

ACTUATE CORP  
Form 10-Q  
August 07, 2013  
Table of Contents

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-Q**

(Mark One)

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended June 30, 2013

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 No. 0-24607

**Actuate Corporation**

(Exact name of Registrant as specified in its charter)

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**Delaware**  
(State of incorporation)

**94-3193197**  
(I.R.S. Employer

Identification No.)

**951 Mariners Island Boulevard,**

**San Mateo, California 94404**

**(650) 645-3000**

(including area code, of Registrant's principal executive offices)

**Former name, former address and former fiscal year, if changed since last report:**

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  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  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 definition of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer  Accelerated filer

Non-accelerated filer  (Do not check if a smaller reporting company) 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

Indicate the number of shares outstanding of each of the issuer's classes of common stock as of the latest practicable date.

| Title of Class                           | Outstanding as of July 31, 2013 |
|--|---------------------------------|
| Common Stock, par value \$.001 per share | 47,939,341                      |

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**Table of Contents**

**Actuate Corporation**

**Table of Contents**

**PART I FINANCIAL INFORMATION**

|         |  |    |
|---------|--|----|
| Item 1. | <u>Financial Statements</u>  | 3  |
|         | <u>Condensed Consolidated Balance Sheets as of June 30, 2013 and December 31, 2012</u>                                     | 3  |
|         | <u>Condensed Consolidated Statements of Income for the three and six months ended June 30, 2013 and 2012</u>               | 4  |
|         | <u>Condensed Consolidated Statements of Comprehensive Income for the three and six months ended June 30, 2013 and 2012</u> | 5  |
|         | <u>Condensed Consolidated Statements of Cash Flows for the six months ended June 30, 2013 and 2012</u>                     | 6  |
|         | <u>Notes to Condensed Consolidated Financial Statements</u>  | 7  |
| Item 2. | <u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u>                               | 22 |
| Item 3. | <u>Quantitative and Qualitative Disclosures about Market Risk</u>  | 34 |
| Item 4. | <u>Controls and Procedures</u>   | 35 |

**PART II OTHER INFORMATION**

|          |  |    |
|----------|--|----|
| Item 1.  | <u>Legal Proceedings</u>                                   | 35 |
| Item 1A. | <u>Risk Factors</u>  | 35 |
| Item 4.  | <u>Submission of Matters to a Vote of Security Holders</u> | 49 |
| Item 6.  | <u>Exhibits</u>  | 49 |
|          | <u>Signatures</u>  | 50 |

**Table of Contents****Part I. Financial Information****Item 1. Financial Statements****ACTUATE CORPORATION****CONDENSED CONSOLIDATED BALANCE SHEETS****(in thousands except share and per share data)****(unaudited)**

|   | <b>June 30,<br/>2013</b> | <b>December 31,<br/>2012</b> |
|---|--------------------------|------------------------------|
| <b>ASSETS</b>   |                          |                              |
| Current assets:   |                          |                              |
| Cash and cash equivalents   | \$ 40,884                | \$ 37,483                    |
| Short-term investments  | 33,109                   | 28,967                       |
| Accounts receivable, net of allowances of \$375 and \$394 at June 30, 2013 and December 31, 2012, respectively  | 26,583                   | 33,053                       |
| Other current assets  | 9,292                    | 9,098                        |
| <b>Total current assets</b>   | <b>109,868</b>           | <b>108,601</b>               |
| Property and equipment, net   | 6,939                    | 7,805                        |
| Goodwill  | 51,640                   | 51,821                       |
| Purchased intangibles, net  | 9,856                    | 11,163                       |
| Non-current deferred tax assets, net  | 12,452                   | 12,214                       |
| Other assets  | 736                      | 911                          |
|   | <b>\$ 191,491</b>        | <b>\$ 192,515</b>            |
| <b>LIABILITIES AND STOCKHOLDERS EQUITY</b>  |                          |                              |
| Current liabilities:  |                          |                              |
| Accounts payable  | \$ 1,357                 | \$ 1,976                     |
| Current portion of restructuring liabilities  | 269                      | 509                          |
| Accrued compensation  | 7,069                    | 6,504                        |
| Other accrued liabilities   | 5,546                    | 5,626                        |
| Deferred revenue  | 41,948                   | 43,438                       |
| <b>Total current liabilities</b>  | <b>56,189</b>            | <b>58,053</b>                |
| Long-term liabilities:  |                          |                              |
| Notes payable   | 830                      | 843                          |
| Other liabilities   | 3,193                    | 3,157                        |
| Long-term deferred revenue  | 2,316                    | 2,978                        |
| Long-term income taxes payable  | 2,401                    | 2,127                        |
| <b>Total long-term liabilities</b>  | <b>8,740</b>             | <b>9,105</b>                 |
| Stockholders' equity:   |                          |                              |
| Preferred stock, \$0.001 par value, issuable in series; 5,000,000 shares authorized; none issued or outstanding | 48                       | 48                           |

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Common stock, \$0.001 par value, 100,000,000 shares authorized; issued 90,229,487 and 89,179,966 shares, respectively; outstanding 47,677,105 and 48,220,978 shares, respectively

|   |            |            |
|---|------------|------------|
| Additional paid-in capital  | 246,266    | 237,731    |
| Treasury stock, at cost; 42,552,382 and 40,958,988 shares, respectively | (182,878)  | (172,880)  |
| Accumulated other comprehensive income                                  | 534        | 2,198      |
| Retained earnings   | 62,592     | 58,260     |
| Total stockholders' equity  | 126,562    | 125,357    |
|   | \$ 191,491 | \$ 192,515 |

The accompanying notes are an integral part of these condensed consolidated financial statements.

**Table of Contents**

**ACTUATE CORPORATION**  
**CONDENSED CONSOLIDATED STATEMENTS OF INCOME**

(in thousands, except per share data)

(unaudited)

|   | Three Months Ended<br>June 30, |                 | Six Months Ended<br>June 30, |                 |
|---|--------------------------------|-----------------|------------------------------|-----------------|
|   | 2013                           | 2012            | 2013                         | 2012            |
| <b>Revenues:</b>                                |                                |                 |                              |                 |
| License fees                                    | \$ 16,155                      | \$ 15,693       | \$ 31,635                    | \$ 29,085       |
| Services  | 18,747                         | 20,535          | 38,185                       | 41,979          |
| <b>Total revenues</b>                           | <b>34,902</b>                  | <b>36,228</b>   | <b>69,820</b>                | <b>71,064</b>   |
| <b>Costs and expenses:</b>                      |                                |                 |                              |                 |
| Cost of license fees                            | 551                            | 492             | 1,124                        | 957             |
| Cost of services                                | 4,431                          | 4,823           | 9,414                        | 10,080          |
| Sales and marketing                             | 14,316                         | 12,870          | 28,090                       | 23,744          |
| Research and development                        | 6,382                          | 5,803           | 12,942                       | 11,608          |
| General and administrative                      | 6,168                          | 5,711           | 12,048                       | 11,558          |
| Amortization of other purchased intangibles     | 301                            | 289             | 564                          | 578             |
| Restructuring charges                           | 523                            | 15              | 591                          | 33              |
| <b>Total costs and expenses</b>                 | <b>32,672</b>                  | <b>30,003</b>   | <b>64,773</b>                | <b>58,558</b>   |
| Income from operations                          | 2,230                          | 6,225           | 5,047                        | 12,506          |
| Interest income and other income/(expense), net | 17                             | 896             | 317                          | 589             |
| Interest expense                                | (60)                           | (61)            | (120)                        | (200)           |
| <b>Income before income taxes</b>               | <b>2,187</b>                   | <b>7,060</b>    | <b>5,244</b>                 | <b>12,895</b>   |
| Provision for income taxes                      | 874                            | 1,499           | 912                          | 3,457           |
| <b>Net income</b>                               | <b>\$ 1,313</b>                | <b>\$ 5,561</b> | <b>\$ 4,332</b>              | <b>\$ 9,438</b> |
| Basic net income per share                      | \$ 0.03                        | \$ 0.11         | \$ 0.09                      | \$ 0.19         |
| Shares used in basic per share calculation      | 47,781                         | 49,218          | 47,980                       | 49,124          |
| Diluted net income per share                    | \$ 0.03                        | \$ 0.11         | \$ 0.09                      | \$ 0.18         |
| Shares used in diluted per share calculation    | 50,471                         | 52,949          | 50,593                       | 52,838          |

The accompanying notes are an integral part of these condensed consolidated financial statements.

**Table of Contents**

**ACTUATE CORPORATION**  
**CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**

(in thousands, unaudited)

|  | Three Months Ended<br>June 30, |          | Six Months Ended<br>June 30, |          |
|--|--------------------------------|----------|------------------------------|----------|
|  | 2013                           | 2012     | 2013                         | 2012     |
| Net income                               | \$ 1,313                       | \$ 5,561 | \$ 4,332                     | \$ 9,438 |
| Other comprehensive income, before tax:  |                                |          |                              |          |
| Foreign currency translation             | \$ (250)                       | \$ (889) | \$ (1,585)                   | \$ (96)  |
| Net unrealized gain/(loss) on securities | \$ (55)                        | \$ (38)  | \$ (79)                      | \$ 14    |
| Total comprehensive income               | \$ 1,008                       | \$ 4,634 | \$ 2,668                     | \$ 9,356 |

The accompanying notes are an integral part of these condensed consolidated financial statements.

**Table of Contents****ACTUATE CORPORATION****CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS****(in thousands, unaudited)**

|  | <b>Six Months Ended<br/>June 30,</b> |             |
|--|--------------------------------------|-------------|
|  | <b>2013</b>                          | <b>2012</b> |
| <b>Operating activities</b>  |                                      |             |
| Net income   | \$ 4,332                             | \$ 9,438    |
| Adjustments to reconcile net income to net cash provided by operating activities:            |                                      |             |
| Share-based compensation expense   | 4,091                                | 3,228       |
| Excess tax benefit from exercise of stock options  | (814)                                | (2,067)     |
| Amortization of other purchased intangibles  | 1,274                                | 1,125       |
| Amortization of debt issuance cost   | 40                                   | 34          |
| Write-off of unamortized debt issuance costs   | 188                                  |             |
| Depreciation   | 1,085                                | 909         |
| Change in valuation allowance on deferred tax assets   | (89)                                 | (191)       |
| Impairments and write-offs   | 155                                  | 89          |
| Gain on liquidation of subsidiary  | (416)                                |             |
| Accretion/amortization on short-term debt securities   | (225)                                | 105         |
| Changes in operating assets and liabilities, net of acquired assets and assumed liabilities: |                                      |             |
| Accounts receivable, net of allowance  | 6,470                                | 10,073      |
| Other current assets   | (415)                                | (3,136)     |
| Accounts payable   | (637)                                | 192         |
| Accrued compensation   | 565                                  | (936)       |
| Other accrued liabilities  | (80)                                 | (78)        |
| Deferred tax assets, net of liabilities  | (53)                                 | 143         |
| Income taxes receivable  | 108                                  | (1,334)     |
| Income taxes payable   | 901                                  | 1,855       |
| Other deferred liabilities   | (30)                                 | 2,555       |
| Restructuring liabilities  | (173)                                | (46)        |
| Deferred revenue   | (2,152)                              | (3,394)     |
| Net cash provided by operating activities  | 14,125                               | 18,564      |
| <b>Investing activities</b>  |                                      |             |
| Purchases of property and equipment  | (356)                                | (3,253)     |
| Proceeds from sale and maturity of investments   | 20,432                               | 14,855      |
| Purchases of short-term investments  | (24,427)                             | (26,391)    |
| Proceeds from security deposits and other  | 36                                   | 5           |
| Net cash used in investing activities  | (4,315)                              | (14,784)    |
| <b>Financing activities</b>  |                                      |             |
| Credit facility related payments   | (12)                                 | (33)        |
| Excess tax benefit from exercise of stock options  | 814                                  | 2,067       |
| Proceeds from issuance of common stock   | 3,809                                | 6,337       |
| Stock repurchases  | (10,000)                             | (9,995)     |
| Tax related to net share settlements of restricted stock awards and units                    | (50)                                 |             |
| Net cash used in financing activities  | (5,439)                              | (1,624)     |
| Effect of exchange rates on cash and cash equivalents  | (970)                                | (96)        |



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|  |           |           |
|--|-----------|-----------|
| Net increase in cash and cash equivalents                | 3,401     | 2,060     |
| Cash and cash equivalents at the beginning of the period | 37,483    | 38,759    |
| Cash and cash equivalents at the end of the period       | \$ 40,884 | \$ 40,819 |
| Supplemental cash flow disclosures:                      |           |           |
| Cash paid for interest                                   | \$ 102    | \$ 172    |
| Cash paid for income taxes                               | \$ 559    | \$ 2,938  |
| Non-cash Investing activities:                           |           |           |
| Leasehold incentives subsidized by the landlord          | \$        | \$ 2,613  |

The accompanying notes are an integral part of these condensed consolidated financial statements.

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**Table of Contents**

**ACTUATE CORPORATION**

**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

**(Unaudited)**

**1. Summary of Significant Accounting Policies**

*The Company*

Actuate Software Corporation was incorporated in November 1993 in the State of California and reincorporated in the State of Delaware in July 1998 as Actuate Corporation ( We , Actuate or the Company ). Actuate provides software and services to develop and deploy business analytics and customer communications applications. Applications built with BIRT and BIRT iHub deliver more business and consumer insights to more people than all Business Intelligence ( BI ) companies combined. BIRT and BIRT iHub are designed to ensure organizations are ready for the ongoing, exponential growth of Big Data and the proliferation of mobile touch devices. With BIRT and BIRT iHub organizations can create applications to provide all stakeholders, including employees, customers, partners and citizens, with content that they can easily understand, access and analyze to maximize revenue, cut costs, improve customer satisfaction, streamline operations, create competitive advantage and make better decisions. Actuate s goal is to ensure that all end users can seamlessly incorporate information and business analysis into their day-to-day activities and decision-making, opening up unexplored avenues for improving corporate performance.

Actuate s principal executive offices are located at the BayCenter Campus in San Mateo, California. Actuate s telephone number is 650-645-3000. Actuate maintains Web sites at [www.actuate.com](http://www.actuate.com), [www.birt-exchange.org](http://www.birt-exchange.org) and [www.birt-exchange.com](http://www.birt-exchange.com), [www.birtperformanceanalytics.com](http://www.birtperformanceanalytics.com), [www.xenos.com](http://www.xenos.com), [www.birtondemand.com](http://www.birtondemand.com) and [www.quiterian.com](http://www.quiterian.com). The information posted on our Web sites is not incorporated into this Form 10-Q.

*Basis of Presentation*

The Company has prepared the accompanying unaudited condensed consolidated financial statements pursuant to the rules and regulations of the Securities and Exchange Commission (SEC). Pursuant to these rules and regulations, the Company has condensed or omitted certain information and footnote disclosures it normally includes in its annual consolidated financial statements prepared in accordance with U.S. generally accepted accounting principles (GAAP). In management s opinion, the Company has made all adjustments (consisting only of normal, recurring adjustments, except as otherwise indicated) necessary to fairly present its financial position, results of operations and cash flows. The Company s interim period operating results do not necessarily indicate the results that may be expected for any other interim period or for the full fiscal year. These financial statements and accompanying notes should be read in conjunction with the consolidated financial statements and notes thereto in Actuate s Annual Report on Form 10-K for the fiscal year ended December 31, 2012 filed with the SEC on March 8, 2013.

To prepare financial statements in conformity with GAAP, management must make estimates and assumptions that affect the amounts reported in the unaudited condensed consolidated financial statements and accompanying notes. Actual results could differ from these estimates and may result in material effects on the Company s operating results and financial position.

The consolidated financial statements include the accounts of Actuate and its wholly-owned subsidiaries. Actuate has offices throughout North America, Europe and Asia including offices in the United States, Canada, Switzerland, United Kingdom, Germany, Spain, Singapore, Australia, Japan and China. All intercompany balances and transactions have been eliminated.

*Revenue Recognition*

Actuate generates revenues from the sales of software licenses and related services. The Company receives software license revenues from licensing its products directly to end-users and indirectly through resellers, system integrators and original equipment manufacturers (OEMs). The Company receives service revenues from maintenance contracts, consulting services and training that Actuate performs for customers.

For sales to end-user customers, Actuate recognizes license revenues when a license agreement has been signed by both parties or a definitive agreement has been received from the customer, the product has been physically shipped or electronically made available, there are no unusual uncertainties surrounding the product acceptance, the fees are fixed or determinable, collectability is probable and vendor-specific objective evidence of fair value exists to allocate the fee to the undelivered elements of the arrangement. Vendor-specific objective evidence of fair value of sales to end users is based on the price charged when an element is sold separately.



## **Table of Contents**

Actuate has not established vendor-specific objective evidence of fair value for its licenses. Therefore, the Company recognizes revenues from software arrangements with multiple elements involving software licenses under the residual method, which means the fair value of the undelivered elements is deferred while the remaining value of the arrangement is allocated to the delivered elements. If we are unable to determine the fair value of the undelivered elements, it is not possible to allocate revenues separately to the undelivered elements in the arrangement. If the only undelivered element is maintenance and support, then the entire amount of the arrangement fee is recognized ratably over the maintenance and support period, assuming all other revenue recognition criteria are satisfied. If the license agreement contains payment terms that would indicate that the fee is not fixed or determinable, revenues are recognized as the payments become due and payable, assuming that all other revenue recognition criteria are met.

Actuate enters into reseller and distributor arrangements that typically give such distributors and resellers the right to distribute its products to end-users headquartered in specified territories. Actuate recognizes license revenues from arrangements with U.S. resellers and distributors when there is persuasive evidence of an arrangement with the reseller or distributor, the product has been shipped, the fees are fixed or determinable, collectability is probable and vendor-specific objective evidence of fair value exists to allocate the fee to the undelivered elements of the arrangement. Actuate recognizes license revenues from arrangements with international resellers and distributors upon receipt of evidence of sell-through and when all other revenue recognition criteria have been met. If it is not practical to obtain evidence of sell-through, the Company defers revenues until the end-user has been identified and cash has been received. In some instances there is a timing difference between when a reseller completes its sale to the end-user and the period in which Actuate receives the documentation required for revenue recognition. Because Actuate delays revenue recognition until the reporting period in which the required documentation is obtained, it may recognize revenue in a period subsequent to the period in which the reseller completes the sale to its end-user.

Actuate also enters into OEM arrangements that provide for license fees based on the bundling or embedding of its products with the OEM's products. These arrangements generally provide for fixed, irrevocable royalty payments. Actuate recognizes license fee revenues from U.S. and international OEM arrangements when a license agreement has been executed by both parties, the product has been shipped, there are no unusual uncertainties surrounding the product acceptance, the fees are fixed or determinable, collectability is probable and vendor-specific objective evidence of fair value exists to allocate the fee to the undelivered elements of the arrangement.

Actuate also has two software-as-a-service (SaaS) offerings called OnPerformance and BIRT On Demand. Actuate recognizes revenue on these licenses ratably over the term of the underlying arrangement.

The Company establishes vendor specific objective evidence of fair value for maintenance and support using a bell-shaped curve approach for certain types of license transactions, and uses a stated maintenance renewal approach for other categories of license transactions. When applying the bell-shaped curve approach the Company analyzes all maintenance renewal transactions over the past twelve months for that category of license and plots those data points on a bell-shaped curve to ensure that a high percentage of the data points are within an acceptable margin of the established VSOE rate. This analysis is performed quarterly.

When applying the state renewal rate approach, the Company ensures that the individual license transaction includes a clear and substantive renewal rate explicitly stated in the documentation for the transaction. Furthermore, the Company ensures that it has a practice of consistently renewing those transactions at the contractual rate. This is done by reviewing maintenance renewals on these contracts and making sure that a very high percentage are renewed at the renewal rates stipulated in the contract.

The Company assesses the collectability of fees from end-users based on payment history and current credit profile. When a customer is not deemed credit-worthy, revenues are deferred and recognized upon cash receipt.

Actuate recognizes maintenance revenues, which consist of fees for ongoing support and unspecified product updates, ratably over the term of the contract, typically one year. Consulting revenues are primarily related to standard implementation and configuration. Training revenues are generated from classes offered at the Company's offices and customer locations. Revenues from consulting and training services are typically recognized as the services are performed. When a contract includes both license and service elements, the license fee is typically recognized on delivery of the software, assuming all other revenue recognition criteria are met, provided services do not include significant customization or modification of the product and are not otherwise essential to the functionality of the software.

**Table of Contents****Share-Based Compensation**

The Company has various types of share-based compensation plans. These plans are administered by the compensation committee of the Board of Directors, which selects persons to receive awards and determines the number of shares subject to each award and the terms, conditions, performance measures and other provisions of the award. Readers should refer to Note 9 of the Company's consolidated financial statements in the Annual Report on Form 10-K for the fiscal year ended December 31, 2012, for additional information related to these share-based compensation plans. Share-based compensation expense and the related income tax benefit reflected in the Condensed Consolidated Statements of Income in connection with stock options, restricted stock units and the Employee Stock Purchase Plan ( ESPP ) for three and six months ended June 30, 2013 and 2012 were as follows (in thousands):

|                                       | Three Months Ended |                  | Six Months Ended |                  |
|---------------------------------------|--------------------|------------------|------------------|------------------|
|                                       | June 30,<br>2013   | June 30,<br>2012 | June 30,<br>2013 | June 30,<br>2012 |
| Stock options                         | \$ 1,214           | \$ 1,313         | \$ 2,185         | \$ 2,504         |
| Restricted stock units                | 498                | 282              | 834              | 524              |
| Performance stock units ( MSUs )      | 297                | 124              | 500              | 124              |
| ESPP                                  | 336                | 119              | 572              | 242              |
| <b>Total share-based compensation</b> | <b>\$ 2,345</b>    | <b>\$ 1,838</b>  | <b>\$ 4,091</b>  | <b>\$ 3,394</b>  |
| Income tax benefit                    | \$ 689             | \$ 598           | \$ 1,214         | \$ 1,094         |

Included in the total share-based compensation for the three and six months ending June 30, 2012 are approximately \$69,000 and \$166,000 of stock based compensation classified as liability based awards. These options were either fully exercised or had expired as of December 31, 2012. Accordingly, the Company incurred no similar compensation expense in the first half of 2013 and has no liabilities at June 30, 2013 related to these liability-based awards.

In May 2012, market-performance based restricted stock units ( MSUs ) were granted to the Chief Executive Officer and Chief Financial Officer of the Company. Each MSU represents the right to one share of Actuate's common stock. The actual number of MSUs which will be eligible to vest will be based on the performance of Actuate's stock price relative to the performance of the S&P Small Cap 600 Index over a two-year vesting period, up to 200% of the MSUs initially granted. After the initial performance period, 50% of the earned award vests immediately and the remaining 50% is subject to an additional one year service vesting period. We value the MSUs using the Monte Carlo simulation model and amortize the compensation expense over the three year performance and service period.

In April 2013, additional MSUs were granted to the Chief Executive Officer and Chief Financial Officer of the Company. The actual number of MSUs which will be eligible to vest will be based on the performance of Actuate's stock price relative to the performance of the Russell 2000 Index over a two and three year vesting period, up to 200% of the MSUs initially granted. The award is divided into two tranches. The first tranche has a two year performance period and the second a three year performance period. We value the MSUs using the Monte Carlo simulation model and amortize the compensation expense over the two and three year performance periods.

The fair value of each option award is estimated on the date of grant using the Black-Scholes-Merton option pricing model. We estimated the expected term of options granted by analyzing actual historical experience of exercises and cancellations under our plan. We also looked at the average length of time in which our current outstanding options are expected to be exercised or cancelled based on past experience and the vesting and contractual term. We estimated the volatility of our common stock by using historical volatility over the calculated expected term. We based the risk-free interest rate that we use in the option valuation model on the published Treasury rate. We do not anticipate paying any cash dividends in the foreseeable future and therefore used an expected dividend yield of zero in the option valuation model. The assumptions used to estimate the fair value of stock options granted and stock purchase rights granted under our Employee Stock Purchase Plan (the Purchase Plan ) for the six months ended June 30, 2013 and 2012 are as follows:

| Options          | ESPP             |
|------------------|------------------|
| Six Months Ended | Six Months Ended |

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|                         | June 30,<br>2013 | June 30,<br>2012 | June 30,<br>2013 | June 30,<br>2012 |
|-------------------------|------------------|------------------|------------------|------------------|
| Volatility              | 53.19 - 53.58%   | 54.05 - 54.17%   | 34.3 - 41.52%    | 44.17%           |
| Expected term (years)   | 5.66 - 5.67      | 5.60 - 5.63      | 1.25             | 1.25             |
| Risk free interest rate | 0.77 - 1.38%     | 0.69 - 1.01%     | 0.11 - 0.27%     | 0.13%            |
| Expected dividend yield | 0%               | 0%               | 0%               | 0%               |
| Forfeiture rate         | 2 - 3%           | 4%               | N/A              | N/A              |

**Table of Contents**

Beginning January 2010, restricted stock units ( RSUs ) were granted to senior management as part of the Company's annual incentive compensation program under the Amended and Restated 1998 Equity Incentive Plan. RSUs are valued based on the closing price of the Company's common stock on the grant date. In general, restricted stock units vest annually over four years and are subject to the employees continuing service to the Company. For each restricted stock unit granted under the 1998 Plan, a share reserve ratio is applied for the purpose of determining the remaining number of shares reserved for future grants under the plan. The share reserve ratio is 1:1 for each restricted stock unit granted, and an equivalent of 1 share will be deducted from the share reserve for each restricted stock unit issued. Likewise, each forfeited restricted stock unit increases the number of shares available for issuance by the applicable rate at the time of forfeiture. As of June 30, 2013, a total of 1,446,250 RSUs were issued and granted to the Company's senior management, employees and non-employee Board of Directors.

In February 2011, the Board of Directors approved the acceleration of 333,333 stock options that had been previously granted to a senior executive who had passed away in December 2010. In addition, the exercise terms for these accelerated options along with 129,167 of vested options were extended from one to two years. As such, the full fair value of these options was measured as of the modification date and fully expensed at that time. Since there was no longer a performance obligation at the date of modification associated with these options, an alternate classification and accounting under GAAP was required. As a result, these accelerated options were to be measured and classified as liability rather than equity. Accordingly, at the end of each quarter, we calculated the revised fair value of these options and recognize any corresponding gain or loss to income. These options were either fully exercised or had expired as of December 31, 2012. Consequently, Company incurred no compensation expense in the first half of 2013 and has no liabilities at June 30, 2013 related to these awards, compared with approximately \$69,000 charged to compensation expense in the second quarter of fiscal year 2012 and approximately \$559,000 classified as other accrued liabilities on the Company's Consolidated Balance Sheet on June 30, 2012.

**Net Income Per Share**

The Company computes basic net income per share using the weighted-average number of common shares outstanding during the period, less weighted average shares subject to repurchase. The Company computes diluted net income per share using the weighted-average number of common shares and dilutive share-based awards during the period determined by using the treasury stock method.

The table below reconciles the weighted-average common shares used to calculate basic net income per share with the weighted-average common shares used to calculate diluted net income per share (in thousands).

|  | Three Months Ended<br>June 30, |        | Six Months Ended<br>June 30, |        |
|--|--------------------------------|--------|------------------------------|--------|
|  | 2013                           | 2012   | 2013                         | 2012   |
| Weighted-average common shares outstanding   | 47,781                         | 49,218 | 47,980                       | 49,124 |
| Weighted-average dilutive common equivalent shares under the treasury stock method | 2,690                          | 3,731  | 2,613                        | 3,714  |
| Weighted-average common shares used in computing diluted net income per share      | 50,471                         | 52,949 | 50,593                       | 52,838 |

Under the treasury stock method, stock options with exercise prices exceeding the average share price of the Company's common stock during the applicable period are excluded from the diluted earnings per share computation. The weighted-average number of shares excluded from the calculation of diluted net income was 2,012,800 and 3,241,834 in the three and six months ended June 30, 2013, respectively. The weighted-average number of restricted stock unit shares excluded from the calculation of diluted net income was 118,266 and 102,695 in the three and six months ended June 30, 2013, respectively. The weighted-average number of shares excluded from the calculation of diluted net income was 2,273,417 and 2,241,866 in the three and six months ended June 30, 2012, respectively. The weighted-average number of restricted stock unit shares excluded from the calculation of diluted net income was 122,716 and 61,358 in the three and six months ended June 30, 2012, respectively.

The weighted average exercise price of excluded stock options was \$5.98 and \$6.13 for the three and six months ended June 30, 2013, respectively. The weighted average exercise price of excluded stock options was \$6.34 and \$6.26 for the three and six months ended June 30, 2012, respectively.

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**Table of Contents*****Income Taxes***

We provide for the effect of income taxes in our Consolidated Financial Statements using the asset and liability method which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the financial statements. Under this method deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases, net operating loss carryovers, and tax credit carry forwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the period that includes the enactment date. We also apply a two-step approach to determining the financial statement recognition and measurement of uncertain tax positions.

Income tax expense or benefit is recognized for the amount of taxes payable or refundable for the current year, and for deferred tax assets and liabilities for the tax consequences of events that have been recognized in an entity's financial statements or tax returns. We must make significant assumptions, judgments and estimates to determine our current provision (benefit) for income taxes, our deferred tax assets and liabilities, and any valuation allowance to be recorded against our deferred tax assets. Our judgments, assumptions and estimates relating to the current provision (benefit) for income taxes include the geographic mix and amount of income (loss), our interpretation of current tax laws, and possible outcomes of current and future audits conducted by foreign and domestic tax authorities. Our judgments also include anticipating the tax positions we will record in the financial statements before actually preparing and filing the tax returns. Our estimates and assumptions may differ from the actual results as reflected in our income tax returns and we record the required adjustments when they are identified or resolved. Changes in our business, tax laws or our interpretation of tax laws, and developments in current and future tax audits, could significantly impact the amounts provided for income taxes in our results of operations, financial position, or cash flows.

Deferred tax assets and liabilities are recognized for the estimated future tax consequences attributable to tax benefit carry-forwards and to differences between the financial statement amounts of assets and liabilities and their respective tax basis. We regularly review our deferred tax assets for recoverability and establish a valuation allowance if it is more likely than not that some portion or all of the deferred tax assets will not be realized. To make this assessment, we take into account predictions of the amount and category of taxable income from various sources and all available positive and negative evidence about these possible sources of taxable income. The weight given to the potential effect of negative and positive evidence is commensurate with the extent to which the strength of the evidence can be objectively verified. Based on the analysis of positive and negative factors noted above, we have no valuation allowance against U.S. federal deferred tax assets. In the current year, management determined that it was more likely than not that the Company's California research and development (R&D) credits would not be realized based on the size of the R&D credit carry-forward and the R&D credits being generated exceeding the R&D credits being utilized. As such, a full valuation allowance was recorded against the Company's deferred tax asset for California R&D credit carry-forwards. We maintain a full valuation allowance against deferred tax assets in foreign jurisdictions with a history of losses and a partial valuation allowance in foreign jurisdictions where operating results beyond a certain time frame are less reliable. If, in the future, we determine that these deferred tax assets are more likely than not to be realized, a release of all or part, of the related valuation allowance could result in an income tax benefit in the period such determination is made.

We only recognize an income tax expense or benefit with respect to uncertain tax positions in our financial statements that we judge is more likely than not to be sustained solely on its technical merits in a tax audit, including resolution of any related appeals or litigation processes. To make this judgment, we must interpret complex and sometimes ambiguous tax laws, regulations and administrative practices. If an income tax position meets the more likely than not recognition threshold, then we must measure the amount of the tax benefit to be recognized by determining the largest amount of tax benefit that has a greater than a 50% likelihood of being realized upon effective settlement with a taxing authority that has full knowledge of all of the relevant facts. It is inherently difficult and subjective to estimate such amounts, as this requires us to determine the probability of various possible settlement outcomes. To determine if a tax position is effectively settled, we must also estimate the likelihood that a taxing authority would review a tax position after a tax examination has otherwise been completed. We must also determine when it is reasonably possible that the amount of unrecognized tax benefits will significantly increase or decrease in the 12 months after each fiscal year-end. These judgments are difficult because a taxing authority may change its behavior as a result of our disclosures in our financial statements. We must reevaluate our income tax positions on a quarterly basis to consider factors such as changes in facts or circumstances, changes in tax law, effectively settled issues under audit, and new audit activity. Such a change in recognition or measurement would result in recognition of a tax benefit or an additional charge to the tax provision.

***Sales Taxes***

The Company presents its revenues net of sales tax in its Consolidated Statements of Income.





**Table of Contents*****Recent Accounting Pronouncements***

In 2013, the Financial Accounting Standards Board ( FASB ) issued new accounting guidance clarifying the accounting for the release of cumulative translation adjustment into net income when a parent either sells a part or all of its investment in a foreign entity or no longer holds a controlling financial interest in a subsidiary or group of assets that is a nonprofit activity or a business within a foreign entity. The new standard is effective for fiscal years, and interim periods within those fiscal years, beginning on or after December 15, 2013 with early adoption permitted. The Company adopted the new guidance effective the first quarter of fiscal 2013. In February 2013, we liquidated one of our subsidiaries in Asia and as a result, recognized favorable cumulative translation adjustments to income in the first quarter of 2013. This adjustment was recorded under the Interest income and other income/(expense), net section of the Company's Condensed Consolidated Statement of Income.

In 2013, FASB issued new accounting guidance clarifying the accounting for obligations resulting from joint and several liability arrangements for which the total amount under the arrangement is fixed at the reporting date. The new standard is effective for fiscal years, and interim periods within those fiscal years, beginning on or after December 15, 2013. We do not anticipate that this adoption will have a significant impact on our financial position, results of operations, or cash flows.

**2. Acquisitions*****Quiterian S.L.***

In October 2012, the Company acquired Quiterian S.L., a privately held software company that provides visual data mining, social media analytics and predictive analytics for business and other non-technical users. Actuate acquired 100% of the outstanding shares held by the Quiterian shareholders for \$5.2 million in cash. This purchase price was entirely paid upon closing, net of a 10% holdback. There are \$3 million in potential additional compensation payments which may be required over the next three year period which are wholly dependent on the achievement of specific service obligations.

Under the purchase accounting method, the total purchase price was allocated to Quiterian's net tangible and intangible assets based upon their estimated fair values as of October 16, 2012. The excess purchase price over the value of the net tangible and identifiable intangible assets was recorded as goodwill.

Direct transaction costs related to the Quiterian acquisition totaling approximately \$354,000 were incurred during the quarter in which the acquisition occurred. These costs include investment banking fees, legal and accounting fees, and other external costs directly related to the acquisition. All costs were directly charged to general and administrative expense on the Consolidated Statements of Income as incurred.

The table below represents the allocation of the purchase price to the acquired net assets of Quiterian based on their estimated fair values as of October 16, 2012 and the associated estimated useful life at that date. Also, as with acquisitions that the Company has undertaken in the past, the Company has initiated structural changes in its corporate structure in order to incorporate Quiterian. These changes in Company's organizational structure are ongoing and could affect future estimates and assumptions.

|  | Amount<br>(in thousands) | Useful life<br>(in<br>years) |
|--|--------------------------|------------------------------|
| Net tangible assets and liabilities    | \$ (2,061)               | N/A                          |
| Existing technology                    | 1,682                    | 7                            |
| Customer contracts and relationships   | 324                      | 7                            |
| Goodwill                               | 5,255                    | N/A                          |
| <b>Total purchase price allocation</b> | <b>\$ 5,200</b>          |                              |

*Net tangible assets and liabilities* Quiterian's tangible assets and liabilities as of October 16, 2012 were adjusted to their estimated fair value as necessary. Among the net tangible assets assumed were approximately \$505,000 in cash and cash equivalents, \$519,000 in trade receivables, and \$2.2 million in notes payable.

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*Identifiable intangible assets* Existing technology acquired primarily consists of Quiterian advanced analytics solution which maximizes the value of data while cutting business intelligence costs. The technology was valued using a form of the income approach known as the excess earnings method. In the excess earnings method, value is estimated as the present value of the benefits anticipated from ownership of the subject intangible asset in excess of the returns required on the investment in the contributory assets necessary to realize those benefits. It is based on the theory that all operating assets contribute to the profitability of an enterprise. Therefore, if the estimated earnings associated with a specific asset of a company rely on the use of other company assets, then the estimated earnings of the subject asset must be reduced by appropriate charges for these of these contributory assets. The fair value of the customer contracts and relationships was established using the income approach. We expect to amortize the fair value of these intangible assets on a straight-line basis over their respective estimated useful life.

**Table of Contents**

*Goodwill* Goodwill represents the excess of the purchase price over the fair value of the underlying acquired net tangible and intangible assets. The factors that contributed to the recognition of goodwill included securing buyer-specific synergies that increase revenue and profits and are not otherwise available to a marketplace participant. No amount of goodwill is expected to be deductible for tax purposes.

**3. Fair Value Measurements of Financial Assets and Liabilities**

The Company defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. For certain of our financial instruments, including cash and cash equivalents, short-term investments, accounts receivable, accounts payable, and other current liabilities the carrying amounts approximate their fair value due to the relatively short maturity of these balances.

The Company has assets that are valued in accordance with the provisions of the authoritative guidance that addresses fair value measurements. This guidance establishes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. The hierarchy is broken down into three levels based on the reliability of inputs as follows:

Level 1 Valuations based on real-time quotes for transactions in active exchange markets involving identical assets.

Level 2 Valuations based on readily available pricing sources for comparable instruments, identical instruments in less active markets, or models using market observable inputs.

Level 3 Valuations based on inputs that are unobservable and significant to the overall fair value measurement.

**Assets Measured at Fair Value on a Recurring Basis**

The following table represents information about the Company's investments measured at fair value (in thousands).

|                         | Fair value of investments as of June 30, 2013 |   |   |  |
|-------------------------|---|---|---|--|
|                         | Total   | Quoted Prices<br>In Active<br>Markets for<br>Identical<br>Assets<br>(Level 1) | Significant<br>Other<br>Observable<br>Inputs<br>(Level 2) | Significant<br>Unobservable<br>Inputs<br>(Level 3) |
| Money market funds (1)  | \$ 6,001                                      | \$ 6,001  | \$  | \$   |
| Term deposits (1)       | 6,302   | 6,302   |   |  |
| Commercial paper (2)(3) | 10,998  |   | 10,998  |  |
| Corporate bonds (2)     | 24,612  |   | 24,612  |  |
|                         | \$ 47,913                                     | \$ 12,303   | \$ 35,610   | \$   |

## Fair value of investments as of December 31, 2012

|  | Fair value of investments as of December 31, 2012 |   |   |  |
|--|---|---|---|--|
|  | Total   | Quoted Prices<br>In Active<br>Markets for<br>Identical<br>Assets<br>(Level 1) | Significant<br>Other<br>Observable<br>Inputs<br>(Level 2) | Significant<br>Unobservable<br>Inputs<br>(Level 3) |
|  |   |   |   |  |

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|                                       |           |           |           |    |
|---------------------------------------|-----------|-----------|-----------|----|
| Money market funds (1)                | \$ 5,595  | \$ 5,595  | \$        | \$ |
| Term deposits (1)                     | 8,000     | 8,000     |           |    |
| Commercial paper (2)                  | 1,599     |           | 1,599     |    |
| Corporate bonds (2)                   | 25,368    |           | 25,368    |    |
| Federal and municipal obligations (2) | 2,000     |           | 2,000     |    |
|                                       | \$ 42,562 | \$ 13,595 | \$ 28,967 | \$ |

- (1) Included in cash and cash equivalents in the Company's Consolidated Balance Sheet.
- (2) Included in short-term investments in the Company's Consolidated Balances Sheet.
- (3) Of this amount, approximately \$2.5 million was included in cash equivalents at June 30, 2013.

**Table of Contents**

The Company's cash, cash equivalents, and short-term investments are as follows (in thousands):

|  | Cost      | Gross<br>Unrealized<br>Gains | Gross<br>Unrealized<br>(Losses) | Estimated<br>Fair Value |
|--|-----------|------------------------------|---------------------------------|-------------------------|
| <b>Balance at June 30, 2013</b>          |           |                              |                                 |                         |
| Classified as cash and cash equivalents: |           |                              |                                 |                         |
| Cash                                     | \$ 26,081 | \$                           | \$                              | \$ 26,081               |
| Term deposits                            | 6,302     |                              |                                 | 6,302                   |
| Money market funds                       | 6,001     |                              |                                 | 6,001                   |
| Commercial paper                         | 2,500     |                              |                                 | 2,500                   |
|  | 40,884    |                              |                                 | 40,884                  |
| Classified as short-term investments:    |           |                              |                                 |                         |
| Commercial paper (4)                     | 8,498     |                              | (1)                             | 8,497                   |
| Corporate bonds (4)                      | 24,671    |                              | (59)                            | 24,612                  |
|  | 33,169    |                              | (60)                            | 33,109                  |
| Total                                    | \$ 74,053 | \$                           | \$ (60)                         | \$ 73,993               |

- (4) Securities totaling approximately \$26.8 million were in an unrealized loss position at June 30, 2013. None of these securities were in a continuous unrealized loss position for greater than 12 months.

|  | Cost      | Gross<br>Unrealized<br>Gains | Gross<br>Unrealized<br>(Losses) | Estimated<br>Fair Value |
|--|-----------|------------------------------|---------------------------------|-------------------------|
| <b>Balance at December 31, 2012</b>      |           |                              |                                 |                         |
| Classified as cash and cash equivalents: |           |                              |                                 |                         |
| Cash                                     | \$ 23,888 | \$                           | \$                              | \$ 23,888               |
| Term deposits                            | 8,000     |                              |                                 | 8,000                   |
| Money market funds                       | 5,595     |                              |                                 | 5,595                   |
|  | 37,483    |                              |                                 | 37,483                  |
| Classified as short-term investments:    |           |                              |                                 |                         |
| Commercial paper (5)                     | 1,599     |                              |                                 | 1,599                   |
| Corporate bonds (5)                      | 25,350    | 28                           | (10)                            | 25,368                  |
| Federal and municipal obligations (5)    | 2,000     |                              |                                 | 2,000                   |
|  | 28,949    | 28                           | (10)                            | 28,967                  |
| Total                                    | \$ 66,432 | \$ 28                        | \$ (10)                         | \$ 66,450               |

- (5) Securities totaling approximately \$11.4 million were in an unrealized loss position at December 31, 2012. None of these securities were in a continuous unrealized loss position for greater than 12 months.

Short-term investments are classified as available-for-sale and are recorded on the Company's Consolidated Balance Sheet at fair market value with unrealized gains or losses reported as a separate component of Accumulated Other Comprehensive Income. At June 30, 2013, the Company has classified all of its securities with original maturities beyond 90 days as short-term investments, even though the stated maturity dates may

be one year or more beyond the current balance sheet date as these investments remain highly liquid and available for use in current operations.

#### **4. Restructuring Charges**

During the first quarter of fiscal 2013, the Company incurred a restructuring charge of approximately \$68,000 associated with employment legal matters in France and an idle Xenos facility in Europe.

During the second quarter of 2013, the Company implemented a plan to restructure its Performance Management Group in North America to align its cost structure with its current business plan. As a result, the Company reduced its workforce by 13 positions and recorded \$551,000 of restructuring charges related to employee severance arrangements. Additionally, the Company downsized its facility in Toronto, Canada, and incurred an idle facility charge of approximately \$136,000 consisting of net operating lease write offs. The Company also incurred operating expenses associated with its idle Xenos facility in Europe which totaled approximately \$14,000 during the second quarter of 2013.

**Table of Contents**

In addition to the restructuring of its Performance Management Group, the Company also reached a partial settlement related to the restructuring of its French operation in the second quarter of 2013. As a result of the settlement, the Company reversed approximately \$178,000 of a previously accrued severance liability in second quarter of 2013. The Company's restructuring charges were based on actual and estimated costs incurred including estimates of sublease income on portions of its idle facilities that were periodically updated based on market conditions and in accordance with the Company's restructuring plans. These estimates were impacted by the rules governing the termination of employees, especially those in foreign countries.

The following table summarizes the restructuring accrual activity during the six months ended June 30, 2013 (in thousands):

|   | Severance<br>& Benefits | Facility<br>Related | Total  |
|---|-------------------------|---------------------|--------|
| Balance at December 31, 2012                      | \$ 424                  | \$ 85               | \$ 509 |
| Restructuring charges (Q1)                        | 62                      | 6                   | 68     |
| Restructuring charges (Q2)                        | 373                     | 150                 | 523    |
| Cash payments, net of rents collected on sublease | (681)                   | (72)                | (753)  |
| Adjustments (1)                                   | (1)                     | (10)                | (11)   |
| Balance at June 30, 2013:                         | 177                     | 159                 | 336    |
| Less: Current portion:                            | (177)                   | (92)                | (269)  |
| Long-term balance at June 30, 2013 (2)            | \$                      | \$ 67               | \$ 67  |

(1) Adjustments mainly reflect the impact of foreign currency translation.

(2) Included in Other liabilities long-term section of the Condensed Consolidated Balance Sheet.

**5. Segment and Geographic Information**

Our primary operations are located in the United States. Revenues from international sources relate to export sales, primarily to Europe and Asia. Our revenues by geographic area were as follows (in thousands):

|                                 | Three Months Ended<br>June 30, |           | Six Months Ended<br>June 30, |           |
|---------------------------------|--------------------------------|-----------|------------------------------|-----------|
|                                 | 2013                           | 2012      | 2013                         | 2012      |
| Revenues:                       |                                |           |                              |           |
| North America                   | \$ 26,731                      | \$ 27,870 | \$ 54,552                    | \$ 52,147 |
| Europe, Middle East, and Africa | 6,820                          | 6,723     | 12,593                       | 14,018    |
| Asia Pacific and others         | 1,351                          | 1,635     | 2,675                        | 4,899     |
|                                 | \$ 34,902                      | \$ 36,228 | \$ 69,820                    | \$ 71,064 |

As of June 30, 2013, we operated solely in one segment, which is the development, marketing and support of our enterprise reporting application platforms. There were no customers that accounted for more than 10% of total revenues in the six months ended June 30, 2013 or 2012.

**6. Goodwill and Other Purchased Intangible Assets****Goodwill**

The Company performs its annual impairment test of goodwill as of October 1st of each year. Goodwill is not amortized, but is evaluated for impairment on an annual basis or when impairment indicators are present. The potential impairment is identified if the fair value of the reporting unit to which goodwill applies is less than the recorded book value of the related reporting entity, including such goodwill. Where the book



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value of a reporting entity, including related goodwill, is greater than the reporting entity's fair value, the second step of the goodwill impairment test is performed to measure the amount of impairment loss, if any. There have been no significant events or circumstances affecting the valuation of goodwill subsequent to the impairment test performed on October 1, 2012. As a result, the Company did not record any impairment related to its goodwill for the six months ended June 30, 2013.

The Company's goodwill balance of \$51.6 million was unchanged at June 30, 2013 when compared to the balance reported at end of fiscal 2012 except for minor adjustments resulting from foreign currency translation.

**Table of Contents**

Other purchased intangible assets consist of the following (in thousands):

|                           | June 30, 2013         |                          |                     | December 31, 2012     |                          |                     |
|---------------------------|-----------------------|--------------------------|---------------------|-----------------------|--------------------------|---------------------|
|                           | Gross Carrying Amount | Accumulated Amortization | Net Carrying Amount | Gross Carrying Amount | Accumulated Amortization | Net Carrying Amount |
| Customer lists            | \$ 22,360             | \$ (17,953)              | \$ 4,407            | \$ 22,360             | \$ (17,394)              | \$ 4,966            |
| Purchased technologies    | 17,377                | (11,912)                 | 5,465               | 17,377                | (11,202)                 | 6,175               |
| Leases                    | 47                    | (30)                     | 17                  | 47                    | (25)                     | 22                  |
| Foreign currency exchange | (62)                  | 29                       | (33)                |                       |                          |                     |
|                           | \$ 39,722             | \$ (29,866)              | \$ 9,856            | \$ 39,784             | \$ (28,621)              | \$ 11,163           |

Amortization expense of purchased technology and other intangible assets was approximately \$634,000 and \$563,000 for the quarters ended June 30, 2013 and 2012, respectively. Of this total, approximately \$333,000 and \$274,000 was related to the amortization of purchased technology for the quarters ended June 30, 2013 and 2012, respectively. Purchased identifiable intangible assets are amortized on a straight-line basis over their useful lives. The estimated useful economic lives of the acquired customer lists and purchased technologies are seven years. The estimated economic useful life of favorable leases is five years. Amortization of purchased technology is included in cost of license fees in the accompanying condensed consolidated statements of income.

During the year ended December 31, 2012, the Company recorded additions to its purchased intangible assets of approximately \$2 million related to the acquisition of Quiterian. For additional discussion, see Note 2 of this Form 10-Q.

The expected remaining annual amortization expense is summarized as follows (in thousands):

| Fiscal Year              | Purchased Technology and Intangibles |
|--------------------------|--------------------------------------|
| 2013 (remainder of year) | \$ 1,268                             |
| 2014                     | 2,536                                |
| 2015                     | 2,530                                |
| 2016                     | 2,527                                |
| 2017 and thereafter      | 995                                  |
|                          | \$ 9,856                             |

**7. Commitments and Contingencies****General**

The Company is engaged in certain legal actions arising in the ordinary course of business. Although there can be no assurance as to the outcome of such litigation, the Company believes it has adequate legal defenses and it believes that neither the ultimate outcome of any of these actions nor ongoing litigation costs will not have a material effect on the Company's consolidated financial position or results of operations.

During the second quarter of 2013, following a comparative evaluation of its credit facility, the Company decided to change to another vendor to service its borrowing needs. As a result, the Company terminated its existing credit agreement with Wells Fargo Capital Finance ( WFCF ) and on June 30, 2013 entered into a new revolving credit agreement with U.S. Bank National Association ( US Bank ) through and until June 29, 2017. The Company intends to use the proceeds from the Credit Agreement for working capital, acquisitions, issuance of commercial and standby letters of credit, capital expenditures and other general corporate purposes.

The new Credit Agreement with US Bank allows for cash borrowings and the issuance of letters of credit under a secured revolving credit facility up to a maximum of \$50 million. Interest will accrue based on, at the Company's election, (i) LIBOR plus an applicable spread of

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between 1.50% and 2.00% based on Company's consolidated total cash flow leverage ratio or (ii) the greater of: (a) the Federal Funds Effective Rate plus one half of one percent, (b) one month LIBOR plus one percent, and (c) U.S. Bank's prime rate, in each case plus an applicable spread of between 0.50% and 1.00% based on Company's consolidated total cash flow leverage ratio. The Company will be required to make interest payments on a monthly basis.

Following the termination of its agreement with WFCF, the Company wrote-off all remaining unamortized costs related to the old credit facility totaling approximately \$188,000 in the second quarter of 2013. Costs related to the new credit facility with the US Bank were not significant.

**Table of Contents**

As of June 30, 2013, there was no balance owed on the credit facility and the balance available under the revolving credit facility was \$50 million.

The following table represents costs related to the Company's credit facility (in thousands):

|                                     | Three Months Ended<br>June 30, |       | Six Months Ended<br>June 30, |        |
|-------------------------------------|--------------------------------|-------|------------------------------|--------|
|                                     | 2013                           | 2012  | 2013                         | 2012   |
| Amortization of debt issuance costs | \$ 20                          | 17    | \$ 40                        | 34     |
| Unused line fees                    | 37                             | 38    | 75                           | 76     |
|                                     | \$ 57                          | \$ 55 | \$ 115                       | \$ 110 |

The Credit Agreement with US Bank contains covenants, which, among other things, impose certain limitations with respect to lines of business, mergers, investments and acquisitions, additional indebtedness, distributions, guarantees, liens and encumbrances. The Company is also required to maintain the two financial covenants listed below:

Consolidated total cash flow leverage ratio not to exceed 2.50 to 1.00, and

A fixed charge coverage ratio of not less than 1.75 to 1.00.

The indebtedness under the Credit Agreement is secured by (i) substantially all of the personal property (whether tangible or intangible) of Actuate Corporation and Actuate International Holding Company (as guarantor) as well as the proceeds generated by that property and (ii) by a pledge of all of its stock and a portion of the stock of certain of its subsidiaries.

**Notes payable**

Associated with the acquisition of Quiterian on October 16, 2012, the Company inherited two loan agreements that were previously executed to finance the development of the Quiterian software. The loans were offered by the Spanish government subsidy programs and are restricted for use on development of the software. The loans are scheduled for repayment on a quarterly basis starting June, 2014 and ending September, 2022. The combined outstanding balances of these loans total approximately \$830,000 and are classified as notes payable on the Company's Consolidated Balance sheet at June 30, 2013.

**Operating Lease Commitments**

On November 28, 2011, the Company entered into a ten year lease agreement with a third party for approximately 58,000 square feet of office space in the BayCenter Campus in San Mateo, California. This lease is operating in nature and commenced on June 1, 2012 and will end on May 31, 2022. In addition, the lease provides for four months of free rent (rent holiday) and approximately \$2.6 million in landlord incentives to be applied towards construction of improvements. At June 30, 2013, the deferred rent liability balance related to the new lease totaled approximately \$3.4 million and this balance declines through May 2022 when contractual cash payments exceed the straight-line lease expense. Of this total deferred rent liability balance, approximately \$261,000 was classified as short term and \$3.1 million was classified as long term accrued liabilities on the Company's Consolidated Balance Sheet at June 30, 2013. Actuate vacated its previous corporate headquarters located at the Bridgepointe Campus in July 2012 and is now using the BayCenter Campus as its corporate headquarters.

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## **Table of Contents**

Upon the execution of the new lease, Actuate delivered to the new landlord two letters of credit totaling \$225,300. These letters of credit guarantee Actuate's contractual obligations related to the BayCenter Campus in San Mateo, California.

In fiscal 2012, the Company entered into a new lease agreement for one of its sales locations in Europe. Upon the execution of the new lease, Actuate delivered to the new landlord a letter of credit for approximately \$88,000 in order to guarantee its contractual obligations related to this lease.

Actuate leases smaller office facilities in various locations in the United States and abroad. All facilities are leased under operating leases. Total rent expense for the second quarter and first six months of fiscal 2013 was approximately \$1.1 million and \$2.2 million, respectively, compared with rent expense of approximately \$1 million in second quarter and \$1.9 million in the first six months of fiscal 2012. In addition, the Company incurred facility related charges of approximately \$144,000 and \$313,000 in the second quarter and the first six months of fiscal 2013, respectively. During the same period last year, the Company incurred approximately \$407,000 and \$767,000 of facilities related charges in the second quarter and the first six months of fiscal 2012, respectively.

### ***Stock Option Plans***

An individual who first joins the Board of Directors as a non-employee director is awarded an option to purchase 25,000 shares of the Company's Common Stock and a restricted stock unit award (RSU) covering 12,500 shares of the Company's Common Stock. These options and RSUs each have a four year vesting period tied to continued Board service. Each option has an exercise price equal to the closing price of the Company's Common Stock on the day of the grant, and 25% will vest upon the non-employee directors' continued Board service through the first anniversary of the award date and on an equal, monthly basis over the next 3 years of service thereafter. The first 25% of each restricted stock unit award will vest 13 months following the award date and the remainder will vest in a series of three successive equal annual installments on each of the second, third and fourth anniversaries of the award date, provided that the non-employee director continues in Board service through each such vesting date. Each non-employee director receiving an initial 12,500-share RSU award is given the opportunity to elect to defer the receipt of the shares of Actuate Common Stock that vest and become issuable pursuant to the initial RSU award. If a non-employee director makes a timely deferral election, then the shares of Actuate Common Stock in which he or she vests under the initial RSU award will be issued upon termination of Board service. In the absence of an effective deferral election, any shares of the Company's Common Stock in which the non-employee director vests under the initial RSU award will be issued as those shares vest.

Beginning in 2013 each continuing non-employee director is granted a RSU award covering 16,000 shares of the Company's Common Stock at each annual stockholders meeting. Each restricted stock unit award granted to a continuing non-employee director will vest upon the non-employee director's continued Board service through the first anniversary of the award date. Before the start of each calendar year, each of our non-employee directors is given the opportunity to elect to defer the receipt of any or all of the shares of Actuate Common Stock that vest and become issuable pursuant to the restricted stock unit award to be made to such non-employee director at the next annual stockholders meeting. If a non-employee director makes a timely deferral election, then the shares of Actuate Common Stock in which he or she vests under the RSU award will be issued upon his termination of Board service. In the absence of an effective deferral election, any shares of the Company's Common Stock in which the non-employee director vests under the RSU award will be issued as those shares vest.

Each restricted stock unit award and each option award granted to a new or continuing non-employee director will vest in full on an accelerated basis upon (i) an approved acquisition of the Company by merger or consolidation, (ii) a sale of all or substantially all of the Company's assets, (iii) the successful completion of a tender or exchange offer for securities possessing more than fifty percent (50%) of the total combined voting power of the Company's outstanding securities, or (iv) the death or disability of the optionee while serving as a member of the Board of Directors. Each restricted stock unit that vests will entitle the recipient to one share of the Company's common stock on the designated issuance date for that share. All grants are made under the 1998 Plan.

All options are subject to the same vesting schedule (twenty-five percent of the option shares will vest on the one year anniversary of the option grant date and the remaining option shares will vest in thirty-six equal monthly installments over the thirty-six month period measured from the first anniversary of the option grant date, provided the optionee continues to provide services to the Corporation through each applicable vesting date) and all have ten year terms.

Shares issued as a result of the exercise of options under any of our plans would be fulfilled through shares currently in our existing pools. Total authorized but unissued shares were 23,693,040 as of June 30, 2013.

**Table of Contents**

| Plan Summary                                    | Available for Grant | Options and Awards Outstanding(2) | Total Authorized But Unissued |
|---|---------------------|-----------------------------------|-------------------------------|
| Amended and Restated 1998 Equity Incentive Plan | 10,288,617          | 12,114,640                        | 22,403,257                    |
| 2001 Supplemental Stock Plan                    | 705,541             | 36,531                            | 742,072                       |
| 1998 Non-Employee Director Option Plan          | 495,000             | 105,000                           | 600,000                       |
| Total Stock Plans                               | 11,489,158          | 12,256,171                        | 23,745,329                    |
| Miscellaneous Stock Grants (1)                  | (52,289)            |                                   | (52,289)                      |
| Total Stock Plans Balance at June 30, 2013      | 11,436,869          | 12,256,171                        | 23,693,040                    |

(1) Board approved 50,000 shares stock grant on February 17, 2011 to the beneficiary of a deceased senior executive in recognition of services performed. Also included are 2,289 shares of stock granted to an employee on April 22, 2013.

(2) Total balance outstanding at June 30, 2013 includes 10,892,359 of options and 1,363,812 of RSU s.

The weighted average grant date fair value of options granted during the quarter ended June 30, 2013 was \$3.09 per option. Upon the exercise of options, the Company issues new common stock from its authorized shares. The total intrinsic value of options exercised during the quarter ended June 30, 2013 was \$695,000.

All vested stock options are exercisable. The following table summarizes information about stock options outstanding and exercisable as of June 30, 2013:

| Range of Exercise Prices | Options Outstanding |   |                                 | Options Exercisable |                                 |
|--------------------------|---------------------|---|---------------------------------|---------------------|---------------------------------|
|                          | Number of Shares    | Weighted-Average Remaining Contractual Life | Weighted-Average Exercise Price | Number of Shares    | Weighted-Average Exercise Price |
| \$1.86-\$3.56            | 1,506,946           | 3.77 years                                  | \$ 3.19                         | 1,506,946           | \$ 3.19                         |
| \$3.59-\$4.20            | 1,155,364           | 2.24 years                                  | \$ 3.77                         | 1,139,088           | \$ 3.77                         |
| \$4.22-\$4.80            | 1,160,008           | 6.16 years                                  | \$ 4.74                         | 987,493             | \$ 4.74                         |
| \$4.84-\$5.31            | 1,393,237           | 4.51 years                                  | \$ 5.15                         | 1,259,685           | \$ 5.14                         |
| \$5.32-\$5.48            | 1,216,089           | 7.57 years                                  | \$ 5.48                         | 742,369             | \$ 5.48                         |
| \$5.49-\$6.00            | 1,179,652           | 9.28 years                                  | \$ 5.57                         | 68,360              | \$ 5.67                         |
| \$6.02-\$6.29            | 1,506,808           | 5.50 years                                  | \$ 6.13                         | 1,229,721           | \$ 6.11                         |
| \$6.30-\$8.39            | 1,774,255           | 8.20 years                                  | \$ 6.45                         | 732,089             | \$ 6.54                         |
| \$1.86-\$8.39            | 10,892,359          | 5.94 years                                  | \$ 5.12                         | 7,665,751           | \$ 4.83                         |

|   | June 30, 2013 | June 30, 2012 |
|---|---------------|---------------|
| <b>Options Outstanding Vested and Expected to Vest</b>                    |               |               |
| Vested and expected to vest, net of expected forfeitures                  | 10,806,773    | 12,322,491    |
| Aggregate intrinsic value (in thousands)                                  | \$ 16,625     | \$ 27,690     |
| Weighted average exercise price per share                                 | \$ 5.11       | \$ 4.69       |
| Weighted average remaining contractual term (in years)                    | 5.92          | 5.66          |
| <b>Options Exercisable</b>  |               |               |
| Options currently exercisable   | 7,665,751     | 8,687,616     |
| Aggregate intrinsic value of currently exercisable options (in thousands) | \$ 13,977     | \$ 22,988     |

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|  |    |      |    |      |
|--|----|------|----|------|
| Weighted average exercise price per share              | \$ | 4.83 | \$ | 4.29 |
| Weighted average remaining contractual term (in years) |    | 4.79 |    | 4.41 |

**Table of Contents**

As of June 30, 2013, the number of shares reserved for future grants under all option plans was 11,436,869. The number of shares available for future purchase under the Purchase Plan was 2,389,608.

**Summary of Restricted Stock Units**

Restricted stock unit activity for the six months ended June 30, 2013 and 2012:

|                               | June 30,<br>2013 | June 30,<br>2012 |
|-------------------------------|------------------|------------------|
| Beginning outstanding balance | 577,374          | 384,687          |
| Awarded                       | 447,500          | 205,000          |
| Released                      | (21,062)         | (12,313)         |
| Ending outstanding balance    | 1,003,812        | 577,374          |

The weighted average grant date fair value of restricted stock units granted during the quarter ended June 30, 2013 and 2012 were \$6.55 and \$6.80 per unit, respectively.

|  | Number of<br>Units | Weighted Average<br>Remaining<br>Contractual Life<br>(years) | Aggregate<br>Intrinsic Value<br>(thousands) |
|--|--------------------|--|---|
| Restricted stock units outstanding                     | 1,003,812          | 1.65   | \$ 6,665                                    |
| Restricted stock units vested and expected to vest (1) | 981,072            | 1.63   | \$ 4,487                                    |
| Restricted stock units vested and deferred shares (2)  | 305,250            |  | \$ 2,027                                    |

(1) Net of expected forfeitures

(2) Not outstanding, therefore no remaining contractual life.

**Summary of Market-Performance Based Restricted Stock Units ( MSUs )**

MSU activity for the six months ended June 30, 2013 and 2012:

|                               | June 30,<br>2013 | June 30,<br>2012 |
|-------------------------------|------------------|------------------|
| Beginning outstanding balance | 235,000          |                  |
| Awarded                       | 125,000          | 235,000          |
| Ending outstanding balance    | 360,000          | 235,000          |

The weighted average grant date fair value of MSUs granted during the quarter ended June 30, 2013 and 2012 were \$5.60 and \$8.01 per unit, respectively.

|  | Number of<br>Units | Weighted Average<br>Remaining<br>Contractual Life<br>(years) | Aggregate<br>Intrinsic Value<br>(thousands) |
|--|--------------------|--|---|
|--|--------------------|--|---|



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|                                      |         |      |    |       |
|--------------------------------------|---------|------|----|-------|
| MSUs outstanding                     | 360,000 | 1.35 | \$ | 2,390 |
| MSUs vested and expected to vest (1) | 350,368 | 1.34 | \$ | 2,326 |

(1) Net of expected forfeitures.

**8. Deferred Revenue**

Deferred revenue consists of the following (in thousands):

|                            | <b>June 30,<br/>2013</b> | <b>December 31,<br/>2012</b> |
|----------------------------|--------------------------|------------------------------|
| Maintenance and support    | \$ 39,804                | \$ 41,007                    |
| Other                      | 4,460                    | 5,409                        |
|                            | <b>\$ 44,264</b>         | <b>\$ 46,416</b>             |
| Less: current portion      | (41,948)                 | (43,438)                     |
| Long-term deferred revenue | <b>\$ 2,316</b>          | <b>\$ 2,978</b>              |

**Table of Contents**

Maintenance and support consists of first year maintenance and support services associated with the initial purchase of Actuate's software, and the renewal of annual maintenance and support services from customers who purchased Actuate's software in prior periods. The maintenance and support period is generally 12 months and revenues are typically recognized on a straight-line basis over the term of the maintenance and support period.

Other deferred revenue consists of deferred license, training and consulting fees generated from arrangements, which did not meet some or all of the revenue recognition criteria of FASB's Accounting Standards Codification 985-Software, and are, therefore, deferred until all revenue recognition criteria have been met.

**9. Subsequent Events**

On July 29, 2013, the Board of Directors approved a share repurchase program totaling \$40 million over a twelve month period. The timing and amount of any shares repurchased will be determined based on the Company's evaluation of market conditions and other factors and the program may be discontinued or suspended at any time. Repurchases will be made in compliance with all Securities Exchange Commission (SEC) rules and other legal requirements and will be made in part under a Rule 10b5-1 plan, a rule established by the SEC which permits stock repurchases when the Company might otherwise be precluded from doing so.

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**Table of Contents**
**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations**

*The following information should be read in conjunction with the historical financial information and the notes thereto included in Item 1 of this Quarterly Report on Form 10-Q, the consolidated financial statements and notes thereto and the related Management's Discussion and Analysis of Financial Condition and Results of Operations contained in our Annual Report on Form 10-K for the year ended December 31, 2012 as filed with the Securities and Exchange Commission on March 8, 2013.*

*The statements contained in this Form 10-Q that are not purely historical are forward looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, including statements regarding Actuate's expectations, beliefs, hopes, intentions, plans or strategies regarding the future. All forward-looking statements in this Form 10-Q are based upon information available to Actuate as of the date hereof, and Actuate assumes no obligation to update any such forward-looking statements. Actual results could differ materially from Actuate's current expectations. Factors that could cause or contribute to such differences include, but are not limited to, the risks discussed in Part II, Item 1A Risk Factors of this Form 10-Q, Part I, Item 1A Risk Factors in our Annual Report for the year ended December 31, 2012 and in other filings made by the Company with the Securities and Exchange Commission.*

**Overview**

Actuate Software Corporation was incorporated in November 1993 in the State of California and reincorporated in the State of Delaware in July 1998 as Actuate Corporation ( We , Actuate or the Company ). Actuate provides software and services to develop and deploy business analytics and customer communications applications. Applications built with BIRT and BIRT iHub deliver more business and consumer insights to more people than all Business Intelligence ( BI ) companies combined. BIRT and BIRT iHub are designed to ensure organizations are ready for the ongoing, exponential growth of Big Data and the proliferation of mobile touch devices. With BIRT and BIRT iHub organizations can create applications to provide all stakeholders, including employees, customers, partners and citizens, with content that they can easily understand, access and analyze to maximize revenue, cut costs, improve customer satisfaction, streamline operations, create competitive advantage and make better decisions. Actuate's goal is to ensure that all end users can seamlessly incorporate information and business analysis into their day-to-day activities and decision-making, opening up unexplored avenues for improving corporate performance.

Actuate's principal executive offices are located at the BayCenter Campus in San Mateo, California. Actuate's telephone number is 650-645-3000. Actuate maintains Web sites at [www.actuate.com](http://www.actuate.com), [www.birt-exchange.org](http://www.birt-exchange.org) and [www.birt-exchange.com](http://www.birt-exchange.com), [www.birtperformanceanalytics.com](http://www.birtperformanceanalytics.com), [www.xenos.com](http://www.xenos.com), [www.birtondemand.com](http://www.birtondemand.com) and [www.quiterian.com](http://www.quiterian.com). The information posted on our Web sites is not incorporated into this Form 10-Q.

We began shipping our first product in January 1996. We sell software products through two primary means: (i) directly to end-user customers through our direct sales force and (ii) through indirect channel partners such as OEMs, resellers and system integrators. OEMs generally integrate our products with their applications and either provide hosting services or resell them with their products. Our other indirect channel partners resell our software products to end-user customers. Our total revenues are derived from license fees for software products and fees for services relating to such products, including software maintenance and support, professional services and training.

Despite the ongoing global economic uncertainty, we have continued to achieve profitability and positive cash flows. Nevertheless, our business model and longer-term financial results are not immune to a sustained economic downturn. For example, the recent domestic and global economic uncertainty resulted in reduced demand for information technology, including enterprise software and services. The direction and relative strength of the global economy continues to be uncertain and makes it difficult for us to forecast operating results and to make decisions about future investments. Factors that may affect our operating results include the possibility of a prolonged period of limited economic growth or possible economic decline in and adverse effects of the ongoing sovereign debt crisis in Europe, including its expected negative impact on European economic growth versus the rest of the world; disruptions to the credit and financial markets in Europe, the U.S., and elsewhere; contractions or limited growth in corporate spending; adverse economic conditions that may be specific to information technology and the software industry; and risk that the size of the market for our products will not support more sales professionals. Please also refer to our Risk Factor discussion in Item 1A.

We continue to monitor market conditions and may make adjustments to our business in order to reduce the adverse impact that changes to the economic environment could have on our business. We expect to continue to explore both organic and strategic growth opportunities. In particular, we may acquire companies or technology that can contribute to the strategic, operational and financial performance of our business. The Company expects that it will continue to derive a significant portion of its revenues from financial services customers for the foreseeable future.

## Table of Contents

For the remainder of fiscal year 2013, we expect three additional trends to continue that would have a significant impact on the results of our operations. We currently believe that corporate IT budgets will grow only modestly if at all in fiscal year 2013, particularly among financial services companies in the United States and Western Europe. Secondly, corporations are reluctant to buy software from new vendors and we continue to witness corporations consolidating their business analytics and customer communications management software purchases among fewer suppliers. Finally, we expect to experience vigorous competition in the business analytics and customer communications management markets. Several of our competitors have released products that are marketed to be directly competitive with our offerings. As one of the few independent vendors remaining, Actuate faces competition from large and well-established vendors including Microsoft, SAP, Oracle and IBM, all of which have acquired business analytics and customer communications management products to add to their technology stacks. The existence of these competitive products may require additional sales and marketing efforts to differentiate our products, which could result in extended sales cycles.

For the remainder of fiscal year 2013, we will continue to pursue our strategic initiatives to improve revenue growth related to business analytics and customer communications management markets. These initiatives are as follows:

**Investing in BIRT** We are continuing to make a significant investment in BIRT. BIRT has become widely adopted by developers and continues to drive demand for our BIRT-based commercially available products from Actuate. The BIRT project is a core, long-term initiative.

**Selling to IT Management** We are re-focusing our sales efforts on selling our products to IT managers who we believe generally recognize the technical advantages of our products. We hope this initiative will result in increased license revenue in the short term.

**Selling to Line-of-Business Management** We are creating business analytics applications and software solutions to market to line-of-business managers. These offerings are in the areas of performance management, business analytics, customer self service and statementing. We hope these initiatives will result in increased license revenue over the medium-to-long term.

**Selling to Global 9000 Corporations in the Financial Services Sector** We continue to focus on selling our products to Global 9000 financial services companies in an effort to increase our substantive market share in this sector. We anticipate a negative impact of the slow recovery in IT spending in this sector through 2013. However, we believe that once the issues in Financial Services are resolved, the industry will once again lead in the adoption of business analytics and customer communications management solutions.

**Building out and delivering on the roadmap of applying BIRT to additional data sources including hard to reach print stream data by investing in the development of BIRT based customer communications management offerings.**

**Building out and delivering on the BIRT roadmap of customer communications management capabilities by integrating Xenos offerings into the iHub.** BIRT iHub ( iHub ) provides content generation, management and distribution capabilities for a variety of different types of content produced by BIRT Designer, Xenos Enterprise Server and BIRT Analytics.

**Building out and delivering on the roadmap of BIRT Analytics capabilities by integrating Quiterian offerings into the iHub.** We continue to transition from our legacy e.Reports product suite to our new BIRT iHub product offering. We have experienced higher than normal decline rates for our legacy products which is likely to continue. In the mean time, BIRT and BIRT iHub are expected to soon become the dominant contributor to license and maintenance revenues. When that happens, we expect to see stronger maintenance growth rates.

We have a limited ability to forecast future revenues and expenses, thus the prediction of future operating results is difficult. In addition, historical growth rates in our revenues and earnings should not be considered indicative of future revenue or earnings growth rates or operating results. There can be no assurance that any of our business strategies will be successful or that we will be able to achieve and maintain profitability on a quarterly or annual basis. It is possible that in some future quarter our operating results will be below the expectations of public

market analysts and investors, and in such event the price of our common stock could decline.

***Critical Accounting Policies, Judgments and Estimates***

The discussion and analysis of our financial condition and results of operations are based upon our Consolidated Financial Statements, which have been prepared in accordance with generally accepted accounting principles in the United States of America. The preparation of these financial statements requires us to make estimates, assumptions and judgments that can have a significant impact on the reported amounts of assets and liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities at the date of our financial statements. We base our estimates, assumptions and judgments on historical experience and various other factors that we believe to be reasonable under the circumstances. Actual results may differ from these estimates under different assumptions or conditions. On a regular basis we evaluate our estimates, assumptions and judgments and make changes accordingly. We believe that the estimates, assumptions and judgments involved in revenue recognition, allowances for doubtful accounts, stock-based compensation, accounting for income taxes, restructuring and integration costs, allocation of purchase price of acquisitions, and the impairment of goodwill, have the greatest potential impact on our Consolidated Financial Statements, so we consider these to be our critical accounting policies.

**Table of Contents**

For further information about our significant accounting policies, see the discussion under Item 7 to the annual consolidated financial statements as of and for the year ended December 31, 2012, as filed with the SEC on Form 10-K on March 8, 2013.

|  | Three Months Ended June 30,<br>(in thousands except per share data) |           |            |          |
|--|---|-----------|------------|----------|
|  | 2013  | 2012      | \$ Change  | % Change |
| <b>Financial Summary</b>                     |   |           |            |          |
| Total revenues                               | \$ 34,902   | \$ 36,228 | \$ (1,326) | (4)%     |
| Total operating expenses                     | 32,672  | 30,003    | 2,669      | 9%       |
| Income from operations                       | 2,230   | 6,225     | (3,995)    | (64)%    |
| Operating margins                            | 6%  | 17%       | (11)%      | (64)%    |
| Net income                                   | \$ 1,313  | \$ 5,561  | \$ (4,248) | (76)%    |
| Diluted net income per share                 | \$ 0.03   | \$ 0.11   | \$ (0.08)  |          |
| Shares used in diluted per share calculation | 50,471  | 52,949    |            |          |

*Financial Performance Summary for the quarter ended June 30, 2013 compared to June 30, 2012:*

Increase in license revenues of 3% or approximately \$500,000. This increase was driven by improved license sales in Europe.

The increase in license revenues was offset by lower services revenues driven by lower maintenance renewals.

Decrease in operating margins driven by lower revenues and higher operating expenses. The increase in operating expenses was mainly the result of a 12% addition to our average headcount as we acquired Quiterian in October 2012 and steadily increased our sales force over the last year.

**Results of Operations**

The following table sets forth certain consolidated statement of income data as a percentage of total revenues for the periods indicated.

|                            | Three Months Ended<br>June 30, |      | Six Months Ended<br>June 30, |      |
|----------------------------|--------------------------------|------|------------------------------|------|
|                            | 2013                           | 2012 | 2013                         | 2012 |
| <b>Revenues:</b>           |                                |      |                              |      |
| License fees               | 46%                            | 43%  | 45%                          | 41%  |
| Services                   | 54                             | 57   | 55                           | 59   |
| Total revenues             | 100                            | 100  | 100                          | 100  |
| <b>Costs and expenses:</b> |                                |      |                              |      |
| Cost of license fees       | 2                              | 1    | 2                            | 1    |
| Cost of services           | 13                             | 13   | 14                           | 14   |
| Sales and marketing        | 41                             | 36   | 40                           | 34   |

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|   |           |           |           |           |
|---|-----------|-----------|-----------|-----------|
| Research and development                        | 18        | 16        | 18        | 16        |
| General and administrative                      | 18        | 16        | 17        | 16        |
| Amortization of other purchased intangibles     | 1         | 1         | 1         | 1         |
| Restructuring charges                           | 1         |           | 1         |           |
| <b>Total costs and expenses</b>                 | <b>94</b> | <b>83</b> | <b>93</b> | <b>82</b> |
| Income from operations                          | 6         | 17        | 7         | 18        |
| Interest income and other income/(expense), net |           | 3         |           |           |
| Income before income taxes                      | 6         | 20        | 7         | 18        |
| Provision for income taxes                      | 2         | 5         | 1         | 5         |
| Net income                                      | 4%        | 15%       | 6%        | 13%       |

**Table of Contents***Revenues*

|                       | Three Months Ended<br>(In thousands) |                  |                   |               | Six Months Ended<br>(In thousands) |                  |                   |               |
|-----------------------|--------------------------------------|------------------|-------------------|---------------|------------------------------------|------------------|-------------------|---------------|
|                       | June 30,                             |                  | Variance<br>\$ s  | Variance<br>% | June 30,                           |                  | Variance<br>\$ s  | Variance<br>% |
|                       | 2013                                 | 2012             |                   |               | 2013                               | 2012             |                   |               |
| <b>Revenues</b>       |                                      |                  |                   |               |                                    |                  |                   |               |
| License fees          | \$ 16,155                            | \$ 15,693        | \$ 462            | 3%            | \$ 31,635                          | \$ 29,085        | \$ 2,550          | 9%            |
| Services              | 18,747                               | 20,535           | (1,788)           | (9)%          | 38,185                             | 41,979           | \$ (3,794)        | (9)%          |
| <b>Total Revenues</b> | <b>\$ 34,902</b>                     | <b>\$ 36,228</b> | <b>\$ (1,326)</b> | <b>(4)%</b>   | <b>\$ 69,820</b>                   | <b>\$ 71,064</b> | <b>\$ (1,244)</b> | <b>(2)%</b>   |
| <b>% of Revenue</b>   |                                      |                  |                   |               |                                    |                  |                   |               |
| License fees          | 46%                                  | 43%              |                   |               | 45%                                | 41%              |                   |               |
| Services              | 54%                                  | 57%              |                   |               | 55%                                | 59%              |                   |               |
| <b>Total Revenues</b> | <b>100%</b>                          | <b>100%</b>      |                   |               | <b>100%</b>                        | <b>100%</b>      |                   |               |

Our revenues are derived from license fees and services. Our services revenues include software maintenance and support, professional consulting and training. Our total revenues decreased 4% from \$36.2 million for the quarter ended June 30, 2012 to \$34.9 million for the quarter ended June 30, 2013. This decrease was primarily experienced in North America where total revenues decreased by \$1.1 million compared to the second quarter of 2012. This decrease was mainly driven by lower maintenance renewal revenues as we continue to transition from our legacy e.Reports product suite to our new BIRT iHub product offering. As our legacy products age, we have experienced higher than normal decline rates which may continue in the short term future.

Sales outside of North America were \$8.2 million or 23% of total revenues for the second quarter of fiscal 2013, compared to \$8.4 million, or 23% of total revenues for the second quarter of fiscal 2012. Fluctuations in foreign currency exchange rates did not have a significant impact on our revenues for the second quarter of fiscal 2013.

Our total revenues during the first half of 2013 decreased by 2% or approximately \$1.2 million compared the corresponding period in the prior year. We experienced an increase in license revenues driven mainly by license growth in North America. North America license revenues increased 16% or \$3.5 million over the first half of 2012 driven by increased demand for our Xenos and BIRT iHub suite of products. The decrease in services revenues in the first half of 2013 was mostly due to the fact that in the first half of 2012, we recorded several large transactions in Europe and Asia that included back maintenance, which consequently resulted in high services revenues in those regions. Back maintenance consist of the amount a customer would have paid for maintenance and support of our software if they would have continued to pay the usual stream required to access support, bug fixes, patches, and upgrade rights. We also experienced significant decline rates during the second quarter of 2013 as we continue to transition from our legacy e.Reports product suite to our new BIRT iHub product offering.

Our 2013 revenues were also adversely impacted as March 2013 marked the end of the revenue stream driven by our June 2010 agreement with Oracle. The terms of the agreement called for equal quarterly cash payments by Oracle to Actuate between June 2010 and March 2013. Accordingly, over the past twelve quarters, Actuate has recognized approximately \$1.3 million of quarterly revenues upon receipt of payment from Oracle.

*License fees.* The increase in license revenues for the second quarter of fiscal 2013 over the same period last year was due to a large compliance transaction that we recorded in Europe. As a result, our license sales in Europe increased by 41% or approximately \$1 million in the second quarter of 2013 compared to the second quarter of 2012. The increase in Europe was partially offset by weaker license sales in North America and Asia which combined accounted for a \$560,000 decrease in license revenues during the second quarter of 2013. Fluctuations in foreign currency exchange rates did not have a significant impact on our license revenues for the second quarter of fiscal 2013.

For the first half of 2013, license revenues increased 9% or approximately \$2.5 million compared to the first half of 2012. This increase was driven by strong demand for our Xenos and BIRT iHub products in North America during the first quarter of 2013. Partially offsetting these increases were lower license sales from our international regions. The weaker license sales internationally during the first half of 2013 compared to the first half of last year was mainly due to the timing of two large transactions recorded in Asia in the first half of 2012 that carried a



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significant license component. Fluctuations in foreign currency exchange rates did not have a significant impact on our license revenues for the first six months of fiscal 2013.

During the second quarter of fiscal 2013, we completed three transactions greater than \$1 million in license component and closed transactions greater than \$100,000 with 71 customers. During the same period last year we completed two transactions greater than \$1 million in license component and closed transactions greater than \$100,000 with 73 customers.

**Table of Contents**

The following table represents our license revenues by region (in thousands):

|                                | Three Months Ended<br>(In thousands) |                  |                  |               | Six Months Ended<br>(In thousands) |                  |                  |               |
|--------------------------------|--------------------------------------|------------------|------------------|---------------|------------------------------------|------------------|------------------|---------------|
|                                | June 30,                             |                  | Variance<br>\$ s | Variance<br>% | June 30,                           |                  | Variance<br>\$ s | Variance<br>% |
|                                | 2013                                 | 2012             |                  |               | 2013                               | 2012             |                  |               |
| <b>License Revenues</b>        |                                      |                  |                  |               |                                    |                  |                  |               |
| North America                  | \$ 12,160                            | \$ 12,536        | \$ (376)         | (3)%          | \$ 24,900                          | \$ 21,427        | \$ 3,473         | 16%           |
| Europe Middle East, and Africa | 3,545                                | 2,523            | 1,022            | 41%           | 5,912                              | 5,303            | 609              | 11%           |
| Asia Pacific and others        | 450                                  | 634              | (184)            | (29)%         | 823                                | 2,355            | (1,532)          | (65)%         |
| <b>Total</b>                   | <b>\$ 16,155</b>                     | <b>\$ 15,693</b> | <b>\$ 462</b>    | <b>3%</b>     | <b>\$ 31,635</b>                   | <b>\$ 29,085</b> | <b>\$ 2,550</b>  | <b>9%</b>     |

% of total revenue 46% 43% 45% 41%

Services. Services revenues are comprised of maintenance and support, professional services, and training. The 9% decrease in services revenues was driven primarily by a recent trend of high declines in our maintenance renewal rate. Although we are seeing improvements in the maintenance renewal decline rate in the second quarter of 2013, the cumulative impact effect of prior declines continue to depress the maintenance renewal revenues. Maintenance renewal revenues decreased approximately \$1.7 million during the second quarter of 2013. We continue to transition from our legacy e.Reports product suite to our new BIRT iHub product offering. We have experienced higher than normal decline rates for our legacy products which is likely to continue. In the mean time, BIRT and BIRT iHub are expected to soon become the dominant contributor to license and maintenance revenues. When that happens, we expect to see stronger maintenance growth rates.

For the first half of fiscal year 2013, the underlying reasons for the changes in the various components of our services revenues were similar to those experienced during the quarter as noted above.

The following table represents our total services revenues by region (in thousands):

|                                | Three Months Ended<br>(In thousands) |                  |                   |               | Six Months Ended<br>(In thousands) |                  |                   |               |
|--------------------------------|--------------------------------------|------------------|-------------------|---------------|------------------------------------|------------------|-------------------|---------------|
|                                | June 30,                             |                  | Variance<br>\$ s  | Variance<br>% | June 30,                           |                  | Variance<br>\$ s  | Variance<br>% |
|                                | 2013                                 | 2012             |                   |               | 2013                               | 2012             |                   |               |
| <b>Services Revenues</b>       |                                      |                  |                   |               |                                    |                  |                   |               |
| North America                  | \$ 14,571                            | \$ 15,334        | \$ (763)          | (5)%          | \$ 29,652                          | \$ 30,720        | \$ (1,068)        | (3)%          |
| Europe Middle East, and Africa | 3,275                                | 4,200            | (925)             | (22)%         | 6,681                              | 8,715            | (2,034)           | (23)%         |
| Asia Pacific and others        | 901                                  | 1,001            | (100)             | (10)%         | 1,852                              | 2,544            | (692)             | (27)%         |
| <b>Total Services</b>          | <b>\$ 18,747</b>                     | <b>\$ 20,535</b> | <b>\$ (1,788)</b> | <b>(9)%</b>   | <b>\$ 38,185</b>                   | <b>\$ 41,979</b> | <b>\$ (3,794)</b> | <b>(9)%</b>   |

% of total revenue 54% 57% 55% 59%

By region, North America accounted for approximately 78% of the total services revenues in the second quarter of fiscal 2013 while Europe and Asia Pacific accounted for 17% and 5% of the total services revenues, respectively. For the same period last year, North America accounted for approximately 75% of the total services revenues while the Europe and Asia Pacific regions accounted for 20% and 5% of the total services revenues, respectively. The decrease increase in international services revenues for the first half of 2013 was mostly due to large transactions that were recorded in first half of 2012 in Europe and Asia that included back maintenance, which consequently resulted in high services revenues in those regions. Foreign currency exchange losses attributed to international services revenues were minimal during the second quarter of fiscal 2013 compared to approximately \$300,000 of exchange losses reported during the same period in the prior year.

**Table of Contents****Costs and Expenses***Cost of license fees*

|                      | Three Months Ended<br>(In thousands) |        |                  |               | Six Months Ended<br>(In thousands) |        |                  |               |
|----------------------|--------------------------------------|--------|------------------|---------------|------------------------------------|--------|------------------|---------------|
|                      | June 30,                             |        | Variance<br>\$ s | Variance<br>% | June 30,                           |        | Variance<br>\$ s | Variance<br>% |
|                      | 2013                                 | 2012   |                  |               | 2013                               | 2012   |                  |               |
| Cost of license fees | \$ 551                               | \$ 492 | \$ 59            | 12%           | \$ 1,124                           | \$ 957 | \$ 167           | 17%           |
| % of license revenue | 3%                                   | 3%     |                  |               | 4%                                 | 3%     |                  |               |

Cost of license fees consists primarily of product packaging, documentation, production costs and the amortization of purchased technology. The increase in cost of license fees in absolute dollars for the three months and the first half of fiscal 2013, compared to the corresponding periods in the prior year was due to the amortization of purchased technologies associated with the Quiterian acquisition which we completed in October 2012. We expect our cost of license fees, as a percentage of revenues from license fees, to remain between 3% and 5% of revenues from license fees for the remainder of fiscal 2013.

*Cost of services*

|                       | Three Months Ended<br>(In thousands) |          |                  |               | Six Months Ended<br>(In thousands) |           |                  |               |
|-----------------------|--------------------------------------|----------|------------------|---------------|------------------------------------|-----------|------------------|---------------|
|                       | June 30,                             |          | Variance<br>\$ s | Variance<br>% | June 30,                           |           | Variance<br>\$ s | Variance<br>% |
|                       | 2013                                 | 2012     |                  |               | 2013                               | 2012      |                  |               |
| Cost of services      | \$ 4,431                             | \$ 4,823 | \$ (392)         | (8)%          | \$ 9,414                           | \$ 10,080 | \$ (666)         | (7)%          |
| % of services revenue | 24%                                  | 23%      |                  |               | 25%                                | 24%       |                  |               |

Cost of services consists primarily of personnel and related costs, share-based compensation, facilities costs incurred in providing software maintenance and support, training and consulting services, as well as third-party costs incurred in providing training and consulting services. The decrease in cost of services for the second quarter of 2013, compared to the same period last year was part due to a reduction in compliance-based compensation expense. Our compliance sales group has evolved from its original adhoc enforcement function driven by the services organization into a more structured sales-oriented function. Consequently, most of the costs are now flowing to sales and marketing expense versus cost of services. The compliance group is an internal organization established to monitor and ensure that our customers remain in full compliance with the provisions of their respective licensing agreements with Actuate. We also experienced a lower allocation of corporate facilities and support costs in the second quarter of 2013 compared to the same quarter last year. These costs are allocated to departments based on headcount.

For the six months ended June 30, 2013, the underlying reasons for the changes in the various components of our cost of services were similar to those experienced during the quarter as noted above. Currently we expect our cost of services expenses as a percentage of total services revenues to be in the range of 24% to 25% of total services revenues for the remainder of fiscal 2013.

*Sales and marketing*

|                     | Three Months Ended<br>(In thousands) |           |                  |               | Six Months Ended<br>(In thousands) |           |                  |               |
|---------------------|--------------------------------------|-----------|------------------|---------------|------------------------------------|-----------|------------------|---------------|
|                     | June 30,                             |           | Variance<br>\$ s | Variance<br>% | June 30,                           |           | Variance<br>\$ s | Variance<br>% |
|                     | 2013                                 | 2012      |                  |               | 2013                               | 2012      |                  |               |
| Sales and marketing | \$ 14,316                            | \$ 12,870 | \$ 1,446         | 11%           | \$ 28,090                          | \$ 23,744 | \$ 4,346         | 18%           |
| % of total revenue  | 41%                                  | 36%       |                  |               | 40%                                | 34%       |                  |               |



**Table of Contents**

Sales and marketing expenses consist primarily of salaries, commissions, share-based compensation and bonuses earned by sales and marketing personnel, promotional expenses, travel, entertainment and facility costs. Our overall sales and marketing expense increased in the second quarter of 2013 compared to the corresponding period in the prior year due to approximately \$1.9 million of higher employee compensation costs. Our average sales and marketing headcount increased by 16% or 30 employees compared to the second quarter of 2012 as we added headcount in an effort to increase sales capacity. A portion of this increase was a result of additions to our quota carrying sales force from 50 employees at June 30, 2012 to 60 employees at June 30, 2013. Also contributing to the overall increase in average headcount was the addition of 13 employees from our acquisition of Quitarian which was completed in October 2012. Another factor contributing to the employee compensation increase was the March 2013 transition of the compliance sales group from services into the sales and marketing group as our compliance sales group has evolved from its original adhoc enforcement function driven by the services organization into a structured sales-oriented function. These increases in compensation related expenses were partially offset by lower employee training, mainly due to timing difference of payments related to our annual sales kickoff as well as lower employee recruiting fees.

For the six months ended June 30, 2013, the underlying reasons for the changes in the various components of our sales and marketing expense were similar to those experienced during the quarter as noted above. Employee compensation and benefits driven by increased headcount was the primary driver and accounted for approximately \$4.2 million of the year-over-year increase. The internal transfer of the compliance sales group from cost of services into sales and marketing and our acquisition of Quitarian contributed to the overall increase in cost for the first half of 2013. We also experienced an increase employee travel expenses, mainly in North America driven by higher license sales and post acquisition-related travels to integrate Quitarian. These increases were partially offset by lower employee recruiting and training fees. We currently expect our sales and marketing expenses as a percentage of total revenues to remain at the current levels for the remainder of fiscal 2013.

*Research and development*

|                          | Three Months Ended<br>(In thousands) |          |                  |               | Six Months Ended<br>(In thousands) |           |                  |               |
|--------------------------|--------------------------------------|----------|------------------|---------------|------------------------------------|-----------|------------------|---------------|
|                          | June 30,                             |          | Variance<br>\$ s | Variance<br>% | June 30,                           |           | Variance<br>\$ s | Variance<br>% |
|                          | 2013                                 | 2012     |                  |               | 2013                               | 2012      |                  |               |
| Research and development | \$ 6,382                             | \$ 5,803 | \$ 579           | 10%           | \$ 12,942                          | \$ 11,608 | \$ 1,334         | 11%           |
| % of total revenue       | 18%                                  | 16%      |                  |               | 18%                                | 16%       |                  |               |

Research and development costs consist primarily of personnel and related costs, including share-based compensation, associated with the development of new products, enhancement of existing products, quality assurance and testing. Our overall research and development expense increased compared to the corresponding period in the prior year due to approximately \$540,000 in higher employee compensation costs. This increase was mainly driven by a 13% addition to our average headcount from 159 at the end of the second quarter of 2012 to 179 at the end of the second quarter of 2013. Included in this increase were 6 additional employees resulting from our acquisition of Quitarian.

For the six months ended June 30, 2013, the underlying reasons for the changes in the various components of our research and development were similar to those experienced during the quarter as noted above. We believe that continued investments in technology and product development costs are essential for us to remain competitive in the markets we serve, and we expect our research and development expenses as a percentage of total revenues to be in the range of 18% to 19% of total revenues for the remainder of fiscal 2013.

*General and administrative*

|                            | Three Months Ended<br>(In thousands) |          |                  |               | Six Months Ended<br>(In thousands) |           |                  |               |
|----------------------------|--------------------------------------|----------|------------------|---------------|------------------------------------|-----------|------------------|---------------|
|                            | June 30,                             |          | Variance<br>\$ s | Variance<br>% | June 30,                           |           | Variance<br>\$ s | Variance<br>% |
|                            | 2013                                 | 2012     |                  |               | 2013                               | 2012      |                  |               |
| General and administrative | \$ 6,168                             | \$ 5,711 | \$ 457           | 8%            | \$ 12,048                          | \$ 11,558 | \$ 490           | 4%            |
| % of total revenue         | 18%                                  | 16%      |                  |               | 17%                                | 16%       |                  |               |

**Table of Contents**

General and administrative expenses consist primarily of personnel costs, share-based compensation costs and related costs for finance, human resources, information systems and general management, as well as legal, bad debt and accounting expenses. The increase in general and administrative expenses in the second quarter of 2013 compared to the corresponding period in the prior year was due primarily to higher share based compensation and employee salary expense. Share based compensation increased by \$350,000 due to issuance of performance grants and restricted stock units to senior management, while salaries increased by \$170,000 due to higher average headcount. We also incurred consulting and legal advisory fees totaling approximately \$327,000 related to considerations regarding strategic alternatives. These increases were offset partially by lower litigation and audit related expenses incurred during the second quarter of 2013.

For the six months ended June 30, 2012, the underlying reasons for the changes in the various components of our general and administrative expenses were similar to those experienced during the quarter as noted above. We expect our general and administrative expenses as a percentage of total revenues to be in the range of 17% to 18% for the remainder of fiscal 2013.

*Amortization of other purchased intangibles*

|   | Three Months Ended<br>(In thousands) |        |                  |               | Six Months Ended<br>(In thousands) |        |                  |               |
|---|--------------------------------------|--------|------------------|---------------|------------------------------------|--------|------------------|---------------|
|   | June 30,                             |        | Variance<br>\$ s | Variance<br>% | June 30,                           |        | Variance<br>\$ s | Variance<br>% |
|   | 2013                                 | 2012   |                  |               | 2013                               | 2012   |                  |               |
| Amortization of other purchased intangibles | \$ 301                               | \$ 289 | \$ 12            | 4%            | \$ 564                             | \$ 578 | \$ (14)          | (2)%          |
| % of total revenue                          | 1%                                   | 1%     |                  |               | 1%                                 | 1%     |                  |               |

The increase in amortization expense during the second quarter and six months of 2013 compared to the corresponding periods in the prior year was due to amortization of Quiterian intangibles. We continue to amortize the intangible assets purchased through the acquisition of Xenos and Quiterian on a straight-line basis over their estimated useful lives of seven years. For the remainder of fiscal 2013, we expect amortization expense related to other purchased intangible assets to remain at current levels.

*Restructuring charges*

|                    | Three Months Ended<br>(In thousands) |       |                  |               | Six Months Ended<br>(In thousands) |       |                  |               |
|--------------------|--------------------------------------|-------|------------------|---------------|------------------------------------|-------|------------------|---------------|
|                    | June 30,                             |       | Variance<br>\$ s | Variance<br>% | June 30,                           |       | Variance<br>\$ s | Variance<br>% |
|                    | 2013                                 | 2012  |                  |               | 2013                               | 2012  |                  |               |
| Restructuring      | \$ 523                               | \$ 15 | \$ 508           | N/A           | \$ 591                             | \$ 33 | \$ 558           | N/A           |
| % of total revenue | 1%                                   | %     |                  |               | 1%                                 | %     |                  |               |

Our restructuring expense increased significantly in the second quarter and the first six months of 2013 compared to the same periods last year. This increase was due to the restructuring of our Performance Management Group in North America which reduced our workforce by 13 positions and resulted in \$551,000 of employee severance and benefits charges during the second quarter of 2013. As part of this restructuring, we also downsized our office space in Toronto, Canada, and incurred an idle facility charge of approximately \$136,000 consisting of a one-time net operating lease write off. We also incurred operating expenses associated with our idle Xenos facility in Europe which totaled approximately \$14,000 during the second quarter of 2013. Additionally in Europe, we reached a partial settlement related to the restructuring of our French operation and as a result reversed approximately \$178,000 of previously accrued severance liability in the second quarter of 2013.

Historically, restructuring charges have included costs associated with reductions in workforce, exits of idle facilities and disposals of fixed assets. These restructuring charges were based on actual and estimated costs incurred including estimates of sublease income on portions of our idle facilities that we periodically update based on market conditions and in accordance with our restructuring plans. These estimates were impacted by the rules governing the termination of employees, especially those in foreign countries.

**Table of Contents***Interest income and other income/(expense), net*

|   | Three Months Ended<br>(In thousands) |         |                  |               | Six Months Ended<br>(In thousands) |          |                  |               |
|---|--------------------------------------|---------|------------------|---------------|------------------------------------|----------|------------------|---------------|
|   | June 30,                             |         | Variance<br>\$ s | Variance<br>% | June 30,                           |          | Variance<br>\$ s | Variance<br>% |
|   | 2013                                 | 2012    |                  |               | 2013                               | 2012     |                  |               |
| Interest income and other income (expense), net       | \$ (290)                             | \$ 79   | \$ (369)         | (467)%        | \$ 180                             | \$ 156   | \$ 24            | 15%           |
| Foreign exchange gain/(loss)                          | 307                                  | 817     | (510)            | (62)%         | 137                                | 433      | (296)            | (68)%         |
| Total interest income and other income (expense), net | 17                                   | 896     | (879)            | (98)%         | 317                                | 589      | (272)            | (46)%         |
| Interest expense                                      | \$ (60)                              | \$ (61) | \$ 1             | (2)%          | \$ (120)                           | \$ (200) | \$ 80            | (40)%         |

Interest income and other income/(expense), net decreased during the second quarter of 2013 compared to the same period last year due to a one-time write-off of the remaining unamortized costs associated with our Wells Fargo credit facility totaling approximately \$188,000 as we terminated our Line of Credit agreement with Wells Fargo in the second quarter of 2013 and entered into a new agreement with US Bank. Also during the second quarter of 2013, we also wrote-off leasehold improvements totaling approximately \$155,000 associated with our Toronto, Canada idle facility as part of our plan of restructuring the Performance Management Group. During the second quarter of 2013, we experienced currency exchange gains as a result of favorable revaluation of net monetary balances in North America and Europe as the U.S. Dollar strengthened against the Canadian Dollar and the European currencies stabilized against the Swiss Franc. The revaluation of currency amounts held in Switzerland to Swiss Francs is a required procedure in consolidating and reporting the financial results of our European operations.

For the six months ended June 30, 2013, the underlying reasons for the changes in the various components of interest income and other income/(expense), net were similar to those experienced during the quarter as noted above.

*Provision for income taxes*

|                            | Three Months Ended<br>(In thousands) |          |                  |               | Six Months Ended<br>(In thousands) |          |                  |               |
|----------------------------|--------------------------------------|----------|------------------|---------------|------------------------------------|----------|------------------|---------------|
|                            | June 30,                             |          | Variance<br>\$ s | Variance<br>% | June 30,                           |          | Variance<br>\$ s | Variance<br>% |
|                            | 2013                                 | 2012     |                  |               | 2013                               | 2012     |                  |               |
| Provision for income taxes | \$ 874                               | \$ 1,499 | \$ (625)         | (42)%         | \$ 912                             | \$ 3,457 | \$ (2,545)       | (74)%         |
| Effective tax rate         | 40%                                  | 21%      |                  |               | 17%                                | 27%      |                  |               |

For the three months ended June 30, 2013, we recorded an income tax provision of approximately \$874,000, as compared to an income tax provision of approximately \$1.5 million for the same period last year. The decrease in the income tax provision for the second quarter of fiscal 2013 as compared to the second quarter of fiscal 2012 is mainly due to lower profit before tax for the quarter. The effective rate for the three months ended June 30, 2013 was higher due to the increase mix of U.S. projected earnings from foreign earnings as compared to the same period last year.

For the six months ended June 30, 2013, we recorded an income tax provision of approximately \$912,000, as compared to an income tax provision of \$3.5 million for the same period last year. The decrease in the income tax provision for the six months of fiscal 2013 as compared to the six months of fiscal 2012 is mainly due to lower profit before tax. Also tax provision and the effective rate for the six months ended June 30, 2013 was lower due to the mix of the first quarter lower tax provision that was due to a tax benefit from the extension of the Federal R&D credit in first quarter of 2013 and additional changes in the tax law that were not allowed in 2012.

During the three months ended June 30, 2013, the Company did not materially change its reserves for uncertain tax positions. The Company recognizes interest and penalties accrued related to unrecognized tax benefits as a component of income tax expense. The Company does not believe it is reasonably possible that its reserve for uncertain tax positions would materially change in the next 12 months.

**Table of Contents****Liquidity and Capital Resources**

Our sources of cash, cash equivalents and short-term investments are funds generated from our business operations and funds that may be drawn down under our credit facility. The following sections discuss changes in our balance sheet and cash flows, and other commitments on our liquidity and capital resources during the first six months of 2013. This data should be read in conjunction with the Consolidated Statements of Cash Flows.

|   | As of<br>June 30,<br>2013 | As of<br>June 30,<br>2012 | Change \$  | Change % |
|---|---------------------------|---------------------------|------------|----------|
| <i>(dollars in thousands)</i>                     |                           |                           |            |          |
| Cash, cash equivalents and short-term investments | \$ 73,993                 | \$ 80,933                 | \$ (6,940) | (9)%     |
| Working capital                                   | \$ 53,679                 | \$ 53,905                 | \$ (226)   | %        |
| Note payable                                      | \$ 830                    | \$                        | \$ 830     | N/A      |
| Stockholders' equity and non-controlling interest | \$ 126,562                | \$ 127,934                | \$ (1,372) | (1)%     |

We hold our cash, cash equivalents and investments primarily in the United States, Switzerland, and Singapore. As of June 30, 2013, approximately \$28.6 million of the total of \$74 million of cash, cash equivalents and short term investments was held by our foreign subsidiaries outside of North America. Currently, the foreign cash is not available to fund the U.S. operations. If these funds are needed for our operations in the U.S., we would be required to accrue and pay U.S. taxes to repatriate these funds. However, our intent is to indefinitely reinvest these funds outside of the U.S. and our current plans or cash requirements do not demonstrate a need to repatriate them to fund our U.S. operations.

**Cash flows from operating activities:** Net cash provided by operating activities was \$14.1 million, resulting from net income of \$4.3 million, adjusted for \$5.3 million in non-cash charges and \$4.5 million net change in operating assets and liabilities. The non-cash charges included depreciation and amortization, share-based compensation, writ-offs of fixed assets and unamortized debt issuance cost, tax benefits related to stock benefit plans and other non-cash adjustments, and the change in valuation allowance on deferred income tax assets. Net change in operating assets and liabilities included a decrease in accounts receivables due to collections, accrued compensation and other liabilities primarily associated with payments of bonuses and commissions, payments of annual 401(k) Plan match for fiscal 2012, and payments of accrued audit and legal fees. Days sales outstanding ( DSO ) which is calculated based on revenue for the most recent quarter and accounts receivable as of the balance sheet date increased by 27 days from 42 days at June 30, 2012 to 69 days at June 30, 2013. This increase in the DSO is primarily attributed to higher accounts receivable balance which resulted from strong bookings and increased billings at the end of second quarter 2013. Our cash flows were also negatively impacted by the decrease in deferred revenue balance during the first half of 2013. This decrease was primarily due to the fact that a significant portion of our customers renew their annual maintenance contracts at end of each calendar year. As a result, we typically experience increases in our deferred revenue balances in the fourth quarter of the fiscal year. Subsequently, as these maintenance contracts are recognized over the span of the new fiscal year, we experience a gradual decrease in these maintenance-related deferred revenue balances. We continue to closely monitor the credit quality and payment history of our existing and new customers to better identify and minimize, in advance, the risk of our customers' potential inability to make required payments.

Our primary source of operating cash flows is the collection of accounts receivable from our customers, including maintenance which is typically billed annually in advance. Our overall maintenance revenues comprised 50% of our total revenues in the first six months of fiscal 2013 and we believe that future proceeds from maintenance renewals will be one of primary sources of our operating cash flows. Our operating cash flows are also impacted by the timing of payments to our vendors for accounts payable and other liabilities. We generally pay our vendors and service providers in accordance with the invoice terms and conditions. The timing of cash payments in future periods will be impacted by the terms of accounts payable arrangements.

**Cash flows from investing activities:** The changes in cash flows from investing activities primarily relate to the timing of purchases, maturities and sales of our investments in marketable securities. We also use cash to invest in capital and other assets to support our growth. Cash used in investing activities for the six months ended June 30, 2013 was approximately \$4.3 million compared with cash used of \$14.8 million for the same period in fiscal 2012. The decrease in cash used in the first six months of 2013 compared to the same period last year was also due to payments made during the first half of 2012 associated with leasehold improvements on our new headquarters facility located at the BayCenter Campus in San Mateo, California which became available for occupancy in June 2012.

**Cash flows from financing activities:** Cash used in financing activities was \$5.4 million for the six months ended June 30, 2013 compared to \$1.6 million used during the same period in fiscal 2012. This increase in cash outflows was due to lower proceeds from exercise of employee stock options and associated tax benefits during the first half of 2013 compared to the first half of 2012.





**Table of Contents**

We believe that our current cash balances, funds available under our credit facility, and cash generated from operations will be sufficient to meet our working capital and capital expenditure requirements for at least the next twelve months. Thereafter, if cash generated from operations is insufficient to satisfy our liquidity requirements, we may find it necessary to sell additional equity, or obtain additional credit facilities. The sale of additional equity could result in additional dilution to our current stockholders. A portion of our cash may be used to acquire or invest in complementary businesses or complementary products or to obtain the right to use complementary technologies.

**Contractual Obligations and Commercial Commitments*****General***

The Company is engaged in certain legal actions arising in the ordinary course of business, including international employment litigation arising out of restructuring activities. Although there can be no assurance as to the outcome of such litigation, the Company believes that it has adequate legal defenses and that the ultimate outcome of any of these actions will not have a material effect on the Company's financial position or results of operations. However, expenses associated with certain of these legal actions could result in increased operating expenses that may adversely impact the Company's future operating results and cash flow.

During the second quarter of 2013, following a comparative evaluation of its credit facility, the Company decided to change to another vendor to service its borrowing needs. As a result, the Company terminated its existing credit agreement with Wells Fargo Capital Finance ( WFCF ) and on June 30, 2013 entered into a new revolving credit agreement with U.S. Bank National Association ( US Bank ) through and until June 29, 2017. The Company intends to use the proceeds from the Credit Agreement for working capital, acquisitions, issuance of commercial and standby letters of credit, capital expenditures and other general corporate purposes.

The new Credit Agreement with US Bank allows for cash borrowings and the issuance of letters of credit under a secured revolving credit facility up to a maximum of \$50 million. Interest will accrue based on, at the Company's election, (i) LIBOR plus an applicable spread of between 1.50% and 2.00% based on Company's consolidated total cash flow leverage ratio or (ii) the greater of: (a) the Federal Funds Effective Rate plus one half of one percent, (b) one month LIBOR plus one percent, and (c) U.S. Bank's prime rate, in each case plus an applicable spread of between 0.50% and 1.00% based on Company's consolidated total cash flow leverage ratio. The Company will be required to make interest payments on a monthly basis.

Following the termination of its agreement with WFCF, the Company wrote-off all remaining unamortized costs related to the old credit facility totaling approximately \$188,000 in the second quarter of 2013. Costs related to the new credit facility with the US Bank were not significant.

As of June 30, 2013, there was no balance owed on the credit facility and the balance available under the revolving credit facility was \$50 million.

The following table represents costs related to the Company's credit facility (in thousands):

|                                     | Three Months Ended |       | Six Months Ended |        |
|-------------------------------------|--------------------|-------|------------------|--------|
|                                     | June 30,           |       | June 30,         |        |
|                                     | 2013               | 2012  | 2013             | 2012   |
| Amortization of debt issuance costs | \$ 20              | 17    | \$ 40            | 34     |
| Unused line fees                    | 37                 | 38    | 75               | 76     |
|                                     | \$ 57              | \$ 55 | \$ 115           | \$ 110 |

The Credit Agreement with US Bank contains covenants, which, among other things, impose certain limitations with respect to lines of business, mergers, investments and acquisitions, additional indebtedness, distributions, guarantees, liens and encumbrances. The Company is also required to maintain the two financial covenants listed below:

Consolidated total cash flow leverage ratio not to exceed 2.50 to 1.00, and

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A fixed charge coverage ratio of not less than 1.75 to 1.00.

The indebtedness under the Credit Agreement is secured by (i) substantially all of the personal property (whether tangible or intangible) of Actuate Corporation and Actuate International Holding Company (as guarantor) as well as the proceeds generated by that property and (ii) by a pledge of all of its stock and a portion of the stock of certain of its subsidiaries.

**Table of Contents****Notes payable**

Associated with the acquisition of Quiterian on October 16, 2012, the Company inherited two loan agreements that were previously executed to finance the development of the Quiterian software. The loans were offered by the Spanish government subsidy programs and are restricted for use on development of the software. The loans are scheduled for repayment on a quarterly basis starting June, 2014 and ending September, 2022. The combined outstanding balances of these loans total approximately \$830,000 and are classified as notes payable on the Company's Consolidated Balance sheet at June 30, 2013.

**Operating Lease Commitments**

On November 28, 2011, the Company entered into a ten year lease agreement with a third party for approximately 58,000 square feet of office space in the BayCenter Campus in San Mateo, California. This lease is operating in nature and commenced on June 1, 2012 and will end on May 31, 2022. In addition, the lease provides for four months of free rent (rent holiday) and approximately \$2.6 million in landlord incentives to be applied towards construction of improvements. At June 30, 2013, the deferred rent liability balance related to the new lease totaled approximately \$3.4 million and this balance declines through May 2022 when contractual cash payments exceed the straight-line lease expense. Of this total deferred rent liability balance, approximately \$261,000 was classified as short term and \$3.1 million was classified as long term accrued liabilities on the Company's Consolidated Balance Sheet at June 30, 2013. Actuate vacated its previous corporate headquarters located at the Bridgepointe Campus in July 2012 and is now using the BayCenter Campus as its corporate headquarters.

Upon the execution of the new lease, Actuate delivered to the new landlord two letters of credit totaling \$225,300. These letters of credit guarantee Actuate's contractual obligations related to the BayCenter Campus in San Mateo, California.

In fiscal 2012, the Company entered into a new lease agreement for one of its sales locations in Europe. Upon the execution of the new lease, Actuate delivered to the new landlord a letter of credit for approximately \$88,000 in order to guarantee its contractual obligations related to this lease.

Actuate leases smaller office facilities in various locations in the United States and abroad. All facilities are leased under operating leases. Total rent expense for the second quarter and first six months of fiscal 2013 was approximately \$1.1 million and \$2.2 million, respectively, compared with rent expense of approximately \$1 million in second quarter and \$1.9 million in the first six months of fiscal 2012. In addition, the Company incurred facility related charges of approximately \$144,000 and \$313,000 in the second quarter and the first six months of fiscal 2013, respectively. During the same period last year, the Company incurred approximately \$407,000 and \$767,000 of facilities related charges in the second quarter and the first six months of fiscal 2012, respectively.

The following table summarizes the Company's contractual obligations as of June 30, 2013 (in thousands):

|   | Total            | Less than<br>1 year | 1 - 3<br>years  | 3 - 5<br>years  | Thereafter       |
|---|------------------|---------------------|-----------------|-----------------|------------------|
| <b>Obligations:</b>                         |                  |                     |                 |                 |                  |
| Operating leases (1)                        | \$ 28,641        | \$ 4,167            | \$ 6,804        | \$ 5,775        | \$ 11,895        |
| Interest and loan obligations (2)           | 858              | 81                  | 381             | 214             | 182              |
| Obligations for uncertain tax positions (3) | 2,401            |                     | 2,401           |                 |                  |
| <b>Total</b>                                | <b>\$ 31,900</b> | <b>\$ 4,248</b>     | <b>\$ 9,586</b> | <b>\$ 5,989</b> | <b>\$ 12,077</b> |

- (1) The Company's future contractual obligations include minimum lease payments under operating leases at June 30, 2013.
- (2) Estimated interest and principal due on the notes payable funded by the Spanish government for the development of Quiterian software.
- (3) Represents the tax liability associated with unrecognized tax benefits estimated to be payable between 1 to 3 years. In addition, as of June 30, 2013, our unrecognized tax benefits included \$1.9 million which is netted against deferred tax assets. At this time, we are unable to make a reasonably reliable estimate of the timing of payments related to the amounts netted against deferred tax assets, if any, in individual years due to uncertainties in the timing or outcomes of either actual or anticipated tax audits. As a result, these amounts are not included in the table above. See discussion on the authoritative guidance issued by the FASB on obligations for uncertain tax positions in Note 12 of our Notes to these Consolidated Financial Statements of our Form 10-K for fiscal year 2012 filed with the SEC on March 8,

2013.

**Table of Contents****ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

*Market Risk.* Market risk represents the risk of loss that may impact our financial position due to adverse changes in financial market prices and rates. Our market risk exposure is primarily a result of credit risk, fluctuations in interest rates and foreign exchange rates.

*Foreign Currency Exchange Risk.* During the first six months of fiscal years 2013 and 2012 we derived 22% and 27% of our total revenues from sales outside of North America, respectively. We face exposure to market risk on the related receivables with respect to fluctuations in the relative value of currencies. Our international revenues and expenses are denominated in foreign currencies, principally the Euro and the British Pound Sterling. The functional currency of each of our foreign subsidiaries is the local currency. We are also exposed to foreign exchange rate fluctuations as the financial results of foreign subsidiaries are translated into U.S. dollars in consolidation. As exchange rates vary, transaction gains and losses may vary from expectations and adversely impact overall expected profitability. Our realized gain due to foreign exchange rate fluctuations was approximately \$137,000 during the first six months of fiscal 2013 compared to gains of approximately \$433,000 for the first six months of fiscal 2012. During the first six months of fiscal 2013, exchange rate fluctuations on foreign revenue transactions positively impacted our total revenues by approximately \$110,000 when compared to the same period in the prior year while expenses were positively impacted by approximately \$19,000.

We performed a sensitivity analysis on the net monetary accounts subject to revaluation that are held primarily by our international subsidiaries. We used the following steps to determine the approximate impact of currency exchange rate fluctuations:

Identified material net monetary assets held in non-functional currencies. These primarily consist of the Euro, British Pound, Canadian Dollar, and the U.S. Dollar-based net assets held by our international subsidiaries.

Applied hypothetical changes in exchange rates to these net monetary balances held by each subsidiary as identified above. The result was a hypothetical revaluation gain or (loss) in the subsidiary's functional currency.

We then translated the revaluation result as described above to U.S. Dollars using the latest quarter average exchange rate. This resulted in hypothetical revaluation gains or (losses) before income taxes. These hypothetical results are summarized in the table below as of June 30, 2013:

| Estimated annual changes in currency exchange (in thousands) |            |            |          |          |          |
|--|------------|------------|----------|----------|----------|
| 15%  | 10%        | 5%         | +5%      | +10%     | +15%     |
| \$ (3,367)   | \$ (2,244) | \$ (1,122) | \$ 1,122 | \$ 2,244 | \$ 3,367 |

*Interest Rate Risk.* The primary objective of our investment activities is to preserve principal while at the same time maximizing yields without significantly increasing risk. To achieve this objective, we invest in highly liquid and high quality debt securities. Due to the nature of our investments, we believe that there is limited risk exposure.

*Credit Risk.* Financial instruments that potentially subject us to concentrations of credit risk consist primarily of cash and cash equivalents, investments in marketable securities, and trade accounts receivable. We have policies that limit investments in investment grade securities and the amount of credit exposure to any one issuer.

We sell primarily to customers in the financial services industry, predominantly in the United States and Europe. Accordingly, unfavorable economic conditions adversely impacting the financial services industry has had a material adverse effect on the Company's business, financial condition and results of operations. For example, the financial services industry has experienced and may continue to experience cyclical fluctuations in profitability, which may affect timing of, or actual purchases of, our products which would have a material adverse effect on the our business, financial condition and results of operations. There were no customers that accounted for more than 10% of total revenues in the six months ended June 30, 2013 or 2012.

We perform ongoing credit evaluations of our customers and maintain an allowance for potential credit losses. We do not require collateral or other security to support customer receivables. Our credit risk is also mitigated because our customer base is diversified by geography. We generally do not use foreign exchange contracts to hedge the risk in receivables denominated in foreign currencies. We do not hold or issue derivative financial instruments for trading or speculative purposes.

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We do not believe that future market equity or interest rate risks related to our marketable investments or debt obligations will have a material impact on our results of operations. The Company is not currently invested in any derivative securities.

*European Debt Exposures.* We actively monitor our exposure to the European markets, including the impact of sovereign debt issues associated with Greece, Ireland, Portugal, Italy and Spain. As of June 30, 2013, we do not have any direct or indirect investments in the sovereign debt, corporations, or financial institutions of these countries.

**Table of Contents****ITEM 4. CONTROLS AND PROCEDURES****a) Evaluation of Disclosure Controls and Procedures**

As of June 30, 2013 (the Evaluation Date), Actuate Corporation carried out an evaluation under the supervision and with the participation of its management, including the Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of the Company's disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act). There are inherent limitations to the effectiveness of any system of disclosure controls and procedures. Accordingly, even effective disclosure controls and procedures can only provide reasonable, not absolute, assurance of achieving their control objectives. The Company's Chief Executive Officer and Chief Financial Officer have concluded that, as of June 30, 2013, (1) the Company's disclosure controls and procedures were designed to provide reasonable assurance of achieving their objectives, and (2) the Company's disclosure controls and procedures were effective to provide reasonable assurance that information required to be disclosed in the reports Actuate files and submits under the Exchange Act is recorded, processed, summarized and reported as and when required, and that such information is accumulated and communicated to the Company's management, including the Chief Executive Officer and Chief Financial Officer, to allow timely decisions regarding its required disclosure.

**(b) Changes in Internal Control over Financial Reporting**

There were no changes in the Company's internal control over financial reporting during the three months ended June 30, 2012, that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

**Part II. Other Information****Item 1. Legal Proceedings**

The Company is engaged in certain legal actions arising in the ordinary course of business, including international employment litigation arising out of restructuring activities. Although there can be no assurance as to the outcome of such litigation, the Company believes that it has adequate legal defenses and that the ultimate outcome of any of these actions will not have a material effect on the Company's financial position or results of operations. However, expenses associated with certain of these legal actions could result in increased operating expenses that may adversely impact the Company's future operating results and cash flow.

**Item 1A. Risk Factors**

*Investors should carefully consider the following risk factors and warnings before making an investment decision. The risks described below are not the only ones facing Actuate. Additional risks that we do not yet know of or that we currently think are immaterial may also impair our business operations. If any of the following risks, or the additional risks described in the preceding sentence, actually occurs, our business, operating results or financial condition could be materially harmed. In such case, the trading price of our common stock could decline and you may lose all or part of your investment. Investors should also refer to the other information set forth in this Report on Form 10-K, including the financial statements and the notes thereto.*

***THE COMPANY'S OPERATING RESULTS MAY BE VOLATILE AND DIFFICULT TO PREDICT. IF IT FAILS TO MEET ITS ESTIMATES OF FUTURE OPERATING RESULTS OR IT FAILS TO MEET THE EXPECTATIONS OF PUBLIC MARKET ANALYSTS AND INVESTORS, THE MARKET PRICE OF ITS STOCK MAY DECREASE SIGNIFICANTLY.***

The susceptibility of the Company's operating results to significant fluctuations makes any prediction, including the Company's estimates of future operating results, difficult. In addition, the Company believes that period-to-period comparisons of its operating results are not necessarily meaningful and investors should not rely on them as indications of the Company's future performance. The Company's operating results have in the past varied, and may in the future vary significantly due to factors such as the following:

Demand for its products;



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The size and timing of significant orders for its products;

A slowdown or a decrease in spending on information technology by its current and/or prospective customers;

Competition from products that are directly competitive with its products;

**Table of Contents**

Lost revenue from introduction or market acceptance of open source products that are directly competitive with its products;

The management, performance and expansion of its international operations;

Foreign currency exchange rate fluctuations;

Customers' desire to consolidate their purchases of business analytics and customer communications management software to one or a very small number of vendors from which a customer has already purchased software;

General domestic and international economic and political conditions, including war, terrorism, and the threat of war or terrorism;

Sales cycles and sales performance of its indirect channel partners;

Changes in the way it and its competitors price their respective products and services, including maintenance and transfer fees;

Continued successful relationships and the establishment of new relationships with OEMs;

Changes in its level of operating expenses and its ability to control costs;

The cost, outcome or publicity surrounding any pending or threatened lawsuits;

Ability to make new products and product enhancements commercially available in a timely manner;

Ability to effectively launch new or enhanced products, including the timely education of the Company's sales, marketing and consulting personnel with respect to such new or enhanced products;

Customers delaying purchasing decisions in anticipation of new products or product enhancements;

Budgeting cycles of its customers;

Failure to successfully manage acquisitions and integrate acquired companies;

Defects in products and other product quality problems;

Failure to successfully meet hiring needs including for qualified professional services employees and unexpected personnel changes;

Changes in the market segments and types of customers where it focuses sales and marketing efforts;

Changes in perpetual licensing models to term-or subscription-based models with respect to which license revenue is not fully recognizable at the time of initial sale;

Changes in service models with respect to which consulting services are performed on a fixed-fee, rather than variable fee, basis; and

Potential impairments of goodwill, intangibles and other investments.

Because the Company's software products are typically shipped shortly after orders are received, total revenues in any quarter are substantially dependent on orders booked and shipped throughout that quarter. Furthermore, several factors may require the Company, in accordance with accounting principles generally accepted in the United States, to defer recognition of license fee revenue for a significant period of time after entering into a license agreement, including:

Whether the license agreement includes both software products that are then currently available and software products or other enhancements that are still under development;

Whether the license agreement relates entirely or partly to software products that are currently not available;

Whether the license agreement requires the performance of services that may preclude revenue recognition until successful completion of such services;

Whether the license agreement includes acceptance criteria that may preclude revenue recognition prior to customer acceptance;

Whether the license agreement includes undelivered elements (including limited terms or durations) that may preclude revenue recognition prior to customer acceptance; and

Whether the license agreement includes extended payment terms that may delay revenue recognition until the payment becomes due.

## **Table of Contents**

In addition, the Company may in the future experience fluctuations in its gross and operating margins due to changes in the mix of its domestic and international revenues, changes in the mix of its direct sales and indirect sales and changes in the mix of license revenues and service revenues, as well as changes in the mix among the indirect channels through which its products are offered.

A significant portion of the Company's total revenues in any given quarter is derived from existing customers. The Company's ability to achieve future revenue growth, if any, will be substantially dependent upon its ability to increase revenues from license fees and services from existing customers, to expand its customer base and to increase the average size of its orders. To the extent that such increases do not occur in a timely manner, the Company's business, operating results and financial condition would be harmed.

The Company's expense levels and any plans for expansion are based in significant part on its expectations of future revenues and are relatively fixed in the short-term. If revenues fall below expectations and the Company is unable to respond quickly by reducing its spending, the Company's business, operating results, and financial condition could be harmed.

The Company often implements changes to its license pricing structure for all of its products including increased prices and modified licensing parameters. If these changes are not accepted by the Company's current customers or future customers, its business, operating results, and financial condition could be harmed.

Based upon all of the factors described above, the Company has a limited ability to forecast the amount and mix of future revenues and expenses and, the Company's actual operating results may from time to time fall below its estimates or the expectations of public market analysts and investors which is likely to cause the price of the Company's common stock to decline.

### ***OUR DEBT COVENANTS IN OUR CREDIT AGREEMENT RESTRICT OUR FINANCIAL AND OPERATIONAL FLEXIBILITY.***

Our Credit Agreement contains a number of financial covenants, which, among other things, may require us to maintain specified financial ratios and impose certain limitations on us with respect to lines of business, mergers, investments and acquisitions, additional indebtedness, distributions, guarantees, liens and encumbrances. Our ability to meet the financial ratios can be affected by operating performance or other events beyond our control, and we cannot assure you that we will meet those ratios and failure to do so may cause an event of default under the Credit Agreement. Our indebtedness under the Credit Agreement is secured by a lien on substantially all of our assets and of our subsidiaries, by a pledge of our subsidiaries' stock and by a guarantee of our subsidiaries. If the amounts outstanding under the Credit Agreement were accelerated due to an event of default, the lenders could proceed against such available collateral by forcing the sales of these assets.

### ***THE COMPANY HAS MADE, AND MAY IN THE FUTURE MAKE, ACQUISITIONS, WHICH INVOLVE NUMEROUS RISKS.***

The Company's business is highly competitive, and as such, its growth is dependent upon its ability to expand its market, enhance its existing products, introduce new products on a timely basis and expand its distribution channels and professional services organizations. In order to achieve these objectives, the Company had pursued and will continue to pursue acquisitions of other companies.

Generally, acquisitions including that of Quiterian involve numerous risks, including the following:

The benefits of the acquisition not materializing as planned or not materializing within the time periods or to the extent anticipated;

The Company's ability to manage acquired entities' people and processes that are headquartered in separate geographical locations from the Company's headquarters;

The possibility that the Company will pay more than the value it derives from the acquisition;

Difficulties in integration of the operations, technologies, and products of the acquired companies;

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The assumption of certain known and unknown liabilities of the acquired companies;

Difficulties in retaining key relationships with customers, partners and suppliers of the acquired company, the loss of recurring revenue from multiple subsidiaries of one large multi-national organization or the ability to sell and support certain third party software.

The risk of diverting management's attention from normal daily operations of the business;

The Company's ability to issue new releases of the acquired company's products on existing or other platforms;

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**Table of Contents**

Negative impact to the Company's financial condition and results of operations and the potential write down of impaired goodwill and intangible assets resulting from the consolidation of financial statements;

Risks of entering markets in which the Company has no or limited direct prior experience; and

The potential loss of key employees of the acquired company.

Mergers and acquisitions of high-technology companies are inherently risky, and the Company cannot be certain that any acquisition will be successful and will not materially harm the Company's business, operating results or financial condition.

***INTELLECTUAL PROPERTY CLAIMS AGAINST THE COMPANY CAN BE COSTLY AND COULD RESULT IN THE LOSS OF SIGNIFICANT RIGHTS.***

Third parties may claim that the Company's current or future products infringe their intellectual property rights. The Company has been subject to infringement claims in the past and it expects that companies in the business analytics and customer communications management software market will increasingly be subject to infringement claims as the number of products and/or competitors in its industry segment grows and the functionality of products in different industry segments overlaps. Any such claims, with or without merit, could be time-consuming to defend, result in significant litigation and other expenses, divert management's attention and resources, cause product shipment delays or require the Company to enter into royalty or licensing agreements. Such royalty or licensing agreements, if required, may not be available on terms acceptable to the Company or at all. A successful claim of product infringement against the Company and its failure or inability to license the infringed or similar technology could materially harm the Company's business, operating results and financial condition.

***COMPUTER HACKERS MAY DAMAGE OUR SYSTEMS, SERVICES AND PRODUCTS, AND BREACHES OF DATA PROTECTION COULD IMPACT OUR BUSINESS.***

Computer programmers and hackers may be able to penetrate our network security and misappropriate our confidential information or that of third parties, create system disruptions or cause interruptions or shutdowns of our internal systems and services. If successful, any of these events could damage our computer systems or those of our customers and could disrupt or prevent us from providing timely maintenance and support for our software platform. Computer programmers and hackers also may be able to develop and deploy viruses, worms and other malicious software programs that attack our products or otherwise exploit any security vulnerabilities of our products. The costs to us to eliminate or alleviate security problems, bugs, viruses, worms, malicious software programs and security vulnerabilities could be significant, and the efforts to address these problems could result in interruptions, delays, cessation of service and loss of existing or potential customers and may impede our sales, manufacturing, distribution and other critical functions.

In the course of our regular business operations and providing maintenance and support services to our customers, we process and transmit proprietary information and sensitive or confidential data, including personal information of employees, customers and others. Breaches in security could expose us, our customers or the individuals affected to a risk of loss or misuse of this information, which could result in potential regulatory actions, litigation and potential liability for us, as well as the loss of existing or potential customers and damage to our brand and reputation.

***THE COMPANY MAY NOT BE ABLE TO PROTECT ITS SOURCE CODE FROM COPYING.***

Source code, the detailed program commands for our operating systems and other software programs, is critical to our business. Although we take significant measures to protect the secrecy of large portions of our source code, unauthorized disclosure or reverse engineering of a significant portion of our source code could make it easier for third parties to compete with our products by copying functionality, which could adversely affect our revenue and operating margins.

***IF THE COMPANY FAILS TO GROW REVENUE FROM INTERNATIONAL OPERATIONS AND EXPAND ITS INTERNATIONAL OPERATIONS ITS BUSINESS WOULD BE SERIOUSLY HARMED.***

The Company's total revenues derived from sales outside North America were 22%, 27% and 22% for the first six months of fiscal years 2013, 2012 and 2011, respectively. Its ability to achieve revenue growth in the future will depend in large part on its success in increasing revenues from international sales. The Company intends to continue to invest significant resources to expand its sales and support operations outside North America and to potentially enter additional international markets. In order to expand international sales, the Company must establish additional foreign operations, expand its international channel management and support organizations, hire additional personnel, recruit

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additional international resellers and increase the productivity of existing international resellers. The Company intends to continue to shift its focus from direct sales to indirect sales in certain of its international markets in 2013. If it is not successful in expanding international operations in a timely and cost-effective manner, the Company's business, operating results and financial condition could be materially harmed.

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**Table of Contents**

***IF THE COMPANY DOES NOT SUCCESSFULLY EXPAND ITS DISTRIBUTION CHANNELS AND DEVELOP AND MAINTAIN RELATIONSHIPS WITH OEMs, ITS BUSINESS WOULD BE SERIOUSLY HARMED.***

To date, the Company has sold its products principally through its direct sales force, as well as through indirect sales channels, such as its OEMs, resellers and systems integrators. The Company's revenues from license fees resulting from sales through indirect channel partners were approximately 43%, 35%, and 35% of total revenues from license fees for the first six months of fiscal years 2013, 2012 and 2011, respectively. The Company's ability to achieve significant revenue growth in the future will depend in large part on the success of its sales force in further establishing and maintaining relationships with indirect channel partners. In particular, a significant element of the Company's strategy is to embed its technology in products offered by OEMs for resale or as a hosted application to such OEMs' customers and end-users. Xenos Group's business in the United Kingdom relies on the sale and support of third party software as a significant component of its business. The Company also intends to establish and expand its relationships with resellers and systems integrators so that such resellers and systems integrators will increasingly recommend its products to their clients. The Company's future success will depend on the ability of its indirect channel partners to sell and support its products. If the sales and implementation cycles of its indirect channel partners are lengthy or variable or its OEMs experience difficulties embedding the Company's technology into their products, or if it fails to train the sales and customer support personnel of such indirect channel partners in a timely or effective fashion, the Company's business, operating results and financial condition would be materially harmed.

Although the Company is currently investing, and plans to continue to invest, significant resources to expand and develop relationships with OEMs and resellers, it has at times experienced and continues to experience difficulty in establishing and maintaining these relationships. If the Company is unable to successfully expand this distribution channel and secure license agreements with additional OEMs and resellers on commercially reasonable terms, including significant up-front payments of minimum license fees, and extend existing license agreements with existing OEMs on commercially reasonable terms, the Company's operating results would be adversely affected. Any inability by the Company to maintain existing or establish new relationships with indirect channel partners, including systems integrators and resellers, or, if such efforts are successful, a failure of the Company's revenues to increase correspondingly with expenses incurred in pursuing such relationships, would materially harm the Company's business, operating results and financial condition.

***THE COMPANY MAY NOT BE ABLE TO COMPETE SUCCESSFULLY AGAINST ITS CURRENT AND FUTURE COMPETITORS.***

The Company's market is intensely competitive and characterized by rapidly changing technology, evolving standards and product releases by the Company's competitors that are marketed to compete directly with the Company's products. The Company's competition comes in five principal forms:

Competition from current or future Business Intelligence, data discovery and Big Data software vendors such as Information Builders, Qlik Tech, Pentaho, Jaspersoft, MicroStrategy and Tableau, each of which offers reporting products;

Competition from other large software vendors such as IBM, Microsoft, Oracle and SAP, to the extent they sell business analytics and customer communications management capabilities as separate products or include similar functionality with their applications or databases;

Competition from other software vendors and software development tool vendors including providers of open-source software products that may develop scalable custom business analytics and customer communications management products;

Competition from the IT departments of current or potential customers that may develop scalable custom business analytics and customer communications management and information applications products internally, which may be cheaper and more customized than the Company's products; and

Competition from Eclipse BIRT. The Company expects that BIRT, which is free, may cannibalize some smaller sales of its custom business analytics products.



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Many of the Company's current and potential competitors have significantly greater financial, technical, marketing and other resources than it does. These competitors may be able to respond more quickly to new or emerging technologies and changes in customer requirements or devote greater resources to the development, promotion and sales of their products than the Company. Also, most current and potential competitors have greater name recognition and the ability to leverage a significant installed customer base. These companies have released and can continue to release competing business analytics and customer communications management software products or significantly increase the functionality of their existing software products, either of which could result in a loss of market share for the Company. The Company expects additional competition as other established and emerging companies enter the business analytics and customer communications management software market and new products and technologies are introduced. Increased competition could result in price reductions, fewer customer orders, reduced gross margins, longer sales cycles and loss of market share, any of which would harm the Company's business, operating results and financial condition.

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**Table of Contents**

Current and potential competitors may make strategic acquisitions or establish cooperative relationships among themselves or with third parties, thereby increasing their ability to address the needs of the Company's customers. Also, the Company's current or future channel partners may have established in the past, or may in the future, establish cooperative relationships with the Company's current or potential competitors, thereby limiting the Company's ability to sell its products through particular distribution channels. It is possible that new competitors or alliances among current and new competitors may emerge and rapidly gain significant market share. Such competition could reduce the Company's revenues from license fees and services from new or existing customers on terms favorable to us. If the Company is unable to compete successfully against current and future competitors, the Company's business, operating results and financial condition would be materially harmed.

***IF THE MARKET FOR BUSINESS ANALYTICS AND CUSTOMER COMMUNICATIONS MANAGEMENT SOFTWARE DOES NOT GROW AS THE COMPANY EXPECTS, ITS BUSINESS WOULD BE SERIOUSLY HARMED.***

The Company cannot be certain that the market for business analytics and customer communications management software products will continue to grow or that, even if the market does grow, businesses will purchase the Company's products. If the market for business analytics and customer communications management products declines, fails to grow or grows more slowly than the Company expects, its business, operating results and financial condition would be harmed. To date, all of the Company's revenues have been derived from licenses for its business analytics and customer communications management related products and services, and it expects this to continue for the foreseeable future. The Company has spent, and intends to continue to spend, considerable resources educating potential customers and indirect channel partners about business analytics and customer communications management software and products. However, if such expenditures do not enable its products to achieve any significant degree of market acceptance, the Company's business, operating results and financial condition would be materially harmed.

***BECAUSE THE SALES CYCLES OF THE COMPANY'S PRODUCTS ARE LENGTHY AND VARIABLE, ITS QUARTERLY RESULTS MAY FLUCTUATE.***

The purchase of the Company's products by its end-user customers for deployment within the customer's organization typically involves a significant commitment of capital and other resources, and is therefore subject to delays that are beyond the Company's control. These delays can arise from a customer's internal procedures to approve large capital expenditures, budgetary constraints, the testing and acceptance of new technologies that affect key operations and general economic and political events. The sales cycle for initial orders and larger follow-on orders for the Company's products can be lengthy and variable. Additionally, sales cycles for sales of the Company's products to OEMs tend to be longer, ranging from 6 to 24 months or more, and may involve convincing the OEMs' entire organization that the Company's products are the appropriate software for their applications. This time period does not include the sales and implementation cycles of such OEMs' own products, which can be longer than the Company's sales and implementation cycles. Certain of the Company's customers have in the past, or may in the future, experience difficulty completing the initial implementation of the Company's products. Any difficulties or delays in the initial implementation by the Company's end-user customers or indirect channel partners could cause such customers or partners to reject the Company's software or lead to the delay or non-receipt of future orders for the large-scale deployment of its products, in which case the Company's business, operating results and financial condition would be materially harmed.

***ADVANCES IN HARDWARE AND SOFTWARE TECHNOLOGY MAY CAUSE OUR SOFTWARE REVENUE TO DECLINE.***

In the past, the Company has licensed software for a certain number of processors or CPUs to many of its customers. Advances in hardware technology, including, but not limited to, greater CPU clock speeds, multiple-core processors and virtualization, have afforded software performance gains to some customers, causing them to defer additional software purchases from the Company. The occurrence of any of these events, and other future advances, could seriously harm the Company's business, operating results and financial condition. Use of the Company's software on more advanced hardware than the hardware on which the software was originally installed, without payment of a fee, is prohibited by the terms of applicable license agreements or Company policies. The Company intends to require compliance with such terms. As a result of its enforcement efforts, customers may defer or cease purchasing additional software or maintenance and support. The occurrence of any of these events could materially harm the Company's business, operating results and financial condition.

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**Table of Contents**

***DECLINING RENEWAL OF MAINTENANCE SERVICES ON OUR OLDER SOFTWARE PRODUCTS***

The Company has historically experienced a high maintenance renewal rate across its various product lines. However, in recent years, the Company has experienced a decrease in its maintenance renewal rate due to the aging of certain of its legacy product lines. If this trend continues, the Company's business, operating results and financial condition could be materially harmed.

***IF THE COMPANY IS UNABLE TO FAVORABLY ASSESS THE EFFECTIVENESS OF ITS INTERNAL CONTROL OVER FINANCIAL REPORTING IN FUTURE PERIODS OR IF THE COMPANY'S INDEPENDENT AUDITORS ARE UNABLE TO PROVIDE AN UNQUALIFIED ATTESTATION REPORT ON SUCH ASSESSMENT, THE COMPANY'S STOCK PRICE COULD BE ADVERSELY AFFECTED.***

Pursuant to Section 404 of the Sarbanes-Oxley Act of 2002 ( Section 404 ), the Company's management is required to report on, and its independent auditors are required to attest to, the effectiveness of the Company's internal controls over financial reporting on an annual basis. The Company's assessment, testing and evaluation of the design and operating effectiveness of its internal control over financial reporting are ongoing. Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2012, and has concluded that our internal control over financial reporting was effective. In making this assessment, our management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission ( COSO ) in *Internal Control - Integrated Framework*.

There were no significant changes in our internal control over financial reporting that materially affected, or are reasonably likely to materially affect, our internal controls over financial reporting.

If in future periods the Company concludes that its internal control over financial reporting is not effective, it may be required to change its internal control over financial reporting to remediate deficiencies. The Company cannot predict the outcome of its testing in future periods as risks exist that present controls may not be effective in the future periods and consequently investors may lose confidence in the reliability of the Company's financial statements, causing the Company's stock price to decline.

***SECTION 404 AND REGULATORY CHANGES HAVE CAUSED THE COMPANY TO INCUR INCREASED COSTS AND OPERATING EXPENSES, INCLUDING ADDITIONAL COST AND EXPENSES ASSOCIATED WITH HIRING QUALIFIED PERSONNEL TO COMPLY WITH SUCH REGULATORY REQUIREMENT.***

The Sarbanes-Oxley Act of 2002 and regulatory changes by the SEC and Nasdaq have caused the Company to incur significant increased costs. In particular, the rules governing the standards that must be met for management to assess its internal controls over financial reporting under Section 404 are complex, and require significant documentation, testing and possible remediation. This ongoing process of reviewing, documenting and testing the Company's internal controls over financial reporting has resulted in, and will likely continue to result in ongoing cost to the Company. Furthermore, achieving and maintaining compliance with Sarbanes-Oxley and other new rules and regulations has and will continue to require the Company to hire additional personnel and to use additional outside legal, accounting and advisory services.

In addition, any acquisitions made by the Company will also put a significant strain on its management, information systems and resources. Any expansion of the Company's international operations will lead to increased financial and administrative demands associated with managing its international operations and managing an increasing number of relationships with foreign partners and customers and expanded treasury functions to manage foreign currency risks, all of which will require the Company to incur additional cost to implement necessary changes to maintain effective internal controls over financial reporting.

**Table of Contents**

***IF THE COMPANY DOES NOT RESPOND TO RAPID TECHNOLOGICAL CHANGES, ITS PRODUCTS COULD BECOME OBSOLETE.***

The market for the Company's products is characterized by rapid technological changes, frequent new product introductions and enhancements, changing customer demands, and evolving industry standards. Any of these factors can render existing products obsolete and unmarketable. The Company believes that its future success will depend in large part on its ability to support current and future releases of popular operating systems and computer programming languages, databases and software applications, to timely develop new products that achieve market acceptance and to meet an expanding range of customer requirements. If the announcement or introduction of new products by the Company or its competitors or any change in industry standards causes customers to defer or cancel purchases of existing products, the Company's business, operating results and financial condition would be harmed.

As a result of the complexities inherent in business analytics and customer communications management software, major new products and product enhancements can require long development and testing periods. In addition, customers may delay their purchasing decisions in anticipation of the general availability of new or enhanced versions of the Company's products. As a result, significant delays in the general availability of such new releases or significant problems in the installation or implementation of such new releases could harm the Company's business, operating results and financial condition. If the Company fails to successfully develop, on a timely and cost effective basis, product enhancements or new products that respond to technological change, evolving industry standards or customer requirements or such new products and product enhancements fail to achieve market acceptance, the Company's business, operating results and financial condition would be harmed.

***IF THE COMPANY DOES NOT RELEASE NEW PRODUCTS AND ENHANCEMENTS TO EXISTING PRODUCTS IN A TIMELY MANNER OR IF SUCH NEW PRODUCTS AND ENHANCEMENTS, INCLUDING THE COMPANY'S OPEN SOURCE PROJECT, FAIL TO ACHIEVE MARKET ACCEPTANCE, THE COMPANY'S BUSINESS COULD BE SERIOUSLY HARMED.***

The Company believes that its future success will depend in large part on the success of new products and enhancements to its products that it makes generally available. Prior to the release of any new products or enhancements, the products must undergo a long development and testing period. To date, the development and testing of new products and enhancements have taken longer than expected. In the event the development and testing of new products and enhancements continue to take longer than expected, the release of new products and enhancements will be delayed. If the Company fails to release new products and enhancements in a timely manner, its business, operating results and financial condition would be harmed. In addition, if such new products and enhancements do not achieve market acceptance, the Company's business, operating results and financial condition would be harmed.

The Company has developed a BIRT open source product through its involvement in the Eclipse Foundation. The Company believes that BIRT and a commercial version of BIRT will be widely adopted by Java developers and will result in such developers recommending to their employees and customers that they license the Company's commercially available products. If BIRT does not achieve market acceptance and result in promoting sales of commercial products, the Company's business, operating results and financial condition may be harmed.

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**Table of Contents**

***THE SUCCESS OF THE COMPANY'S OPEN-SOURCE BIRT INITIATIVE IS DEPENDENT ON BUILDING A DEVELOPER COMMUNITY AROUND BIRT AND CONVERTING THEM TO COMMERCIAL OFFERINGS.***

The success of the Company's BIRT initiative is dependent on the open source contributions of third-party programmers and corporations, and if they cease to make these contributions to the Eclipse open source project, the BIRT project, or the general open source movement, the Company's BIRT product strategy could be adversely affected. If key members, or a significant percentage, of this group of developers or corporations decides to cease development of Eclipse, BIRT or other open source applications, the Company would have to either rely on another party (or parties) to develop these technologies, develop them itself or adapt its open source product strategy accordingly. The Company must convert some open source BIRT developers to purchasing commercial products. This could increase the Company's development expenses, delay its product releases and upgrades or adversely impact customer acceptance of open source offerings.

***IF SECURITY MEASURES REGARDING OUR BIRT ONDEMAND AND PERFORMANCE MANAGEMENT ONDEMAND SERVICES ARE BREACHED AND UNAUTHORIZED ACCESS IS OBTAINED TO A CUSTOMER'S DATA OR OUR DATA OR OUR INFORMATION TECHNOLOGY SYSTEMS, WE MAY INCUR SIGNIFICANT LEGAL AND FINANCIAL EXPOSURE AND LIABILITIES.***

Our BIRT onDemand and Performance Management onDemand services involve the storage and transmission of customers' proprietary information, and security breaches could expose us to a risk of loss of this information, litigation and possible liability. These security measures may be breached as a result of third-party action, including intentional misconduct by computer hackers, employee error, malfeasance or otherwise, during transfer of data to additional data centers or at any time, and result in someone obtaining unauthorized access to our customers' data or our data, including our intellectual property and other confidential business information, or our information technology systems. Additionally, third parties may attempt to fraudulently induce employees or customers into disclosing sensitive information such as user names, passwords or other information in order to gain access to our customers' data or our data, including our intellectual property and other confidential business information, or our information technology systems. Because the techniques used to obtain unauthorized access, or to sabotage systems, change frequently and generally are not recognized until launched against a target, we may be unable to anticipate these techniques or to implement adequate preventative measures. Any security breach could lead to legal liability.

***FROM TIME TO TIME, WE MAY BE INVOLVED IN LEGAL PROCEEDINGS ABOUT WHICH WE ARE UNABLE TO ASSESS OUR EXPOSURE AND WHICH COULD BECOME SIGNIFICANT LIABILITIES UPON JUDGMENT.***

We are involved in legal proceedings from time to time. Companies in our industry have been subject to claims related to patent infringement, as well as contract and employment-related claims. At times, including now, we are also plaintiffs in litigation involving the Company's intellectual property. We may not be able to accurately assess risk related to these suits including expenses and other potential liabilities.

***THE COMPANY'S INTERNATIONAL OPERATIONS ARE SUBJECT TO SIGNIFICANT RISKS.***

A substantial portion of the Company's revenues are derived from international sales. International operations and sales are subject to a number of risks, any of which could harm the Company's business, operating results and financial conditions. These risks include the following:

Economic and political instability, including war and terrorism or the threat of war and terrorism;

Difficulty of managing an organization spread across many countries;

Multiple and conflicting tax laws and regulations;

Costs of localizing products for foreign countries;

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Difficulty in hiring employees and difficulties and high costs associated with terminating employees and restructuring operations in foreign countries;

Trade laws and business practices favoring local competition;

**Table of Contents**

Dependence on local vendors;

Increasing dependence on resellers in certain geographies;

Compliance with multiple, conflicting and changing government laws and regulations;

Weaker intellectual property protection in foreign countries and potential loss of proprietary information due to piracy or misappropriation;

Longer sales cycles;

Import and export restrictions and tariffs;

Difficulties in staffing and managing foreign operations;

The significant presence of some of our competitors in certain international markets;

Greater difficulty or delay in accounts receivable collection; and

Foreign currency exchange rate fluctuations.

The Company believes that, over time, an increasing portion of its revenues and costs will be denominated in foreign currencies. To the extent such denomination in foreign currencies does occur, gains and losses on the conversion to U.S. dollars of accounts receivable, accounts payable and other monetary assets and liabilities arising from international operations may contribute to fluctuations in the Company's results of operations. Although the Company may in the future decide to undertake foreign exchange hedging transactions to cover a portion of its foreign currency transaction exposure, it currently does not attempt to cover any foreign currency exposure. If it is not effective in any future foreign exchange hedging transactions in which it engages, the Company's business, operating results and financial condition could be materially harmed.

***THE COMPANY'S EXECUTIVE OFFICERS AND CERTAIN KEY PERSONNEL ARE CRITICAL TO ITS BUSINESS AND IT MAY NOT BE ABLE TO RECRUIT AND RETAIN THE PERSONNEL IT NEEDS.***

The Company's future success depends upon the continued service of its executive officers and other key engineering, sales, marketing and customer support personnel. None of its executive officers or key employees is bound by an employment agreement for any specific term. If the Company loses the service of one or more of its executive officers or key employees, or if one or more of its executive officers or key employees decide to join a competitor or otherwise compete directly or indirectly with it, it could have a significant adverse effect on the Company's business.

In addition, because experienced personnel in the Company's industry are in high demand and competition for their talents is intense, the Company has relied on its ability to grant stock options as one mechanism for recruiting and retaining this highly skilled talent. Accounting standards require the expensing of stock options, which impairs the Company's ability to provide these incentives without incurring significant compensation costs. There can be no assurance that the Company will continue to successfully attract and retain key personnel in the future.

***CHANGES IN ACCOUNTING PRINCIPLES OR STANDARDS, OR IN THE WAY THEY ARE APPLIED, COULD RESULT IN UNFAVORABLE ACCOUNTING CHARGES OR EFFECTS AND UNEXPECTED FINANCIAL REPORTING FLUCTUATIONS, AND COULD ADVERSELY AFFECT OUR REPORTED OPERATING RESULTS.***

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We prepare our consolidated financial statements in conformity with U.S. Generally Accepted Accounting Principles ( GAAP ). These principles are subject to interpretation by the SEC and various bodies formed to interpret and create appropriate accounting principles and guidance. A change in existing principles or guidance can have a significant effect on our reported results and may retroactively affect previously reported results. Additionally, proposed accounting standards could have a significant impact on our operational processes, revenues and expenses, and could cause unexpected financial reporting fluctuations.



**Table of Contents**

For example, the Financial Accounting Standards Board ( FASB ) is currently working together with the International Accounting Standards Board ( IASB ) to converge certain accounting principles and facilitate more comparable financial reporting between companies who are required to follow GAAP and those who are required to follow International Financial Reporting Standards ( IFRS ). These efforts may result in different accounting principles under GAAP, which may have a material impact on the way in which we report financial results in areas including, but not limited to, revenue recognition, lease accounting, and financial statement presentation. We expect the SEC to make a determination in the near future regarding the incorporation of IFRS into the financial reporting system for U.S. companies. A change in accounting principles from GAAP to IFRS may have a material impact on our financial statements and may retroactively adversely affect previously reported transactions.

***THE COMPANY MAY BE UNABLE TO SUSTAIN OR INCREASE ITS PROFITABILITY.***

While the Company was profitable in its last nine fiscal years, it incurred net losses during fiscal year 2003 and 2002. Its ability to sustain or increase profitability on a quarterly or annual basis will be affected by changes in its business. It expects its operating expenses to increase as its business grows, and it anticipates that it will make investments in its business. Therefore, the Company's results of operations will be harmed if its revenues do not increase at a rate equal to or greater than increases in its expenses or are insufficient for it to sustain profitability.

***IF THE COMPANY OVERESTIMATES REVENUES, IT MAY BE UNABLE TO REDUCE ITS EXPENSES TO AVOID OR MINIMIZE A NEGATIVE IMPACT ON ITS RESULTS OF OPERATIONS.***

The Company's revenues are difficult to forecast and are likely to fluctuate significantly from period to period. The Company bases its operating expense budgets on expected revenue trends. The Company's estimates of sales trends may not correlate with actual revenues in a particular quarter or over a longer period of time. Variations in the rate and timing of conversion of the Company's sales prospects into actual licensing revenues could cause it to plan or budget inaccurately and those variations could adversely affect the Company's financial results. In particular, delays, reductions in amount or cancellation of customers' purchases would adversely affect the overall level and timing of the Company's revenues and its business, results of operations and financial condition could be harmed. In addition, many of its expenses, such as office and equipment leases and certain personnel costs, are relatively fixed. It may be unable to adjust spending quickly enough to offset any unexpected revenue shortfall. Accordingly, any shortfall in revenue may cause a material variation in operating results in any period.

***IF THE COMPANY'S PRODUCTS CONTAIN MATERIAL DEFECTS, ITS REVENUES MAY DECLINE.***

Software products as complex as those offered by the Company often contain errors or defects, particularly when first introduced, when new versions or enhancements are released and when configured to individual customer computing systems. The Company currently has known errors and defects in its products. Despite testing conducted by the Company, if additional defects and errors are found in current versions, new versions or enhancements of its products after commencement of commercial shipment, or if such errors or defects cannot be cured or repaired timely, it could result in the loss of revenues or a delay in market acceptance or an increase in the rate of return of the Company's products. The occurrence of any of these events could materially harm the Company's business, operating results and financial condition.

**Table of Contents**

***THE COMPANY MAY BE SUBJECT TO PRODUCT LIABILITY CLAIMS.***

Although license agreements with its customers typically contain provisions designed to limit the Company's exposure to potential product liability claims, it is possible that such limitation of liability provisions may not be effective as a result of existing or future laws or unfavorable judicial decisions. The sale and support of the Company's products may entail the risk of such claims, which are likely to be substantial in light of the use of its products in business-critical applications. A product liability claim brought against the Company could materially harm its business, operating results and financial condition.

***THE PROTECTION OF OUR PROPRIETARY RIGHTS MAY BE INADEQUATE.***

The Company has a small number of issued and pending U.S. patents expiring at varying times ranging from 2015 to 2028. The Company relies primarily on a combination of copyright and trademark laws, trade secrets, confidentiality procedures, contractual provisions and license keys to protect its proprietary technology. For example, the Company licenses its software pursuant to click-wrap or signed license agreements that impose certain restrictions on licensees' ability to utilize the software. In addition, the Company seeks to avoid disclosure of its intellectual property, including by requiring those persons with access to its proprietary information to execute confidentiality agreements with the Company and by restricting access to its source code. The Company takes precautions to protect our software, certain documentation, and other written materials under trade secret and copyright laws, which afford only limited protection.

Despite the Company's efforts to protect its proprietary rights, unauthorized parties may attempt to copy aspects of its products or to obtain and use information that the Company regards as proprietary. Policing unauthorized use of the Company's products is difficult, and while it is unable to determine the extent to which piracy of its software products exists, software piracy can be expected to be a persistent problem. In addition, the laws of many countries do not protect the Company's proprietary rights to the same extent as the laws of the United States. If the Company's means of protecting its proprietary rights is not adequate or its competitors independently develop similar technology, the Company's business could be materially harmed.

***IF SECURITIES OR INDUSTRY ANALYSTS DO NOT PUBLISH RESEARCH OR REPORTS OR PUBLISH UNFAVORABLE RESEARCH OR REPORTS ABOUT OUR BUSINESS, OUR STOCK PRICE AND TRADING VOLUME COULD DECLINE.***

The trading market for our common stock will be influenced by the research and reports that securities or industry analysts may publish about us, our business, our market or our competitors. If any of the analysts who may cover us adversely change their recommendation regarding our stock, or provide more favorable relative recommendations about our competitors, our stock price would likely decline. If any analyst who may cover us were to cease coverage of our company or fail to regularly publish reports on us, interest in our stock could decrease, which could cause our stock price or trading volume to decline.

***THE COMPANY'S COMMON STOCK PRICE MAY BE VOLATILE, WHICH COULD RESULT IN SUBSTANTIAL LOSSES FOR STOCKHOLDERS.***

The market price of shares of the Company's common stock has been and is likely to continue to be highly volatile and may be significantly affected by factors such as the following:

Actual or anticipated fluctuations in its operating results;

Changes in the economic and political conditions in the United States and abroad;

Terrorist attacks, war or the threat of terrorist attacks and war;

The announcement of mergers or acquisitions by the Company or its competitors;

Developments in ongoing or threatened litigation;

**Table of Contents**

Announcements of technological innovations;

Failure to comply with the requirements of Section 404 of the Sarbanes-Oxley Act;

New products, including open source products, or new contracts announced by it or its competitors;

Developments with respect to copyrights or proprietary rights;

Price and volume fluctuations in the stock market;

Changes in corporate purchasing of business analytics and customer communications management software;

Adoption of new accounting standards affecting the software industry; and

Changes in financial estimates by securities analysts.

In addition, following periods of volatility in the market price of a particular company's securities, securities class action litigation has often been brought against such companies. If the Company is involved in such litigation, it could result in substantial costs and a diversion of management's attention and resources and could materially harm the Company's business, operating results and financial condition.

***WE CURRENTLY DO NOT INTEND TO PAY DIVIDENDS ON OUR COMMON STOCK, AND CONSEQUENTLY, YOUR ONLY OPPORTUNITY TO ACHIEVE A RETURN ON YOUR INVESTMENT IS IF THE PRICE OF OUR COMMON STOCK APPRECIATES AND YOU SELL YOUR SHARES AT A PRICE ABOVE YOUR COST.***

We currently do not intend to declare or pay dividends on shares of our common stock in the foreseeable future. Consequently, your only opportunity to achieve a return on your investment in our company will be if the market price of our common stock appreciates and you sell your shares at a price above your cost. There is no guarantee that the price of our common stock will ever exceed the price that you pay. Investors seeking cash dividends should not purchase our common stock.

***CHANGES IN CORPORATE INCOME TAX LAWS, INCOME TAX RATES OR NEGATIVE INCOME TAX RULINGS COULD ADVERSELY IMPACT THE COMPANY'S FINANCIAL RESULTS.***

The Company is taxable principally in the United States, Canada and certain jurisdictions in Europe and Asia/Pacific. All of these jurisdictions have in the past and may in the future make changes to their corporate income tax laws and/or corporate income tax rates, which could increase or decrease the Company's future income tax provision. While the Company believes that all material income tax liabilities are reflected properly in its Consolidated Balance Sheet, it has no assurance that it will prevail in all cases in the event the taxing authorities disagree with its interpretations of the tax law. Future levels of research and development spending will impact the Company's entitlement to related tax credits, which generally lower its effective income tax rate. Future effective income tax rates could be adversely affected if tax laws are enacted that are targeted to eliminate the benefits of the Company's tax structure and if its earnings are lower than anticipated in jurisdictions where the Company has statutory tax rates lower than tax rates in the United States or other higher tax jurisdictions.

**Table of Contents**

***CERTAIN OF THE COMPANY'S CHARTER PROVISIONS AND DELAWARE LAW MAY PREVENT OR DETER A CHANGE IN CONTROL OF THE COMPANY.***

The Company's Certificate of Incorporation, as amended and restated (the "Certificate of Incorporation"), and Bylaws, as amended and restated ("Bylaws"), contain certain provisions that may have the effect of discouraging, delaying or preventing a change in control of the Company or unsolicited acquisition proposals that a stockholder might consider favorable, including provisions authorizing the issuance of blank check preferred stock, eliminating the ability of stockholder to act by written consent and requiring stockholders to provide advance notice for proposals and nomination of directors at the Annual Meeting of Stockholder. In addition, certain provisions of Delaware law and the Company's stock option plans may also have the effect of discouraging, delaying or preventing a change in control or unsolicited acquisition proposals. The Company has also entered into change of control agreements with its executive officers, which agreements require payment to an executive upon termination of employment within 12 months after acquisition. The anti-takeover effect of these provisions may also have an adverse effect on the public trading price of the Company's common stock.

***DEPENDENCE ON THE FINANCIAL SERVICES INDUSTRY COULD SIGNIFICANTLY AFFECT THE COMPANY'S REVENUES.***

A significant portion of the Company's revenues are derived from customers in the financial services industry and the Company expects it will continue to derive a significant portion of its revenues from these customers for the foreseeable future. Accordingly, unfavorable economic conditions adversely impacting the financial services industry has had a material adverse effect on the Company's business, financial condition and results of operations. For example, the financial services industry has experienced and may continue to experience cyclical fluctuations in profitability, which may affect timing of, or actual purchases of, the Company's products which would have a material adverse effect on the Company's business, financial condition and results of operations.

***CATASTROPHIC EVENTS MAY DISRUPT OUR BUSINESS.***

We rely on our network infrastructure and enterprise applications, internal technology systems and our Website for our development, marketing, operational, support, hosted services and sales activities. A disruption, infiltration or failure of these systems in the event of a major earthquake, fire, power loss, telecommunications failure, software or hardware malfunctions, cyber attack, war, terrorist attack, or other catastrophic event could cause system interruptions, reputational harm, loss of intellectual property, delays in our product development, lengthy interruptions in our services, breaches of data security and loss of critical data and could prevent us from fulfilling our customers' orders. Our corporate headquarters, a significant portion of our research and development activities, certain of our data centers, and certain other critical business operations are located in the San Francisco Bay Area, which is near major earthquake faults. We have developed certain disaster recovery plans and certain backup systems to reduce the potentially adverse effect of such events, but a catastrophic event that results in the destruction or disruption of any of our data centers or our critical business or information technology systems could severely affect our ability to conduct normal business operations and, as a result, our future operating results could be adversely affected.

**Table of Contents****Item 4. Submission of Matters to a Vote of Security Holders**

At our Annual Meeting of Stockholders held on May 22, 2013, our stockholders approved the following items:

1. Election of Directors: Our shareholders re-elected the following seven (7) directors to each serve a one-year term expiring on the date of the 2014 annual meeting of shareholders or until his or her successor has been duly chosen and qualified.

|                       | For        | Withheld | Broker Non-Votes |
|-----------------------|------------|----------|------------------|
| Peter I. Cittadini    | 33,287,867 | 781,569  | 7,286,337        |
| Kenneth E. Marshall   | 33,292,774 | 776,662  | 7,286,337        |
| Nicolas C. Nierenberg | 33,280,360 | 789,076  | 7,286,337        |
| Raymond L. Ocampo Jr. | 33,690,643 | 378,793  | 7,286,337        |
| Arthur C. Patterson   | 33,293,267 | 776,169  | 7,286,337        |
| Steven D. Whiteman    | 33,288,488 | 780,948  | 7,286,337        |
| Timothy B. Yeaton     | 33,764,119 | 305,317  | 7,286,337        |

2. Advisory Vote on Executive Compensation Matters (Say on Pay): Our shareholders approved the advisory say on pay proposal.

| For        | Against | Abstain | Broker Non-Votes |
|------------|---------|---------|------------------|
| 33,619,361 | 326,296 | 123,779 | 7,286,337        |

3. Ratification of Appointment of Independent Registered Public Accounting Firm: Our shareholders ratified the selection of Grant Thornton, LLP as our independent auditors for the year ended December 31, 2013.

| For        | Against | Abstain |
|------------|---------|---------|
| 41,023,911 | 143,980 | 187,882 |

**Item 6. Exhibits**

- 31.1 Rule 13a-14(a)/15d-14(a) Certification of the Chief Executive Officer
- 31.2 Rule 13a-14(a)/15d-14(a) Certification of the Chief Financial Officer
- 32.1 Section 1350 Certifications
- 101 The following materials from the Quarterly Report on Form 10-Q of Actuate Corporation for the quarter ended June 30, 2012, formatted in XBRL (eXtensible Business Reporting Language); (i) Condensed Consolidated Balance Sheets, (ii) Condensed Consolidated Statements of Income, (iii) Condensed Consolidated Statements of Cash Flows, (iv) Condensed Consolidated Statements of Comprehensive Income, and (v) Notes to Consolidated Financial Statements\*.

\* Pursuant to Rule 406T of Regulation S-T, these interactive data files are furnished and not filed or a part of a registration statement or prospectus for purposes of sections 11 or 12 of the Securities Act of 1933, as amended; are deemed not filed for purposes of section 18 of the Securities Exchange Act of 1934, as amended; and otherwise are not subject to liability under these sections.

**Table of Contents**

**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, thereunto duly authorized.

Actuate Corporation

(Registrant)

Dated: August 7, 2013

By: */s/* DANIEL A. GAUDREAU  
**Daniel A. Gaudreau**  
**Senior Vice President,**

**Operations and Chief Financial Officer**

**(Principal Financial and Accounting Officer)**