

DELPHI CORP
Form 8-K
July 22, 2009

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549
FORM 8-K
CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(D) OF
THE SECURITIES EXCHANGE ACT OF 1934
Date of report (Date of earliest event reported) July 21, 2009
Delphi Corporation
(Exact Name of Registrant as Specified in Its Charter)**

Delaware

1-14787

38-3430473

(State or Other Jurisdiction of
Incorporation)

(Commission File Number)

(IRS Employer Identification No.)

5725 Delphi Drive, Troy, MI

48098

(Address of Principal Executive Offices)

(Zip Code)

(248) 813-2000

(Registrant's Telephone Number, Including Area Code)

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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ITEM 1.01 ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT

On July 21, 2009, Delphi Corporation (Delphi or the Company) entered into a further amendment (the Seventeenth Amendment), to its accommodation agreement (as previously amended and supplemented through the date hereof, the Accommodation Agreement), with the lenders under its existing debtor-in-possession financing agreement (the Amended and Restated DIP Credit Facility), consisting of a \$1.1 billion first priority revolving credit facility (the Tranche A Facility), a \$500 million first priority term loan (the Tranche B Term Loan) and a \$2.75 billion second priority term loan (the Tranche C Term Loan). The Seventeenth Amendment extends the term of the Accommodation Agreement to July 24, 2009 as well as provides time to satisfy certain covenants as set forth more fully below. The following description of the Seventeenth Amendment is qualified in its entirety by the text of such amendment, a copy of which is filed as Exhibit 99(a) to this report and incorporated by reference herein. A description of the material terms of the Accommodation Agreement prior to such modifications is set forth in Delphi's Current Reports on Form 8-K filed with the United States Securities and Exchange Commission on March 31, 2009, as amended on April 1, 2009 solely for the purposes of adding an exhibit, April 3, 2009, as amended on April 7, 2009 solely for the purposes of adding another exhibit, April 23, 2009, May 8, 2009, June 2, 2009, June 9, 2009, June 18, 2009, June 22, 2009, June 24, 2009, July 1, 2009, July 8, 2009, July 13, 2009 and July 20, 2009 (the Original Forms 8-K), which descriptions are incorporated herein by reference.

Pursuant to the Accommodation Agreement, as in effect through the Sixteenth Amendment (the Prior Accommodation Agreement), the lenders agreed, among other things, to allow Delphi to continue using the proceeds of the Amended and Restated DIP Credit Facility and to forbear from the exercise of certain default-related remedies, in each case until July 21, 2009, subject to the continued satisfaction by Delphi of a number of covenants and conditions, and as described in more detail below, the Seventeenth Amendment further extends that date until July 24, 2009. There currently remains approximately \$230 million outstanding under the Tranche A Facility, \$311 million outstanding under the Tranche B Term Loan and \$2.75 billion outstanding under the Tranche C Term Loan under the Amended and Restated DIP Credit Facility. The Prior Accommodation Agreement contained certain milestone dates, which if not met required Delphi to apply the \$47 million currently held as cash collateral to pay down a portion of the Tranche A Facility and Tranche B Term Loan extended under the Amended and Restated DIP Credit Facility (the Repayment Obligation) and may have resulted in an event of default and termination of the accommodation period. One such milestone in the Prior Accommodation Agreement was that on or before July 20, 2009, Delphi was required to deliver to the agent under the Amended and Restated DIP Credit Facility a term sheet setting forth the terms of a global resolution of matters relating to General Motors Company's (GM) contributions to the resolution of Delphi's chapter 11 cases, including without limitation, all material transactions between Delphi and GM relevant to such resolution, which has been agreed to by GM and the United States Treasury (the Term Sheet). The failure to deliver the Term Sheet on or prior to July 20, 2009 triggered the Repayment Obligation, and absent effectiveness of the Seventeenth Amendment, a failure by Delphi to satisfy the Repayment Obligation on July 21, 2009, would have been an event of default under the Prior Accommodation Agreement (and absent a cure of such default, would have resulted in a termination of the accommodation period). In addition, absent effectiveness of the Seventeenth Amendment, had a majority of the Tranche A and Tranche B lenders who have signed the Accommodation Agreement and a majority of all lenders who signed the Accommodation Agreement not notified Delphi that the Term Sheet was satisfactory on or before July 21, 2009, the accommodation period would have terminated on July 22, 2009.

Pursuant to the Seventeenth Amendment, the Repayment Obligation will be triggered on July 24, 2009 unless on or prior to July 23, 2009 Delphi delivers a Term Sheet. The accommodation period under the Accommodation Agreement will terminate on July 25, 2009, in the event that a majority of the Tranche A and Tranche B lenders who have signed the Accommodation Agreement and a majority of all lenders who signed the Accommodation Agreement have not notified Delphi that the Term Sheet is satisfactory on or before July 24, 2009. In addition, the Seventeenth Amendment postpones until July 24, 2009 the date by which interest payments with respect to the Tranche C Term Loan must be paid; which payments, in accordance with the terms of the Accommodation Agreement, are to be applied ratably to repayments of principal amounts outstanding under the Tranche A Facility and the Tranche B Term Loan.

The remaining provisions in the Accommodation Agreement are materially unchanged. For information regarding the current terms of the Accommodation Agreement, as modified, which is not otherwise set forth in this Current Report on Form 8-K, including the covenants and conditions of the lenders' continued forbearance from exercising remedies through the accommodation period and including the ability to access certain cash collateral accounts, see Delphi's Annual Report on Form 10-K for the year ended December 31, 2008 (the Annual Report), including the exhibits to the Annual Report, and the Original Forms 8-K.

Although Delphi is currently in compliance with the terms of the Accommodation Agreement (after giving effect to the Seventeenth Amendment), Delphi's continued compliance and access to sufficient liquidity to fund its working capital requirements and operations is dependent on a number of factors including Delphi remaining in compliance with the provisions of the amended interim liquidity support agreement with GM and administrative creditors, including its suppliers, continuing to provide services and goods on customary payment terms.

ITEM 2.04 TRIGGERING EVENTS THAT ACCELERATE OR INCREASE A DIRECT FINANCIAL OBLIGATION OR AN OBLIGATION UNDER AN OFF-BALANCE SHEET ARRANGEMENT

The disclosure under Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 2.04. The failure to deliver the Term Sheet on or prior to July 20, 2009 triggered a Repayment Obligation and absent effectiveness of the Seventeenth Amendment, a failure by Delphi to satisfy the Repayment Obligation on July 21, 2009 would have been an event of default under the Accommodation Agreement and could have resulted in a termination of the accommodation period. See the terms of the Seventeenth Amendment described in Item 1.01 of this Current Report on Form 8-K.

ITEM 8.01 OTHER EVENTS

Delphi also announced today that as part of its efforts to facilitate further consensual discussions among representatives of General Motors Company (GM), Platinum Equity, the lenders under the Amended and Restated DIP Credit Facility and other stakeholders, the United States (U.S.) Bankruptcy Court for the Southern District of New York (the Court) has rescheduled the auction previously scheduled for July 21, 2009 to Friday, July 24, 2009 and will now commence the hearing on Delphi's modifications to its previously confirmed plan of reorganization, as filed with the Court on June 1, 2009 (the Modified Plan), on July 29, 2009. Delphi also announced that agreements have been reached with its official unsecured creditors committee and Wilmington Trust Corporation, the indenture trustee for several series of unsecured notes, to withdraw their objections to, and support, the Modified Plan, whether based on the Master Disposition Agreement involving Platinum and GM or the pure credit bid submitted by the Administrative Agent on behalf of Delphi's DIP Lenders. Delphi previously stated that the deadline for submission by qualified bidders of potential alternative transactions passed without the submission of any potential alternative transactions from three third-party qualified bidders. Delphi will proceed with the auction process, however, because the company timely received a pure credit bid notice and pure credit bid support letter from JPMorgan Chase Bank, N.A., in its capacity as administrative agent under the Amended and Restated DIP Credit Facility. The Company expects to announce the outcome of the auction process on or about July 27, 2009. For additional information regarding these matters, see the press release issued by the Company on July 21, 2009, a copy of which is attached as Exhibit 99(b) attached hereto and the contents of which are incorporated by reference herein.

Additionally, Delphi announced that on July 21, 2009, Delphi reached agreement with the Pension Benefit Guaranty Corporation (the PBGC) to settle the PBGC's various claims against Delphi and its global affiliates. Pursuant to that settlement agreement, the PBGC will receive a \$3 billion allowed general unsecured non-priority claim which will receive the same treatment given to holders of general unsecured claims as set forth in the Modified Plan. The PBGC will receive additional consideration from GM which, together with the PBGC's allowed unsecured claim, is in consideration for, among other things, a full release of all causes of action, claims, and liens; the liability to be assumed by the PBGC related to the possible termination of the U.S. salaried plan, U.S. hourly plan, and U.S. subsidiary plans; and the withdrawal of all notices of liens filed by the PBGC against Delphi's global non-U.S. affiliates. The settlement agreement, which is subject to Court approval, was filed with the Court on July 21, 2009 and is attached hereto as Exhibit 99(c) and incorporated by reference herein.

FORWARD-LOOKING STATEMENTS

This Current Report on Form 8-K, including the exhibits being filed as part of this report, as well as other statements made by Delphi may contain forward-looking statements that reflect, when made, the Company's current views with respect to current events and financial performance. Such forward-looking statements are and will be, as the case may be, subject to many risks, uncertainties and factors relating to the Company's operations and business environment which may cause the actual results of the Company to be materially different from any future results, express or implied, by such forward-looking statements. In some cases, you can identify these statements by forward-looking words such as may, might, will, should, expects, plans, anticipates, believes, estimates, predicts, the negative of these terms and other comparable terminology. Factors that could cause actual results to differ materially from these forward-looking statements include, but are not limited to, the following: the ability of the Company to continue as a going concern; the ability of the Company to operate pursuant to the terms of its liquidity support agreements with GM, its debtor-in-possession financing facility and the related accommodation agreement, and to obtain an extension of term or other amendments as necessary to maintain access to such liquidity support

agreements and facility; the Company's ability to obtain Court approval with respect to motions in the Chapter 11 cases prosecuted by it from time to time, including final approval to further modify the Plan which was confirmed by the Court on January 25, 2008, to confirm such further modified plan or any other subsequently filed plan of reorganization and to consummate such plan or other consensual resolution of Delphi's Chapter 11 cases; risks associated with third parties seeking and obtaining Court approval to terminate or shorten the exclusivity period for the Company to propose and confirm one or more plans of reorganization, for the appointment of a Chapter 11 trustee or to convert the cases to Chapter 7 cases; the ability of the Company to obtain and maintain normal terms with vendors and service providers; the Company's ability to maintain contracts that are critical to its operations; the

potential adverse impact of the Chapter 11 cases on the Company's liquidity or results of operations; the ability of the Company to fund and execute its business plan as described in the proposed modifications to its Plan as filed with the Court and to do so in a timely manner; the ability of the Company to attract, motivate and/or retain key executives and associates; the ability of the Company to avoid or continue to operate during a strike, or partial work stoppage or slow down by any of its unionized employees or those of its principal customers and the ability of the Company to attract and retain customers. Additional factors that could affect future results are identified in the Company's Annual Report on Form 10-K for the year ended December 31, 2008 filed with the United States Securities and Exchange Commission, including the risk factors in Part I. Item 1A. Risk Factors, contained therein and in Part II. Item 1A. Risk Factors in the Quarterly Report on Form 10-Q for the quarter ended March 31, 2009. Delphi disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events and/or otherwise. Similarly, these and other factors, including the terms of any reorganization plan ultimately confirmed, can affect the value of the Company's various prepetition liabilities, common stock and/or other equity securities. It is possible that Delphi's common stock may have no value and claims relating to prepetition liabilities may receive no value.

ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS

(d) Exhibits. The following exhibits are being filed as part of this report.

Exhibit Number	Description
99 (a)	Seventeenth Amendment to the Accommodation Agreement, dated as of July 21, 2009
99 (b)	Press release issued by Delphi Corporation July 21, 2009
99 (c)	Settlement Agreement between Delphi Corporation and the Pension Benefit Guaranty Corporation, dated as of July 21, 2009

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

DELPHI CORPORATION

Date: July 22, 2009

(Registrant)

By: /s/ JOHN D. SHEEHAN
John D. Sheehan,
Vice President and Chief Financial
Officer