Risk Factors Comparison 2024-02-22 to 2023-02-23 Form: 10-K

Legend: **New Text** ~~Removed Text~~ Unchanged Text Moved Text Section

Risks Related to Our Business and Operations Our business is sensitive to a decline in advertising expenditures, general economic conditions and other external events beyond our control. We derive our revenues from providing advertising space to customers on out- of- home advertising structures and sites. A decline in the economic prospects of advertisers, the economy in general or the economy of any individual geographic market or industry, particularly a market or industry in which we conduct substantial business and derive a significant portion of our revenues, such as the New York and Los Angeles metropolitan areas, and the entertainment, retail and health / medical industries, could alter current or prospective advertisers' spending priorities. See " Item 1. Business — Our Portfolio of Outdoor Advertising Structures and Sites. " In addition, disasters, acts of terrorism, disease outbreaks and pandemics (such as the COVID- 19 pandemic), hostilities **, wars** , political uncertainty, extraordinary weather events (such as hurricanes), power outages, technological changes and shifts in market demographics and transportation patterns (including reductions in foot traffic, roadway traffic, commuting, transit ridership and overall target audiences due to remote work, safety concerns or otherwise) caused by the foregoing or otherwise, could interrupt our ability to build, deploy, and / or display advertising on, advertising structures and sites, and / or lead to a reduction in economic certainty and advertising expenditures. Any reduction in advertising expenditures could adversely affect our business, financial condition or results of operations. Further, advertising expenditure patterns may be impacted by any of these factors; for example, advertisers' expenditures may be made with less advance notice and may become difficult to forecast from period to period. We are also experiencing the economic effects of the current heightened levels of inflation on our income and expenses **, particularly with respect to our posting, maintenance and other expenses, some of our corporate expenses, and our interest expense** . Though we cannot reasonably estimate the full impact of the current heightened levels of inflation on our business, financial condition and results of operations at this time, a portion of these increases may be partially offset by increases in advertising rates on our displays and cost efficiencies. See " Item 7. Management' s Discussion and Analysis of Financial Condition and Results of Operations. " Pandemics could materially adversely affect our business, financial condition and results of operations. As we experienced throughout the COVID- 19 pandemic, pandemics, and the related preventative measures taken to help curb infectious spread, including shutdowns and slowdowns of, and restrictions on, businesses, public gatherings, social interactions and travel (including reductions in foot traffic, roadway traffic, commuting, transit ridership and overall target audiences) may (i) delay our ability to build and deploy certain advertising structures and sites, including digital displays; (ii) reduce or curtail our customers' advertising expenditures and overall demand for our services through purchase cancellations or otherwise; (iii) increase the volatility of our customers' advertising expenditure patterns from period- to- period through short- notice purchases, purchase deferrals or otherwise; and (iv) extend delays in the collection of certain earned advertising revenues from our customers, all of which could have a material adverse effect on our business, financial condition and results of operations. In addition, pandemics could impact the global economy and our business if we (i) experience a complete or partial shutdown of our ability to operate safely and securely, (ii) lose major customers and / or key personnel, (iii) experience significant disruptions (including inflationary price increases) with respect to our manufacturers, suppliers and related logistics that may prevent us from fulfilling our contractual obligations to our counterparties, (iv) fail to satisfy our contractual obligations and / or need to seek relief from our contractual obligations that we may be unable to receive from our counterparties, (v) fail to realize the benefits of any cost savings initiatives such as suspending, deferring and / or reducing capital expenditures and other expenses, (vi) experience impairment charges, (vii) experience a cybersecurity incident, and (viii) have difficulties accessing the capital markets and / or obtaining or incurring debt financing on reasonable pricing or other terms or at all, any of which could have a material adverse effect on our business, financial condition and results of operations. See " Our business is sensitive to a decline in advertising expenditures, general economic conditions and other external events beyond our control, " " — ~~Implementing~~ **Operating** our digital display platform ~~and the deployment of digital advertising displays to our transit franchise partners,~~ may be more difficult, costly or time consuming than expected and the anticipated benefits may not be fully realized, " and " — The terms of the agreements governing our indebtedness restrict our current and future operations, particularly our ability to incur debt that we may need to fund initiatives in response to changes in our business, the industries in which we operate, the economy and governmental regulations. " The extent to which any pandemic will impact our business will depend on future developments, including the severity and duration of such pandemic and the measures taken in response to such pandemic, which are highly uncertain and cannot be predicted. Accordingly, the Company cannot reasonably estimate the full impact of any other pandemic that may occur on our business, financial condition and results of operations at this time, which may be material. We operate in a highly competitive industry. The outdoor advertising industry is fragmented, consisting of a few companies operating on a national basis, such as our company, Lamar, Clear Channel Outdoor, JCDecaux and Intersection, as well as hundreds of smaller regional and local companies operating a limited number of displays in a single or a few local geographic markets. We compete with these companies for both customers and display locations. If our competitors offer advertising displays at rates below the rates we charge our customers, we could lose potential customers and could be pressured to reduce our rates below those currently charged to retain customers, which could have an adverse effect on our business, financial condition and results of operations. A majority of our display locations are leased, and a significant portion of those leases are month- to- month or have a short remaining term. If our competitors offer to lease display locations at rental rates higher than the rental rates we offer, we could lose display locations and could be pressured to increase rental rates above those we currently pay to site landlords, which could have an adverse effect on our business, financial condition and results of operations. In addition, installation of advertising displays, especially digital advertising displays, by us or our competitors at a pace that exceeds the ability of the market to derive new revenues from those displays could also have an adverse effect on our business, financial condition and results of operations. We also compete with other media, including online, mobile and social media advertising platforms and traditional platforms (such as television, radio, print and direct mail marketers). In addition, we compete with a wide variety of out- of- home media, including advertising in shopping centers, airports, movie theaters, supermarkets and taxis. Advertisers compare relative costs of available media, including the average cost per thousand impressions or " CPM, " particularly when delivering a message to customers with distinct demographic characteristics. In competing with other media, the outdoor advertising industry relies on its relative cost efficiency and its ability to reach specific markets, geographic areas and / or demographics. If we are unable to compete on these terms, we could lose potential customers and could be pressured to reduce rates below those we currently charge to retain customers, which could have an adverse effect on our business, financial condition and results of operations. Further, as digital advertising technology continues to develop, our competitors may be able to offer products that are, or that are seen to be, substantially similar to or better than ours. This may force us to compete in different ways and incur additional costs, become subject to additional governmental regulations, and / or expend resources in order to remain competitive. If our competitors are more successful than we are in developing digital advertising products or in attracting and retaining customers, our business, financial condition and results of operations could be adversely affected. Government regulation of outdoor advertising, including any changes to such regulation, may restrict our outdoor advertising operations and our ability to increase the number of advertising displays in our portfolio. The outdoor advertising industry is subject to governmental regulation and enforcement at the federal, state and local levels in the U. S. and Canada. These regulations have a significant impact on the outdoor advertising industry and our business. See " Part I, Item 1. Business — Regulation. " If there are changes in laws and regulations affecting outdoor advertising at any level of government (including by modification, replacement or invalidation in response to third party legal challenges, or otherwise), if there are changes in the enforcement of regulations or if there are allegations of noncompliance with laws or regulations that we are unable to resolve, our structures and sites could be subject to removal or modification and / or prevailing competitive conditions in our markets could be affected in a variety of ways, which could have an adverse effect on our business, financial condition and results of operations. Further, if we are unable to obtain acceptable arrangements or compensation in circumstances in which our structures and sites are subject to removal or modification, it could have an adverse effect on our business, financial condition and results of operations. In addition, governmental regulation and enforcement of advertising displays, especially digital advertising displays, may limit our ability to install new advertising displays, restrict advertising displays to governmentally controlled sites or permit the installation of advertising displays in a manner that could benefit our competitors disproportionately, any of which could have an adverse effect on our business, financial condition and results of operations. Further, as digital advertising displays are introduced into the market on a large scale, new or revised regulations could impose specific restrictions on the installation or use of digital advertising displays. ~~Implementing~~ **Operating** our digital display platform ~~and the deployment of digital advertising displays to our transit franchise partners,~~ may be more difficult, costly or time consuming than expected and the anticipated benefits may not be fully realized. The success of the digital display platform we **provide** ~~are continuing~~ to ~~develop for~~ our customers and **partners (including** the **MTA) through** deployment **and maintenance** of digital advertising displays ~~to our transit franchise partners~~ , ~~such as the MTA~~ **enhancements to our digital advertising displays** , ~~the Washington Metropolitan Area Transit Authority, the Massachusetts Bay Transportation Authority~~ and the ~~San Francisco Bay Area Rapid Transit District~~ **use of programmatic and direct sale advertising platform technologies** , and the realization of any anticipated benefits, will depend, in part, on our ability to execute and demonstrate the value- added capabilities of our digital display platform to our customers **and partners** , and our ability to deliver **these products** ~~and install digital displays~~ in a timely manner ~~to our transit franchise partners~~ in satisfaction of our contractual obligations ~~, including delivery and installation within complex transit infrastructures, such as the MTA~~ . If we fail to satisfy our contractual obligations and any such failures cannot be resolved, and / or the digital display platform ~~and / or the digital advertising displays~~ that we provide to our customers and ~~transit franchise~~ partners do not meet their expectations or are found to be defective, or if we are unable to realize the anticipated benefits of these products due to reduced market demand for these products or digital advertising generally (including as a result of **reduced** ~~reductions in~~ transit ridership due to remote work, safety concerns or otherwise), then we may incur financial liability, which could have an adverse effect on our business, financial condition and results of operation. ~~Implementing~~ **Operating** our digital display platform **for** ~~and deploying digital advertising displays to~~ our transit franchise partners in satisfaction of our contractual obligations requires **us** ~~the Company~~ to incur significant costs, which **we** ~~the Company~~ may not be able to recover from ~~its~~ **our** customer sales or transit franchise partners. See " Item 7. Management' s Discussion and Analysis of Financial Condition and Results of Operations — Liquidity and Capital Resources. " Any costs currently anticipated may significantly increase if we incur cost overruns due to (i) technical difficulties; (ii) the increased costs of data, digital displays, materials and labor; (iii) suspensions or delays in installation and / or construction caused by us, our subcontractors, our transit franchise partners or due to external events beyond anyone' s control or otherwise; (iv) insurance, bonding and litigation expenses; or (v) other factors beyond our control, which could have an adverse effect on our business, financial condition and results of operations, including cash flow timing and negative publicity. We may utilize third- party financing to fund these costs, which could subject the Company to additional costs, liabilities and risks. See — " Despite our substantial indebtedness level, we and our subsidiaries may be able to incur substantially more indebtedness, including secured indebtedness. This could further exacerbate the risks to our financial condition described above. " **In addition, if we are not able to recover these costs from our customer sales or transit franchise partners, we could suffer impairment charges. For example, in 2023, we suffered impairment charges in connection with our agreements with our transit franchise partners, primarily our agreement with the MTA. See " — We could suffer losses due to impairment in the carrying value of our long- lived assets and goodwill. "** Further, we rely on third parties to manufacture, transport and install digital displays **, and provide programmatic and direct sale advertising platform technologies for our display inventory** , and if we are not able to engage third parties on reasonable pricing or other terms due to insufficient capacity or plant closures of a particular manufacturer, market- wide supply shortages, labor shortages, logistics disruptions **, software issues** , inflationary price increases or otherwise, or if the third parties that we do engage fail to meet their obligations to us, whether due to external events beyond anyone' s control or otherwise, we may be unable to ~~deploy~~ **operate our** digital ~~advertising displays~~ **display platform** ~~to our transit franchise partners~~ in ~~a timely~~ **an effective** manner or at all, and may fail to satisfy our contractual obligations, which could have an adverse effect on our business, financial condition and results of operations. We may incur material losses and costs as a result of recalls and product liability, warranty and intellectual property claims that may be brought against us. If any of our digital displays become subject to a recall, our customers may hold us responsible for some or all of the repair or replacement costs of these digital displays under our contractual obligations, which could have an adverse effect on our business, financial condition and results of operations, including negative publicity. In addition, we may be exposed to product liability and warranty claims in the event that our digital displays actually or allegedly fail to perform as expected, or the use of our digital displays results, or is alleged to result, in death, bodily injury, and / or property damage, which could have an adverse effect on our business, financial condition and results of operations. Further, we face the risk of claims that we have infringed third parties' intellectual property rights with respect to our digital display platform, digital displays and / or any other new products we develop, which could be expensive and time consuming to defend, could require us to alter our digital display platform, digital displays and / or any new products, prevent us from selling advertising on and / or using our digital display platform, digital displays and / or any new products, and / or could require us to pay license, royalty or other fees to third parties in order to continue using our digital display platform, digital displays and / or any new products. The success of our transit advertising business is dependent on obtaining and renewing key municipal contracts on favorable terms. Our transit advertising business requires us to obtain and renew contracts with municipalities and other governmental entities. All of these contracts have fixed terms, are typically terminable for convenience at the option of the governmental entity (other than with respect to the MTA), and generally provide for payments to the governmental entity based on a percentage of the revenues generated under the contract and / or a guaranteed minimum annual payment, and some may require us to incur capital expenditures. When these contracts expire, we generally must participate in highly competitive bidding processes in order to obtain a new contract. Our inability to successfully obtain or renew these contracts on favorable economic terms or at all could have an adverse effect on our financial condition and results of operations. See " Item 7. Management' s Discussion and Analysis of Financial Condition and Results of Operations. " In addition, the loss of a key municipal contract in one location could adversely affect our ability to compete in other locations by reducing our scale and ability to offer customers multi- regional and national advertising campaigns. These factors could have an adverse effect on our business, financial condition and results of operations. Taxes, fees and registration requirements may reduce our profits or expansion opportunities. A number of federal, state and local governments in the U. S. and Canada have implemented or initiated taxes (including taxes on revenue from outdoor advertising or for the right to use outdoor advertising assets), fees and registration requirements in an effort to decrease or restrict the number of outdoor advertising structures and sites or raise revenue, or both. For example, a tax was imposed on the outdoor advertising industry in Toronto. These laws may affect prevailing competitive conditions in our markets in a variety of ways, including reducing our expansion opportunities, or increasing or reducing competitive pressure on us from other members of the outdoor advertising industry. See — " We operate in a highly competitive industry. " These efforts may continue, and, if we are unable to compete and / or pass on the cost of these items to our customers, the increased imposition of these measures could have an adverse effect on our business, financial condition and results of operations. Government compensation for the removal of lawful billboards could decrease. Although federal, state and local government authorities from time to time use the power of eminent domain to remove billboards, U. S. law requires payment of compensation if a government authority compels the removal of a lawful billboard along a primary or interstate highway that was built with federal financial assistance. Additionally, many states require similar compensation (or relocation) with regard to compelled removals of lawful billboards in other locations, although the methodology used to determine such compensation varies by jurisdiction. Some local governments in the U. S. and Canada have attempted to force the removal of billboards after a period of years under a concept called amortization. Under this concept, the governmental body asserts that just compensation has been earned by continued operation of the billboard over a period of time. Thus far, we have generally been able to obtain satisfactory compensation for our billboards purchased or removed as a result of governmental action, although there is no assurance that this will continue to be the case in the future, and, if it does not continue to be the case, there could be an adverse effect on our business, financial condition and results of operations. Content- based restrictions on outdoor advertising may further restrict the categories of customers that can advertise using our structures and sites. Restrictions on outdoor advertising of certain products, services or other content are or may be imposed by federal, state and local laws and regulations, as well as contracts with municipalities and transit franchise partners. For example, certain classes and types of tobacco products have been effectively banned from outdoor advertising in all of the jurisdictions in which we currently do business. In addition, state and local governments in some cases limit outdoor advertising of alcohol, which represented 3 % of our U. S. Media segment revenues in **2023, 3 % in** 2022 ~~,~~ **and** 4 % in 2021 ~~and 4 % in 2020~~ . Further, certain municipalities and transit franchise partners limit issue- based outdoor advertising. Content- based restrictions could cause a reduction in our revenues from leasing advertising space on outdoor advertising displays that display such advertisements and a simultaneous increase in the available space on the existing inventory of displays in the outdoor advertising industry, which could have an adverse effect on our business, financial condition and results of operations. Our operating results are subject to seasonal variations and other factors. Our business has experienced and is expected to continue to experience seasonality due to, among other things, seasonal advertising patterns and seasonal influences on advertising markets. Typically, our revenues and profits are highest in the fourth quarter, during the holiday shopping season, and lowest in the first quarter, as advertisers adjust their spending following the holiday shopping season. The effects of such seasonality make it difficult to estimate future operating results based on the previous results of any specific quarter, which may make it difficult to plan capital expenditures and expansion, could affect operating results and could have an adverse effect on our business, financial condition and results of operations. Acquisitions and other strategic transactions that we may pursue could have a negative effect on our results of operations. We frequently evaluate strategic opportunities both within and outside our existing lines of business. We expect from time to time to pursue additional acquisitions of businesses and / or assets and other strategic transactions, including technology investments and / or the disposition of certain businesses and / or assets. These acquisitions or transactions could be material, and involve numerous risks, including: • acquisitions or other strategic transactions may prove unprofitable and / or fail to generate anticipated cash flows or gains; • integrating acquired businesses and / or assets may be more difficult, costly or time consuming than expected and the anticipated benefits and costs savings of such acquisitions or transactions may not be fully realized, for example: ◦ we may need to recruit additional senior management, as we cannot be assured that senior management of acquired businesses and / or assets will continue to work for us, and we cannot be certain that our recruiting efforts will succeed; ◦ unforeseen difficulties could divert significant time, attention and effort from management that could otherwise be directed at developing existing business; ◦ we may encounter difficulties expanding corporate infrastructure to facilitate the integration of our operations and systems with those of acquired businesses and / or assets, which may cause us to lose the benefits of any expansion; and / or ◦ we may lose billboard leases, franchises or advertisers in connection with such acquisitions or transactions, which could disrupt our ongoing businesses; • we may not be aware of all of the risks associated with any acquired businesses and / or assets and certain of our assumptions with respect to these acquired businesses and / or assets may prove to be inaccurate, which could result in unexpected litigation or regulatory exposure, unfavorable accounting treatment, unexpected increases in taxes due, a loss of anticipated tax benefits or other adverse effects on our business, operating results or financial condition; • we may not be able to obtain financing necessary to fund potential acquisitions or strategic transactions; • we may face increased competition for acquisitions of businesses and assets from other advertising companies, some of which may have greater financial resources than we do, which may result in higher prices for those businesses and assets; • we may enter into markets and geographic areas where we have limited or no experience; and • because we must comply with various requirements under the Code in order to maintain our qualification to be taxed as a REIT, including restrictions on the types of assets we may hold, the sources of our income and accumulation of earnings and profits, our ability to engage in certain acquisitions or strategic transactions, such as acquisitions of C corporations, may be limited. See " — Risks Related to Our Corporate and REIT Structure — Complying with REIT requirements may cause us to liquidate investments or forgo otherwise attractive opportunities. " Further, acquisitions and dispositions by us may require antitrust review by U. S. federal antitrust agencies and may require review by foreign antitrust agencies under the antitrust laws of foreign jurisdictions. We can give no assurances that the U. S. Department of Justice, the U. S. Federal Trade Commission or foreign antitrust agencies will not seek to bar or limit us from acquiring or disposing of additional advertising businesses in any market. We are dependent on our management team, and the loss of senior executive officers or other key employees could have an adverse effect on our business, financial condition and results of operations. We believe our future success depends on the continued service and skills of our existing management team and other key employees with experience and business relationships within their respective roles, including landlord and customer relationships. The loss of one or more of these key personnel could have an adverse effect on our business, financial condition and results of operations because of their skills, knowledge of the market, years of industry experience and the difficulty of finding qualified replacement personnel. If any of these personnel were to leave and compete with us, it could have an adverse effect on our business, financial condition and results of operations. We face diverse risks in our Canadian business, **including risks related to the sale of our Canadian business,** which could adversely affect our business, financial condition and results of operations. Our Canadian business contributed approximately $ **92. 1 million to total revenues in 2023, approximately $** 91. 9 million to total revenues in 2022 ~~,~~ **and** approximately $ 78. 3 million to total revenues in 2021 ~~and approximately $ 59. 8 million to total revenues in 2020~~ . Inherent risks in our Canadian business activities could decrease our Canadian sales and have an adverse effect on our business, financial condition and results of operations. These risks include potentially unfavorable Canadian economic conditions, political conditions or national priorities, Canadian government regulation and changes in such regulation, violations of applicable anti- corruption laws or regulations, potential expropriation of assets by the Canadian government, the failure to bridge cultural differences and limited or prohibited access to our Canadian operations and the support they provide. We may also have difficulty repatriating profits or be adversely affected by exchange rate fluctuations in our Canadian business. **On October 22, 2023, we entered into the Share Purchase Agreement relating to the sale of the Canadian Business in the Transaction. See " Part I, Item 1. Business — Acquisition and Disposition Activity. " Consummating the Transaction may be more difficult, costly, or time consuming for us and our management than expected and the anticipated benefits of the Transaction may not be fully realized. In addition, the Transaction parties may be unable to satisfy closing conditions, including necessary regulatory approval for the Transaction (or obtaining regulatory approval for the Transaction subject to conditions that are not anticipated), which could delay or cause the parties to abandon or terminate the Transaction. See " — Acquisitions and other strategic transactions that we may pursue could have a negative effect on our results of operations. "** If we experience a cybersecurity incident, we may suffer reputational harm and significant legal and financial exposure. Although we have implemented physical and logical cybersecurity measures **and processes** , along with crisis management procedures, designed to protect against the loss, misuse and alteration of our websites, digital assets and proprietary business information as well as consumer, business partner and advertiser personally identifiable information, no cybersecurity measures are impenetrable and we **have experienced and** remain subject to **attempts to access our networks and assets by** unauthorized **parties** ~~access attempts to our networks and assets~~ . **See " Item 1C. Cybersecurity. "** Further, because techniques used to obtain unauthorized access and degrade or disable systems change frequently and often are not recognized until launched against a target, we may be unable to anticipate these techniques or implement adequate preventative measures. A cybersecurity incident could occur due to the acts or omissions of third parties (including third parties with which we do business), employee error, malfeasance, fraud, system errors or vulnerabilities, or otherwise. An increase in the number of our employees and third parties with which we do business working remotely may increase the risk of a cybersecurity incident, which has required us to modify our physical and logical cybersecurity measures. If a cybersecurity incident occurs, we could lose competitively sensitive proprietary business information, disclose personally identifiable information, and / or suffer **significant** disruptions to our business operations, particularly our digital advertising displays. In addition, the public perception of the effectiveness of our cybersecurity measures, products and / or services could be harmed as well as our overall reputation, which could put us at a competitive disadvantage. Accordingly, if we or third parties with which we do business were to suffer a cybersecurity incident, we could suffer significant legal and financial exposure in connection with our failure to satisfy certain contractual obligations, a loss of business partners and advertisers, regulatory investigations, legal proceedings and / or remedial actions relating to our cybersecurity measures, which could have an adverse effect on our business, financial condition and results of operation. Although we possess cybersecurity insurance, any financial liabilities arising from a cybersecurity incident may not be sufficiently covered by our insurance. Changes in regulations and consumer concerns regarding privacy, information security and data, or any failure or perceived failure to comply with these regulations or our internal policies, could negatively impact our business. We collect, purchase and utilize demographic and other information from and about consumers, business partners, advertisers and website users. We are subject to numerous federal, state, local and foreign laws, rules and regulations as well as industry standards and regulations regarding privacy, information security, data and consumer protection (including with respect to personally identifiable information), among other things. Many of these laws and industry standards and regulations are still evolving and changes in the nature of the data that we collect, purchase and utilize, and the ways that data is permitted to be collected, stored, used and / or shared **(including with respect to artificial intelligence, machine learning and automated processing)** may negatively impact the way that we are able to conduct business, particularly our digital display platform. In addition, changes in consumer expectations and demands regarding privacy, information security and data may result in further restrictions on the nature of the data that we collect, purchase and utilize, and the ways we derive economic value from this data, which may limit our ability to offer targeted advertising opportunities to our business partners and advertisers. Although we monitor regulatory changes and have implemented internal policies and procedures designed to comply with all applicable laws, rules, industry standards and regulations, any failure or perceived failure by us to comply with applicable regulatory requirements or our internal policies related to privacy, information security, data and / or consumer protection could result in a loss of confidence, a loss of goodwill, damage to our brand, loss of business partners and advertisers, substantial remediation and compliance costs, adverse regulatory proceedings and / or civil litigation, which could negatively impact our business ~~. We could suffer losses due to impairment in the carrying value of our long- lived assets and goodwill~~ . A significant portion of our assets are long- lived assets and goodwill. We test our long- lived assets for impairment whenever there is an indication that the carrying amount of the asset may not be recoverable. If business conditions or other factors cause our results of operations and / or cash flows to decline, we may be required to record a non- cash asset impairment charge. We test goodwill for impairment during the fourth quarter of each year and between annual tests if events or circumstances require an interim impairment assessment. A downward revision in the estimated fair value of a reporting unit could result in a non- cash goodwill impairment charge. For example, as a result of ~~an~~ **the** impairment analysis performed during the second quarter of ~~2018~~ **2023** , we determined that the carrying value of our ~~Canadian~~ **U. S. Transit and Other** reporting unit exceeded its fair value and we recorded an impairment charge **of $ 47. 6 million. During the second quarter of 2023, we also performed an analysis of the carrying value of our long- lived asset groups within our U. S. Transit and Other reporting unit utilizing undiscounted cash flows compared to the carrying value of the asset groups and determined that they were not fully recoverable. We then compared the fair value of the assets (calculated using a cash flow model) to the carrying value and we recorded an impairment charge of $ 463. 5 million, primarily representing a $ 443. 1 million impairment charge related to our MTA asset group. As a result of our continued expectation of negative aggregate cash flows related to our MTA asset group, we recorded additional impairment charges of $ 12. 1 million in the third quarter of 2023, representing additional MTA equipment deployment cost spending during the third quarter of 2023, and $ 11. 2 million in the fourth quarter of 2023, $ 11. 0 million of which represents additional MTA equipment deployment cost spending during the fourth quarter of 2023** . Any such impairment charges could have a material adverse effect on our reported net income **, operating income and our stock price** . See “ Item 7. Management’ s Discussion and Analysis of Financial Condition and Results of Operations — Critical Accounting Policies **.** ” Environmental, health and safety laws and regulations may limit or restrict some of our operations. As the owner or operator of various real properties and facilities, we must comply with various federal, state and local environmental, health and safety laws and regulations in the U. S. and Canada. We and our properties are subject to such laws and regulations related to the use, storage, disposal, emission, release and remediation of hazardous and nonhazardous substances and employee health and safety. Historically, with the exception of safety upgrades, we have not incurred significant expenditures to comply with these laws. However, additional laws that may be passed in the future, or a finding of a violation of or liability under existing laws, could require us to make significant expenditures and otherwise limit or restrict some of our operations, which could have an adverse effect on our business, financial condition and results of operations. Expectations relating to environmental, social and governance considerations expose us to potential liabilities, reputational harm and other unforeseen adverse effects on our business. Many governments, regulators, investors, employees, customers and other stakeholders are increasingly focused on environmental, social and governance considerations relating to businesses, including climate change and greenhouse gas emissions, human capital and diversity, equity and inclusion. We make statements about our environmental, social and governance goals and initiatives through information provided on our website, press statements and other communications **, including our proxy statement** . Responding to these environmental, social and governance considerations and implementation of these goals and initiatives involves risks and uncertainties and requires ongoing investments. The success of our goals and initiatives may be impacted by factors that are outside our control. In addition, some stakeholders may disagree with our goals and initiatives and the focus and views of stakeholders may change and evolve over time and vary by the jurisdictions in which we operate. Any failure, or perceived failure, by us to achieve our goals, further our initiatives, adhere to our public statements, comply with federal, state, local or international environmental, social and governance laws and regulations, or meet evolving and varied stakeholder expectations and views could have an adverse effect on our business, financial condition, results of operations and stock price. Risks Related to Our Indebtedness We have substantial indebtedness that could adversely affect our financial condition. As of December 31, ~~2022~~ **2023** , we had total indebtedness of approximately $ 2. ~~7~~ **8** billion (consisting of the Term Loan, the Notes and the AR Facility with outstanding aggregate principal balances of $ 600. 0 million, ~~approximately~~ $ 2. 1 billion and $ ~~30~~ **65** . 0 million, respectively), undrawn commitments under the Revolving Credit Facility of $ 500. 0 million, excluding $ 6. ~~4~~ **5** million of letters of credit issued against the Revolving Credit Facility, and $ ~~120~~ **85** . 0 million borrowing capacity remaining under the AR Facility. See " Item 7. Management' s Discussion and Analysis of Financial Condition and Results of Operations — Liquidity and Capital Resources. " Our level of debt could have important consequences, including: • making it more difficult for us to satisfy our obligations with respect to the Notes and our other debt; • requiring us to dedicate a substantial portion of our cash flow from operations to payments on indebtedness, thereby reducing the availability of cash flow to fund acquisitions, working capital, capital expenditures, and strategic business development efforts and other corporate purposes; • increasing our vulnerability to and limiting our flexibility in planning for, or reacting to, changes in the business, the industries in which we operate, the economy and governmental regulations; • limiting our ability to make strategic acquisitions or causing us to make non- strategic divestitures; • exposing us to the risk of rising interest rates as borrowings under the Senior Credit Facilities and the AR Facility are subject to variable rates of interest; • placing us at a competitive disadvantage compared to our competitors that have less debt; and • limiting our ability to borrow additional funds. The Credit Agreement and the indentures governing the Notes contain a number of restrictive covenants that impose significant operating and financial restrictions on us and our subsidiaries and limit our ability to engage in actions that may be in our long-term best interests, including restrictions on our and our subsidiaries' ability to: • incur additional indebtedness; • pay dividends on, repurchase or make distributions in respect of our capital stock (other than dividends or distributions necessary for us to maintain our REIT status, subject to certain conditions); • make investments or acquisitions; • sell, transfer or otherwise convey certain assets; • change our accounting methods; • create liens; • enter into agreements restricting the ability to pay dividends or make other intercompany transfers; • consolidate, merge, sell or otherwise dispose of all or substantially all of our or our subsidiaries' assets; • enter into transactions with affiliates; • prepay certain kinds of indebtedness; • issue or sell stock of our subsidiaries; and • change the nature of our business. The agreements governing the AR Facility also contain affirmative and negative covenants with respect to the SPVs (as defined below) holding our accounts receivables. In addition, the Credit Agreement (and under certain circumstances, the agreements governing the AR Facility) has a financial covenant that requires us to maintain a Consolidated Net Secured Leverage Ratio (as described in " Item 7. Management' s Discussion and Analysis of Financial Condition and Results of Operations — Liquidity and Capital Resources "). Our ability to meet this financial covenant may be affected by events beyond our control. As a result of all of these restrictions, we may be: • limited in how we conduct our business; • unable to raise additional debt or equity financing to operate during general economic or business downturns; or • unable to compete effectively or to take advantage of new business opportunities. These restrictions could hinder our ability to grow in accordance with our strategy or inhibit our ability to adhere to our intended distribution policy and, accordingly, may cause us to incur additional U. S. federal income tax liability beyond current expectations. A breach of the covenants under the Credit Agreement or ~~either of~~ the indentures governing the Notes, as well as a breach of the covenants under the agreements governing the AR Facility, including the inability to repay any amounts due and payable, could result in an event of default or termination event under the applicable agreement. Such a default or termination event would allow the lenders under the Senior Credit Facilities, the Purchasers (as defined below) under the AR Facility and the holders of the Notes to accelerate the repayment of such debt and may result in the acceleration of the repayment of any other debt to which a cross- acceleration or cross- default provision applies. In the event our creditors accelerate the repayment of our borrowings, we and our subsidiaries may not have sufficient assets to repay that indebtedness. An event of default or termination event under the Credit Agreement **, the indenture and related agreements governing the 2031 Notes,** and the agreements governing the AR Facility would also permit the applicable lenders, **holders of the 2031 Notes,** Purchasers and any other secured creditors to proceed against the collateral that secures such indebtedness, and **, with respect to the Credit Agreement and AR Facility,** terminate all other commitments to extend additional credit to us. Any of these events could have an adverse effect on our business, financial condition and results of operations. We and our subsidiaries may incur significant additional indebtedness in the future, including secured indebtedness. Although the Credit Agreement, the indentures governing the Notes and the agreements governing the AR Facility contain restrictions on the incurrence of additional indebtedness and additional liens, these restrictions will be subject to a number of qualifications and exceptions, and the additional indebtedness, including secured indebtedness, incurred in compliance with these restrictions could be substantial. If we incur any additional indebtedness that ranks equally with the Senior Credit Facilities, the AR Facility and / or the Notes, subject to collateral arrangements, the holders of that debt will be entitled to share ratably with existing holders of our debt in any proceeds distributed in connection with any insolvency, liquidation, reorganization, dissolution or other winding up of our business. This may have the effect of reducing the amount of proceeds paid to existing shareholders. These restrictions also will not prevent us from incurring obligations that do not constitute indebtedness. If new debt is added to our current debt levels, the related risks that we now face would increase. Our variable rate indebtedness subjects us to interest rate risk, which could cause our debt service obligations to increase significantly. Borrowings under the Senior Credit Facilities and the AR Facility are at variable rates of interest and expose us to interest rate risk. If interest rates increase, as we are experiencing with the current heightened levels of inflation, our debt service obligations on the variable rate indebtedness will increase even though the amount borrowed remains the same, and our net income and cash flows will correspondingly decrease. At our level of indebtedness, as of December 31, ~~2022~~ **2023** , each 1 / 4 % change in interest rates on our variable rate Term Loan and AR Facility would have resulted in a $ 1. 5 million and $ 0. ~~1~~ **2** million, respectively, change in annual estimated interest expense. Our aggregate annual estimated interest expense will increase if we make any borrowings under our Revolving Credit Facility. We have, and may in the future, enter into interest rate swaps that involve the exchange of floating for fixed rate interest payments in order to reduce future interest rate volatility. However, we may not elect to maintain such interest rate swaps with respect to any of our variable rate indebtedness, and any swaps we enter into may not fully mitigate our interest rate risk ~~. In addition, the transition away from the use of the London Interbank Offered Rate (" LIBOR ") to the Secured Overnight Financing Rate (" SOFR ") may have unanticipated effects on the agreements governing our indebtedness, our interest rate swaps and the credit markets generally, as well as our interest expense, which we are not able to predict at this time~~ . To service our indebtedness, we require a significant amount of cash and our ability to generate cash depends on many factors beyond our control. Our ability to make cash payments on and to refinance our indebtedness, including the Notes, and to fund planned capital expenditures will depend on our ability to generate significant operating cash flow in the future. Our ability to generate such cash flow is subject to general economic, financial, competitive, legislative, regulatory and other factors that are beyond our control. In addition, our ability to generate cash flow may be affected by our REIT compliance obligations and any consequences of failing to remain qualified as a REIT. See " — Risks Related to Our Corporate and REIT Structure. " Our business may not generate cash flow from operations in an amount sufficient to enable us to pay our indebtedness, including the Notes, or to fund our other liquidity needs. If we cannot service our indebtedness, we may have to take actions such as refinancing or restructuring our indebtedness, selling assets or reducing or delaying capital expenditures, strategic acquisitions and investments. Such actions, if necessary, may not be effected on commercially reasonable terms or at all. Our ability to refinance or restructure our debt will depend on the condition of the capital markets and our financial condition at the applicable time. Any refinancing of our debt could be at higher interest rates and may require us to comply with more onerous covenants, which could further restrict our business operations. Further, the Credit Agreement, the indentures governing the Notes and the agreements governing the AR Facility restrict our ability to undertake, or use the proceeds from, such measures. Our cash available for distribution to stockholders may not be sufficient to make distributions at expected levels, and we may need to borrow in order to make such distributions or may not be able to make such distributions in full. Distributions that we may make will be authorized and determined by our board of directors in its sole discretion (subject to the terms governing the Series A Preferred Stock) out of funds legally available. The availability, amount, timing and frequency of distributions will be at the sole discretion of our board of directors (subject to the terms governing the Series A Preferred Stock), and will be declared based upon various factors, including, but not limited to: our results of operations, our financial condition and our operating cash inflows and outflows, including capital expenditures and acquisitions; future taxable income; our REIT distribution requirements (which may be satisfied by making distributions to our common stockholders, our preferred stockholders (including holders of Series A Preferred Stock) or a combination of our stockholders); distribution requirements under the terms of the Series A Preferred Stock; limitations contained in our debt instruments (such as restrictions on distributions in excess of the minimum amount required to maintain our status as a REIT and on the ability of our subsidiaries to distribute cash to the Company); debt service requirements; limitations on our ability to use cash generated in the TRSs to fund distributions; and applicable law. We may need to increase our borrowings in order to fund our intended distributions. See " Item 5. Market for Registrant' s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities — Dividend Policy, " " Item 7. Management' s Discussion and Analysis of Financial Condition and Results of Operations — Liquidity and Capital Resources, " " — Risks Related to Our Corporate and REIT Structure — Our board of directors has the power to cause us to issue additional shares of stock without common stockholder approval, " and " — Despite our substantial indebtedness level, we and our subsidiaries may be able to incur substantially more indebtedness, including secured indebtedness. This could further exacerbate the risks to our financial condition described above. " Hedging transactions could have a negative effect on our results of operations. We have, and may in the future, enter into hedging transactions, including without limitation, with respect to interest rate exposure and foreign currency exchange rates and on one or more of our assets or liabilities. The use of hedging transactions involves certain risks, including: (1) the possibility that the market will move in a manner or direction that would have resulted in a gain for us had a hedging transaction not been utilized, in which case our performance would have been better had we not engaged in the hedging transaction; (2) the risk of an imperfect correlation between the risk sought to be hedged and the hedging transaction used; (3) the potential illiquidity for the hedging instrument used, which may make it difficult for us to close out or unwind a hedging transaction; (4) the possibility that our counterparty fails to honor its obligations; and (5) the possibility that we may have to post collateral to enter into hedging transactions, which we may lose if we are unable to honor our obligations. In addition, as a REIT, we have limitations on our income sources, and the hedging strategies available to us will be more limited than those available to companies that are not REITs. See " — Risks Related to Our Corporate and REIT Structure — Complying with REIT requirements may limit our ability to hedge effectively and may cause us to incur tax liabilities. " Our board of directors has the power to cause us to issue additional shares of stock without common stockholder approval. Our charter authorizes us to issue additional authorized but unissued shares of common or preferred stock. In addition, our charter permits a majority of our entire board of directors to, without common stockholder approval, amend our charter to increase or decrease the aggregate number of shares of stock or the number of shares of stock of any class or series that we have authority to issue. Our charter also permits our board of directors to classify or reclassify any unissued shares of common or preferred stock and set the preferences, rights and other terms of the classified or reclassified shares. As a result, our board of directors will be able to establish a series of shares of common or preferred stock that could delay or prevent a transaction or a change in control that might involve a premium price for outstanding shares of stock or otherwise be in the best interests of our stockholders. On April 20, 2020, we issued and sold an aggregate of 400, 000 shares of Series A Preferred Stock (as defined and described in " Item 7. Management' s Discussion and Analysis of Financial Condition and Results of Operations — Liquidity and Capital Resources — Equity — Series A Preferred Stock Issuance "). Holders of the Series A Preferred Stock are entitled to a cumulative dividend accruing at the initial rate of 7. 0 % per year, payable quarterly in arrears. The Series A Preferred Stock ranks senior to 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 Series A Preferred Stock is convertible at the option of any holder at any time into shares of our common stock at an initial conversion price of $ 16. 00 per share and an initial conversion rate of 62. 50 shares of our common stock per share of Series A Preferred Stock, subject to certain anti- dilution adjustments. On March 1, 2022, 275, 000 shares of Series A Preferred Stock were converted into approximately 17. 4 million shares of the Company' s common stock. As of December 31, ~~2022~~ **2023**, the maximum number of shares of common stock that could be required to be issued on conversion of the outstanding shares of Series A Preferred Stock was approximately 7. 8 million shares. In general, holders of shares of Series A Preferred Stock have the right to vote on matters submitted to a vote of the holders of common stock (voting together as one class) on an as- converted basis. In addition, certain actions require the approval of the holders of the outstanding Series A Preferred Stock. Further, our REIT distribution requirement may be satisfied by making distributions to our common stockholders, our preferred stockholders (including holders of Series A Preferred Stock) or a combination of our stockholders. See " — REIT distribution requirements could adversely affect our ability to execute our business plan. " Circumstances may occur in which the interests of holders of the Series A Preferred Stock could conflict with the interests of our other common stockholders. Certain provisions of Maryland law may limit the ability of a third party to acquire control of us. Certain provisions of the MGCL may have the effect of delaying or preventing a transaction or a change in control of us that might involve a premium price for shares of our stock or otherwise be in the best interests of our stockholders, including: • " business combination " provisions that, subject to certain exceptions, prohibit certain business combinations between a Maryland corporation and an " interested stockholder " (defined generally as any person who beneficially owns, directly or indirectly, 10 % or more of the voting power of a corporation' s outstanding voting stock or an affiliate or associate of a corporation who, at any time during the two- year period immediately prior to the date in question, was the beneficial owner of 10 % or more of the voting power of the then- outstanding stock of the corporation) or an affiliate of such an interested stockholder for five years after the most recent date on which the stockholder becomes an interested stockholder, and thereafter imposes two super- majority stockholder voting requirements on these combinations; and • " control share " provisions that provide that, subject to certain exceptions, holders of " control shares " of a Maryland corporation (defined as voting shares of stock that, if aggregated with all other shares of stock owned or controlled by the acquirer, would entitle the acquirer to exercise voting power in the election of directors within one of three increasing ranges) acquired in a " control share acquisition " (defined as the direct or indirect acquisition of issued and outstanding " control shares, " subject to certain exceptions) have no voting rights except to the extent approved by its stockholders by the affirmative vote of at least two- thirds of all of the votes entitled to be cast on the matter, excluding all interested shares. Additionally, under Title 3, Subtitle 8 of the MGCL, our board of directors is permitted, without stockholder approval and regardless of what is provided in our charter or bylaws, to implement certain takeover defenses. Our board of directors has by resolution exempted from the provisions of the Maryland Business Combination Act, as described above, all business combinations between us and any other person, provided that such business combination is first approved by our board of directors (including a majority of our directors who are not affiliates or associates of such person). In addition, our bylaws contain a provision opting out of the Maryland Control Share Acquisition Act, as described above. Moreover, our charter provides that vacancies on our board may be filled only by a majority of the remaining directors, and that any directors elected by the board to fill vacancies will serve for the remainder of the full term of the directorship in which the vacancy occurred and until a successor is elected and qualifies. Our bylaws provide that our board of directors has the exclusive power to adopt, alter or repeal any provision of our bylaws and to make new bylaws. There can be no assurance that these exemptions or provisions will not be amended or eliminated at any time in the future. Our rights and the rights of our stockholders to take action against our directors and officers are limited. Our charter contains a provision that eliminates the liability of our directors and officers to the maximum extent permitted by Maryland law. In addition, our charter authorizes us, and our bylaws obligate us, to the maximum extent permitted by Maryland law in effect from time to time, to indemnify and, without requiring a preliminary determination of the ultimate entitlement to indemnification, pay or reimburse reasonable expenses in advance of final disposition of a proceeding to: • any present or former director or officer who is made or threatened to be made a party to, or witness in, a proceeding by reason of his or her service in that capacity; and • any individual who, while a director or officer of our company and at our request, serves or has served as a director, officer, trustee or manager of another corporation, REIT, limited liability company, partnership, joint venture, trust, employee benefit plan or any other enterprise and who is made or threatened to be made a party to, or witness in, the proceeding by reason of his or her service in that capacity. Our charter and bylaws also permit us to indemnify and advance expenses to any person who served a predecessor of ours in any of the capacities described above and to any employee of our company or a predecessor of our company. The indemnification and payment or reimbursement of expenses provided by the indemnification provisions of our charter and bylaws shall not be deemed exclusive of or limit in any way other rights to which any person seeking indemnification, or payment or reimbursement of expenses may be or may become entitled under any statute, bylaw, resolution, insurance, agreement, vote of stockholders or disinterested directors or otherwise. In addition, we have entered into separate indemnification agreements with each of our directors. Each indemnification agreement provides, among other things, for indemnification as provided in the agreement and otherwise to the fullest extent permitted by law and our charter and bylaws against judgments, fines, penalties, amounts paid in settlement and reasonable expenses, including attorneys' fees. The indemnification agreements provide for the advancement or payment of expenses to the indemnitee and for reimbursement to us if it is found that such indemnitee is not entitled to such advancement. Accordingly, in the event that any of our directors or officers are exculpated from, or indemnified against, liability but whose actions impede our performance, we and our stockholders' ability to recover damages from that director or officer will be limited. If we fail to remain qualified as a REIT, we will be subject to U. S. federal income tax as a regular corporation and could face a substantial tax liability, which would reduce the amount of cash available for distribution to our stockholders. Qualification to be taxed as a REIT involves the application of highly technical and complex Code provisions for which only limited judicial and administrative authorities exist. Even a technical or inadvertent failure to comply with these provisions could jeopardize our REIT qualification. Our ability to remain qualified to be taxed as a REIT will depend on our satisfaction of certain asset, income, organizational, distribution, stockholder ownership and other requirements on a continuing basis. In addition, our ability to satisfy the requirements to remain qualified to be taxed as a REIT may depend in part on the actions of third parties over which we have no control or only limited influence. In addition, the rules dealing with U. S. federal income taxation are continually under review by persons involved in the legislative process and by the IRS and the U. S. Department of the Treasury (the " Treasury "). Although the IRS has issued a private letter ruling with respect to certain issues relevant to our ability to qualify to be taxed as a REIT, no assurance can be given that the IRS will not challenge our qualification to be taxed as a REIT in the future. Changes to the tax laws or interpretations thereof, or the IRS' s position with respect to our private letter ruling, with or without retroactive application, could materially and negatively affect our ability to qualify to be taxed as a REIT. If we were to fail to remain qualified to be taxed as a REIT in any taxable year, we would be subject to U. S. federal income tax on our taxable income at regular corporate rates, and dividends paid to our stockholders would not be deductible by us in computing our taxable income. Any resulting corporate tax liability could be substantial and would reduce the amount of cash available for distribution to holders of our common stock, which in turn could have an adverse impact on the value of our common stock and may require us to incur indebtedness or liquidate certain investments in order to pay such tax liability. Unless we were entitled to relief under certain Code provisions, we would also be disqualified from re- electing to be taxed as a REIT for the four taxable years following the year in which we failed to qualify to be taxed as a REIT. To maintain REIT status, we must meet a number of organizational and operational requirements, including a requirement that we annually distribute to our stockholders at least 90 % of our REIT taxable income, determined without regard to the dividends- paid deduction and excluding any net capital gains. This distribution requirement may be satisfied by making distributions to our common stockholders, our preferred stockholders (including holders of Series A Preferred Stock) or a combination of our stockholders. To the extent that we satisfy this distribution requirement and qualify for taxation as a REIT but distribute less than 100 % of our REIT taxable income, determined without regard to the dividends- paid deduction and including any net capital gains, we will be subject to U. S. federal income tax on our undistributed net taxable income. In addition, we will be subject to a nondeductible 4 % excise tax if the amount that we actually distribute to our stockholders in a calendar year is less than a minimum amount specified under U. S. federal tax laws. From time to time, we may generate taxable income greater than our cash flow as a result of differences in timing between the recognition of taxable income and the actual receipt of cash or the effect of nondeductible capital expenditures, the creation of reserves or required debt or amortization payments. If we do not have other funds available in these situations, we could be required to borrow funds on unfavorable terms, sell assets at disadvantageous prices or distribute amounts that would otherwise be invested in future acquisitions to make distributions sufficient to enable us to pay out enough of our taxable income to satisfy the REIT distribution requirement and to avoid corporate income tax and the 4 % excise tax in a particular year. These alternatives could increase our costs or reduce our equity. Thus, compliance with the REIT requirements may impact our ability to grow, which could adversely affect the value of our common stock. To fund our growth strategy and refinance our indebtedness, we may depend on external sources of capital, which may not be available to us on commercially reasonable terms or at all. As a result of the REIT organizational and operational requirements described above, we may not be able to fund future capital needs, including any necessary acquisition financing, solely from operating cash flows. Consequently, we expect to rely on third- party capital market sources for debt or equity financing to fund our business strategy. In addition, we will likely need third- party capital market sources to refinance our indebtedness at or prior to maturity. Turbulence in the U. S. or international financial markets and economies could adversely impact our ability to replace or renew maturing liabilities on a timely basis or access the capital markets to meet liquidity and capital expenditure requirements and may result in adverse effects on our business, financial condition and results of operations. As such, we may not be able to obtain financing on favorable terms or at all. Our access to third- party sources of capital also depends, in part, on: • the market' s perception of our growth potential; • our then- current levels of indebtedness; • our historical and expected future earnings, cash flows and cash distributions; and • the market price per share of our common stock. In addition, our ability to access additional capital may be limited by the terms of our outstanding indebtedness, which may restrict our incurrence of additional debt. See " — Risks Related to Our Indebtedness — Despite our substantial indebtedness level, we and our subsidiaries may be able to incur substantially more indebtedness, including secured indebtedness. This could further exacerbate the risks to our financial condition described above. " If we cannot obtain capital when needed, we may not be able to acquire or develop properties when strategic opportunities arise or refinance our debt, which could have an adverse effect on our business, financial condition and results of operations. Even if we remain qualified to be taxed as a REIT, we may face other tax liabilities that reduce our cash flow. Even if we remain qualified for taxation as a REIT, we may be subject to certain U. S. federal, state and local taxes on our income and assets, including taxes on any undistributed income and state or local income, property and transfer taxes. For example, in order to meet the REIT qualification requirements, we may hold some of our assets or conduct certain of our activities through one or more TRSs or other subsidiary corporations that will be subject to foreign, federal, state and local corporate- level income taxes as regular C corporations. In addition, we may incur a 100 % excise tax on transactions with a TRS if the transactions are not conducted on an arm' s- length basis. Any of these taxes would decrease cash available for distribution to holders of our common stock. Complying with REIT requirements may cause us to liquidate investments or forgo otherwise attractive investments or business opportunities. To remain qualified to be taxed as a REIT for U. S. federal income tax purposes, we must ensure that, at the end of each calendar quarter, at least 75 % of the value of our assets consists of cash, cash items, government securities and “ real estate assets ” (as defined in the Code), including certain mortgage loans and securities. The remainder of our investments (other than government securities, qualified real estate assets and securities issued by a TRS) generally cannot include more than 10 % of the outstanding voting securities of any one issuer or more than 10 % of the total value of the outstanding securities of any one issuer. In addition, in general, no more than 5 % of the value of our total assets (other than government securities, qualified real estate assets and securities issued by a TRS) can consist of the securities of any one issuer, and no more than 20 % of the value of our total assets can be represented by securities of one or more TRSs. If we fail to comply with these requirements at the end of any calendar quarter, we must correct the failure within 30 days after the end of the calendar quarter or qualify for certain statutory relief provisions to avoid losing our REIT qualification and suffering adverse tax consequences. As a result, we may be required to liquidate or forgo otherwise attractive investments or business opportunities. These actions could have the effect of reducing our income and amounts available for distribution to holders of our common stock. In addition to the assets tests set forth above, to remain qualified to be taxed as a REIT for U. S. federal income tax purposes, we must continually satisfy tests concerning, among other things, the sources of our income, the amounts we distribute to our stockholders and the ownership of our stock. We may be unable to pursue investments or business opportunities (including but not limited to certain product offerings to our customers) that would be otherwise advantageous to us in order to satisfy the source- of- income or asset- diversification requirements for qualifying to be taxed as a REIT. Accordingly, compliance with the REIT requirements may hinder our ability to make certain attractive investments, pursue certain business opportunities and / or otherwise adversely affect the manner in which we operate our business. Complying with REIT requirements may depend on our ability to contribute certain contracts to a taxable REIT subsidiary. Our ability to satisfy certain REIT requirements may depend on us contributing certain contracts (or portions of certain contracts) to a TRS with respect to outdoor advertising assets that do not qualify as real property for purposes of the REIT asset tests. Moreover, our ability to satisfy the REIT requirements may depend on us properly allocating between us and our TRS the revenue or cost, as applicable, associated with the portion of any such contract contributed to the TRS. There can be no assurance that the IRS will not determine that such contribution was not a true contribution between us and our TRS or that we did not properly allocate the applicable revenues or costs. Were the IRS successful in such a challenge, it could adversely impact our ability to qualify to be taxed as a REIT or our effective tax rate and tax liability. Our planned use of taxable REIT subsidiaries may cause us to fail to remain qualified to be taxed as a REIT. The net income of our TRSs is not required to be distributed to us, and income that is not distributed to us generally will not be subject to the REIT income distribution requirement. However, there may be limitations on our ability to accumulate earnings in our TRSs and the accumulation or reinvestment of significant earnings in our TRSs could result in adverse tax treatment. In particular, if the accumulation of cash in our TRSs causes the fair market value of our securities in our TRSs and certain other non- qualifying assets to exceed 20 % of the fair market value of our assets, we would fail to remain qualified to be taxed as a REIT for U. S. federal income tax purposes. The ownership limitations that apply to REITs, as prescribed by the Code and by our charter, may inhibit market activity in the shares of our common stock and restrict our business combination opportunities. In order for us to qualify to be taxed as a REIT, not more than 50 % in value of the outstanding shares of our stock may be owned, beneficially or constructively, by five or fewer individuals, as defined in the Code to include certain entities, at any time during the last half of each taxable year after the first year for which we elect to qualify to be taxed as a REIT. Additionally, at least 100 persons must beneficially own our stock during at least 335 days of a taxable year (other than the first taxable year for which we elect to be taxed as a REIT). Subject to certain exceptions, our charter authorizes our board of directors to take such actions as are necessary and desirable to preserve our qualification to be taxed as a REIT. Our charter also provides that, unless exempted by the board of directors, no person may own more than 9. 8 % in value or in number, whichever is more restrictive, of the outstanding shares of our common stock or 9. 8 % in value of the aggregate outstanding shares of all classes and series of our stock. A person that did not acquire more than 9. 8 % of our outstanding stock may nonetheless become subject to our charter restrictions in certain circumstances, including if repurchases by us cause a person’ s holdings to exceed such limitations. The constructive ownership rules are complex and may cause shares of stock owned directly or constructively by a group of related individuals to be constructively owned by one individual or entity. These ownership limits could delay or prevent a transaction or a change in control of our company that might involve a premium price for shares of our stock or otherwise be in the best interests of our stockholders. The REIT provisions of the Code substantially limit our ability to hedge our assets and liabilities. Any income from a hedging transaction that we enter into primarily to manage risk of interest rate changes or to manage risk of currency fluctuations with respect to borrowings made or to be made or to acquire or carry real estate assets does not constitute “ gross income ” for purposes of the 75 % or 95 % gross income tests that apply to REITs, provided that certain identification requirements are met. To the extent that we enter into other types of hedging transactions or fail to properly identify such a transaction as a hedge, the income is likely to be treated as non- qualifying income for purposes of both of the gross income tests. As a result of these rules, we may be required to limit our use of advantageous hedging techniques or implement those hedges through a TRS. This could increase the cost of our hedging activities because our TRS may be subject to tax on gains or expose us to greater risks associated with changes in interest rates that we would otherwise choose to bear. In addition, losses in our TRS will generally not provide any tax benefit, except that such losses could theoretically be carried back or forward against past or future taxable income in the TRS. If we fail to meet the REIT income tests as a result of receiving non- qualifying rental income, we would be required to pay a penalty tax in order to retain our REIT status. Certain income we receive could be treated as non- qualifying income for purposes of the REIT requirements. Even if we have reasonable cause for a failure to meet the REIT income tests as a result of receiving non- qualifying income, we would nonetheless be required to pay a penalty tax in order to retain our REIT status. The IRS may deem the gains from sales of our outdoor advertising assets to be subject to a 100 % prohibited transaction tax. From time to time, we may sell outdoor advertising assets. The IRS may deem one or more sales of our outdoor advertising assets to be “ prohibited transactions ” (generally, sales or other dispositions of property that is held as inventory or primarily for sale to customers in the ordinary course of a trade or business). If the IRS takes the position that we have engaged in a “ prohibited transaction, ” the gain we recognize from such sale would be subject to a 100 % tax. We do not intend to hold outdoor advertising assets as inventory or for sale in the ordinary course of business; however, whether property is held as inventory or “ primarily for sale to customers in the ordinary course of a trade or business ” depends on the particular facts and circumstances and there is no assurance that our position will not be challenged by the IRS especially if we make frequent sales or sales of outdoor advertising assets in which we have short holding periods. We may establish operating partnerships as part of our REIT structure, which could result in conflicts of interests between our stockholders and holders of our operating partnership units and could limit our liquidity or flexibility. As part of our REIT structure, we have previously established a “ DownREIT ” operating partnership, and we may in the future establish an “ UPREIT ” and / or additional “ DownREIT ” operating partnerships, whereby we acquire certain assets by issuing units in an operating partnership (or a subsidiary) in exchange for an asset owner contributing such assets to the partnership (or subsidiary). If we enter into such transactions, in order to induce the contributors of such assets to accept units in our operating partnerships, rather than cash, in exchange for their assets, it may be necessary for us to provide them additional incentives. For instance, the operating partnership’ s limited partnership or limited liability company agreement may provide that any unitholder of the operating partnership may be entitled to receive cash or equity distributions on its units, as well as exchange units for cash equal to the value of an equivalent number of shares of our common stock or, at our option, for shares of our common stock on a one- for- one basis. We may also enter into additional contractual arrangements with asset contributors under which we would agree to repurchase a contributor’ s units for shares of our common stock or cash, at the option of the contributor, at set times. In connection with these transactions, persons holding operating partnership units (or similar securities) may have the right to vote on certain amendments to the partnership agreements of such operating partnerships, as well as on certain other matters. Unitholders with these voting rights may be able to exercise them in a manner that conflicts with the interests of our stockholders. As the sole member of the general partner of the operating partnerships or as the managing member, we would have fiduciary duties to the unitholders of the operating partnerships that may conflict with duties that our officers and directors owe to the Company. In addition, if a holder of operating partnership units (or similar securities) received cash distributions on its units and / or required us to repurchase the units for cash, it would limit our liquidity and thus our ability to use cash to make other investments, distributions to stockholders, debt service payments, or satisfy other obligations. Moreover, if we were required to repurchase units for cash at a time when we did not have sufficient cash to fund the repurchase, we might be required to sell one or more assets to raise funds to satisfy this obligation. Furthermore, we might agree that if distributions the holder of operating partnership units (or similar securities) received did not provide them with a defined return, then upon redemption of the units, we would pay the holder an additional amount necessary to achieve that return. Such a provision could further negatively impact our liquidity and flexibility. Finally, in order to allow a contributor of assets to defer taxable gain on the contribution of assets to our operating partnerships, we might agree not to sell a contributed asset for a defined period of time or until the contributor exchanged its operating partnership units (or similar securities) for cash or shares. Such an agreement would prevent us from selling those properties, even if market conditions made such a sale favorable to us.