business or will be able to realize anticipated benefits. Because these new ventures are inherently risky, no assurance can be given that such strategies and offerings will be successful and they could materially adversely affect our business, financial condition and results of operations. Acquisitions may also have unanticipated tax, legal, regulatory and accounting ramifications, including as a result of recording goodwill that is subject to impairment testing on a regular basis and potential periodic impairment charges. Another accounting ramification includes the valuation of contingent consideration at the acquisition date which is subject to remeasurement each reporting period and could result in additional expense. In addition, we expect to compete against existing and new competitors for suitable acquisitions. If we are able to consummate acquisitions, such acquisitions could be dilutive to earnings, and we could overpay for such acquisitions. Additional risks and challenges we face in connection with acquisitions include, but are not limited to: • incurring significantly higher capital expenditures, operating expenses and operating losses of the business acquired; • coordination of technology, research and development, and sales and marketing functions, along with integration of the acquired business' s accounting, management information, human resources, and other administrative systems; • incurring liability for pre- acquisition activities of the acquired business; • inheriting certain security or privacy vulnerabilities of the acquired business; • implementing or remediating the controls, procedures, and policies of the acquired business; • incorporating acquired technology and rights into our offerings and unanticipated expenses related to such integration; • retaining and integrating acquired employees, including cultural challenges associated with integrating employees from the acquired business into our organization; • maintaining important business relationships and contracts of the acquired business; and • integrating the acquired business onto our systems and ensuring the acquired business meets our financial reporting requirements and timelines. Any of these risks, if realized, could materially and adversely affect our business, financial condition and results of operations. Some of the same risks exist if and when we decide to sell a business or assets. In addition, divestitures could involve additional risks, including difficulties in the separation of operations, services, data, technology, products and personnel, inability to fully reduce fixed costs previously associated with the divested assets or business, the potential need to provide transitional services and the need to agree to retain or assume certain liabilities in order to complete the divestiture. We may not be successful in managing these or any other significant risks that we encounter in divesting businesses or assets, and, as a result, we may not achieve some or all of the expected benefits of the divestitures ~~. We have identified a material weakness in our internal control over financial reporting, which could adversely affect us, our reputation and the market price of our common stock. As disclosed in Part II, Item 9A of this Annual Report on Form 10- K, our management concluded that we did not maintain effective internal control over financial reporting as of December 31, 2022 due to a material weakness related to ineffective process level controls over the review of the statement of cash flows as it relates to operating cash flows related to discontinued operations and operating and financing cash flows related to contingent consideration paid. Our independent registered public accounting firm that has audited our consolidated financial statements included in this Annual Report on Form 10- K issued an adverse opinion on our internal control over financial reporting as of December 31, 2022. Our management has implemented a remediation plan with respect to the material weakness, but may subsequently determine that additional measures are necessary or modifications to the remediation plan are appropriate to address the material weakness. If we are unable to timely remediate the material weakness, or if additional material weaknesses or significant deficiencies in internal control are discovered or occur in the future, our consolidated financial statements may contain additional misstatements that could be material, and we could be required to then restate our financial results. Our reputation and investor confidence in us could be harmed, and the market price of our common stock may be materially adversely affected. Our access to capital markets or liquidity sources could be negatively affected, and we could be exposed to lawsuits and other legal actions~~ . Our expansion into markets outside the U. S. and our non- U. S. based operations subject us to unique operational, competitive and regulatory risks. Acquisitions and other strategies to expand our operations beyond North America subject us to significant risks and uncertainties. As a result, we may not be successful in realizing anticipated synergies or we may experience unanticipated integration expenses. As we continue to expand our business internationally, we will need to develop policies and procedures to manage our business on a global scale. There can be no assurance that we will identify appropriate international targets, acquire such businesses on favorable terms, or be able to successfully grow and integrate such organizations into our business. Operationally, acquired businesses typically depend on key relationships and our failure to maintain those relationships could have an adverse effect on our operating results and financial condition. In addition, we anticipate that our non- U. S. based operations will continue to subject us to risks associated with operating on an international basis, including: • exposure to foreign currency exchange rate risk, which may have an adverse impact on our revenues and profitability; • exposure to the principal or purchase auction model rather than the agency or consignment model, which may have an adverse impact on our margins and expose us to inventory risks; • restrictions on our ability to repatriate funds, as well as repatriation of funds currently held in foreign jurisdictions, which may result in higher effective tax rates; • tariffs and trade barriers and other regulatory or contractual limitations on our ability to operate in certain foreign markets; • compliance with anti- corruption and anti- bribery laws, including the Foreign Corrupt Practices Act and the U. K. Bribery Act; • compliance with various privacy regulations, including but not limited to the General Data Protection Regulation (" GDPR"); • compliance with data localization and / or data residency requirements and cross- border data transfer regulations; • dealing with unfamiliar regulatory agencies and laws, including those favoring local competitors; • dealing with political and / or economic instability, including the **effects of the** exit of the U. K. from the E. U. ~~(“ Brexit ”)~~ ; • geopolitical instability, terrorism, ~~and~~ war **and military conflicts** , including the conflict between Ukraine and Russia; • the difficulty of managing and staffing foreign offices, as well as the increased travel, infrastructure, legal and compliance costs associated with international operations; • localizing our product offerings; and • adapting to different business cultures and market structures. As we continue to expand globally, our success will depend on our ability to anticipate and effectively manage these and other risks associated with operating on an international basis. Our failure to manage these risks could have an adverse effect on our operating results and financial condition. Significant disruptions of information technology systems could adversely affect our business and reputation. We rely on information technology systems, some of which are managed by third parties, to process, transmit and store electronic information, and to manage or support a variety of our business processes and activities. The secure operation of these systems, and the processing, maintenance, enhancement and reliability of these systems, are critical to our business operations and strategy. The technology to operate some of our businesses is provided, in whole or in part, by third- party service providers, and we do not own or control the operation of third **-** party facilities. Our systems and the third- party systems with which we interact are subject to damage, failure or interruption due to various reasons, such as power or other critical infrastructure outages, facility damage, physical theft, telecommunications failures, malware, security incidents, cyber- attacks (including cyber- threats from nation- state actors), natural disasters and catastrophic events, **legacy applications, integration delays, inadequate system hygiene** and inadequate or ineffective redundancy measures. In addition, any financial difficulties, up to and including bankruptcy, faced by our service providers or any of their subcontractors, may have negative effects on our business, the nature and extent of which are difficult to predict. Our customers **and vendors** also rely on our information technology systems to conduct their operations. Any significant disruptions of our information technology systems could negatively impact our business and customers, damage our reputation and materially adversely affect our consolidated financial position and results of operations. Data security concerns relating to our technology or breaches of information technology systems, could adversely affect our business and reputation. We have experienced cyber- attacks and security ~~incidences~~ **incidents** of varying degrees and believe we will continue to be a potential target of such threats and attacks **. This threat has increased corresponding to the increased sophistication and activities of organized crime, hackers, terrorists and other external parties** . The technology infrastructure and systems of our suppliers, vendors, service providers and partners have also in the past experienced and may in the future experience such threats and attacks. Cyber- attacks or other security incidents could lead to service interruptions, malfunctions or other failures in the technology that supports our businesses and customers, as well as the operations of our customers or other third parties. Cyber- attacks or other security incidents could also damage our reputation with our customers and other parties and the market, and cause us to incur additional costs (such as repairing systems, adding personnel or security technologies or compliance costs), regulatory penalties, financial losses to both us and our customers and partners and the loss of customers and business opportunities. If such cyber- related events are not detected in a timely manner, their effect could be compounded. Although we have technology and information security policies and processes and disaster recovery plans in place, these measures may not be adequate to ensure that our operations will not be compromised or disrupted should such an event occur. **There can be no assurance that the systems we have designed to prevent or limit the effects of cyber incidents or attacks will be sufficient to prevent or detect material consequences arising from such incidents or attacks, or to avoid a material adverse impact on our systems after such incidents or attacks do occur. The security measures we employ to protect our systems have in the past not detected or prevented, and may in the future not detect or prevent, all attempts to hack our systems, denial- of- service attacks, viruses, malicious software (malware), employee error or malfeasance, phishing attacks, security breaches, disruptions during the process of upgrading or replacing computer software or hardware or integrating systems of acquired businesses or assets or other attacks and similar disruptions that may jeopardize the security of information stored in or transmitted by the sites, networks and systems that we otherwise maintain, which include cloud- based networks and storage. The existence and use of acquired and legacy applications and systems increase these risks. Our network and systems are also subject to compromise from the actions or inactions of vendors and other third parties who have legitimate access (including Carvana personnel under our transition services agreement). Even if we successfully protect our own network and systems, our supply chain infrastructure and other third parties may not maintain adequate security measures (including identifying defects or vulnerabilities) to protect against unauthorized access, cyber attacks or mishandling of data, which could result in a breach of or disruption to our systems and network. Our control over and ability to monitor the security practices of our vendors and other third parties with whom we do business remains limited, and there can be no assurance that we can prevent, mitigate, or remediate the risk of any compromise or failure in the cybersecurity infrastructure owned or controlled by such third parties or others within their respective supply chains.** If our information technology systems are compromised, become inoperable for extended periods of time or cease to function properly, we may have to make a significant investment to fix or replace the information technology and our ability to provide many of our electronic and online solutions to our customers may be impaired, which would have a material adverse effect on our consolidated operating results and financial position. In addition, as cyber- threats continue to evolve **in both intensity and velocity** , we may be required to expend significant additional resources to modify or enhance our protective measures or to investigate and remediate any information security vulnerabilities **. Further, the rapid evolution and increased adoption of artificial intelligence increases the risk of cyber- attacks and security incidences. Use of artificial intelligence by our employees and vendors, whether authorized or unauthorized, also increases the risk that our intellectual property and other proprietary information will be unintentionally disclosed** . Any of the risks described above could result in the loss or misuse of proprietary, confidential or sensitive information, disrupt our business, damage our reputation, expose us to legal liability and materially adversely affect our consolidated financial position and results of operations. Compliance with U. S. and global privacy and data security requirements could result in additional costs and liabilities or inhibit our ability to collect, transmit and / or store data, and the failure to comply with such requirements could subject us to significant fines and penalties, which could adversely affect our business, financial condition and reputation. Aspects of our operations and businesses are subject to privacy regulations in the United States, including but not limited to the California Consumer Privacy Act (“ CCPA ”), as amended and expanded by the California Privacy Rights Act (" CPRA"), and around the globe, most notably the European Union’ s General Data Protection Regulation (the “ GDPR ”). We collect, process and store sensitive data, including proprietary business and customer information, as well as personally identifiable information of our customers, their consumers and our employees. Many U. S. and foreign jurisdictions have passed, or are currently contemplating, a variety of **artificial intelligence,** consumer protection, data privacy, and data security laws and regulations that impact our business or the business of our customers, including consumer notification and other requirements in the event that consumer information is accessed and / or acquired by unauthorized persons and regulations regarding the use, access, accuracy, security and retention of such data **. These laws and regulations are quickly evolving, with new or modified laws and regulations proposed and implemented frequently and existing laws and regulations subject to new or different interpretations and enforcement** . The regulatory framework for privacy and data security issues has become increasingly burdensome and complex worldwide, and is expected to continue to be so for the foreseeable future. Our compliance with global laws and regulations relating to privacy, data protection and information security may materially increase our costs or otherwise limit our ability to continue or pursue certain business activities. Our failure to comply with applicable laws or regulations could also result in fines, sanctions, private litigation, government enforcement, business disruption, credit reporting and other expenses, damage to our reputation and loss of customers. We maintain cyber risk insurance, but this insurance may not be sufficient to cover all losses from any future disruption, security incident or breach. If we are unable to protect our intellectual property, the value of our brand and other intangible assets may be diminished, and our business may be adversely affected. We rely and expect to continue to rely on a combination of confidentiality, assignment and license agreements with our employees, consultants and third parties with whom we have relationships, as well as trademark, copyright, patent, trade secret, and domain name protection laws, to protect our proprietary rights. In the United States and internationally, we have filed various applications for protection of certain aspects of our intellectual property, and we currently hold issued patents in the United States **, Europe** and Canada. However, third parties may knowingly or unknowingly infringe our proprietary rights, third parties may challenge proprietary rights held by us, and pending and future trademark and patent applications may not be approved. In addition, effective intellectual property protection may not be available in every country in which we operate or intend to operate our business. In any or all of these cases, we may be required to expend significant time and expense in order to prevent infringement or to enforce our rights. Although we have taken measures to protect our proprietary rights, there can be no assurance that such measures will be adequate or that others will not offer products or concepts that are substantially similar to ours and compete with our business. Changes in laws and regulations or adverse court rulings may also negatively affect our ability to protect our proprietary rights or prevent others from using our intellectual property and technology. If the protection of our proprietary rights is inadequate to prevent unauthorized use or appropriation by third parties, the value of our brand and other intangible assets may be diminished and competitors may be able to more effectively mimic our service and methods of operations. Any of these events could have an adverse effect on our business and financial results. We may be subject to patent or other intellectual property infringement claims, which could have an impact on our business or operating results due to a disruption in our business operations, the incurrence of significant costs and other factors. From time to time, we may receive notices from others claiming that we infringed or otherwise violated their patent or intellectual property rights, and the number of these claims could increase in the future. Claims of intellectual property infringement or other intellectual property violations could require us to enter into licensing agreements on unfavorable terms, incur substantial monetary liability or be enjoined preliminarily or permanently from further use of the intellectual property in question, which could require us to change business practices and limit our ability to compete effectively. Even if we believe that the claims are without merit, the claims can be time- consuming and costly to defend and may divert management' s attention and resources away from our businesses. If we are required to take any of these actions, it could have an adverse impact on our business and operating results. We rely on third- party technology for key components of our business, and if these or other third parties do not perform adequately or terminate their relationships with us, our business and results of operations could be harmed. We rely on third- party technology for certain of our critical business functions, including certain inspection, auction management and marketplace technologies. If these technologies fail, or if such third **-** party service providers or strategic partners were to cease operations, temporarily or permanently, face financial distress or other business disruptions, increase their fees, or if our relationships with these providers or partners deteriorate or terminate, we could suffer increased costs and we may be unable to provide similar services until an equivalent provider could be found or we could develop replacement technology or operations. In addition, if we are unsuccessful in identifying or finding high- quality partners, if we fail to negotiate cost- effective relationships with them, or if we ineffectively manage these relationships, it could have an adverse impact on our business and financial results. Reliance on outsourcing arrangements could adversely affect our business. As part of our initiative to reduce costs and align our business to our digital operating model, we have entered into several outsourcing arrangements with offshore third parties related to certain technology, back- office and customer support functions, and we will continue to evaluate additional outsourcing. As a result, the success of our business and our customer experience is partially dependent on offshore third parties over which we have limited control. If these third parties are unwilling or unable to perform to our standards or to provide the level of service required or expected by our customers, or if we are unable to maintain our agreements with them or alternative providers on attractive terms or at all, our business, financial condition and results of operations may be harmed. Adverse economic conditions may negatively affect our business and results of operations. Adverse economic conditions, including those resulting from the COVID- 19 pandemic or otherwise, could increase our exposure to several risks, including: • Fluctuations in the supply of used vehicles. We are dependent on the supply of used vehicles coming to the wholesale market, and our financial performance depends, in part, on conditions in the automotive industry. Currently, disruptions in new vehicle production are resulting in fewer vehicles coming to wholesale channels. During the past global economic downturn and credit crisis, there was an erosion of retail demand for new and used vehicles that led many lenders to cut back on originations of new loans and leases and led to significant manufacturing capacity reductions by automakers selling vehicles in the United States and Canada. Capacity reductions or disruptions in new vehicle production could depress the number of vehicles received in wholesale channels in the future and could lead to reduced numbers of vehicles from various suppliers, negatively impacting wholesale volumes. In addition, weak growth in or declining new vehicle sales negatively impacts used vehicle trade- ins to dealers and wholesale volumes. These factors have and could continue to adversely affect our revenues and profitability. • Decline in the demand for used vehicles. We may experience a decrease in demand for used vehicles from ~~buyers~~ **dealer customers** due to factors including the lack of availability of consumer credit and declines in consumer spending and consumer confidence. Adverse credit conditions also affect the ability of dealers to secure financing to purchase used vehicles, which further negatively affects buyer demand. In addition, a reduction in the number of franchised and independent used car dealers may reduce dealer demand for used vehicles. • Decrease in consumer spending. Consumer purchases of new and used vehicles may be adversely affected by economic conditions such as employment levels, wage and salary levels, trends in consumer confidence and spending, reductions in consumer net worth, interest rates, inflation, the availability of consumer credit and taxation policies. Consumer purchases in general may decline during recessions, periods of prolonged declines in the equity markets or housing markets and periods when disposable income and perceptions of consumer wealth are lower. Changes to U. S. federal tax policy may negatively affect consumer spending. In addition, the increased use of vehicle sharing and alternate methods of transportation, including autonomous vehicles, could lead to a decrease in consumer purchases of new and used vehicles and a decrease in vehicle rentals. To the extent retail and rental car company demand for new and used vehicles decreases, negatively impacting our auction volumes, our results of operations and financial position could be materially and adversely affected. • Volatility in the asset- backed securities market. Volatility and disruption in the asset- backed commercial paper market could lead to a narrowing of interest rate spreads at AFC in certain periods. In addition, any volatility and disruption has affected, and could affect, AFC' s cost of financing related to its securitization facility. • Ability to service and refinance indebtedness. Uncertainty in the financial markets or a downgrade in our credit ratings may negatively affect our ability to service our existing debt, access additional financing or to refinance our existing indebtedness on favorable terms or at all. If economic weakness exists, it may affect our cash flow from operations and results of operations, which may affect our ability to service payment obligations on our debt or to comply with our debt covenants. • Increased counterparty credit risk. Any market deterioration could increase the risk of the failure of financial institutions party to our Credit Agreement and other counterparties with which we do business to honor their obligations to us. Our ability to replace any such obligations on the same or similar terms may be limited if challenging credit and general economic conditions exist. Macroeconomic conditions and geopolitical events may adversely affect our business, sources of liquidity and related costs of capital. Global financial markets experience from time to time volatility, disruption and credit contraction. Significant volatility or disruption of global financial markets, **inflation,** supply chains or commercial activity due to Russia' s invasion of Ukraine or other geopolitical events, ~~inflation~~ **war** , **terrorism, natural disasters, public health issues (including pandemics such as** the ~~ongoing~~ COVID- 19 pandemic **)** or other factors could negatively affect our industry and business and our ability to refinance our debt or sell additional debt or equity securities or our assets on favorable terms, if at all. A disruption in the financial markets may adversely affect our ability to raise, restructure or refinance indebtedness. Our indebtedness and the terms of our indebtedness could impair our financial condition and adversely affect our ability to react to changes in our business. As of December 31, ~~2022~~ **2023** , our total ~~corporate~~ debt was approximately $ ~~498~~ **364** . ~~7~~ **6** million, exclusive of liabilities related to our securitization facilities which are not secured by the general assets of ~~KAR~~ **OPENLANE** , and we had $ ~~161~~ **133** . ~~0~~ **3** million of borrowing capacity under our **Revolving** ~~senior secured credit~~ **Credit** ~~facilities~~ **Facility** (net of $ ~~19~~ **54** . ~~0~~ **7** million in outstanding letters of credit). Our indebtedness could have important consequences including: • limiting our ability to borrow additional amounts to fund working capital, capital expenditures, debt service requirements, execution of our business strategy, acquisitions and other purposes; • requiring us to dedicate a substantial portion of our cash flow from operations to pay principal and interest on debt, which would reduce the funds available for other purposes, including funding future expansion; • making us more vulnerable to adverse changes in general economic, industry and competitive conditions, in government regulation and in our business by limiting our flexibility in planning for, and making it more difficult to react quickly to, changing conditions; and • exposing us to risks inherent in interest rate fluctuations because a portion of our indebtedness is at variable rates of interest, which could result in higher interest expenses in the event of increases in interest rates. In addition, if we are unable to generate sufficient cash from operations to service our debt and meet other cash needs, we may be forced to reduce or delay capital expenditures, ~~suspend or eliminate dividends,~~ sell assets or operations, seek additional capital or restructure or refinance our indebtedness. We may not be able to refinance our debt or sell additional debt or equity securities or our assets on favorable terms, if at all, particularly because of ~~our high levels of debt and~~ the restrictions imposed by the agreement governing our **Revolving** Credit Facility and the indenture governing our senior notes on our ability to incur additional debt and use the proceeds from asset sales. If we must sell certain of our assets, it may negatively affect our ability to generate revenue. The inability to obtain additional financing could have a material adverse effect on our financial condition. If we cannot make scheduled payments on our debt, we would be in default and, as a result, our debt holders could declare all outstanding principal and interest to be due and payable, the lenders under our **Revolving** Credit Facility could terminate their commitments to lend us money and foreclose against the assets securing their borrowings and we could be forced into bankruptcy or liquidation. Furthermore, the agreement governing our **Revolving** Credit Facility and the indenture governing our senior notes include, and future debt instruments may include, certain restrictive covenants which could limit our ability to enter into certain transactions in the future and may adversely affect our ability to operate our business. Changes in interest rates or market conditions could adversely impact our profitability and business. Rising interest rates may have the effect of depressing the sales of new and used vehicles because many consumers finance their vehicle purchases and rising auto loan rates increase the cost of purchasing a vehicle. Likewise, when interest rates increase, the subprime borrowing market often tightens, making interest rates even higher for those with lower credit scores. If increased interest rates depress the sales of new and / or used vehicles, then used vehicle trade- ins to dealers and wholesale volumes could be negatively impacted. These factors could adversely affect revenues and profitability in our Marketplace segment. In addition, AFC securitizes a majority of its finance receivables on a revolving basis. Volatility and / or market disruption in the asset- backed securities market in the United States or Canada can impact AFC' s cost of financing related to, or its ability to arrange financing on acceptable terms through, its securitization facility, which could negatively affect AFC' s business and our financial condition and operations. As noted elsewhere, a portion of our indebtedness is at variable rates of interest. As such, increases in interest rates could also result in higher interest expenses. A portion of our net income is derived from our international operations, primarily Canada, which exposes us to foreign exchange risks that may impact our financial statements. In addition, increases in the value of the U. S. dollar relative to certain foreign currencies may negatively impact foreign buyer participation in our marketplaces. Fluctuations between U. S. and foreign currency values may adversely affect our results of operations and financial position, particularly fluctuations with Canadian currency values. In addition, there may be tax inefficiencies in repatriating cash from our foreign subsidiaries. Approximately ~~35~~ **38** % of our revenues from continuing operations were attributable to our foreign operations for the year ended December 31, ~~2022~~ **2023 . The results of operations of our foreign subsidiaries are translated from local currency into U. S. dollars for financial reporting purposes** . Changes in the value of foreign currencies, particularly the Canadian dollar and the euro relative to the U. S. dollar could negatively affect our profits from foreign operations and the value of the net assets of our foreign operations when reported in U. S. dollars in our financial statements. This could have a material adverse effect on our business, financial condition or results of operations as reported in U. S. dollars. In addition, fluctuations in exchange rates may make it more difficult to perform period- to- period comparisons of our reported results of operations. For purposes of accounting, the assets and liabilities of our foreign operations are translated using period- end exchange rates; such translation gains and losses are reported in " Accumulated other comprehensive income / loss " as a component of stockholders' equity. The revenues and expenses of our foreign operations are translated using average exchange rates during each period. Likewise, we have non- U. S. based buyers who participate in our marketplaces. Increases in the value of the U. S. dollar relative to these buyers' local currencies may reduce the prices they are willing to pay at our marketplaces, which may negatively affect our revenues. We are subject to a complex framework of federal, state, local and foreign laws and regulations, which have in the past, and could in the future, subject us to claims, challenge our business model, or otherwise harm our business. Our operations are subject to regulation, supervision and licensing under various federal, state, provincial, local and foreign authorities, agencies, statutes and ordinances, which, among other things, require us to obtain and maintain certain licenses, permits and qualifications, provide certain disclosures and notices and limit interest rates, fees and other charges. The regulations and laws that impact our company include, without limitation, the following: • The sale of used vehicles is regulated by various state and local motor vehicle departments and regulators. • Some of the transport vehicles used at our facilities are regulated by the U. S. Department of Transportation or similar regulatory agencies in the other locations in which we operate. • AFC is subject to **certain federal, state and provincial** laws ~~in certain states and provinces~~ which regulate commercial and small business lending activities and interest rates and, in certain jurisdictions, require AFC or one of its subsidiaries to be licensed. These laws are complex and are rapidly evolving, including adverse legislative and regulatory trends towards regulating small business lending similar to consumer lending. • We are subject to various local zoning requirements with regard to the location of our facilities, which requirements vary from location to location. • We are subject to federal, state and international laws, directives and regulations relating to the collection, use, retention, disclosure, security and transfer of personally identifiable information (e. g., GDPR and CCPA). These laws, directives, regulations and their interpretation and enforcement continue to evolve and may be inconsistent from jurisdiction to jurisdiction. • **We are subject to laws and regulations with respect to emerging technologies being incorporated into our business, including artificial intelligence, machine learning and data analytics. •** Certain of the Company' s subsidiaries may be deemed subject to the regulations of the Consumer Financial Protection Act of 2010 due to their vendor relationships with financial institutions. • PAR is subject to laws in certain states which regulate repossession administration activities and, in certain jurisdictions, require PAR to be licensed. • We are subject to various reporting and anti- money laundering regulations **. The foregoing description of laws and regulations to which we are or may be subject is not exhaustive, and the regulatory framework governing our operations is subject to evolving interpretations and continuous change** . Changes in law or governmental regulations or interpretations of existing law or regulations could result in increased costs, reduced vehicle prices and decreased profitability for us. In addition, failure to comply with present or future laws and regulations or changes in existing laws or regulations or in their interpretation could have a material adverse effect on our operating results and financial condition. We are subject to risks associated with legal and regulatory proceedings. If the outcomes of these proceedings are adverse to us, it could have a material adverse effect on our business, financial condition and results of operations. We have in the past been, are currently, and may in the future become, subject to a variety of legal actions relating to our current and past business operations, including but not limited to litigation claims and legal proceedings related to environmental, intellectual property, labor and employment, privacy, regulatory compliance, securities, tax, and tort laws. Such claims may be asserted against us by individuals, either individually or through class actions, by governmental entities in civil or criminal investigations and proceedings or by other entities. These actions could expose us to adverse publicity and to substantial monetary damages and legal defense costs, injunctive relief and criminal and civil fines and penalties, including but not limited to suspension or revocation of licenses to conduct business. There is no guarantee that we will be successful in defending ourselves in legal and administrative actions or in asserting our rights under various laws. In addition, we could incur substantial costs in defending ourselves or in asserting our rights in such actions. Any claims against us, whether meritorious or not, could be time consuming, costly, and harmful to our reputation, and could require significant amounts of management time and corporate resources. If any of these legal proceedings were to be determined adversely to us, or we were to enter into a settlement arrangement, we could be exposed to monetary damages or be forced to change the way in which we operate our business, which could have an adverse effect on our business, financial condition, and operating results ~~. The COVID- 19 pandemic has had, and could continue to have, an adverse impact on our business, results of operations and financial condition. The COVID- 19 pandemic has had, and continues to have, a significant impact around the world, prompting governments and businesses to take unprecedented measures in response. Such measures have included restrictions on travel and business operations, temporary closures of businesses, and quarantine and shelter- in- place orders. The COVID- 19 pandemic has impacted and may further impact the broader global economy, including negatively impacting economic growth, the proper functioning of financial and capital markets, foreign currency exchange rates, and interest rates. The negative impacts of the COVID- 19 pandemic or other outbreaks, epidemics, pandemics, or public health crises on the broader global economy and related impacts on our business, results of operations and financial results will depend on future developments and actions taken in response to such events, which are highly uncertain and cannot be predicted~~ . Environmental, health and safety risks could adversely affect our operating results and financial condition. Our operations are subject to various foreign, federal, state and local environmental, health and safety laws and regulations, including those governing the emission or discharge of pollutants into the air or water, the generation, treatment, storage and release of hazardous materials and wastes and the investigation and remediation of contamination. Our failure to comply with current or future environmental, health or safety laws or to obtain and comply with permits required under such laws, could subject us to liability, damage our reputation and require costly investigative, remedial or corrective actions. Some of the facilities on which we operate are impacted by recognized environmental concerns and pollution conditions. We have incurred and may in the future incur expenditures relating to compliance and risk mitigation efforts, releases of hazardous materials, investigative, remedial or corrective actions, claims by third parties and other environmental issues, and such expenditures, individually or in the aggregate, could be significant. We are partially self- insured for certain losses. We self- insure a portion of employee medical benefits under the terms of our employee health insurance program, as well as a portion of our automobile, general liability and workers' compensation claims. We record an accrual for the claims expense related to our employee medical benefits, automobile, general liability and workers' compensation claims based upon the expected amount of all such claims. If actual trends, including the severity of claims and medical cost inflation above expectations were to occur, our self- insured costs would increase, which could have an adverse impact on our results of operations and financial position. We assume the settlement risk for vehicles sold through our marketplaces. Typically, following the sale of a vehicle, we do not release the vehicle **and / or title** to a buyer until we have received full payment from the buyer or confirmation of arrangement for such payment. We may, however, remit payment to a seller before receiving payment from a buyer, and, in those circumstances, we may not have recourse against sellers for any buyer' s failure to satisfy its payment obligations. Revenue for a vehicle consigned to us for sale typically includes only the applicable buyer and seller fees associated with the transaction and not the vehicle sale proceeds. As a result, any failure to collect a receivable from the buyer in full may result in a loss up to the amount of the vehicle sale proceeds plus the applicable buyer fees and any collection related expenses. If we are unable to collect the vehicle sale price plus applicable buyer fees from buyers on a large number of vehicles, our revenue and cash flows may be negatively impacted resulting in a material adverse effect on our results of operations and financial condition. Risks Related to the ~~IAA Spin- Off If the IAA spin- off does not qualify as a tax- free transaction for U. S. federal income tax purposes, the Company and its stockholders could be subject to substantial tax liabilities. In connection with the spin- off of IAA, we received a private letter ruling from the Internal Revenue Service (the" IRS Ruling") and an opinion from our tax counsel on the basis of certain facts, representations, covenants and assumptions, substantially to the effect that, for U. S. federal income tax purposes, the distribution of IAA common shares in the spin- off qualified as a transaction that generally is tax- free to us and our stockholders, for U. S. federal income tax purposes, under Sections 368 (a) (1) (D) and 355 of the U. S. Internal Revenue Code of 1986, as amended (the " Code "). The IRS Ruling and the opinion of tax counsel relied on, among other things, various assumptions and representations as to factual matters made by the Company and IAA, which, if inaccurate or incomplete in any material respect, could jeopardize the conclusions reached in the IRS Ruling and opinion. The opinion is not binding on the Internal Revenue Service (the " IRS "), or the courts, and notwithstanding the tax opinion, there can be no assurance that the qualification of the spin- off as a transaction under Sections 368 (a) (1) (D) or 355 or other provisions of the Code will not be challenged by the IRS or by others in court, or that any such challenge would not prevail. Notwithstanding the IRS Ruling and the opinion, the IRS could determine on audit that the spin- off should be treated as a taxable transaction if it determines that any of the facts, assumptions, representations or covenants set forth in the tax opinion is not correct or has been violated, or that the spin- off should be taxable for other reasons, including as a result of a significant change in stock or asset ownership after the distribution, or if the IRS were to disagree with the conclusions of the tax opinion. If the spin- off fails to qualify for tax- free treatment, we would, for U. S. federal income tax purposes, be treated as if we had sold the IAA common stock in a taxable sale for its fair market value, and our stockholders would be treated as receiving a taxable distribution in an amount equal to the fair market value of the IAA common stock received in the distribution. In addition, we and / or IAA could incur significant U. S. federal income tax liabilities or tax indemnification obligations, whether under applicable law or a tax matters agreement that we entered into with IAA, if it is ultimately determined that certain related transactions undertaken in anticipation of the spin- off are taxable. We may be exposed to claims and liabilities as a result of the IAA spin- off, and IAA' s indemnification obligations may not fully protect us. In connection with the spin- off, IAA agreed to indemnify the Company for certain liabilities. However, there can be no assurance that the indemnity will be sufficient to protect us against the full amount of any liabilities that may arise, or that IAA will be able to fully satisfy its indemnification obligations. The failure to receive amounts for which we are entitled to indemnification could adversely affect our operating results and financial condition. Risks Related to the~~ Sale of ADESA U. S. Physical Auction Business ~~The ADESA U. S. physical auction business sale transaction may result in disruptions to, and negatively impact our relationships with, our customers and other business partners. The sale of the ADESA U. S. physical auction business, including the commercial services agreement pursuant to which we will provide marketplace operation services to Carvana to operate digital auctions for a seven- year term, may lead customers and other parties with which we currently do business or with which we may seek to do business in the future to terminate or attempt to negotiate changes in existing business relationships, or consider entering into business relationships with parties other than us. These disruptions could have a material and adverse effect on our business, financial condition, results of operations and prospects.~~ The ADESA U. S. physical auction business sale transaction may result in increased costs. In connection with the sale of the ADESA U. S. physical auction business, we entered into a transition services agreement whereby we will provide various services to Carvana following the closing. The transition services agreement may result in additional costs to us, which may make our ability to achieve the transaction' s objective of a more asset- light and lower overhead operating model more difficult. The transaction also requires us to split, or otherwise amend, existing contracts with customers and other third parties to separate the U. S. physical auction business, which may not be effective and could lead to additional costs for us. We rely on Carvana for key components of our business and for certain revenue, which exposes us to increased risks. In connection with the sale of the

ADESA U. S. physical auction business, we entered into various agreements with Carvana, many of which require performance by Carvana. We will rely on Carvana to satisfy its various obligations under these agreements, including but not limited to performing services, meeting minimum volumes and complying with payment obligations. Carvana may fail to perform or comply as expected or be unwilling or unable to perform or comply in the future. The reliance on Carvana for certain aspects of our operations represents an inherent risk to our Company that could have a material adverse effect on our business, financial condition and results of operations. For example, certain systems sold to Carvana as part of the ADESA U. S. physical auction business sale transaction are integral to our ~~ADESA~~ **OPENLANE** Canada operations and other remaining parts of our business. Carvana has agreed to maintain and make those systems available to support retained Company businesses for a period of time post- closing. Further, Carvana has agreed to continue to allow AFC to occupy office space in the ADESA U. S. physical auction locations owned by Carvana. If Carvana is unable or unwilling to satisfy its obligations under these agreements, or if Carvana seeks bankruptcy protection, we could incur operational difficulties or losses. Further, upon termination or expiration of those agreements, the respective services will need to be provided internally or by third parties. If we do not have agreements with other providers of these services or the ability to perform these services in- house once certain transaction agreements expire or terminate, we may not be able to operate our business effectively, which may have a material adverse effect on our financial position, results of operations and cash flows. We will be required to satisfy certain indemnification obligations to Carvana or we may not be able to collect on indemnification rights from Carvana. In connection with the sale of the ADESA U. S. physical auction business, we agreed to indemnify Carvana for certain liabilities, and Carvana agreed to indemnify the Company for certain liabilities. Our and Carvana' s ability to satisfy these indemnities, if called upon to do so, will depend respectively upon our and Carvana' s future financial strength. If we are required to indemnify Carvana, or if we are not able to collect on indemnification rights from Carvana, our financial condition, liquidity or results of operations could be materially and adversely affected. We are restricted from conducting certain activities for three years following the ADESA U. S. physical auction business sale transaction. The purchase agreement that we entered into as part of the sale of the ADESA U. S. physical auction business restricts us from engaging in certain activities in the United States for a period of three years, including on-premise wholesale vehicle auctions and vehicle reconditioning services. These restrictions could materially and adversely affect our business, growth strategy, financial condition and results of operations. Our ability to access capital in the future may be challenging. The sale of the ADESA U. S. physical auction business resulted in our being a smaller enterprise focused on our digital marketplaces. While we believe our transition to a more asset- light and lower overhead operating model will better position us going forward, we may face additional challenges **when raising** ~~to the extent we need to raise~~ additional capital or ~~restructure~~ **restructuring** or ~~refinance~~ **refinancing** our indebtedness. Risks Related to Ownership of Our Common Stock The market price and trading volume of our common stock may be volatile, which could result in rapid and substantial losses for our stockholders and could expose us to securities class action litigation. You should consider an investment in our common stock to be risky, and you should invest in our common stock only if you can withstand a significant loss and wide fluctuations in the market value of your investment. Many factors could cause the market price of our common stock to rise and fall, including but not limited to the following: • ~~our~~ announcements **by us** or our competitors ~~' announcements regarding~~ **of significant business developments,** new **offerings** ~~products or services, enhancements, significant contracts~~ , acquisitions or strategic investments; • changes in earnings estimates or recommendations by securities analysts, if any, who cover our common stock; • results of operations that are below our announced guidance or below securities analysts' or consensus estimates or expectations; • fluctuations in our quarterly financial results or the quarterly financial results of companies perceived to be similar to us; • changes in our capital structure, such as future issuances of securities, sales of large blocks of common stock by our stockholders or our incurrence of additional debt; • repurchases of our common stock pursuant to our share repurchase program; • investors' general perception of us and our industry; • changes in general economic and market conditions ~~(including as a result of the COVID- 19 pandemic)~~ ; • changes in industry conditions (including ~~industry- wide volume challenges~~ --- **changes** ~~tied to the disruption of new vehicle production~~ **in anticipated future market size and growth rate**); and • changes in regulatory and other dynamics. In addition, if the market for stocks in our industry, or the stock market in general, experiences a loss of investor confidence, the trading price of our common stock could decline for reasons unrelated to our business, financial condition or results of operations. If any of the foregoing occurs, it could cause our stock price to fall and may expose us to lawsuits that, even if successfully defended, could be costly to defend and a distraction to management. Likewise, following periods of volatility in the market price of a company' s securities, securities class action litigation could be initiated. If such litigation were introduced against us, it could result in substantial costs and a diversion of our attention and resources, which could have a material adverse effect on our business. The issuance of shares of our Series A Preferred Stock reduces the relative voting power of holders of our common stock, and the conversion and sale of those shares would dilute the ownership of such holders and may adversely affect the market price of our common stock. As of December 31, ~~2022~~ **2023** , 634, 305 shares of our Series A Preferred Stock were outstanding, representing approximately 25 % of our outstanding common stock, including the Series A Preferred Stock on an as- converted basis. Holders of Series A Preferred Stock are entitled to a cumulative dividend at the rate of 7 % per annum, payable quarterly in arrears. Dividends were payable in kind through the issuance of additional shares of Series A Preferred Stock for the first eight dividend payment dates (through June 30, 2022), and thereafter, in cash or in kind, or any combination thereof, at our option. Because holders of our Series A Preferred Stock are entitled to vote, on an as- converted basis, together with holders of our common stock on all matters submitted to a vote of the holders of our common stock, the issuance of the Series A Preferred Stock, and the subsequent issuance of additional shares of Series A Preferred Stock through the payment of in kind dividends, effectively reduces the relative voting power of the holders of our common stock. In addition, the conversion of the Series A Preferred Stock into common stock would dilute the ownership interest of existing holders of our common stock. Furthermore, any sales in the public market of the common stock issuable upon conversion of the Series A Preferred Stock would increase the number of shares of our common stock available for public trading, and could adversely affect prevailing market prices of our common stock. Pursuant to customary registration rights agreements, we were required to register for resale the shares of Series A Preferred Stock and the shares of common stock issuable upon conversion of the Series A Preferred Stock. This registration facilitates the resale of such securities into the public market, and any such resale would increase the number of shares of our common stock available for public trading. Sales of a substantial number of shares of our common stock in the public market, or the perception that such sales might occur, could have a material adverse effect on the price of our common stock. Apax and the other holders of our Series A Preferred Stock may exercise influence over us. As of December 31, ~~2022~~ **2023** , the outstanding shares of our Series A Preferred Stock represented approximately 25 % of our outstanding common stock, including the Series A Preferred Stock on an as- converted basis. The terms of the Series A Preferred Stock require the approval of a majority of our Series A Preferred Stock by a separate class vote for us to: • amend our organizational documents in a manner that would have an adverse effect on the Series A Preferred Stock; or • issue securities that are senior to, or equal in priority with, the Series A Preferred Stock. In addition, under our investment agreement, dated as of May 26, 2020 (the " Apax Investment Agreement "), with an affiliate of Apax Partners, L. P. (" Apax "), for so long as Apax and its affiliates beneficially own shares of Series A Preferred Stock (and / or shares of common stock issued upon conversion of Series A Preferred Stock) that represent, on an as- converted basis, at least 50 % of Apax' s initial shares of Series A Preferred Stock on an as- converted basis, Apax and its affiliates will have the right to designate one director to our board of directors. Circumstances may occur in which the interests of Apax and its affiliates could diverge from, or even conflict with, the interests of our other stockholders. For example, the existence of Apax as a significant stockholder and Apax' s board designation rights may have the effect of delaying or preventing changes in control or management or limiting the ability of our other stockholders to approve transactions that they may deem to be in the best interests of the Company. Apax and its affiliates may seek to cause us to take courses of action that, in their judgment, could enhance its investment in the Company but which might involve risks to our other stockholders or adversely affect us or our other stockholders. Our Series A Preferred Stock has rights, preferences and privileges that are not held by, and are preferential to, the rights of our common stockholders, which could adversely affect our liquidity and financial condition, and may result in the interests of the holders of our Series A Preferred Stock differing from those of our common stockholders. The Series A Preferred Stock ranks senior to the shares of our common stock with respect to dividend rights and rights on the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of our affairs. The holders of Series A Preferred Stock have the right to receive a liquidation preference entitling them to be paid out of our assets available for distribution to stockholders before any payment may be made to holders of any other class or series of capital stock, an amount equal to the greater of (a) the sum of the original liquidation preference plus all accrued but unpaid dividends or (b) the amount that such holder would have been entitled to receive upon our liquidation, dissolution and winding up if all outstanding shares of such series of Series A Preferred Stock had been converted into common stock immediately prior to such liquidation, dissolution or winding up. In addition, the holders of the Series A Preferred Stock are entitled to a cumulative dividend at the rate of 7 % per annum, payable quarterly in arrears (dividends were payable in kind for the first eight dividend payments through June 30, 2022, and thereafter in cash or in kind). The holders of the Series A Preferred Stock are also entitled to participate in dividends declared or paid on our common stock on an as- converted basis. The holders of our Series A Preferred Stock also have the right, subject to certain exceptions, to require us to repurchase all or any portion of the Series A Preferred Stock upon certain change of control events at the greater of (a) the consideration the holders would have received if they had converted their shares of Series A Preferred Stock into common stock immediately prior to the change of control event and (b) 105 % of the sum of i) the liquidation preference thereof and ii) all accrued but unpaid dividends. These dividend and share repurchase obligations could impact our liquidity and reduce the amount of cash flows available for general corporate purposes. Our obligations to the holders of the Series A Preferred Stock could also limit our ability to obtain additional financing or increase our borrowing costs, which could have an adverse effect on our financial condition. These preferential rights could also result in divergent interests between the holders of shares of Series A Preferred Stock and holders of our common stock. Future offerings of debt or equity securities, which would rank senior to our common stock, may adversely affect the market price of our common stock. If, in the future, we decide to issue debt or equity securities that rank senior to our common stock, it is likely that such securities will be governed by an indenture or other instrument containing covenants restricting our operating flexibility. Additionally, any convertible or exchangeable securities that we issue in the future may have rights, preferences and privileges more favorable than those of our common stock and may result in dilution to owners of our common stock. We and, indirectly, our stockholders, will bear the cost of issuing and servicing such securities. Because our decision to issue debt or equity securities in any future offering will depend on market conditions and other factors beyond our control, we cannot predict or estimate the amount, timing or nature of our future offerings. Thus, holders of our common stock will bear the risk of our future offerings reducing the market price of our common stock and diluting the value of their stock holdings in us. The market price of our common stock could be negatively affected by sales of substantial amounts of our common stock in the public market. Future sales by us or by our existing stockholders of substantial amounts of our common stock in the public market, or the perception that these sales may occur, could cause the market price of our common stock to decline. These sales also could impede our ability to raise future capital. Under our amended and restated certificate of incorporation, we are authorized to issue up to 400, 000, 000 shares of common stock, of which 108, ~~914~~ **040** , ~~678~~ **704** shares of common stock were outstanding as of December 31, ~~2022~~ **2023** . In addition, pursuant to a registration statement under the Securities Act, we have registered shares of common stock reserved for issuance in respect of stock options and other incentive awards granted to our officers and certain of our employees. If any of these holders cause a large number of securities to be sold in the public market, including common stock issuable upon conversion of the Series A Preferred Stock, the sales could reduce the trading price of our common stock. We cannot predict the size of future sales of shares of our common stock or the effect, if any, that future sales, or the perception that such sales may occur, would have on the market price of our common stock. Provisions in our amended and restated certificate of incorporation and by- laws, and of Delaware law, may prevent or delay an acquisition of us, which could decrease the trading price of our common stock. Our amended and restated certificate of incorporation and by- laws contain, and Delaware law contains, provisions that may be considered to have an anti- takeover effect and may delay or prevent a tender offer or other corporate transaction that a stockholder might consider to be in its best interest, including those transactions that might result in a premium over the market price for our shares. These provisions include: • rules regarding how our stockholders may present proposals or nominate directors for election at stockholder meetings; • permitting our board of directors to issue preferred stock without stockholder approval; • granting to the board of directors, and not the stockholders, the sole power to set the number of directors; • authorizing vacancies on our board of directors to be filled only by a vote of the majority of the directors then in office and specifically denying our stockholders the right to fill vacancies in the board; • authorizing the removal of directors only upon the affirmative vote of holders of a majority of the outstanding shares of our common stock entitled to vote for the election of directors; and • prohibiting stockholder action by written consent. These provisions apply even if an offer may be considered beneficial by some stockholders. You may not receive any future dividends on our common stock. Holders of our common stock are only entitled to receive such dividends as our board of directors may declare out of funds legally available for such payments. We are not required to declare cash dividends on our common stock. Future dividend decisions will be based on and affected by a variety of factors, including our financial condition and results of operations, contractual restrictions, including restrictive covenants contained in our Credit Agreement, the indenture governing our senior notes and AFC' s securitization facilities, capital requirements and other factors that our board of directors deems relevant. Therefore, no assurance can be given as to whether any future dividends may be declared by our board of directors or the amount thereof. Our share repurchase program could affect the price of our common stock and increase volatility. In addition, it may be suspended or discontinued at any time, which could result in a decrease in the trading price of our common stock. In October 2019, our board of directors authorized a repurchase of up to $ 300 million of the Company' s outstanding common stock ~~through October 30, 2021~~. **Since** ~~In October 2021, the board of directors authorized an extension of the~~ October 2019 **, the** share repurchase program **has been amended from time- to- time through subsequent approvals by the board of directors. These amendments have served to increase the size of the share repurchase program and extend its maturity date** through December 31, ~~2022~~ **2024** ~~. On April 27, 2022, the board of directors authorized an increase in the size of the Company' s $ 300 million share repurchase program by an additional $ 200 million and an extension of the share repurchase program through December 31, 2023~~. Repurchases of our common stock pursuant to our share repurchase program, or any future share repurchase program, could affect our stock price and increase its volatility. The existence of a share repurchase program could also cause our stock price to be higher than it would be in the absence of such a program and could potentially reduce the market liquidity for our stock. There can be no assurance that any share repurchases will enhance stockholder value because the market price of our common stock may decline below the levels at which we repurchased the shares of common stock. Although our share repurchase program is intended to enhance long- term stockholder value, short- term stock price fluctuations could reduce the program' s effectiveness. Furthermore, the program does not obligate the Company to repurchase any dollar amount or number of shares of common stock, and may be suspended or discontinued at any time, which could cause the market price of our stock to decline.