

LEE ENTERPRISES, INC
Form S-3/A
February 03, 2017

As Filed with the Securities and Exchange Commission on February 3, 2017
Registration No. 333-215651

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

Amendment No. 1
to
FORM S-3

REGISTRATION STATEMENT
UNDER THE SECURITIES ACT OF 1933

LEE ENTERPRISES, INCORPORATED
(Exact Name of Registrant as Specified in Its Charter)

Delaware 42-0823980
(State or Other Jurisdiction of (IRS Employer
Incorporation or Organization) Identification Number)

201 N. Harrison Street, Suite 600
Davenport, Iowa 52801
Telephone: (563) 383-2100
(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive
Offices)

Ronald A. Mayo
Vice President, Chief Financial Officer and Treasurer
201 N. Harrison Street, Suite 600
Davenport, Iowa 52801
Telephone: (563) 383-2100
(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent For Service)

Copy to:
Edmund H. Carroll, Esq.
Lane & Waterman LLP
220 N. Main Street, Suite 600
Davenport, Iowa 52801

Approximate date of commencement of proposed sale to the public: From time to time after this Registration
Statement becomes effective.

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If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box: "

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box: x

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. "

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. "

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. "

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

Large accelerated filer "	Accelerated filer <input checked="" type="checkbox"/>
Non-accelerated filer " (Do not check if a smaller reporting company)	Smaller reporting company <input type="checkbox"/>

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price per Unit ⁽¹⁾	Proposed Maximum Aggregate Offering Price ⁽²⁾	Amount of Registration Fee ⁽⁶⁾⁽⁸⁾
Debt securities ⁽³⁾⁽⁴⁾				
Senior debt securities				
Senior convertible debt securities ⁽⁵⁾				
Subordinated debt securities				
Subordinated convertible debt securities ⁽⁵⁾				
Common stock, par value \$0.01 per share ⁽⁴⁾⁽⁷⁾				
Preferred stock, par value \$0.01 per share ⁽⁴⁾				
Depository shares ⁽⁴⁾				
Warrants ⁽⁴⁾				
Debt securities				
Common Stock				
Preferred Stock				
Subscription Rights ⁽⁴⁾				
Units ⁽⁴⁾				
Total:	750,000,000		750,000,000	

(1) Omitted pursuant to Rule 457(o) under the Securities Act of 1933, as amended (Securities Act).

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- (2) Estimated solely for the purpose of calculating the registration fee. The aggregate initial public offering price of all securities will not exceed \$750,000,000 (exclusive of accrued interest).
If any debt securities are issued at an original issue discount, then also includes such additional principal amount as
- (3) may be necessary such that the aggregate initial offering price of all debt securities will equal \$750,000,000 less the dollar amount of other securities previously issued hereunder.
- (4) We are registering under this registration statement an indeterminate number of shares of our securities as may be sold from time to time by us.
In addition to the securities set forth in the table, pursuant to Rule 416 under the Securities Act, the amount of securities to be registered includes an indeterminate number of securities issuable upon conversion or exchange of
- (5) the convertible debt, as this amount may be adjusted as a result of stock splits, stock dividends and antidilution provisions.
- (6) No separate consideration will be received for any security exchangeable for any debt securities and, therefore, no additional registration fee is required pursuant to Rule 457(i) of the Securities Act.
- (7) Includes associated Common Stock purchase rights to purchase one share of preferred stock that will not be exercisable or evidenced separately from the Common Stock prior to the occurrence of certain events.
In accordance with Rule 457(p) of the Securities Act, the total amount of the registration fee payable, \$86,925, is
- (8) offset by \$96,600, the amount of a previous registration fee paid for securities that were registered but not sold pursuant to the Registrant's Registration Statement on Form S-3 (SEC Reg. No. 333-192940) filed with the Commission on December 18, 2013.

The Registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act, or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

The information in this prospectus is not complete and may be changed. These securities may not be sold until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell nor does it seek an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

PROSPECTUS

Subject to completion, dated February 3, 2017

\$750,000,000

Senior Debt Securities

Senior Convertible Debt Securities

Subordinated Debt Securities

Subordinated Convertible Debt Securities

Common Stock

Preferred Stock

Depositary Shares

Warrants to Purchase Debt Securities

Warrants to Purchase Common Stock

Warrants to Purchase Preferred Stock

Subscription Rights

Units

We may offer and sell, from time to time, in one or more offerings, any combination of the securities at fixed prices or prices that may be changed, at market prices prevailing at the time of sale, at prices related to such prevailing market prices or at negotiated prices, which we describe in this prospectus having a total initial offering price not exceeding \$750,000,000.

We will provide the specific terms of these securities in supplements to this prospectus. The supplements may also add, update or change information contained in this prospectus. You should read this prospectus and any supplement carefully before you invest.

This prospectus may not be used to sell securities unless accompanied by a prospectus supplement.

Our Common Stock trades on The New York Stock Exchange (NYSE) under the symbol "LEE." Each prospectus supplement will indicate if the securities offered thereby will be listed on any securities exchange.

A prospectus supplement will set forth the names of any underwriters, dealers or agents involved in the sale of the senior notes, the aggregate principal amount of senior notes to be purchased by them and the compensation they will receive.

See "Risk Factors" on page 2 for information on certain risks related to the purchase of our securities. You should consider the risk factors described in any accompanying prospectus supplement and in the documents we incorporate by reference.

None of the Securities and Exchange Commission, any state securities commission or any other regulatory body has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

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ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, or SEC, using the SEC's shelf registration rules. Under the shelf registration rules, using this prospectus, together with a prospectus supplement, if one is required, we may sell from time to time, in one or more offerings, any combination of the securities described in this prospectus having a total initial offering price not exceeding \$750,000,000.

This prospectus provides you with only a general description of the securities that we may offer. This prospectus does not contain all of the information set forth in the registration statement of which this prospectus is a part, as permitted by the rules and regulations of the SEC. For additional information regarding us and the offered securities, please refer to the registration statement of which this prospectus is a part. Each time we sell securities, we will provide a prospectus supplement that contains specific information about the offering and the terms of the offered securities.

The prospectus supplement also may add, delete, update or change information contained in this prospectus. You should rely only on the information in the applicable prospectus supplement if this prospectus and the applicable prospectus supplement are inconsistent. Before purchasing any securities, you should carefully read both this prospectus and the applicable prospectus supplement, together with the additional information described under the section of this prospectus titled "Where You Can Find More Information." In particular, you should carefully consider the risks and uncertainties described under the section titled "Risk Factors" or otherwise included in any applicable prospectus supplement or incorporated by reference in this prospectus before you decide whether to purchase the securities. These risks and uncertainties, together with those not known to us or those that we may deem immaterial, could impair our business, effect the value of our securities and ultimately affect our ability to make payments related to our securities.

You should rely only on the information contained or incorporated by reference in this prospectus and in any applicable prospectus supplement. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. Neither we nor any underwriter, dealer or agent will make an offer to sell the securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information in this prospectus and any applicable prospectus supplement is accurate only as of the dates on their covers and that any information incorporated by reference is accurate only as of the date of the document incorporated by reference, unless we indicate otherwise. Our business, financial condition, results of operations and prospects may have changed since those dates.

References to "we", "our", "us" and the like throughout this document refer to Lee Enterprises, Incorporated and subsidiaries (the Company). References to 2016, 2015, 2014 and the like refer to the fiscal years ended the last Sunday in September.

LEE ENTERPRISES, INCORPORATED

Lee Enterprises, Incorporated is a leading provider of local news and information, and a major platform for print and digital advertising, in the markets we serve, which are located primarily in the Midwest, Mountain West and West regions of the United States. With the exception of St. Louis, Missouri, our 49 markets (including TNI Partners and Madison Newspapers, Inc.), across 21 states, are principally midsize or small. Our products include 46 daily and 34 Sunday newspapers with print and digital subscribers and nearly 300 weekly newspapers and specialty publications.

Our markets have established retail bases, and most are regional shopping hubs. We are located in four state capitals. Six of our top ten markets by revenue include major universities, and seven are home to major corporate headquarters. Community newspapers and their associated digital media are a valuable source of local news and information attracting readers and providing an effective means for local advertisers to reach their customers. We believe our audiences across these communities tend to be loyal readers that actively seek our content and serve as an attractive target for our advertisers.

We do not face significant competition from other local daily newspapers in most of our markets, although there is significant competition for audience in those markets from other media. In our top ten markets by revenue, only two have significant local daily print competition.

We were founded in 1890, incorporated in 1950, and listed on the NYSE in 1978. Until 2001, we also operated a number of network-affiliated and satellite television stations. We have acquired and divested a number of businesses since 2001.

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Under certain of our existing financing agreements with our senior secured lenders, we may be subject to restrictions on the issuance of additional indebtedness, including the debt securities registered hereunder, as well as the terms under which we may issue additional debt securities. Certain of our financing agreements also significantly restrict our ability to make dividend payments, including any dividend payments on our Common Stock and any Preferred Stock registered hereunder. These restrictions are discussed more fully in our Annual Report on Form 10-K under Note 4 of our Consolidated Financial Statements, and other reports filed with the SEC, which are incorporated in this prospectus by reference.

RISK FACTORS

Investing in our securities involves risk. Please see risk factors described in our Annual Report on Form 10-K and other reports filed with the SEC. Before making an investment decision, you should carefully consider these risks as well as other information contained or incorporated by reference in this prospectus or the applicable supplement to this prospectus. The risks and uncertainties described are not the only ones facing us. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also impair our business operations, financial results and the value of our securities.

FORWARD-LOOKING STATEMENTS

The Private Securities Litigation Reform Act of 1995 provides a “safe harbor” for forward-looking statements. This prospectus contains information that may be deemed forward-looking that is based largely on our current expectations, and is subject to certain risks, trends and uncertainties that could cause actual results to differ materially from those anticipated. Among such risks, trends and other uncertainties, which in some instances are beyond our control, are:

- Our ability to generate cash flows and maintain liquidity sufficient to service our debt;
- Our ability to comply with the financial covenants in our credit facilities;
- Our ability to refinance our debt as it comes due;
- That the warrants issued in our refinancing will not be exercised;
- The impact and duration of adverse conditions in certain aspects of the economy affecting our business;
- Change in advertising and subscription demand;
- Changes in technology that impact our ability to deliver digital advertising;
- Potential changes in newsprint, other commodities and energy costs;
- Interest rates;
- Labor costs;
- Legislative and regulatory rulings;
- Our ability to achieve planned expense reductions;
- Our ability to maintain employee and customer relationships;
- Our ability to manage increased capital costs;
- Our ability to maintain our listing status on the NYSE;
- Competition; and
- Other risks detailed from time to time in our publicly filed documents.

Any statements that are not statements of historical fact (including statements containing the words “may”, “will”, “would”, “could”, “believes”, “expects”, “anticipates”, “intends”, “plans”, “projects”, “considers” and similar expressions) generally should be considered forward-looking statements. Readers are cautioned not to place undue reliance on such forward-looking statements, which are made as of the date of this prospectus. We do not undertake to publicly update or revise our forward-looking statements, except as required by law.

For more information about the more significant risks that could affect the outcome of these forward-looking statements and our future financial condition and results of operations, you should read the sections of the documents incorporated herein by reference titled “Risk Factors” as well as the important factors that may be set forth under the heading “Risk Factors” in the applicable supplement to this prospectus.

You should read this prospectus, any applicable prospectus supplements, the documents that we incorporate by reference into this prospectus, the documents that we have included as exhibits to the registration statement of which this prospectus is a part and the documents that we refer to under the section of this prospectus titled “Where You Can Find More Information” completely and with the understanding that our actual future results could be materially different from what we expect when making the forward-looking statement. We qualify all our forward-looking statements by these cautionary statements. These forward-looking statements speak only as of the date of this prospectus, the date of the document incorporated by reference or the date of any applicable prospectus supplement. Except as required by applicable laws or regulations, we do not undertake any obligation to update or revise any forward-looking statement, whether as a result of new information, future events or otherwise.

RATIO OF EARNINGS TO FIXED CHARGES

The following table shows the ratio of earnings to fixed charges for us for the periods indicated. These ratios have been calculated by dividing income (loss) from continuing operations before income taxes, minority interests and income (loss) from equity investments plus fixed charges by fixed charges. Fixed charges consist of interest expense and that portion of rental payments under operating leases we believe to be representative of interest.

The following table sets forth the historical ratio of our earnings to our fixed charges for the periods indicated:

	Year Ended September			
	2013	2014	2015	2016
Ratio of earnings to fixed charges	(A) 1.1	1.5	1.9	

The ratio was less than 1.0 for the fiscal year ended September 30, 2012 as earnings were not adequate to cover fixed charges.

(A) Additional earnings of approximately \$21 million would have been necessary to bring the ratio to 1.0. Loss from continuing operations before income taxes, as reported, includes \$41 million of debt refinancing and reorganization charges. Absent these charges, the ratio of earnings to fixed charges would have been 1.2. These charges are described in our 2013 Form 10-K, which is incorporated by reference herein.

(B) The ratio was less than 1.0 for the fiscal year ended September 29, 2013 as earnings were not adequate to cover

fixed charges.

Additional earnings of approximately \$137 million would have been necessary to bring the ratio to 1.0. Loss from continuing operations before income taxes, as reported, includes \$171 million of asset impairment charges. Absent these charges, the ratio of earnings to fixed charges would have been 1.4. These charges are described in our 2013 Form 10-K, which is incorporated by reference herein.

USE OF PROCEEDS

Each prospectus supplement will describe the uses of the proceeds from the issuance of the securities offered by that prospectus supplement.

SECURITIES WE MAY ISSUE

Overview

This prospectus describes the securities we may issue from time to time. The remainder of this section provides some background information about the manner in which the securities may be held, then describes the terms of the basic categories of securities:

- Senior debt securities
- Senior convertible debt securities
- Subordinated debt securities
- Subordinated convertible debt securities
- Shares of our Common Stock
- Shares of our preferred stock
- Depository Shares
- Warrants to purchase debt securities
- Warrants to purchase our Common Stock
- Warrants to purchase our preferred stock
- Stock purchase units

Subscription Rights

Prospectus Supplements

This prospectus provides you with a general description of the securities we may offer. Each time we sell securities, we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also add to or change information contained in this prospectus. If so, the prospectus supplement should be read as superseding this prospectus. You should read both this prospectus and any prospectus supplement together with additional information described under the heading “Where You Can Find More Information.” The applicable prospectus supplement to be attached to the front of this prospectus will describe the terms of any securities that we offer and any initial offering price to the public in that offering, the purchase price and net proceeds that we will receive and the other specific terms related to our offering of the securities. For more details on the terms of the securities, you should read the exhibits filed with our registration statement, of which this prospectus is a part.

Legal Ownership of Securities

Holders of Securities

Book-Entry Holders. We will issue debt securities in book-entry form only, unless we specify otherwise in the applicable prospectus supplement. We may issue shares of our Common Stock offered hereby in book-entry form. If securities are issued in book-entry form, this means the securities will be represented by one or more global securities registered in the name of a financial institution that holds them as depository on behalf of other financial institutions that participate in the depository’s book-entry system. These participating institutions, in turn, hold beneficial interests in the securities on behalf of themselves or their customers.

We will only recognize the person in whose name a security is registered as the holder of that security. Consequently, for securities issued in global form, we will recognize only the depository as the holder of the securities and all payments on the securities will be made to the depository. The depository passes along the payments it receives to its participants, which in turn pass the payments along to their customers who are the beneficial owners. The depository and its participants do so under agreements they have made with one another or with their customers; they are not obligated to do so under the terms of the securities.

As a result, investors will not own securities directly. Instead, they will own beneficial interests in a global security, through a bank, broker or other financial institution that participates in the depository’s book-entry system or holds an interest through a participant. As long as the securities are issued in global form, investors will be indirect holders, and not holders, of the securities.

Street Name Holders. In the future, we may terminate a global security or issue securities initially in non-global form. In these cases, investors may choose to hold their securities in their own names or in “street name.” Securities held by an investor in street name would be registered in the name of a bank, broker or other financial institution that the investor chooses, and the investor would hold only a beneficial interest in those securities through an account he or she maintains at that institution.

For securities held in street name, we will recognize only the intermediary banks, brokers and other financial institutions in whose names the securities are registered as the holders of those securities and all payments on those securities will be made to them. These institutions pass along the payments they receive to their customers who are the beneficial owners, but only because they agree to do so in their customer agreements or because they are legally required to do so. Investors who hold securities in street name will be indirect holders, not legal holders, of those securities.

Legal Holders. We, and any third parties employed by us or acting on your behalf, such as trustees, depositaries and transfer agents, are obligated only to the legal holders of the securities. We do not have obligations to investors who hold beneficial interests in global securities, in street name or by any other indirect means. This will be the case whether an investor chooses to be an indirect holder of a security or has no choice because we are issuing the securities only in global form.

For example, once we make a payment or give a notice to the legal holder, we have no further responsibility for the payment or notice even if that legal holder is required, under agreements with depository participants or customers or by law, to pass it along to the indirect holders but does not do so. Similarly, if we want to obtain the approval of the holders for any purpose, we would seek the approval only from the legal holders, and not the indirect holders, of the securities. An example would be if we wanted to amend an indenture or to relieve ourselves of the consequences of a default or of our obligation to comply with a particular provision of the indenture. Whether and how the legal holders contact the indirect holders is up to the legal holders.

When we refer to you, we mean those who invest in the securities being offered by this prospectus, whether they are the legal holders or only indirect holders of those securities. When we refer to your securities, we mean the securities in which you hold a direct or indirect interest.

Special Considerations for Indirect Holders. If you hold securities through a bank, broker or other financial institution, either in book-entry form or in street name, you should check with your own institution to find out:

- How it handles securities payments and notices;
- Whether it imposes fees or charges;
- How it would handle a request for the holders' consent, if ever required;
- Whether and how you can instruct it to send you securities registered in your own name so you can be a legal holder, if that is permitted in the future;
- How it would exercise rights under the securities if there were a default or other event triggering the need for holders to act to protect their interests; and
- If the securities are in book-entry form, how the depository's rules and procedures will affect these matters.

Global Securities

What is a Global Security? A global security represents one or any other number of individual securities. Generally, all securities represented by the same global securities will have the same terms. We may, however, issue a global security that represents multiple securities that have different terms and are issued at different times. We call this kind of global security a master global security.

Each security issued in book-entry form will be represented by a global security that we deposit with and register in the name of a financial institution that we select or its nominee. The financial institution that is selected for this purpose is called the depository. Unless we specify otherwise in the applicable prospectus supplement, The Depository Trust Company, New York, New York (DTC) will be the depository for all securities issued in book-entry form. Beneficial interests in global securities will be shown on, and transfers of global securities will be reflected through, records maintained by DTC and its participants.

A global security may not be transferred to or registered in the name of anyone other than the depository or its nominee, unless special termination situations arise or as otherwise described in the prospectus supplement. We describe those situations below under "Special Situations When a Global Security Will Be Terminated." As a result of these arrangements, the depository, or its nominee, will be the sole registered owner and holder of all securities represented by a global security, and investors will be permitted to own only beneficial interests in a global security. Beneficial interests must be held by means of an account with a broker, bank or other financial institution that in turn has an account with the depository or with another institution that does. Thus, an investor whose security is represented by a global security will not be a holder of the security, but only an indirect holder of a beneficial interest in the global security.

Special Considerations for Global Securities. As an indirect holder, an investor's rights relating to a global security will be governed by the account rules of the investor's financial institution and of the depository, as well as general laws relating to securities transfers. We do not recognize this type of investor as a holder of securities and instead will deal only with the depository that holds the global security.

If securities are issued only in the form of a global security, an investor should be aware of the following:

- An investor cannot cause the securities to be registered in his or her name, and cannot obtain physical certificates for his or her interest in the securities, except in the special situations we describe below.
- An investor will be an indirect holder and must look to his or her own bank or broker for payments on the securities and protection of his or her legal rights relating to the securities, as we describe under "Holders of Securities" above.
- An investor may not be able to sell interests in the securities to some insurance companies and to other institutions that are required by law to own their securities in non-book-entry form.

An investor may not be able to pledge his or her interest in a global security in circumstances where certificates representing the securities must be delivered to the lender or other beneficiary of the pledge in order for the pledge to be effective.

The depository's policies, which may change from time to time, will govern payments, transfers, exchanges and other matters relating to an investor's interest in a global security. Neither we nor any third parties employed by us or acting on your behalf, such as trustees and transfer agents, have any responsibility for any aspect of the depository's actions or for its records of ownership interests in a global security. We and the trustee do not supervise the depository in any way.

DTC requires that those who purchase and sell interests in a global security within its book-entry system use immediately available funds and your broker or bank may require you to do so as well.

Financial institutions that participate in the depository's book-entry system, and through which an investor holds its interest in a global security, may also have their own policies affecting payments, notices and other matters relating to the security. There may be more than one financial intermediary in the chain of ownership for an investor. We do not monitor and are not responsible for the actions of any of those intermediaries.

Special Situations When a Global Security Will Be Terminated. In a few special situations described below, a global security will be terminated and interests in it will be exchanged for certificates in non-global form representing the securities it represented. After that exchange, the choice of whether to hold the securities directly or in street name will be up to the investor. Investors must consult their own banks or brokers to find out how to have their interests in a global security transferred on termination to their own names, so that they will be holders. We have described the rights of holders and street name investors above under "Holders of Securities."

The special situations for termination of a global security are as follows:

- If the depository notifies us that it is unwilling, unable or no longer qualified to continue as depository for that global security and we do not appoint another institution to act as depository within a specified time period; or
- If we elect to terminate that global security.

The applicable prospectus supplement may also list additional situations for terminating a global security that would apply to a particular series of securities covered by the applicable prospectus supplement. If a global security is terminated,

only the depositary is responsible for deciding the names of the institutions in whose names the securities represented by the global security will be registered and, therefore, who will be the holders of those securities.

DESCRIPTION OF DEBT SECURITIES

The following description of the debt securities summarizes the material provisions of the debt securities to which a prospectus supplement may relate. Each time we offer debt securities, the prospectus supplement related to that offering will describe the terms of the debt securities we are offering.

As required by U.S. federal law for all bonds and notes of companies that are publicly offered, the debt securities will be governed by a document called an “indenture.” An indenture is a contract to be entered into by us and a financial institution, acting as trustee on your behalf. The indenture will be subject to and governed by the Trust Indenture Act of 1939. The trustee has two main roles:

• First, subject to some limitations, the trustee can enforce your rights against us if we default.

• Second, the trustee performs certain administrative duties for us, which include sending you interest payments and notices.

Because we may issue both senior debt securities and subordinated debt securities, our references to the indenture are to each of the senior indenture and the subordinated indenture, unless the context requires otherwise. In this section, we refer to these indentures collectively as the “indentures.”

Because this section is a summary of the material terms of the indentures, it does not describe every aspect of the debt securities. We urge you to read the indentures because they, and not this description, define your rights as a holder of debt securities. Some of the definitions are repeated in this prospectus, but for the rest you will need to read the indentures. We have filed the forms of the indentures as exhibits to the registration statement of which this prospectus is a part. The indentures are subject to any amendments or supplements as we may enter into from time to time which are permitted under the indentures. We will file the definitive indentures, when executed, as well as any amendments thereto, as exhibits to a current report on Form 8-K or a post-effective amendment to the registration statement of which this prospectus is a part. See “Where You Can Find More Information,” for information on how to obtain copies of the indentures.

General

Unless otherwise provided in the applicable prospectus supplement, the debt securities will be unsecured obligations of our Company. The senior debt securities will rank equally with all of our other unsecured and unsubordinated indebtedness. The subordinated debt securities will be subordinate and junior in right of payment to all principal, premium, interest, rent, fees, costs, expenses and other amounts accrued or due on our existing or future indebtedness, as the term indebtedness is defined below, or any existing or future indebtedness guaranteed or in effect guaranteed by us, subject to certain exceptions. See page 17.

Our debt securities are effectively subordinated to all existing and future indebtedness and other liabilities, including trade payables and capital lease obligations, of any of our subsidiaries. This may affect your ability to receive payments on our debt securities. A summary description of our current indebtedness follows.

You should read the prospectus supplement for the following terms of the series of debt securities offered by the prospectus supplement:

• The title of the debt securities and whether the debt securities will be senior debt securities or subordinated debt securities.

The aggregate principal amount of the debt securities, the percentage of their principal amount at which the debt securities will be issued and the date or dates when the principal of the debt securities will be payable or how those dates will be determined.

The interest rate or rates, which may be fixed or variable, that the debt securities will bear, if any, and how the rate or rates will be determined.

The collateral, if any, which may secure any debt securities.

The date or dates from which any interest will accrue or how the date or dates will be determined, the date or dates on which any interest will be payable, any regular record dates for these payments or how these dates will be determined and the basis on which any interest will be calculated, if other than on the basis of a 360-day year of twelve 30-day months.

The place or places, if any, other than or in addition to New York City, of payment, transfer, conversion and exchange of the debt securities and where notices or demands to or upon us in respect of the debt securities may be served.

Any optional redemption provisions.

Any sinking fund or other provisions that would obligate us to repurchase or redeem the debt securities.

Whether the amount of payments of principal of, or premium, if any, or interest on the debt securities will be determined with reference to an index, formula or other method, which could be based on one or more commodities, equity indices or other indices, and how these amounts will be determined.

Any changes or additions to the events of default under the applicable indenture or our covenants, including additions of any restrictive covenants, with respect to the debt securities.

If not the principal amount of the debt securities, the portion of the principal amount that will be payable upon acceleration of the maturity of the debt securities or how that portion will be determined.

Any changes or additions to the provisions concerning defeasance and covenant defeasance contained in the applicable indenture that will apply to the debt securities.

Any provisions granting special rights to the holders of the debt securities upon the occurrence of specified events.

If other than the trustee, the name of any paying agent, security registrar and transfer agent for the debt securities.

If the debt securities are not to be issued in book-entry form only and held by DTC, as depositary, the form of such debt securities, including whether such debt securities are to be issuable in permanent or temporary global form, as registered securities, bearer securities or both, any restrictions on the offer, sale or delivery of bearer securities and the terms, if any, upon which bearer securities of the series may be exchanged for registered securities of the series and vice versa, if permitted by applicable law and regulations.

If other than U.S. dollars, the currency or currencies of such debt securities.

- The person to whom any interest in a debt security will be payable, if other than the registered holder at the close of business on the regular record date.

The denomination or denominations that the debt securities will be issued, if other than denominations of \$1,000 or

- any integral multiples in the case of the registered securities and \$5,000 or any integral multiples in the case of the bearer securities.

- Whether such debt securities will be convertible into or exchangeable for Common Stock, or other debt securities and, if so, the terms and conditions upon which such debt securities will be so convertible or exchangeable.

- A discussion of federal income tax, accounting and other special considerations, procedures and limitations with respect to the debt securities.

Whether and under what circumstances we will pay additional amounts to non-U.S. holders in respect of any tax

- assessment or government charge, and, if so, whether we will have the option to redeem the debt securities rather than pay such additional amounts.

- Whether payment of any amounts due under the applicable indenture will be guaranteed by one or more of our subsidiaries, and, if so, under what circumstances.

- Any other terms of the debt securities that are consistent with the provisions of the indenture.

For purposes of this prospectus, any reference to the payment of principal of, premium or interest, if any, on debt securities will include additional amounts if required by the terms of such debt securities.

The indentures do not limit the amount of debt securities that we are authorized to issue from time to time. The indentures also provide that there may be more than one trustee thereunder, each for one or more series of debt securities. At a time when two or more trustees are acting under the indenture, each with respect to only certain series, the term “debt securities” means the series of debt securities for which each respective trustee is acting. If there is more than one trustee under the indenture, the powers and trust obligations of each trustee will apply only to the debt securities for which it is trustee. If two or more trustees are acting under the indenture, then the debt securities for which each trustee is acting would be treated as if issued under separate indentures.

We may issue debt securities with terms different from those of debt securities that may already have been issued. Without the consent of the holders thereof, we may reopen a previous issue of a series of debt securities and issue additional debt securities of that series without limit unless the reopening was restricted when that series was created. There is no requirement that we issue debt securities in the future under any indenture, and we may use other indentures or documentation, containing materially different provisions in connection with future issues of other debt securities.

We may issue the debt securities as original issue discount securities, which are debt securities, including any zero-coupon debt securities, which are issued and sold at a discount from their stated principal amount. Original issue discount securities provide that, upon acceleration of their maturity, an amount less than their principal amount will become due and payable. We will describe the U.S. federal income tax consequences and other considerations applicable to original issue discount securities in any prospectus supplement relating to them.

In addition, special United States federal income tax considerations or other restrictions or other terms applicable to any debt securities offered exclusively to foreigners or denominated in a currency other than U.S. dollars may also be set forth in the prospectus supplement, if applicable.

Conversion and Exchange

If any debt securities are convertible, they may only be convertible into or exchangeable for Common Stock or other debt securities, and the prospectus supplement will explain the terms and conditions of such conversion or exchange, including:

- The securities into which the debt securities are convertible or exchangeable for;
- The conversion price or exchange ratio, or the calculation method for such price or ratio;
- The conversion or exchange period, or how such period will be determined;
- If conversion or exchange will be mandatory or at the option of the holder or our Company;
- Provisions for adjustment of the conversion price or the exchange ratio;
- Provisions affecting conversion or exchange in the event of the redemption of the debt securities; and
- Any other terms of the debt securities that are consistent with the provisions of the indenture.

Such terms may also include provisions under which the number or amount of other securities to be received by the holders of such debt securities upon conversion or exchange would be calculated according to the market price of such other securities as of a time stated in the prospectus supplement.

Additional Mechanics

Form, Exchange and Transfer

The debt securities will be issued:

- As registered securities; or
- As bearer securities with interest coupons attached, unless otherwise stated in the prospectus supplement; however, the debt securities will not be bearer securities unless otherwise stated in the prospectus supplement; or
- In global form, see “Securities We May Issue—Legal Ownership of Securities—Global Securities;” or
- In denominations that are integral multiples of \$1,000, in the case of registered securities, and in integral multiples of \$5,000, in the case of bearer securities.

You may have your registered securities divided into registered securities of smaller denominations or combined into registered securities of larger denominations, as long as the total principal amount is not changed. This is called an “exchange.”

You may exchange or transfer registered securities of a series at the office of the trustee. The trustee maintains the list of registered holders and acts as our agent for registering debt securities in the names of holders and transferring debt securities. However, we may appoint another trustee to act as our agent or act as our own agent. If provided in the prospectus supplement, you may exchange your bearer securities for registered securities of the same series so long as

the total principal amount is not changed. Unless otherwise specified in the prospectus supplement, bearer securities will not be issued in exchange for registered securities.

You will not be required to pay a service charge to transfer or exchange debt securities, but you may be required to pay for any tax or other governmental charge associated with the exchange or transfer.

If we designate additional transfer agents, they will be named in the prospectus supplement. We may cancel the designation of any particular transfer agent. We may also approve a change in the office through which any transfer agent acts.

If the debt securities are redeemable and we redeem less than all of the debt securities of a particular series, we may refuse any transfer or exchange of debt securities for 15 days before the day we mail the notice of redemption or publish such notice, in the case of bearer securities, and ending on the day of that mailing or publication in order to freeze the list of holders to prepare the mailing. At our option, we may mail or publish such notice of redemption through an electronic medium. We may also refuse to register transfers or exchanges of debt securities selected for redemption, except that we will continue to permit transfers and exchanges of the unredeemed portion of any debt security being partially redeemed.

Paying and Paying Agents

If you are a holder of registered securities, we will pay interest to you if you are a direct holder in the list of registered holders at the close of business on a particular day in advance of each due date for interest, even if you no longer own the security on the interest due date. That particular time and day, usually about two weeks in advance of the interest due date, is called the "Regular Record Date" and is stated in the prospectus supplement. Holders buying and selling debt securities must work out between them how to compensate for the fact that we will pay all the interest for an interest period to the one who is the registered holder on the Regular Record Date. The most common manner is to adjust the sales price of the debt securities to prorate interest fairly between buyer and seller. This prorated interest amount is called "accrued interest."

With respect to registered securities, we will pay interest, principal and any other money due on the debt securities at the corporate trust office of the trustee. You must make arrangements to have your payments picked up at or wired from that office. We may also choose to pay interest by mailing checks or making wire transfers.

Holders in street name and other indirect holders should consult their banks or brokers for information on how they will receive payments.

If bearer securities are issued, unless otherwise provided in the prospectus supplement, we will maintain an office or agency outside the United States for the payment of all amounts due on the bearer securities. If debt securities are listed on any stock exchange located outside the United States, we will maintain an office or agency for such debt securities in any city located outside the United States required by such stock exchange. The initial locations of such offices and agencies will be specified in the prospectus supplement.

Payment of interest on any bearer securities on or before maturity will be made only against surrender of coupons for such interest installments as they mature, unless otherwise provided in the prospectus supplement. No payment with respect to any bearer security, unless otherwise provided in the prospectus supplement, will be made at any office or agency of our Company in the United States or by check mailed to any address in the United States or by transfer to an account maintained with a bank located in the United States. However, payments of principal, premium and interest, if any, on bearer securities payable in U.S. dollars will be made at the office of our paying agent in New York City if, but only if, payment of the full amount in U.S. dollars at all offices or agencies outside the United States is illegal or effectively precluded by exchange controls or other similar restrictions.

Regardless of who acts as the paying agent, all money paid by us to a paying agent that remains unclaimed at the end of two years after the amount is due to registered holders will be repaid to us. After that two-year period, you may look only to us for payment and not to the trustee, any other paying agent or anyone else.

We may also arrange for additional payment offices, and may cancel or change these offices, including our use of the trustee's corporate trust office. We may also choose to act as our own paying agent. We must notify you of changes in identities of the paying agents for any particular series of debt securities.

Notices

With respect to registered securities, we and the trustee will send notices regarding the debt securities only to registered holders, using their addresses as listed in the list of registered holders. With respect to bearer securities, we and the trustee will give notice by publication in a newspaper of general circulation in New York City or in such other cities that may be specified in a prospectus supplement. At our option, we may send or publish notices through an electronic medium as specified in the applicable prospectus supplement.

Events of Default

You will have special rights if an event of default occurs in respect of the debt securities of your series and is not cured, as described later in this subsection.

What is an Event of Default? Unless otherwise specified in the prospectus supplement, the term "event of default" in respect of the debt securities of your series means any of the following:

- We do not pay the principal of or any premium on a debt security of such series on its due date whether at maturity, upon redemption or upon acceleration.
- We do not pay interest on a debt security of such series within 30 days of its due date.
- We do not deposit any sinking fund payment in respect of debt securities of such series on its due date.
- We remain in breach of a covenant in respect of debt securities of such series for 60 days after we receive a written notice of default stating we are in breach and requiring that we remedy the breach. The notice must be sent by either the trustee or holders of 25% of the principal amount of debt securities of such series.
- We file for bankruptcy or certain other events in bankruptcy, insolvency or reorganization occur.
- Any other event of default in respect of debt securities of such series described in the prospectus supplement occurs.

The events of default described above may be modified as described in the applicable prospectus supplement. An event of default for a particular series of debt securities does not necessarily constitute an event of default for any other series of debt securities issued under an indenture. Each series will have separate rights upon an event of default. The trustee may withhold notice to the holders of debt securities of any default, except in the payment of principal or interest, if it considers such withholding of notice to be in the best interests of the holders.

Remedies if an Event of Default Occurs. If an event of default has occurred and has not been cured, the trustee or the holders of 25% in principal amount of the debt securities of the affected series may declare the entire principal amount of all the debt securities of that series to be due and immediately payable. This is called a declaration of acceleration of maturity. If an event of default occurs because of certain events in bankruptcy, insolvency or reorganization related to us, the principal amount of all the debt securities of that series will be automatically accelerated, without any action by the trustee or any holder.

There are special notice and timing rules applicable to the acceleration of subordinated debt securities that are designed to protect the interests of holders of senior debt. A declaration of acceleration of maturity may be cancelled by the holders of at least a majority in principal amount of the debt securities of the affected series if:

• All existing events of default, other than the nonpayment of principal of or premium or interest, if any, on the debt securities of such series that have become due solely because of the acceleration have been cured or waived; and
• The rescission would not conflict with any judgment or decree of a court of competent jurisdiction.

Except in cases of default, where the trustee has some special duties, the trustee is not required to take any action under the indenture at the request of the holders unless the holders offer the trustee reasonable protection from expenses and liability, called an “indemnity.” If reasonable indemnity is provided, the holders of a majority in principal amount of the outstanding debt securities of the relevant series may direct the time, method and place of conducting any lawsuit or other formal legal action seeking any remedy available to the trustee. The trustee may refuse to follow those directions in certain circumstances. No delay or omission in exercising any right or remedy will be treated as a waiver of such right, remedy or event of default.

Before you are allowed to bypass the trustee and bring your own lawsuit or other formal legal action or take other steps to enforce your rights or protect your interests relating to the debt securities, the following must occur:

- You must give the trustee written notice that an event of default has occurred and remains uncured.

The holders of not less than 25% in principal amount of all outstanding debt securities of the relevant series must

- make a written request that the trustee take action because of the default and must offer reasonable indemnity to the trustee against the cost and other liabilities of taking that action.

- The trustee must not have taken action for 60 days after receipt of the above notice and offer of indemnity.

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