TRINITY INDUSTRIES INC
Form 10-Q
October 27, 2016

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
Form 10-Q
(Mark One)
þ QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
FOR THE QUARTERLY PERIOD ENDED SEPTEMBER 30, 2016
OR
¨ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _________ to _________ .
Commission File Number 1-6903
(Exact name of registrant as specified in its charter)

| | |
|---|---|
| Delaware | 75-0225040 |
| (State or Other Jurisdiction of Incorporation or Organization) | (I.R.S. Employer Identification No.) |
| 2525 N. Stemmons Freeway, Dallas, Texas | 75207-2401 |
| (Address of principal executive offices) | (Zip Code) |

(214) 631-4420
(Registrant's telephone number, including area code)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes þ No ¨

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes þ No ¨

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act.

Large accelerated filer þ Accelerated filer ¨ Non-accelerated filer ¨ Smaller reporting company ¨
(Do not check if a smaller reporting company)

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ¨ No þ

At October 14, 2016 the number of shares of common stock outstanding was 152,256,733.

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PART I
Item 1. Financial Statements
Trinity Industries, Inc. and Subsidiaries
Consolidated Statements of Operations
(unaudited)

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2016 | 2015 | 2016 | 2015 |
| | (in millions, except per share amounts) | | | |
| Revenues: | | | | |
| Manufacturing | $938.5 | $1,295.6 | $2,837.4 | $4,123.5 |
| Leasing | 173.2 | 246.6 | 647.1 | 722.2 |
| | 1,111.7 | 1,542.2 | 3,484.5 | 4,845.7 |
| Operating costs: | | | | |
| Cost of revenues: | | | | |
| Manufacturing | 745.4 | 976.0 | 2,258.4 | 3,162.3 |
| Leasing | 81.9 | 133.4 | 356.5 | 377.8 |
| | 827.3 | 1,109.4 | 2,614.9 | 3,540.1 |
| Selling, engineering, and administrative expenses: | | | | |
| Manufacturing | 54.9 | 71.5 | 176.6 | 202.2 |
| Leasing | 11.8 | 15.4 | 33.9 | 38.4 |
| Other | 35.6 | 39.7 | 95.0 | 98.7 |
| | 102.3 | 126.6 | 305.5 | 339.3 |
| Gains on dispositions of property: | | | | |
| Net gains on railcar lease fleet sales owned more than one year at the time of sale | — | 57.8 | 13.5 | 102.8 |
| Other | 1.5 | 0.9 | 1.0 | 11.8 |
| | 1.5 | 58.7 | 14.5 | 114.6 |
| Total operating profit | 183.6 | 364.9 | 578.6 | 1,080.9 |
| Other (income) expense: | | | | |
| Interest income | (1.4) | (0.6) | (3.9) | (1.6) |
| Interest expense | 45.3 | 46.7 | 136.7 | 148.8 |
| Other, net | 0.2 | (1.0) | (5.4) | (4.0) |
| | 44.1 | 45.1 | 127.4 | 143.2 |
| Income before income taxes | 139.5 | 319.8 | 451.2 | 937.7 |
| Provision for income taxes | 49.9 | 107.6 | 160.7 | 315.7 |
| Net income | 89.6 | 212.2 | 290.5 | 622.0 |
| Net income attributable to noncontrolling interest | 5.4 | 7.9 | 14.5 | 25.5 |
| Net income attributable to Trinity Industries, Inc. | $84.2 | $204.3 | $276.0 | $596.5 |
| | | | | |
| Net income attributable to Trinity Industries, Inc. per common share: | | | | |
| Basic | $0.55 | $1.32 | $1.81 | $3.84 |
| Diluted | $0.55 | $1.31 | $1.81 | $3.78 |
| Weighted average number of shares outstanding: | | | | |
| Basic | 148.7 | 150.0 | 148.3 | 150.6 |
| Diluted | 148.7 | 150.9 | 148.3 | 153.1 |
| Dividends declared per common share | $0.11 | $0.11 | $0.33 | $0.32 |

See accompanying notes to consolidated financial statements.

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Trinity Industries, Inc. and Subsidiaries
Consolidated Statements of Comprehensive Income
(unaudited)

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2016 | 2015 | 2016 | 2015 |
| | (in millions) | | | |
| Net income | $89.6 | $212.2 | $290.5 | $622.0 |
| Other comprehensive income (loss): | | | | |
| Derivative financial instruments: | | | | |
| Unrealized losses arising during the period, net of tax expense (benefit) of $0.1, $(0.2), $(0.1), and $(0.4) | — | (0.5) | (0.7) | (0.8) |
| Reclassification adjustments for losses included in net income, net of tax benefit of $0.1, $0.2, $0.6, and $3.3 | 1.2 | 1.2 | 3.4 | 7.6 |
| Currency translation adjustment | (0.4) | (2.6) | 1.4 | (5.2) |
| Defined benefit plans: | | | | |
| Amortization of net actuarial losses, net of tax benefit of $0.4, $0.5, $1.4, and $1.5 | 0.8 | 0.8 | 2.4 | 2.4 |
| | 1.6 | (1.1) | 6.5 | 4.0 |
| Comprehensive income | 91.2 | 211.1 | 297.0 | 626.0 |
| Less: comprehensive income attributable to noncontrolling interest | 6.2 | 8.4 | 16.5 | 27.5 |
| Comprehensive income attributable to Trinity Industries, Inc. | $85.0 | $202.7 | $280.5 | $598.5 |

See accompanying notes to consolidated financial statements.

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Trinity Industries, Inc. and Subsidiaries
Consolidated Balance Sheets

| | September 30, 2016 | December 31, 2015 |
|---|---|---|
| | (unaudited) | |
| | (in millions) | |
| ASSETS | | |
| Cash and cash equivalents | $557.8 | $ 786.0 |
| Short-term marketable securities | 284.7 | 84.9 |
| Receivables, net of allowance | 372.2 | 369.9 |
| Income tax receivable | 54.9 | 94.9 |
| Inventories: | | |
| Raw materials and supplies | 406.1 | 478.6 |
| Work in process | 265.1 | 222.8 |
| Finished goods | 198.4 | 241.7 |
| | 869.6 | 943.1 |
| Restricted cash, including partially-owned subsidiaries of $81.7 and $89.9 | 183.9 | 195.8 |
| Property, plant, and equipment, at cost, including partially-owned subsidiaries of $1,978.6 and $1,980.1 | 7,713.9 | 7,145.4 |
| Less accumulated depreciation, including partially-owned subsidiaries of $351.9 and $313.7 | (1,950.7) | (1,797.4) |
| | 5,763.2 | 5,348.0 |
| Goodwill | 754.5 | 753.8 |
| Other assets | 294.8 | 309.5 |
| | $9,135.6 | $ 8,885.9 |
| LIABILITIES AND STOCKHOLDERS' EQUITY | | |
| Accounts payable | $211.0 | $ 216.8 |
| Accrued liabilities | 477.7 | 529.6 |
| Debt: | | |
| Recourse, net of unamortized discount of $31.5 and $44.2 | 847.4 | 836.7 |
| Non-recourse: | | |
| Wholly-owned subsidiaries | 880.7 | 928.7 |
| Partially-owned subsidiaries | 1,379.0 | 1,430.0 |
| | 3,107.1 | 3,195.4 |
| Deferred income | 24.2 | 27.1 |
| Deferred income taxes | 936.0 | 752.2 |
| Other liabilities | 125.2 | 116.1 |
| | 4,881.2 | 4,837.2 |
| Stockholders' equity: | | |
| Preferred stock – 1.5 shares authorized and unissued | — | — |
| Common stock – 400.0 shares authorized | 1.5 | 1.5 |
| Capital in excess of par value | 528.9 | 548.5 |
| Retained earnings | 3,446.4 | 3,220.3 |
| Accumulated other comprehensive loss | (110.9) | (115.4) |
| Treasury stock | (4.4) | (1.0) |
| | 3,861.5 | 3,653.9 |
| Noncontrolling interest | 392.9 | 394.8 |
| | 4,254.4 | 4,048.7 |
| | $9,135.6 | $ 8,885.9 |

See accompanying notes to consolidated financial statements.

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Trinity Industries, Inc. and Subsidiaries
Consolidated Statements of Cash Flows
(unaudited)

| | Nine Months Ended September 30, | |
|---|---|---|
| | 2016 | 2015 |
| | (in millions) | |
| Operating activities: | | |
| Net income | $290.5 | $622.0 |
| Adjustments to reconcile net income to net cash provided by operating activities: | | |
| Depreciation and amortization | 210.6 | 197.9 |
| Stock-based compensation expense | 33.2 | 46.3 |
| Excess tax benefits from stock-based compensation | (0.8) | (13.1) |
| Provision for deferred income taxes | 158.1 | 13.8 |
| Net gains on railcar lease fleet sales owned more than one year at the time of sale | (13.5) | (102.8) |
| Gains on dispositions of property and other assets | (1.0) | (11.8) |
| Non-cash interest expense | 21.3 | 23.0 |
| Other | (3.1) | (1.1) |
| Changes in assets and liabilities: | | |
| (Increase) decrease in receivables | 37.7 | (43.9) |
| (Increase) decrease in inventories | 73.5 | 50.7 |
| (Increase) decrease in restricted cash | — | (9.4) |
| (Increase) decrease in other assets | 8.5 | (16.1) |
| Increase (decrease) in accounts payable | (5.8) | (0.8) |
| Increase (decrease) in accrued liabilities | (26.4) | (128.7) |
| Increase (decrease) in other liabilities | 9.3 | 4.3 |
| Net cash provided by operating activities | 792.1 | 630.3 |
| | | |
| Investing activities: | | |
| (Increase) decrease in short-term marketable securities | (199.8) | 75.0 |
| Proceeds from dispositions of property and other assets | 8.9 | 6.1 |
| Proceeds from railcar lease fleet sales owned more than one year at the time of sale | 37.7 | 313.4 |
| Capital expenditures – leasing, net of sold lease fleet railcars owned one year or less with a net cost of $92.0 and $150.0 | (555.2) | (642.2) |
| Capital expenditures – manufacturing and other | (101.1) | (145.1) |
| Acquisitions, net of cash acquired | — | (46.2) |
| Divestitures | — | 51.3 |
| Other | 4.0 | 4.8 |
| Net cash required by investing activities | (805.5) | (382.9) |
| | | |
| Financing activities: | | |
| Proceeds from issuance of common stock, net | — | 0.2 |
| Excess tax benefits from stock-based compensation | 0.8 | 13.1 |
| Payments to retire debt | (106.0) | (530.8) |
| Proceeds from issuance of debt | — | 242.4 |
| Decrease in restricted cash | 11.9 | 32.3 |
| Shares repurchased | (34.7) | (107.5) |
| Dividends paid to common shareholders | (50.0) | (48.0) |

| | | |
|---|---|---|
| Purchase of shares to satisfy employee tax on vested stock | (16.4 ) | (27.4 ) |
| Distributions to noncontrolling interest | (18.4 ) | (30.4 ) |
| Other | (2.0 ) | (1.4 ) |
| Net cash required by financing activities | (214.8 ) | (457.5 ) |
| Net decrease in cash and cash equivalents | (228.2 ) | (210.1 ) |
| Cash and cash equivalents at beginning of period | 786.0 | 887.9 |
| Cash and cash equivalents at end of period | $557.8 | $677.8 |

See accompanying notes to consolidated financial statements.

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Trinity Industries, Inc. and Subsidiaries
Consolidated Statement of Stockholders' Equity
(unaudited)

| | Common Stock Shares | $0.01 Par Value | Capital in Excess of Par Value | Retained Earnings | Accumulated Other Comprehensive Loss | Treasury Stock Shares | Treasury Stock Amount | Trinity Stockholders' Equity | Noncontrolling Interest | Total Stockholders' Equity |
|---|---|---|---|---|---|---|---|---|---|---|
| | (in millions, except par value) | | | | | | | | | |
| Balances at December 31, 2015 | 152.9 | $ 1.5 | $ 548.5 | $ 3,220.3 | $ (115.4 ) | (0.1 ) | $ (1.0 ) | $ 3,653.9 | $ 394.8 | $ 4,048.7 |
| Net income | — | — | — | 276.0 | — | — | — | 276.0 | 14.5 | 290.5 |
| Other comprehensive income | — | — | — | — | 4.5 | — | — | 4.5 | 2.0 | 6.5 |
| Cash dividends on common stock | — | — | — | (49.9 ) | — | — | — | (49.9 ) | — | (49.9 ) |
| Restricted shares, net | 2.6 | — | 36.8 | — | — | (1.1 ) | (20.0 ) | 16.8 | — | 16.8 |
| Shares repurchased | — | — | — | — | — | (2.1 ) | (34.7 ) | (34.7 ) | — | (34.7 ) |
| Excess net tax deficiency from stock-based compensation | — | — | (4.7 ) | — | — | — | — | (4.7 ) | — | (4.7 ) |
| Disbursements to non-controlling interest | — | — | — | — | — | — | — | — | (18.4 ) | (18.4 ) |
| Retirement of treasury stock | (3.1 ) | — | (51.7 ) | — | — | 3.1 | 51.7 | — | — | — |
| Other | — | — | — | — | — | — | (0.4 ) | (0.4 ) | — | (0.4 ) |
| Balances at September 30, 2016 | 152.4 | $ 1.5 | $ 528.9 | $ 3,446.4 | $ (110.9 ) | (0.2 ) | $ (4.4 ) | $ 3,861.5 | $ 392.9 | $ 4,254.4 |

See accompanying notes to consolidated financial statements.

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Trinity Industries, Inc. and Subsidiaries
Notes to Consolidated Financial Statements
(Unaudited)

Note 1. Summary of Significant Accounting Policies
Basis of Presentation
The foregoing consolidated financial statements are unaudited and have been prepared from the books and records of Trinity Industries, Inc. and its consolidated subsidiaries (“Trinity”, “Company”, “we”, or “our”) including the accounts of its wholly-owned subsidiaries and its partially-owned subsidiaries, TRIP Rail Holdings LLC (“TRIP Holdings”) and RIV 2013 Rail Holdings LLC ("RIV 2013"), in which the Company has a controlling interest. In our opinion, all normal and recurring adjustments necessary for a fair presentation of the financial position of the Company as of September 30, 2016, and the results of operations for the three and nine months ended September 30, 2016 and 2015, and cash flows for the nine months ended September 30, 2016 and 2015, have been made in conformity with generally accepted accounting principles. All significant intercompany accounts and transactions have been eliminated. Because of seasonal and other factors, the results of operations for the nine months ended September 30, 2016 may not be indicative of expected results of operations for the year ending December 31, 2016. These interim financial statements and notes are condensed as permitted by the instructions to Form 10-Q and should be read in conjunction with the audited consolidated financial statements of the Company included in its Form 10-K for the year ended December 31, 2015.
Stockholders' Equity
In December 2015, the Company’s Board of Directors renewed its $250 million share repurchase program effective January 1, 2016 through December 31, 2017. The new program replaced the previous program which expired on December 31, 2015. Under the new program, 2,070,600 shares were repurchased during the nine months ended September 30, 2016, at a cost of approximately $34.7 million. There were no shares repurchased during the three months ended September 30, 2016. During the three and nine months ended September 30, 2015, the Company repurchased 1,556,516 shares and 3,947,320 shares, respectively, at a cost of approximately $40.0 million and $115.0 million, respectively.
Revenue Recognition
Revenues for contracts providing for a large number of units and few deliveries are recorded as the individual units are produced, inspected, and accepted by the customer as the risk of loss passes to the customer upon delivery acceptance on these contracts. This occurs primarily in the Rail and Inland Barge Groups. Revenue from rentals and operating leases, including contracts that contain non-level fixed rental payments, is recognized monthly on a straight-line basis. Revenue is recognized from the sales of railcars from the lease fleet on a gross basis in leasing revenues and cost of revenues if the railcar has been owned for one year or less at the time of sale. Sales of railcars from the lease fleet that have been owned for more than one year are recognized as a net gain or loss from the disposal of a long-term asset. Fees for shipping and handling are recorded as revenue. For all other products, we recognize revenue when products are shipped or services are provided.
Financial Instruments
The Company considers all highly liquid debt instruments to be either cash and cash equivalents if purchased with a maturity of three months or less, or short-term marketable securities if purchased with a maturity of more than three months and less than one year. The Company intends to hold its short-term marketable securities until they are redeemed at their maturity date and believes that under the "more likely than not" criteria, the Company will not be required to sell the securities before recovery of their amortized cost bases, which may be maturity.
Financial instruments that potentially subject the Company to a concentration of credit risk are primarily cash investments including restricted cash, short-term marketable securities, and receivables. The Company places its cash investments and short-term marketable securities in bank deposits and investment grade, short-term debt instruments and limits the amount of credit exposure to any one commercial issuer. Concentrations of credit risk with respect to receivables are limited due to control procedures that monitor the credit worthiness of customers, the large number of customers in the Company's customer base, and their dispersion across different industries and geographic areas. As

receivables are generally unsecured, the Company maintains an allowance for doubtful accounts based upon the expected collectibility of all receivables. Receivable balances determined to be uncollectible are charged against the allowance. The carrying values of cash, short-term marketable securities (using level two inputs), receivables, and accounts payable are considered to be representative of their respective fair values.

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Recent Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update No. 2014-09, "Revenue from Contracts with Customers," ("ASU 2014-09") providing common revenue recognition guidance for U.S. GAAP. Under ASU 2014-09, an entity recognizes revenue when it transfers promised goods or services to customers in an amount that reflects what it expects in exchange for the goods or services. It also requires additional detailed disclosures to enable users of financial statements to understand the nature, amount, timing, and uncertainty of revenue and cash flows arising from contracts with customers. ASU 2014-09 will become effective for public companies during interim and annual reporting periods beginning after December 15, 2017. We are currently evaluating the impact this standard will have on our consolidated financial statements.

In February 2016, the FASB issued Accounting Standards Update No. 2016-02, "Leases", ("ASU 2016-02") which amends the existing accounting standards for lease accounting, including requiring lessees to recognize most leases on their balance sheets and making targeted changes to lessor accounting. ASU 2016-02 will become effective for public companies during interim and annual reporting periods beginning after December 15, 2018 with early adoption permitted. We are currently evaluating the impact this standard will have on our consolidated financial statements.

In March 2016, the FASB issued Accounting Standards Update No. 2016-09, "Compensation – Stock Compensation: Improvements to Employee Share-Based Payment Accounting", ("ASU 2016-09") which will change how companies account for certain aspects of share-based payments to employees. Excess tax benefits or deficiencies related to vested awards, previously recognized in stockholders' equity, will be required to be recognized in the income statement when the awards vest. ASU 2016-09 will become effective for public companies during interim and annual reporting periods beginning after December 15, 2016 with early adoption permitted. The effect of adopting this standard will result in volatility in the provision for income taxes depending on fluctuations in the price of the Company's stock.

Note 2. Acquisitions and Divestitures

There was no acquisition or divestiture activity for the three and nine months ended September 30, 2016.

In March 2015, we completed the acquisition of the assets of a lightweight aggregates business in our Construction Products Group with facilities located in Louisiana, Alabama, and Arkansas. As of March 31, 2016, the purchase price allocation of the acquisition was finalized. Such assets and liabilities were not significant in relation to assets and liabilities at the consolidated or segment level. See Note 3 Fair Value Accounting for a discussion of inputs in determining fair value.

In June 2015, we sold the assets of our galvanizing business which included six facilities in Texas, Mississippi, and Louisiana, recognizing a gain of $8.2 million which is included in gains on other dispositions of property in the accompanying consolidated statements of operations. The assets and results of operations for this divestiture were included in the Construction Products Group.

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Note 3. Fair Value Accounting

Assets and liabilities measured at fair value on a recurring basis are summarized below:

| | Fair Value Measurement as of September 30, 2016 (in millions) | | | |
|---|---|---|---|---|
| | Level 1 | Level 2 | Level 3 | Total |
| Assets: | | | | |
| Cash equivalents | $ 114.7 | $ — | $ — | $ 114.7 |
| Restricted cash | 183.9 | — | — | 183.9 |
| Equity instruments | — | 3.4 | — | 3.4 |
| Total assets | $ 298.6 | $ 3.4 | $ — | $ 302.0 |
| Liabilities: | | | | |
| Interest rate hedge:[1] | | | | |
| Partially-owned subsidiaries | $ — | $ 1.6 | $ — | $ 1.6 |
| Total liabilities | $ — | $ 1.6 | $ — | $ 1.6 |

| | Fair Value Measurement as of December 31, 2015 (in millions) | | | |
|---|---|---|---|---|
| | Level 1 | Level 2 | Level 3 | Total |
| Assets: | | | | |
| Cash equivalents | $ 174.0 | $ — | $ — | $ 174.0 |
| Restricted cash | 195.8 | — | — | 195.8 |
| Total assets | $ 369.8 | $ — | $ — | $ 369.8 |
| Liabilities: | | | | |
| Interest rate hedge:[1] | | | | |
| Partially-owned subsidiaries | $ — | $ 1.6 | $ — | $ 1.6 |
| Fuel derivative instruments[1] | — | 0.8 | — | 0.8 |
| Total liabilities | $ — | $ 2.4 | $ — | $ 2.4 |

[1] Included in accrued liabilities on the consolidated balance sheet.

Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for that asset or liability in an orderly transaction between market participants on the measurement date. An entity is required to establish a fair value hierarchy that maximizes the use of observable inputs and minimizes the use of unobservable inputs when measuring fair value. The three levels of inputs that may be used to measure fair values are listed below:

Level 1 – This level is defined as quoted prices in active markets for identical assets or liabilities. The Company’s cash equivalents and restricted cash are instruments of the U.S. Treasury or highly-rated money market mutual funds.

Level 2 – This level is defined as observable inputs other than Level 1 prices such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities. The Company's fuel derivative instruments, which are commodity swaps, are valued using energy and commodity market data. Interest rate hedges are valued at exit prices obtained from each counterparty. See Note 7 Derivative Instruments and Note 11 Debt. The equity instruments consist of warrants for the purchase of certain publicly-traded equity securities and are valued using the Black-Scholes-Merton option pricing model and certain assumptions regarding the exercisability of the options under the related agreement.

Level 3 – This level is defined as unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

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The carrying amounts and estimated fair values of our long-term debt are as follows:

| | September 30, 2016 | | December 31, 2015 | |
|---|---|---|---|---|
| | Carrying Value | Estimated Fair Value | Carrying Value | Estimated Fair Value |
| | (in millions) | | | |
| Recourse: | | | | |
| Senior notes | $399.6 | $ 398.4 | $399.6 | $ 370.3 |
| Convertible subordinated notes | 449.4 | 538.6 | 449.4 | 534.8 |
| Less: unamortized discount | (31.1 ) | | (43.8 ) | |
| | 418.3 | | 405.6 | |
| Capital lease obligations | 33.2 | 33.2 | 35.8 | 35.8 |
| Other | 0.3 | 0.3 | 0.5 | 0.5 |
| | 851.4 | 970.5 | 841.5 | 941.4 |
| Less: unamortized debt issuance costs | (4.0 ) | | (4.8 ) | |
| | 847.4 | | 836.7 | |
| Non-recourse: | | | | |
| 2006 secured railcar equipment notes | 198.0 | 207.8 | 204.1 | 218.2 |
| 2009 secured railcar equipment notes | 174.1 | 196.4 | 179.2 | 207.2 |
| 2010 secured railcar equipment notes | 284.1 | 295.1 | 296.2 | 314.2 |
| TILC warehouse facility | 236.8 | 236.8 | 264.3 | 264.3 |
| TRL 2012 secured railcar equipment notes (RIV 2013) | 431.1 | 411.3 | 449.1 | 436.9 |
| TRIP Master Funding secured railcar equipment notes (TRIP Holdings) | 963.3 | 984.0 | 997.8 | 1,039.5 |
| | 2,287.4 | 2,331.4 | 2,390.7 | 2,480.3 |
| Less: unamortized debt issuance costs | (27.7 ) | | (32.0 ) | |
| | 2,259.7 | | 2,358.7 | |
| Total | $3,107.1 | $ 3,301.9 | $3,195.4 | $ 3,421.7 |

The estimated fair values of our senior notes and convertible subordinated notes were based on a quoted market price in a market with little activity as of September 30, 2016 and December 31, 2015 (Level 2 input). The estimated fair values of our 2006, 2009, 2010, and 2012 secured railcar equipment notes and TRIP Rail Master Funding LLC ("TRIP Master Funding") secured railcar equipment notes are based on our estimate of their fair value as of September 30, 2016 and December 31, 2015. These values were determined by discounting their future cash flows at the current market interest rate (Level 3 inputs). The carrying value of our Trinity Industries Leasing Company ("TILC") warehouse facility approximates fair value because the interest rate adjusts to the market interest rate (Level 3 input). The fair values of all other financial instruments are estimated to approximate carrying value. See Note 11 Debt for a description of the Company's long-term debt.

Note 4. Segment Information

The Company reports operating results in five principal business segments: (1) the Rail Group, which manufactures and sells railcars and related parts, components, and maintenance services; (2) the Construction Products Group, which manufactures and sells highway products and other primarily-steel products and services for infrastructure-related projects, and produces and sells aggregates; (3) the Inland Barge Group, which manufactures and sells barges and related products for inland waterway services; (4) the Energy Equipment Group, which manufactures and sells products for energy-related businesses, including structural wind towers, steel utility structures for electricity transmission and distribution, storage and distribution containers, and tank heads for pressure and non-pressure vessels; and (5) the Railcar Leasing and Management Services Group ("Leasing Group"), which owns and operates a fleet of railcars as well as provides third-party fleet leasing, management, maintenance, and administrative services. The segment All Other includes our captive insurance and transportation companies; legal, environmental, and maintenance costs associated with non-operating facilities; and other peripheral businesses. Gains and losses from the sale of property, plant, and equipment related to manufacturing and dedicated to the specific manufacturing operations of a particular segment are included in the operating profit of that respective segment. Gains and losses from the sale of property, plant, and equipment that can be utilized by multiple segments are included in operating profit of the All Other segment.

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Sales and related net profits ("deferred profit") from the Rail Group to the Leasing Group are recorded in the Rail Group and eliminated in consolidation and reflected in the "Eliminations - Lease subsidiary" line in the table below. Sales between these groups are recorded at prices comparable to those charged to external customers, taking into consideration quantity, features, and production demand. Amortization of deferred profit on railcars sold to the Leasing Group is included in the operating profit of the Leasing Group, resulting in the recognition of depreciation expense based on the Company's original manufacturing cost of the railcars. Sales of railcars from the lease fleet are included in the Leasing Group, with related gains and losses computed based on the net book value of the original manufacturing cost of the railcars.The financial information for these segments is shown in the tables below. We operate principally in North America.

Three Months Ended September 30, 2016

| | Revenues | | | Operating Profit (Loss) |
|---|---|---|---|---|
| | External | Intersegment | Total | |
| | (in millions) | | | |
| Rail Group | $506.0 | $ 214.8 | $720.8 | $ 103.6 |
| Construction Products Group | 136.3 | 3.5 | 139.8 | 23.8 |
| Inland Barge Group | 98.9 | — | 98.9 | 11.7 |
| Energy Equipment Group | 194.6 | 47.1 | 241.7 | 31.2 |
| Railcar Leasing and Management Services Group | 173.2 | 0.5 | 173.7 | 80.5 |
| All Other | 2.7 | 24.0 | 26.7 | (3.5) |
| Segment Totals before Eliminations and Corporate | 1,111.7 | 289.9 | 1,401.6 | 247.3 |
| Corporate | — | — | — | (35.6) |
| Eliminations – Lease subsidiary | — | (206.7) | (206.7) | (27.7) |
| Eliminations – Other | — | (83.2) | (83.2) | (0.4) |
| Consolidated Total | $1,111.7 | $ — | $1,111.7 | $ 183.6 |

Three Months Ended September 30, 2015

| | Revenues | | | Operating Profit (Loss) |
|---|---|---|---|---|
| | External | Intersegment | Total | |
| | (in millions) | | | |
| Rail Group | $747.2 | $ 326.2 | $1,073.4 | $ 223.3 |
| Construction Products Group | 151.1 | 3.7 | 154.8 | 19.9 |
| Inland Barge Group | 164.8 | — | 164.8 | 28.1 |
| Energy Equipment Group | 229.6 | 59.9 | 289.5 | 44.8 |
| Railcar Leasing and Management Services Group | 246.6 | 2.6 | 249.2 | 158.2 |
| All Other | 2.9 | 26.2 | 29.1 | (3.0) |
| Segment Totals before Eliminations and Corporate | 1,542.2 | 418.6 | 1,960.8 | 471.3 |
| Corporate | — | — | — | (39.7) |
| Eliminations – Lease subsidiary | — | (308.4) | (308.4) | (65.6) |
| Eliminations – Other | — | (110.2) | (110.2) | (1.1) |
| Consolidated Total | $1,542.2 | $ — | $1,542.2 | $ 364.9 |

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Nine Months Ended September 30, 2016

| | Revenues | | | Operating Profit (Loss) |
|---|---|---|---|---|
| | External | Intersegment | Total | |
| | (in millions) | | | |
| Rail Group | $1,476.9 | $ 784.0 | $2,260.9 | $ 349.6 |
| Construction Products Group | 399.6 | 10.9 | 410.5 | 61.2 |
| Inland Barge Group | 328.0 | — | 328.0 | 38.6 |
| Energy Equipment Group | 626.2 | 129.5 | 755.7 | 103.5 |
| Railcar Leasing and Management Services Group | 647.1 | 1.7 | 648.8 | 272.4 |
| All Other | 6.7 | 61.6 | 68.3 | (13.8) |
| Segment Totals before Eliminations and Corporate | 3,484.5 | 987.7 | 4,472.2 | 811.5 |
| Corporate | — | — | — | (95.0) |
| Eliminations – Lease subsidiary | — | (742.1) | (742.1) | (139.1) |
| Eliminations – Other | — | (245.6) | (245.6) | 1.2 |
| Consolidated Total | $3,484.5 | $ — | $3,484.5 | $ 578.6 |

Nine Months Ended September 30, 2015

| | Revenues | | | Operating Profit (Loss) |
|---|---|---|---|---|
| | External | Intersegment | Total | |
| | (in millions) | | | |
| Rail Group | $2,506.8 | $ 821.4 | $3,328.2 | $663.7 |
| Construction Products Group | 411.4 | 7.5 | 418.9 | 49.5 |
| Inland Barge Group | 505.7 | — | 505.7 | 96.3 |
| Energy Equipment Group | 694.4 | 177.1 | 871.5 | 118.3 |
| Railcar Leasing and Management Services Group | 722.2 | 9.9 | 732.1 | 418.7 |
| All Other | 5.2 | 78.8 | 84.0 | (4.6) |
| Segment Totals before Eliminations and Corporate | 4,845.7 | 1,094.7 | 5,940.4 | 1,341.9 |
| Corporate | — | — | — | (98.7) |
| Eliminations – Lease subsidiary | — | (782.9) | (782.9) | (163.8) |
| Eliminations – Other | — | (311.8) | (311.8) | 1.5 |
| Consolidated Total | $4,845.7 | $ — | $4,845.7 | $1,080.9 |

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Note 5. Partially-Owned Leasing Subsidiaries

The Company, through its wholly-owned subsidiary, TILC, formed two subsidiaries, TRIP Holdings and RIV 2013, for the purpose of providing railcar leasing in North America. Each of TRIP Holdings and RIV 2013 are direct, partially-owned subsidiaries of TILC in which the Company has a controlling interest. Each is governed by a seven-member board of representatives, two of whom are designated by TILC. TILC is the agent of each of TRIP Holdings and RIV 2013 and as such, has been delegated the authority, power, and discretion to take certain actions on behalf of the respective companies.

At September 30, 2016, the Company's carrying value of its investment in TRIP Holdings and RIV 2013 totaled $223.2 million. The Company's weighted average ownership interest in TRIP Holdings and RIV 2013 is 39% while the remaining 61% weighted average interest is owned by third-party investor-owned funds. The Company's investments in its partially-owned leasing subsidiaries are eliminated in consolidation.

Each of TRIP Holdings and RIV 2013 has wholly-owned subsidiaries that are the owners of railcars acquired from the Company's Rail and Leasing Groups. These wholly-owned subsidiaries are TRIP Master Funding (wholly-owned by TRIP Holdings) and Trinity Rail Leasing 2012 LLC ("TRL 2012", wholly-owned by RIV 2013). Railcar purchases by these subsidiaries were funded by secured borrowings and capital contributions from TILC and third-party equity investors.TILC is the contractual servicer for TRIP Master Funding and TRL 2012, with the authority to manage and service each entity's owned railcars. The Company's controlling interest in each of TRIP Holdings and RIV 2013 results from its combined role as both equity member and agent/servicer. The noncontrolling interest included in the accompanying consolidated balance sheets represents the non-Trinity equity interest in these partially-owned subsidiaries.

Trinity has no obligation to guarantee performance under any of the partially-owned subsidiaries' (or their respective subsidiaries') debt agreements, guarantee any railcar residual values, shield any parties from losses, or guarantee minimum yields.

The assets of each of TRIP Master Funding and TRL 2012 may only be used to satisfy the particular subsidiary's liabilities, and the creditors of each of TRIP Master Funding and TRL 2012 have recourse only to the particular subsidiary's assets. Each of TILC and the third-party equity investors receive distributions from TRIP Holdings and RIV 2013, when available, in proportion to its respective equity interests, and has an interest in the net assets of the partially-owned subsidiaries upon a liquidation event in the same proportion. TILC is paid fees for the services it provides to TRIP Master Funding and TRL 2012 and has the potential to earn certain incentive fees. TILC and the third-party equity investors have commitments to provide additional equity funding to TRIP Holdings that expire in May 2019 contingent upon certain returns on investment in TRIP Holdings and other conditions being met. There are no remaining equity commitments with respect to RIV 2013.

See Note 11 Debt regarding the debt of TRIP Holdings and RIV 2013 and their respective subsidiaries.

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Note 6. Railcar Leasing and Management Services Group

The Railcar Leasing and Management Services Group owns and operates a fleet of railcars as well as provides third-party fleet management, maintenance, and leasing services. Selected consolidating financial information for the Leasing Group is as follows:

| | September 30, 2016 | | | |
|---|---|---|---|---|
| | Leasing Group | | | |
| | Wholly-Owned Subsidiaries | Partially-Owned Subsidiaries | Manufacturing/ Corporate | Total |
| | (in millions) | | | |
| Cash, cash equivalents, and short-term marketable securities | $5.8 | $ — | $ 836.7 | $842.5 |
| Property, plant, and equipment, net | $3,677.0 | $ 1,894.0 | $ 958.5 | $6,529.5 |
| Net deferred profit on railcars sold to the Leasing Group | | | | (766.3 ) |
| Consolidated property, plant and equipment, net | | | | $5,763.2 |
| Restricted cash | $102.1 | $ 81.7 | $ 0.1 | $183.9 |
| Debt: | | | | |
| Recourse | $33.2 | $ — | $ 849.7 | $882.9 |
| Less: unamortized discount | — | — | (31.5 ) | (31.5 ) |
| Less: unamortized debt issuance costs | (0.1 ) | — | (3.9 ) | (4.0 ) |
| | 33.1 | — | 814.3 | 847.4 |
| Non-recourse | 893.0 | 1,394.4 | — | 2,287.4 |
| Less: unamortized debt issuance costs | (12.3 ) | (15.4 ) | — | (27.7 ) |
| | 880.7 | 1,379.0 | — | 2,259.7 |
| Total debt | $913.8 | $ 1,379.0 | $ 814.3 | $3,107.1 |
| Net deferred tax liabilities | $878.8 | $ 1.4 | $ 38.3 | $918.5 |

| | December 31, 2015 | | | |
|---|---|---|---|---|
| | Leasing Group | | | |
| | Wholly-Owned Subsidiaries | Partially-Owned Subsidiaries | Manufacturing/ Corporate | Total |
| | (in millions) | | | |
| Cash, cash equivalents, and short-term marketable securities | $3.8 | $ — | $ 867.1 | $870.9 |
| Property, plant, and equipment, net | $3,126.3 | $ 1,938.6 | $ 956.1 | $6,021.0 |
| Net deferred profit on railcars sold to the Leasing Group | | | | (673.0 ) |
| Consolidated property, plant and equipment, net | | | | $5,348.0 |
| Restricted cash | $105.9 | $ 89.9 | $ — | $195.8 |
| Debt: | | | | |
| Recourse | $35.8 | $ — | $ 849.9 | $885.7 |
| Less: unamortized discount | — | — | (44.2 ) | (44.2 ) |
| Less: uamortized debt issuance costs | (0.1 ) | — | (4.7 ) | (4.8 ) |
| | 35.7 | — | 801.0 | 836.7 |
| Non-recourse | 943.8 | 1,446.9 | — | 2,390.7 |
| Less: unamortized debt issuance costs | (15.1 ) | (16.9 ) | — | (32.0 ) |
| | 928.7 | 1,430.0 | — | 2,358.7 |
| Total debt | $964.4 | $ 1,430.0 | $ 801.0 | $3,195.4 |
| Net deferred tax liabilities | $746.0 | $ 1.4 | $ (12.6 ) | $734.8 |

Net deferred profit on railcars sold to the Leasing Group consists of intersegment profit that is eliminated in consolidation and is, therefore, not allocated to an operating segment. See Note 5 Partially-Owned Leasing Subsidiaries and Note 11 Debt for a further discussion regarding the Company’s investment in its partially-owned leasing subsidiaries and the related indebtedness.

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| | Three Months Ended September 30, 2016 ($ in millions) | 2015 | Percent Change | Nine Months Ended September 30, 2016 ($ in millions) | 2015 | Percent Change |
|---|---|---|---|---|---|---|
| Revenues: | | | | | | |
| Leasing and management | $173.7 | $176.6 | (1.6 )% | $522.7 | $520.9 | 0.3 % |
| Sales of railcars owned one year or less at the time of sale | — | 72.6 | * | 126.1 | 211.2 | * |
| Total revenues | $173.7 | $249.2 | (30.3) | $648.8 | $732.1 | (11.4) |
| | | | | | | |
| Operating profit: | | | | | | |
| Leasing and management | $80.5 | $81.8 | (1.6 ) | $224.8 | $254.7 | (11.7) |
| Railcar sales: | | | | | | |
| Railcars owned one year or less at the time of sale | — | 18.6 | * | 34.1 | 61.2 | * |
| Railcars owned more than one year at the time of sale | — | 57.8 | * | 13.5 | 102.8 | * |
| Total operating profit | $80.5 | $158.2 | (49.1) | $272.4 | $418.7 | (34.9) |
| | | | | | | |
| Operating profit margin: | | | | | | |
| Leasing and management | 46.3 % | 46.3 % | | 43.0 % | 48.9 % | |
| Railcar sales | * | * | | * | * | |
| Total operating profit margin | 46.3 % | 63.5 % | | 42.0 % | 57.2 % | |
| | | | | | | |
| Selected expense information[1]: | | | | | | |
| Depreciation | $39.4 | $35.9 | 9.7 | $115.5 | $105.8 | 9.2 |
| Maintenance and compliance | $21.3 | $24.6 | (13.4) | $84.7 | $65.9 | 28.5 |
| Rent | $9.9 | $9.9 | — | $29.3 | $31.3 | (6.4 ) |
| Interest | $31.2 | $32.5 | (4.0 ) | $94.4 | $106.8 | (11.6) |

* Not meaningful

[1] Depreciation, maintenance and compliance, and rent expense are components of operating profit. Amortization of deferred profit on railcars sold from the Rail Group to the Leasing Group is included in the operating profit of the Leasing Group resulting in the recognition of depreciation expense based on the Company's original manufacturing cost of the railcars. Interest expense is not a component of operating profit and includes the effect of hedges.

During the nine months ended September 30, 2016 and 2015, the Company received proceeds from the sales of leased railcars as follows:

| | Nine Months Ended September 30, 2016 (in millions) | 2015 |
|---|---|---|
| Leasing Group: | | |
| Railcars owned one year or less at the time of sale | $126.1 | $211.2 |
| Railcars owned more than one year at the time of sale | 37.7 | 313.4 |
| Rail Group | 8.1 | 175.8 |
| | $171.9 | $700.4 |

Equipment consists primarily of railcars leased by third parties. The Leasing Group purchases equipment manufactured predominantly by the Rail Group and enters into lease contracts with third parties with terms generally ranging between one and twenty years. The Leasing Group primarily enters into operating leases. Future contractual minimum rental revenues on leases are as follows:

| Remaining three | 2017 | 2018 | 2019 | 2020 | Thereafter | Total |
|---|---|---|---|---|---|---|

| | months of 2016 (in millions) | | | | | | |
|---|---|---|---|---|---|---|---|
| Future contractual minimum rental revenue | $136.8 | $489.0 | $405.0 | $322.7 | $249.0 | $ 411.8 | $2,014.3 |

Debt. The Leasing Group's debt at September 30, 2016 consisted primarily of non-recourse debt. As of September 30, 2016, Trinity's wholly-owned subsidiaries included in the Leasing Group held equipment with a net book value of $1,406.7 million

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which is pledged as collateral for Leasing Group debt held by those subsidiaries, including equipment with a net book value of $43.1 million securing capital lease obligations. The net book value of unpledged equipment at September 30, 2016 was $2,204.9 million. See Note 11 Debt for the form, maturities, and descriptions of Leasing Group debt.

Partially-owned subsidiaries. Debt owed by TRIP Holdings and RIV 2013 and their respective subsidiaries is nonrecourse to Trinity and TILC. Creditors of each of TRIP Holdings and RIV 2013 and their respective subsidiaries have recourse only to the particular subsidiary's assets. TRIP Master Funding equipment with a net book value of $1,321.8 million is pledged as collateral for the TRIP Master Funding debt. TRL 2012 equipment with a net book value of $572.2 million is pledged solely as collateral for the TRL 2012 secured railcar equipment notes. See Note 5 Partially-Owned Leasing Subsidiaries for a description of TRIP Holdings and RIV 2013.

Off Balance Sheet Arrangements. In prior years, the Leasing Group completed a series of financing transactions whereby railcars were sold to one or more separate independent owner trusts (“Trusts”). Each of the Trusts financed the purchase of the railcars with a combination of debt and equity. In each transaction, the equity participant in the Trust is considered to be the primary beneficiary of the Trust and therefore, the debt related to the Trust is not included as part of the consolidated financial statements. The Leasing Group, through wholly-owned, qualified subsidiaries, leased railcars from the Trusts under operating leases with terms of 22 years, and subleased the railcars to independent third-party customers under shorter term operating rental agreements.

These Leasing Group subsidiaries had total assets as of September 30, 2016 of $146.2 million, including cash of $53.6 million and railcars of $65.0 million. The subsidiaries' cash, railcars, and an interest in each sublease are pledged to collateralize the lease obligations to the Trusts and are included in the consolidated financial statements of the Company. Trinity does not guarantee the performance of the subsidiaries’ lease obligations. Certain ratios and cash deposits must be maintained by the Leasing Group’s subsidiaries in order for excess cash flow, as defined in the agreements, from the lease to third parties to be available to Trinity. Future operating lease obligations of the Leasing Group’s subsidiaries as well as future contractual minimum rental revenues related to these leases due to the Leasing Group are as follows:

| | Remaining three months of 2016 | 2017 | 2018 | 2019 | 2020 | Thereafter | Total |
|---|---|---|---|---|---|---|---|
| | (in millions) | | | | | | |
| Future operating lease obligations of Trusts’ railcars | $7.3 | $29.2 | $29.2 | $28.8 | $26.1 | $ 144.1 | $264.7 |
| Future contractual minimum rental revenues of Trusts’ railcars | $12.7 | $43.7 | $34.3 | $23.8 | $14.1 | $ 23.5 | $152.1 |

Operating Lease Obligations. Future amounts due as well as future contractual minimum rental revenues related to operating leases other than leases discussed above are as follows:

| | Remaining three months of 2016 | 2017 | 2018 | 2019 | 2020 | Thereafter | Total |
|---|---|---|---|---|---|---|---|
| | (in millions) | | | | | | |
| Future operating lease obligations | $3.1 | $12.1 | $12.0 | $9.5 | $7.7 | $ 20.7 | $65.1 |
| Future contractual minimum rental revenues | $4.6 | $14.5 | $7.4 | $5.4 | $3.5 | $ 6.6 | $42.0 |

Operating lease obligations totaling $10.2 million are guaranteed by Trinity Industries, Inc. and certain subsidiaries. See Note 6 of the December 31, 2015 Consolidated Financial Statements filed on Form 10-K for a detailed explanation of these financing transactions.

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Note 7. Derivative Instruments

We may use derivative instruments to mitigate the impact of changes in interest rates, both in anticipation of future debt issuances and to offset interest rate variability of certain floating rate debt issuances outstanding. We also may use derivative instruments to mitigate the impact of changes in natural gas and diesel fuel prices and changes in foreign currency exchange rates. Derivative instruments that are designated and qualify as cash flow hedges are accounted for in accordance with applicable accounting standards. See Note 3 Fair Value Accounting for discussion of how the Company valued its commodity hedges and interest rate swap at September 30, 2016. See Note 11 Debt for a description of the Company's debt instruments.

Interest rate hedges

| | | | Included in accompanying balance sheet at September 30, 2016 | | |
|---|---|---|---|---|---|
| | Notional Amount | Interest Rate[1] | Liability | AOCL – loss/ (income) | Noncontrolling Interest |
| | (in millions, except %) | | | | |
| Expired hedges: | | | | | |
| 2006 secured railcar equipment notes | $200.0 | 4.87 % | $ — | $ (0.8 ) | $ — |
| TRIP Holdings warehouse loan | $788.5 | 3.60 % | $ — | $ 6.4 | $ 8.7 |
| Open hedge: | | | | | |
| TRIP Master Funding secured railcar equipment notes | $40.3 | 2.62 % | $ 1.6 | $ 0.7 | $ 0.9 |

[1] Weighted average fixed interest rate

| | Effect on interest expense - increase/(decrease) | | | | |
|---|---|---|---|---|---|
| | Three Months Ended September 30, | | Nine Months Ended September 30, | | Expected effect during next twelve months[1] |
| | 2016 | 2015 | 2016 | 2015 | |
| | (in millions) | | | | |
| Expired hedges: | | | | | |
| 2006 secured railcar equipment notes | $(0.1) | $— | $(0.3) | $(0.2) | $ (0.2 ) |
| Promissory notes | $— | $— | $— | $1.2 | $ — |
| TRIP Holdings warehouse loan | $1.2 | $1.2 | $3.6 | $3.7 | $ 4.6 |
| Open hedges: | | | | | |
| TRIP Master Funding secured railcar equipment notes | $0.2 | $0.2 | $0.7 | $0.9 | $ 0.7 |
| Promissory notes | $— | $— | $— | $5.3 | $ — |

[1] Based on the fair value of open hedges as of September 30, 2016

During 2005 and 2006, we entered into interest rate swap derivatives in anticipation of issuing our 2006 Secured Railcar Equipment Notes. These derivative instruments, with a notional amount of $200.0 million, were settled in 2006 and fixed the interest rate on a portion of the related debt issuance. These derivative instrument transactions are being accounted for as cash flow hedges with changes in the fair value of the instruments of $4.5 million in income recorded in Accumulated Other Comprehensive Loss ("AOCL") through the date the related debt issuance closed in 2006. The balance is being amortized over the term of the related debt. The effect on interest expense is due to amortization of the AOCL balance.

During 2006 and 2007, we entered into interest rate swap derivatives in anticipation of issuing our Promissory Notes. These derivative instruments, with a notional amount of $370.0 million, were settled in 2008 and fixed the interest rate on a portion of the related debt issuance. These derivative instrument transactions were being accounted for as cash flow hedges with changes in the fair value of the instruments of $24.5 million recorded as a loss in AOCL through the date the related debt issuance closed in 2008. The balance was being amortized over the term of the related debt. These derivative instruments were fully amortized in May 2015. The effect on interest expense is due to amortization of the AOCL balance.

In 2008, we entered into an interest rate swap derivative instrument to fix the variable Libor component of the Promissory Notes. This derivative instrument expired in May 2015 and was being accounted for as a cash flow hedge. The effect on interest expense is primarily from a result of monthly interest settlements.

Between 2007 and 2009, TRIP Holdings, as required by the TRIP Warehouse Loan, entered into interest rate swap derivatives, all of which qualified as cash flow hedges, to reduce the effect of changes in variable interest rates in the TRIP Warehouse Loan. In July 2011, these interest rate hedges were terminated in connection with the refinancing of the TRIP Warehouse Loan. Balances included in AOCL at the date the hedges were terminated are being amortized over the expected life of the new debt with $4.6 million of additional interest expense expected to be recognized during the twelve months following September 30, 2016. Also in

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July 2011, TRIP Holdings' wholly-owned subsidiary, TRIP Master Funding, entered into an interest rate swap derivative instrument, expiring in 2021, with an initial notional amount of $94.1 million to reduce the effect of changes in variable interest rates associated with the Class A-1b notes of the TRIP Master Funding secured railcar equipment notes. The effect on interest expense is primarily a result of monthly interest settlements.
See Note 11 Debt regarding the related debt instruments.
Other Derivatives
Natural gas and diesel fuel
We maintain a program to mitigate the impact of fluctuations in the price of natural gas and diesel fuel. The intent of the program is to protect our operating profit from adverse price changes by entering into derivative instruments. For those instruments that do not qualify for hedge accounting treatment, any changes in their valuation are recorded directly to the consolidated statement of operations. The effect on operating income for these instruments was not significant. The amount recorded in the consolidated balance sheet as of September 30, 2016 for these instruments was not significant.

Note 8. Property, Plant, and Equipment
The following table summarizes the components of property, plant, and equipment as of September 30, 2016 and December 31, 2015.

| | September 30, 2016 | December 31, 2015 |
|---|---|---|
| | (in millions) | |
| Manufacturing/Corporate: | | |
| Land | $103.4 | $ 86.5 |
| Buildings and improvements | 634.6 | 610.4 |
| Machinery and other | 1,132.4 | 1,095.9 |
| Construction in progress | 38.6 | 68.7 |
| | 1,909.0 | 1,861.5 |
| Less accumulated depreciation | (950.5) | (905.4) |
| | 958.5 | 956.1 |
| Leasing: | | |
| Wholly-owned subsidiaries: | | |
| Machinery and other | 10.7 | 10.7 |
| Equipment on lease | 4,395.4 | 3,763.5 |
| | 4,406.1 | 3,774.2 |
| Less accumulated depreciation | (729.1) | (647.9) |
| | 3,677.0 | 3,126.3 |
| Partially-owned subsidiaries: | | |
| Equipment on lease | 2,308.4 | 2,307.7 |
| Less accumulated depreciation | (414.4) | (369.1) |
| | 1,894.0 | 1,938.6 |
| Deferred profit on railcars sold to the Leasing Group | (909.6) | (798.0) |
| Less accumulated amortization | 143.3 | 125.0 |
| | (766.3) | (673.0) |
| | $5,763.2 | $ 5,348.0 |

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Note 9. Goodwill

Goodwill by segment is as follows:

| | September 30, 2016 | December 31, 2015 (as reported) |
|---|---|---|
| | (in millions) | |
| Rail Group | $134.6 | $ 134.6 |
| Construction Products Group | 111.0 | 111.0 |
| Energy Equipment Group | 507.1 | 506.4 |
| Railcar Leasing and Management Services Group | 1.8 | 1.8 |
| | $754.5 | $ 753.8 |

Changes in goodwill during the nine months ended September 30, 2016 result from fluctuations in foreign currency exchange rates.

Note 10. Warranties

The changes in the accruals for warranties for the three and nine months ended September 30, 2016 and 2015 are as follows:

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2016 | 2015 | 2016 | 2015 |
| | (in millions) | | | |
| Beginning balance | $18.2 | $20.5 | $21.5 | $17.8 |
| Warranty costs incurred | (1.7 ) | (2.0 ) | (6.5 ) | (5.4 ) |
| Warranty originations and revisions | (0.4 ) | 5.8 | 4.0 | 14.8 |
| Warranty expirations | (0.7 ) | (1.7 ) | (3.6 ) | (4.6 ) |
| Ending balance | $15.4 | $22.6 | $15.4 | $22.6 |

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Note 11. Debt

The following table summarizes the components of debt as of September 30, 2016 and December 31, 2015:

| | September 30, 2016 | December 31, 2015 |
|---|---|---|
| | (in millions) | |
| Corporate – Recourse: | | |
| Revolving credit facility | $— | $ — |
| Senior notes, net of unamortized discount of $0.4 and $0.4 | 399.6 | 399.6 |
| Convertible subordinated notes, net of unamortized discount of $31.1 and $43.8 | 418.3 | 405.6 |
| Other | 0.3 | 0.5 |
| | 818.2 | 805.7 |
| Less: unamortized debt issuance costs | (3.9 ) | (4.7 ) |
| | 814.3 | 801.0 |
| Leasing – Recourse: | | |
| Capital lease obligations, net of unamortized debt issuances costs of $0.1 and $0.1 | 33.1 | 35.7 |
| Total recourse debt | 847.4 | 836.7 |
| | | |
| Leasing – Non-recourse: | | |
| Wholly-owned subsidiaries: | | |
| 2006 secured railcar equipment notes | 198.0 | 204.1 |
| 2009 secured railcar equipment notes | 174.1 | 179.2 |
| 2010 secured railcar equipment notes | 284.1 | 296.2 |
| TILC warehouse facility | 236.8 | 264.3 |
| | 893.0 | 943.8 |
| Less: unamortized debt issuance costs | (12.3 ) | (15.1 ) |
| | 880.7 | 928.7 |
| Partially-owned subsidiaries: | | |
| TRL 2012 secured railcar equipment notes (RIV 2013) | 431.1 | 449.1 |
| TRIP Master Funding secured railcar equipment notes (TRIP Holdings) | 963.3 | 997.8 |
| | 1,394.4 | 1,446.9 |
| Less: unamortized debt issuance costs | (15.4 ) | (16.9 ) |
| | 1,379.0 | 1,430.0 |
| Total non–recourse debt | 2,259.7 | 2,358.7 |
| Total debt | $3,107.1 | $ 3,195.4 |

We have a $600.0 million unsecured corporate revolving credit facility that matures in May 2020. As of September 30, 2016, we had letters of credit issued under our revolving credit facility in an aggregate principal amount of $93.3 million, leaving $506.7 million available for borrowing. Other than these letters of credit, there were no borrowings under our revolving credit facility as of September 30, 2016, or for the nine month period then ended. Of the outstanding letters of credit as of September 30, 2016, approximately $1.0 million is expected to expire in 2016 and the remainder primarily in 2017. The majority of our letters of credit obligations support the Company’s various insurance programs and generally renew by their terms each year. Trinity’s revolving credit facility requires the maintenance of ratios related to minimum interest coverage for the leasing and manufacturing operations and maximum leverage. As of September 30, 2016, we were in compliance with all such financial covenants. Borrowings under the credit facility bear interest at a defined index rate plus a margin and are guaranteed by certain 100%-owned subsidiaries of the Company.

The Company's Convertible Subordinated Notes due 2036 (“Convertible Subordinated Notes”) bear an interest rate of 3 7/8% per annum on the principal amount payable semi-annually in arrears on June 1 and December 1 of each year. In addition, commencing with the six-month period beginning June 1, 2018 and for each six-month period thereafter, we

will pay contingent interest to the holders of the Convertible Subordinated Notes under certain circumstances. The Convertible Subordinated Notes mature on June 1, 2036, unless redeemed, repurchased, or converted earlier. We may not redeem the Convertible Subordinated Notes before June 1, 2018. On or after that date, we may redeem all or part of the Convertible Subordinated Notes for cash at 100% of the principal amount of the notes to be redeemed, plus accrued and unpaid interest (including any contingent interest) up to, but excluding, the redemption date. Holders of the Convertible Subordinated Notes may require us to purchase all or a portion of their notes on June 1, 2018 or upon a fundamental change. In each case, the Convertible Subordinated Notes would be purchased for cash at a price equal to 100% of the principal amount of the notes to be purchased plus any accrued and unpaid interest (including any contingent interest) up to, but excluding, the purchase date.
The Convertible Subordinated Notes are recorded net of unamortized discount to reflect their underlying economics by capturing the value of the conversion option as borrowing costs. As of September 30, 2016 and December 31, 2015, capital in excess of par

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value included $92.5 million related to the estimated value of the Convertible Subordinated Notes' conversion options, in accordance with ASC 470-20. Debt discount recorded in the consolidated balance sheet is being amortized through June 1, 2018 to yield an effective annual interest rate of 8.42% based upon the estimated market interest rate for comparable non-convertible debt as of the issuance date of the Convertible Subordinated Notes. Total interest expense recognized on the Convertible Subordinated Notes for the three and nine months ended September 30, 2016 and 2015 is as follows:

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2016 | 2015 | 2016 | 2015 |
| | (in millions) | | | |
| Coupon rate interest | $4.4 | $4.4 | $13.1 | $13.1 |
| Amortized debt discount | 4.3 | 4.0 | 12.7 | 11.7 |
| | $8.7 | $8.4 | $25.8 | $24.8 |

Holders of the Convertible Subordinated Notes may convert their notes under the following circumstances: 1) if the daily closing price of our common stock is greater than or equal to 130% of the conversion price during 20 of the last 30 trading days of the preceding calendar quarter; 2) upon notice of redemption; or 3) upon the occurrence of specified corporate transactions pursuant to the terms of the applicable indenture. Upon conversion, the Company is required to pay cash up to the aggregate principal amount of the Convertible Subordinated Notes to be converted. Any conversion obligation in excess of the aggregate principal amount of the Convertible Subordinated Notes to be converted may be settled in cash, shares of the Company's common stock, or a combination of cash and shares of the Company's common stock, at the Company's election. The conversion price, which is subject to adjustment upon the occurrence of certain events, was $24.66 per share as of September 30, 2016. The Convertible Subordinated Notes were not subject to conversion as of October 1, 2016. See Note 17 Earnings Per Common Share for an explanation of the effects of the Convertible Subordinated Notes on earnings per share. The Company has not entered into any derivatives transactions associated with these notes.

The $1.0 billion TILC warehouse loan facility, established to finance railcars owned by TILC, had $236.8 million in outstanding borrowings as of September 30, 2016. Under the facility, $763.2 million was unused and available as of September 30, 2016 based on the amount of warehouse-eligible, unpledged equipment. The warehouse loan facility is a non-recourse obligation secured by a portfolio of railcars and operating leases, certain cash reserves, and other assets acquired and owned by the warehouse loan facility trust. The principal and interest of this indebtedness are paid from the cash flows of the underlying leases. Advances under the facility bear interest at a defined index rate plus a margin, for an all-in interest rate of 2.46% at September 30, 2016. The warehouse loan facility has been renewed and extended through April 2018. Interest rate pricing remained unchanged under the renewed facility. Amounts outstanding at maturity, absent renewal, are payable under the renewed facility in April 2019.

Terms and conditions of other debt, including recourse and non-recourse provisions, are described in Note 11 of the December 31, 2015 Consolidated Financial Statements filed on Form 10-K. The remaining principal payments under existing debt agreements as of September 30, 2016 are as follows:

| | Remaining three months of 2016 | 2017 | 2018 | 2019 | 2020 | Thereafter |
|---|---|---|---|---|---|---|
| | (in millions) | | | | | |
| Recourse: | | | | | | |
| Corporate | $— | $0.3 | $— | $— | $— | $ 849.4 |
| Leasing – capital lease obligations (Note 6) | 0.9 | 3.7 | 28.6 | — | — | — |

| | | | | | | |
|---|---|---|---|---|---|---|
| Non-recourse – leasing (Note 6): | | | | | | |
| 2006 secured railcar equipment notes | 15.7 | 23.9 | 25.3 | 28.0 | 29.8 | 75.3 |
| 2009 secured railcar equipment notes | 1.6 | 6.3 | 6.4 | 11.2 | 6.6 | 142.0 |
| 2010 secured railcar equipment notes | 3.6 | 13.6 | 10.0 | 7.6 | 14.2 | 235.1 |
| TILC warehouse facility | 2.4 | 8.2 | 8.2 | 2.0 | — | — |
| TRL 2012 secured railcar equipment notes (RIV 2013) | 5.7 | 22.7 | 22.9 | 21.9 | 19.3 | 338.6 |
| TRIP Master Funding secured railcar equipment notes (TRIP Holdings) | 7.8 | 28.8 | 41.5 | 49.5 | 48.8 | 786.9 |
| Facility termination payments - TILC warehouse facility | — | — | — | 216.0 | — | — |
| Total principal payments | $37.7 | $107.5 | $142.9 | $336.2 | $118.7 | $ 2,427.3 |

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Note 12. Other, Net

Other, net (income) expense consists of the following items:

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2016 | 2015 | 2016 | 2015 |
| | (in millions) | | | |
| Foreign currency exchange transactions | $0.9 | $(0.5) | $(2.0) | $(2.3) |
| (Gain) loss on equity investments | (0.1 ) | — | (0.1 ) | 0.1 |
| Other | (0.6 ) | (0.5 ) | (3.3 ) | (1.8 ) |
| Other, net | $0.2 | $(1.0) | $(5.4) | $(4.0) |

Other for the three and nine months ended September 30, 2016 includes $0.4 million and $2.5 million, respectively, in income related to the change in fair value of certain equity instruments.

Note 13. Income Taxes

The provision for income taxes results in effective tax rates that differ from the statutory rates. The following is a reconciliation between the statutory U.S. federal income tax rate and the Company’s effective income tax rate on income before income taxes:

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2016 | 2015 | 2016 | 2015 |
| Statutory rate | 35.0 % | 35.0 % | 35.0 % | 35.0 % |
| State taxes | 1.3 | 1.2 | 1.2 | 1.2 |
| Domestic production activities deduction | — | (1.7 ) | — | (1.8 ) |
| Noncontrolling interest in partially-owned subsidiaries | (0.8 ) | (0.9 ) | (1.0 ) | (0.9 ) |
| State adjustments | — | — | — | 0.1 |
| Other, net | 0.3 | — | 0.4 | 0.1 |
| Effective rate | 35.8 % | 33.6 % | 35.6 % | 33.7 % |

Our effective tax rate reflects the Company's estimate for 2016 of its state income tax expense and income attributable to the noncontrolling interests in partially-owned leasing subsidiaries for which no income tax expense is provided. See Note 5 Partially-Owned Leasing Subsidiaries for a further explanation of activities with respect to our partially-owned leasing subsidiaries.

Taxing authority examinations

The Internal Revenue Service ("IRS") field work for our 2006-2008 audit cycle and our 2009-2011 audit cycle have concluded and all issues have been agreed upon by us and the IRS. The previously disclosed issues that were a part of the mutual agreement process ("MAP") have been agreed upon. As the cycles included years in which tax refunds were issued to us, the Joint Committee on Taxation ("JCT") is required to review the final revenue agent report before the issues are effectively settled. Formal submission will occur during the fourth quarter of 2016. For this reason, we cannot determine when the 2006-2008 or the 2009-2011 cycle will close and all issues will be formally settled.

We have various subsidiaries in Mexico that file separate tax returns and are subject to examination by taxing authorities at different times. The 2007 tax year of one of our Mexican subsidiaries is still under review for transfer pricing purposes only, and its statute of limitations remains open through the later of the resolution of the MAP or July 2018. The remaining entities are generally open for their 2010 tax years and forward.

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Unrecognized tax benefits

The change in unrecognized tax benefits for the nine months ended September 30, 2016 and 2015 was as follows:

| | Nine Months Ended September 30, | |
|---|---|---|
| | 2016 | 2015 |
| | (in millions) | |
| Beginning balance | $65.2 | $62.3 |
| Additions for tax positions related to the current year | 4.6 | 4.1 |
| Additions for tax positions of prior years | 1.0 | — |
| Reductions for tax positions of prior years | — | (0.1 ) |
| Settlements | — | (0.7 ) |
| Expiration of statute of limitations | (0.1 ) | — |
| Ending balance | $70.7 | $65.6 |

Additions for tax positions related to the current year in the amounts of $4.6 million and $4.1 million recorded in the nine months ended September 30, 2016 and 2015, respectively, were amounts provided for tax positions that will be taken for federal and state income tax purposes when we file those tax returns. Additions for tax positions related to prior years of $1.0 million recorded in the nine months ended September 30, 2016 are due to a state filing position. The reductions in tax positions of prior years of $0.1 million for the nine months ended September 30, 2015 were primarily related to changes in state taxes. Settlements during the nine months ended September 30, 2015 were due to a state tax position effectively settled upon audit and a settlement of an audit of one of our Mexican companies.

The total amount of unrecognized tax benefits including interest and penalties at September 30, 2016 and 2015, that would affect the Company's overall effective tax rate if recognized was $15.6 million and $15.0 million, respectively. There is a reasonable possibility that unrecognized federal and state tax benefits will decrease by $9.6 million by September 30, 2017, due to settlements and lapses in statutes of limitations for assessing tax for tax years in which an extension was not requested by the taxing authority. We have entered into an agreement with the IRS to extend the statute of limitations to assess tax on our 2006-2011 tax years to account for the JCT review and expect these years to close by December 31, 2017.

Trinity accounts for interest expense and penalties related to income tax issues as income tax expense. Accordingly, interest expense and penalties associated with an uncertain tax position are included in the income tax provision. The total amount of accrued interest and penalties as of September 30, 2016 and December 31, 2015 was $13.9 million and $12.4 million, respectively. Income tax expense included an increase of $0.6 million and $1.5 million in interest expense and penalties related to uncertain tax positions for the three and nine months ended September 30, 2016, respectively. Income tax expense included an increase of $0.3 million and $0.7 million in interest expense and penalties related to uncertain tax positions for the three and nine months ended September 30, 2015, respectively.

Note 14. Employee Retirement Plans

The following table summarizes the components of net retirement cost for the Company:

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2016 | 2015 | 2016 | 2015 |
| | (in millions) | | | |
| Expense Components | | | | |
| Service cost | $0.1 | $0.1 | $0.3 | $0.3 |
| Interest | 5.3 | 5.0 | 15.7 | 15.0 |
| Expected return on plan assets | (6.8 ) | (7.6 ) | (20.4 ) | (22.8 ) |

| | | | | |
|---|---|---|---|---|
| Amortization of actuarial loss | 1.2 | 1.3 | 3.8 | 3.9 |
| Defined benefit expense | (0.2 ) | (1.2 ) | (0.6 ) | (3.6 ) |
| Profit sharing | 3.5 | 4.5 | 12.0 | 14.9 |
| Multiemployer plan | 0.5 | 0.6 | 1.7 | 1.7 |
| Net expense | $3.8 | $3.9 | $13.1 | $13.0 |

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Trinity contributed $1.6 million and $4.7 million to the Company's defined benefit pension plans for the three and nine months ended September 30, 2016, respectively. Trinity contributed $7.4 million and $15.5 million to the Company's defined benefit pension plans for the three and nine months ended September 30, 2015, respectively. Total contributions to the Company's defined benefit pension plans in 2016 are expected to be approximately $4.8 million. The Company participates in a multiemployer defined benefit plan under the terms of a collective-bargaining agreement that covers certain union-represented employees. The Company contributed $0.6 million and $1.7 million to the multiemployer plan for the three and nine months ended September 30, 2016, respectively. The Company contributed $0.6 million and $1.9 million to the multiemployer plan for the three and nine months ended September 30, 2015, respectively. Total contributions to the multiemployer plan for 2016 are expected to be approximately $2.3 million.

## Note 15. Accumulated Other Comprehensive Loss

Changes in accumulated other comprehensive loss for the nine months ended September 30, 2016 are as follows:

| | Currency translation adjustments | Unrealized loss on derivative financial instruments | Net actuarial gains/(losses) of defined benefit plans | Accumulated Other Comprehensive Loss |
|---|---|---|---|---|
| | (in millions) | | | |
| Balances at December 31, 2015 | $(24.5) | $ (1.3) | $ (89.6) | $ (115.4) |
| Other comprehensive income (loss), net of tax, before reclassifications | 1.4 | (0.7) | — | 0.7 |
| Amounts reclassified from accumulated other comprehensive loss, net of tax benefit of $-, $0.6, $1.4, and $2.0 | — | 3.4 | 2.4 | 5.8 |
| Less: noncontrolling interest | — | (2.0) | — | (2.0) |
| Other comprehensive income | 1.4 | 0.7 | 2.4 | 4.5 |
| Balances at September 30, 2016 | $(23.1) | $ (0.6) | $ (87.2) | $ (110.9) |

See Note 7 Derivative Instruments for information on the reclassification of amounts in accumulated other comprehensive loss into earnings. Reclassifications of unrealized before-tax losses on derivative financial instruments are included in interest expense in the consolidated statements of operations. Approximately $3.0 million of the before-tax reclassification of net actuarial gains/(losses) of defined benefit plans are included in cost of revenues with the remainder included in selling, engineering, and administrative expenses in the consolidated statement of operations for the nine months ended September 30, 2016.

## Note 16. Stock-Based Compensation

Stock-based compensation totaled approximately $10.4 million and $33.2 million for the three and nine months ended September 30, 2016, respectively. Stock-based compensation totaled approximately $15.0 million and $46.3 million for the three and nine months ended September 30, 2015, respectively.

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Note 17. Earnings Per Common Share

Basic net income attributable to Trinity Industries, Inc. per common share is computed by dividing net income attributable to Trinity remaining after allocation to unvested restricted shares by the weighted average number of basic common shares outstanding for the period. Except when the effect would be antidilutive, the calculation of diluted net income attributable to Trinity per common share includes 1) the net impact of unvested restricted shares and shares that could be issued under outstanding stock options and 2) the incremental shares calculated by dividing the value of the conversion obligation in excess of the Convertible Subordinated Notes' aggregate principal amount by the average price of the Company's common stock during the period. Total weighted average restricted shares and antidilutive stock options were 6.3 million shares and 6.7 million shares for the three and nine months ended September 30, 2016. Total weighted average restricted shares and antidilutive stock options were 6.3 million shares and 6.9 million shares for the three and nine months ended September 30, 2015, respectively.

The computation of basic and diluted net income attributable to Trinity Industries, Inc. follows.

| | Three Months Ended September 30, 2016 | | | Three Months Ended September 30, 2015 | | |
|---|---|---|---|---|---|---|
| | Income (Loss) | Average Shares | EPS | Income (Loss) | Average Shares | EPS |
| | (in millions, except per share amounts) | | | | | |
| Net income attributable to Trinity Industries, Inc. | $84.2 | | | $204.3 | | |
| Unvested restricted share participation | (2.2 ) | | | (6.0 ) | | |
| Net income attributable to Trinity Industries, Inc. – basic | 82.0 | 148.7 | $0.55 | 198.3 | 150.0 | $1.32 |
| Effect of dilutive securities: | | | | | | |
| Convertible subordinated notes | — | — | | — | 0.9 | |
| Net income attributable to Trinity Industries, Inc. – diluted | $82.0 | 148.7 | $0.55 | $198.3 | 150.9 | $1.31 |

| | Nine Months Ended September 30, 2016 | | | Nine Months Ended September 30, 2015 | | |
|---|---|---|---|---|---|---|
| | Income (Loss) | Average Shares | EPS | Income (Loss) | Average Shares | EPS |
| | (in millions, except per share amounts) | | | | | |
| Net income attributable to Trinity Industries, Inc. | $276.0 | | | $596.5 | | |
| Unvested restricted share participation | (7.7 ) | | | (18.2 ) | | |
| Net income attributable to Trinity Industries, Inc. – basic | 268.3 | 148.3 | $1.81 | 578.3 | 150.6 | $3.84 |
| Effect of dilutive securities: | | | | | | |
| Convertible subordinated notes | — | — | | 0.3 | 2.5 | |
| Net income attributable to Trinity Industries, Inc. – diluted | $268.3 | 148.3 | $1.81 | $578.6 | 153.1 | $3.78 |

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Note 18. Contingencies

Highway products litigation

We previously reported the filing of a False Claims Act ("FCA") complaint in the United States District Court for the Eastern District of Texas, Marshall Division ("District Court") styled Joshua Harman, on behalf of the United States of America, Plaintiff/Relator v. Trinity Industries, Inc., Defendant, Case No. 2:12-cv-00089-JRG (E.D. Tex.). In this case, the relator, Mr. Joshua Harman, alleged the Company violated the FCA pertaining to sales of the Company's ET-Plus® System, a highway guardrail end-terminal system ("ET Plus"). On October 20, 2014, a trial in this case concluded with a jury verdict stating that the Company and its subsidiary, Trinity Highway Products, LLC ("Trinity Highway Products"), "knowingly made, used or caused to be made or used, a false record or statement material to a false or fraudulent claim" and awarding $175.0 million in damages. Following unsuccessful settlement negotiations to resolve this dispute and the District Court's denial of the Company's post-verdict motion for judgment as a matter of law, on June 9, 2015 the District Court entered judgment on the verdict in the total amount of $682.4 million, comprised of $175.0 million in damages, which amount is automatically trebled under the FCA to $525.0 million plus $138.4 million in civil penalties and $19.0 million in costs and attorneys' fees.

On June 23, 2015, the District Court approved the Company's posting of a supersedeas bond in the amount of $686.0 million (the "Bond") and ordered a stay of the execution of the District Court's June 9, 2015 entry of judgment of $682.4 million against the Company pending resolution of all appeals. The Company obtained the Bond on an unsecured basis and the annual premium is currently $3.7 million.

On July 7, 2015, the Company filed a Motion for New Trial with the District Court and on August 3, 2015, the Motion was denied. On August 28, 2015, the Company filed a Notice of Appeal to the United States Court of Appeals for the Fifth Circuit ("Fifth Circuit"). On March 21, 2016, the Company filed its opening appellate brief. On March 28, 2016, six separate amicus curiae briefs were filed in the Fifth Circuit by the following organizations and individuals in support of Trinity's appeal seeking a reversal of the judgment: (i) Eleven states - Texas, Alabama, Arkansas, Colorado, Indiana, Louisiana, Nevada, Oklahoma, South Carolina, Utah and Wisconsin; (ii) the National Association of Manufacturers, United States Chamber of Commerce, and the American Tort Reform Association; (iii) five former United States Department of Justice Officials; (iv) Mothers Against Drunk Driving; (v) the Cato Institute; and (vi) the Washington Legal Foundation. On June 9, 2016, Mr. Joshua Harman filed his responsive appeal brief in the Fifth Circuit. On June 16, 2016, six amicus curiae briefs were filed in the Fifth Circuit by several organizations and individuals in support of Mr. Harman's opposition to the Company's appeal. On July 21, 2016, the Company filed its reply brief in this matter. The Company's Fifth Circuit appeal is now fully briefed and is currently scheduled for oral argument before the Fifth Circuit in December 2016.

Texas A&M Transportation Institute ("TTI"), a member of The Texas A&M University System, designed the technology employed in the ET Plus. The Texas A&M University System is the owner of patents issued by the U.S. Patent Office that cover the ET Plus. Trinity Highway Products manufactures and markets the ET Plus pursuant to an exclusive license granted by The Texas A&M University System. In 2005, Trinity Highway Products contracted with TTI to conduct crash testing of the ET Plus to demonstrate compliance with the required crash test criteria set out in National Cooperative Highway Research Program Report 350 ("Report 350"). Following the 2005 crash testing, TTI prepared and provided to Trinity Highway Products the test reports on the crash test performance of the ET Plus. These reports were reviewed by the Federal Highway Administration (the "FHWA") in their 2005 acceptance of the product for use on the national highway system and determination of the product's eligibility for federal-aid reimbursement. In a memorandum dated June 17, 2014, the FHWA confirmed that "The Trinity ET Plus with 4-inch guide channels became eligible for federal-aid reimbursement under FHWA letter CC-94 on September 2, 2005. In addition, the device is eligible for reimbursement under FHWA letters CC-94A and CC-120." In this memorandum the FHWA confirmed that the reimbursement eligibility applies at guardrail heights from 27 ¾" to 31". The memorandum goes on to state that an "unbroken chain of eligibility for federal-aid reimbursement has existed since September 2, 2005 and the ET Plus continues to be eligible today."

Preceding the October 2014 trial in this matter, the Company filed a Petition for Writ of Mandamus with the Fifth Circuit based, in part, on the District Court's failure to apply precedential case law. The Fifth Circuit denied this petition, but expressed concern regarding the District Court's failure to issue a reasoned ruling rejecting the Company's prior motions for judgment as a matter of law. The Fifth Circuit also stated that the FHWA's authoritative memorandum of June 17, 2014 appears to compel the conclusion that the FHWA, after due consideration of all the facts, found the ET Plus sufficiently compliant with federal safety standards and therefore fully eligible, in the past, present and future, for federal-aid reimbursement claims. Additionally, the Fifth Circuit noted that a strong argument could be made that the Company's actions were neither material nor were any false claims based on false certifications presented to the government. We believe this reinforces our prospects for a successful outcome on appeal.

Crash testing and FHWA assessments

Following the October 20, 2014 jury verdict, the FHWA requested that the Company conduct eight separate crash tests pursuant to crash test criteria set out in Report 350. Due to the FHWA's request for additional ET Plus crash tests, on October 24, 2014 the Company announced that it would suspend shipment of the ET Plus to customers. The FHWA-requested tests were conducted in December 2014 and January 2015 at Southwest Research Institute, an FHWA-approved and independent research facility. Following

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completion of the first four tests at a 27 ¾" guardrail installation height, and again after completion of the second four tests at a 31" guardrail installation height, the FHWA reported that the ET Plus passed all tests. Performance evaluation results from eight successful crash tests validate Trinity Highway Products' long standing position that the ET Plus performs as tested for both guardrail installation heights when properly installed and maintained. On March 11, 2015, the FHWA and the American Association of State Highway and Transportation Officials ("AASHTO") released the findings of a joint task force ("Task Force I"), comprised of representatives from the FHWA, AASHTO, the state Departments of Transportation of South Dakota, New Hampshire, Missouri, Ohio, Delaware, and Wyoming, and the Ministry of Transportation of Ontario, Canada, that evaluated field measurement data collected by FHWA engineers from more than 1,000 4-inch ET Plus devices installed on roadways throughout the country. Task Force I concluded there is no evidence to suggest that there are multiple versions of the 4-inch ET Plus on the nation's roadways. Task Force I also concluded that the ET Plus end terminals crash tested at Southwest Research Institute in December 2014 and January 2015 were representative of the devices installed across the country.

The FHWA and AASHTO formed a second joint task force ("Task Force II") comprised of representatives from the FHWA, AASHTO, the state Departments of Transportation of Iowa, Georgia, New Hampshire, North Carolina, New York, Michigan, Missouri, Delaware, and Utah, and independent experts to further evaluate the in-service performance of the ET Plus and other guardrail end terminals through the collection and analysis of a broad array of data. In a report dated September 11, 2015, the FHWA and AASHTO released certain findings, conclusions, and recommendations of Task Force II, including but not limited to, the following: there are no performance limitations unique to the ET Plus; there will be real-world accident conditions that exceed the performance expectations of all manufacturers' guardrail end terminal systems; and additional crash testing of all existing Report 350 compliant guardrail end terminals, including the ET Plus, "would not be informative" and "would be irrelevant".

The Company is vigorously pursuing a reversal of the $682.4 million judgment before the Fifth Circuit. Appellate review will result in legal expenses that are expensed as incurred. We remain confident in the performance of the product at issue in this matter, and we maintain that the allegations in the case are baseless and without merit. We believe our filing in the Fifth Circuit articulates in a clear and convincing way why the judgment should not stand. Based on information currently available to the Company, including, but not limited to the significance of the successful completion of eight post-verdict crash tests of the ET Plus and the favorable findings and conclusions published by both Task Force I and II regarding ET Plus end terminal systems installed on the nation's roadways, we do not believe that a loss is probable in this matter, therefore no accrual has been included in the accompanying consolidated financial statements.

There were no revenues from the sales of ET Plus systems in the United States for the first three quarters of 2015 as a result of the Company's action to suspend shipments of the product during that time. The Company resumed shipment of ET Plus systems in the fourth quarter of 2015. Revenues from sales of the ET Plus, included in the Construction Products Group, totaled approximately $0.7 million and $2.6 million for the three and nine months ended September 30, 2016, respectively.

State, county, and municipal actions

Trinity is aware of 31 states and the District of Columbia that have removed the ET Plus from their respective qualified products list.

Mr. Harman has also filed nine separate state qui tam actions pursuant to: the Virginia Fraud Against Taxpayers Act (Commonwealth of Virginia ex rel. Joshua M. Harman v. Trinity Industries, Inc. and Trinity Highway Products, LLC, Case No. CL13-698, in the Circuit Court, Richmond, Virginia); the Indiana False Claims and Whistleblower Protection Act (State of Indiana ex rel. Joshua M. Harman Qui Tam v. Trinity Industries, Inc., and Trinity Highway Products, LLC, Case No. 49D06-1407-PL-024117, in the Sixth Court of Marion County, Indiana); the Delaware False Claims and Reporting Act (State of Delaware ex rel. Joshua M. Harman v. Trinity Industries, Inc., and Trinity Highway Products, LLC, Civ. No. N14C-06-227 MMJ CCLD, in the Superior Court of the State of Delaware In and For New Castle County); the Iowa False Claims Act (State of Iowa ex rel. Joshua M. Harman v. Trinity Industries, Inc., and Trinity Highway Products, LLC, Case No. CVCV048309, in the Iowa District Court for Polk County); the Rhode Island False Claims Act (State of Rhode Island ex rel. Joshua M. Harman v. Trinity Industries, Inc., and Trinity Highway Products, LLC, Case No. 14-3498, in the Superior Court for the State of Rhode Island and Providence

Plantations); the Tennessee False Claims Act (State of Tennessee ex rel. Joshua M. Harman v. Trinity Industries, Inc., and Trinity Highway Products, LLC, Case No. 14C2652, in the Circuit Court for Davidson County, Tennessee); the Minnesota False Claims Act (State of Minnesota ex rel. Joshua M. Harman Qui Tam v. Trinity Industries, Inc., and Trinity Highway Products, LLC, Case No. 62-CV-14-3457, in the Second Judicial District Court, Ramsey County, Minnesota); the Montana False Claims Act (State of Montana ex rel. Joshua M. Harman v. Trinity Industries, Inc., and Trinity Highway Products, LLC, Case No. DV 14-0692, in the Montana Thirteenth Judicial District Court for Yellowstone County); and the Georgia Taxpayer Protection False Claims Act (State of Georgia ex rel. Joshua M. Harman v. Trinity Industries, Inc., and Trinity Highway Products, LLC, Case No. 1:15-CV-1260, in the U.S. District Court for the Northern District of Georgia). In each of these nine cases Mr. Harman is alleging the Company violated the respective states' false claims act pertaining to sales of the ET Plus, and he is seeking damages, civil penalties, attorneys’ fees, costs and interest. Also, the respective states’ Attorneys General filed Notices of Election to Decline Intervention in all of these matters, with the exception of the Commonwealth of Virginia Attorney General who intervened in the Virginia matter. At this time all of the above-referenced state qui tam cases are stayed.

The Company believes these state qui tam lawsuits are without merit and intends to vigorously defend all allegations. Other states could take similar or different actions, and could be considering similar state false claims or other litigation against the Company.

The Company is aware of three class action lawsuits involving claims pertaining to the ET Plus. The Company has been served in a lawsuit filed November 26, 2014, titled Hamilton County, Illinois and Macon County, Illinois, Individually and on behalf of all Other Counties in the State of Illinois vs. Trinity Industries, Inc. and Trinity Highway Products, LLC, Case No. 3:14-cv-1320 (Southern District of Illinois). This complaint was later amended to substitute St. Clair County, Illinois for Hamilton County as a lead plaintiff and to expand the proposed class. The case is being brought by plaintiffs for and on behalf of themselves and the other 101 counties of the State of Illinois and on behalf of cities, villages, incorporated towns, and township governments of the State of Illinois. The plaintiffs allege that the Company and Trinity Highway Products made a series of un-tested modifications to the ET Plus and falsely certified that the modified ET Plus was acceptable for use on the nation’s highways based on federal testing standards and approval for federal-aid reimbursement. The plaintiffs also allege breach of implied warranties, violation of the Illinois Uniform Deceptive Trade Practices Act and unjust enrichment, for which plaintiffs seek actual damages related to purchases of the ET Plus, compensatory damages for establishing a common fund for class members, punitive damages, attorneys' fees and c