New Entrants—Contractual Risks and Mitigation Opportunities

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New Market Entrants

- Trends driven by:
  - Electrification
  - Advanced Driver Assistance Systems (ADAS)
  - Technology
  - Stricter emissions controls
  - Lightweighting
Different Players

- Different supply base
- Different customers
  - Varying degrees of risk
  - Varying degrees of leverage
- Additional due diligence required
Cost Structure & Price Fluctuations

- Material costs
- Energy costs
- Labor costs in the manufacturing countries
- Production volume
- Margins of suppliers
- Shipping costs
- Learning curves/ramp-up
- Maturity of technology
- Productivity and efficiency
- Margins of the retailer and OEM
- Tariffs
Volume Fluctuations & Greater Uncertainty

- Typically no contractual protection against volume fluctuations
- Expect even greater volatility for electric vehicles
Risk Mitigation: Buy-Side

- Supplier due diligence
- Passing through warranty and liability risks to supply base
- Downstream protection for volume fluctuations
- Strategic and tactical considerations to avoid tariffs
Risk Mitigation: Sell-Side

- “New” OEM customers and leverage considerations
- Additional contracting precautions for assemblies:
  - Specifications and delineation of responsibilities
  - Warranty of fitness
  - Nexus for warranty or indemnification obligations
Risk Mitigation: IP

- Nondisclosure agreements
- Treating manufacturing process information as valuable trade secrets
- Avoiding receipt of others’ trade secrets