

BJS WHOLESALE CLUB INC  
Form 8-A12B/A  
December 17, 2003

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

Washington, DC 20549

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**Form 8-A/A**  
**AMENDMENT NO. 2**

**FOR REGISTRATION OF CERTAIN CLASSES OF SECURITIES**  
**PURSUANT TO SECTION 12(b) OR 12(g) OF THE**  
**SECURITIES EXCHANGE ACT OF 1934**

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**BJ s Wholesale Club, Inc.**

(Exact Name of Registrant as Specified in Its Charter)

**Delaware**  
(State of Incorporation or Organization)

**04-3360747**  
(I.R.S. Employer Identification No.)

**One Mercer Road, Natick, MA**  
(Address of Principal Executive Offices)

**01760**  
(Zip Code)

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If this form relates to the registration of a class of securities pursuant to Section 12(b) of the Exchange Act and is effective pursuant to General Instruction A.(c), please check the following box. "

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If this form relates to the registration of a class of securities pursuant to Section 12(g) of the Exchange Act and is effective pursuant to General Instruction A.(d), please check the following box. "

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Securities Act registration statement file number to which this form relates: \_\_\_\_\_

(If applicable)

**Securities to be registered pursuant to Section 12(b) of the Act:**

<b>Title of Each Class to be so Registered</b>	<b>Name of Each Exchange on Which Each Class is to be Registered</b>
<hr/> Preferred Stock Purchase Rights	<hr/> New York Stock Exchange

**Securities to be registered pursuant to Section 12(g) of the Act: None**

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Explanatory Note:

This Amendment No. 2 to Registration Statement on Form 8-A/A amends and restates the Registration Statement on Form 8-A dated July 10, 1997 (the "Form 8-A") and Amendment No. 1 to the Registration Statement on Form 8-A dated March 5, 1999 (and filed with the SEC on March 8, 1999), filed by BJS Wholesale Club, Inc. (the "Company") with respect to the Preferred Stock Purchase Rights (the "Rights") issued pursuant to the Rights Agreement, dated as of July 10, 1997, as amended by Amendment No. 1, dated as of February 4, 1999, to the Rights Agreement between the Company and First Chicago Trust Company of New York (the "Original Agreement"). The Company and The Bank of New York entered into the Amended and Restated Rights Agreement, effective as of November 17, 2003 (the "Rights Agreement"), which amends and restates the Original Agreement, which is included as Exhibit 1 hereto and is incorporated herein by reference. The Amended and Restated Rights Agreement amends the Original Agreement solely to make administrative changes in connection with the Company's appointment of The Bank of New York to succeed First Chicago Trust Company of New York as Rights Agent. The Amended and Restated Rights Agreement, as amended through the date hereof, is referred to herein as the "Rights Agreement".

Item 1. Description of Registrant's Securities to be Registered.

On July 10, 1997, the Board of Directors of the Company, declared a dividend of one preferred stock purchase right (a "Right") for each outstanding share of the Company's Common Stock to stockholders of record at the close of business on July 10, 1997 (the "Record Date"). Each Right entitles the registered holder to purchase from the Company a unit consisting of one one-thousandth of a share (a "Unit") of Series A Junior Participating Preferred Stock, \$.01 par value per share (the "Preferred Stock"), at a purchase price of \$120 in cash per Unit (the "Purchase Price"), subject to adjustment. The description and terms of the Rights are set forth in the Rights Agreement.

Initially, the Rights will be attached to all Common Stock certificates representing shares then outstanding, and no separate Rights Certificates will be distributed. The Rights will separate from the Common Stock and a Distribution Date will occur upon the earlier of (i) ten business days (or such later date as may be determined by the Board of Directors of the Company) following a public announcement that a person or group of affiliated or associated persons (an "Acquiring Person") has acquired, or obtained the right to acquire, beneficial ownership of 20% or more of the outstanding shares of Common Stock (the "Stock Acquisition Date"), or (ii) ten business days (or such later date as may be determined by the Board of Directors of the Company) following the commencement of a tender offer or exchange offer that would result in a person or group beneficially owning 30% or more of such outstanding shares of Common Stock. Until the Distribution Date (or earlier redemption or expiration of the rights), (i) the Rights will be evidenced by the Common Stock certificates and will be transferred with and only with such Common Stock certificates, (ii) new Common Stock certificates issued after the Record Date will contain a notation incorporating the Rights Agreement by reference and (iii) the surrender for transfer of any certificates for Common Stock outstanding, even without such notation, will also constitute the transfer of the Rights associated with the Common Stock represented by such certificate.

The Rights are not exercisable until the Distribution Date and will expire upon the earliest of the close of business on July 10, 2007 (the Final Expiration Date ) or the redemption or exchange of the Rights as described below.

As soon as practicable after the Distribution Date, separate certificates evidencing the Rights ( Rights Certificates ) will be mailed to holders of record of the Common Stock as of the close of business on the Distribution Date and, thereafter, such separate Rights Certificates alone will represent the Rights.

In the event that any Person becomes an Acquiring Person, unless the event causing the 20% threshold to be crossed is a Permitted Offer (as defined in the Rights Agreement), then, promptly following the first occurrence of such event, proper provision shall be made so that each holder of a Right (except as provided below and in Section 7(e) of the Rights Agreement) shall thereafter have the right to receive, upon exercise thereof at the then current Purchase Price, in lieu of a number of one one-thousandths of a share of Preferred Stock, such number of shares of Common Stock of the Company that equals the result obtained by (x) multiplying the then current Purchase Price by the then number of one one-thousandths of a share of Preferred Stock for which a Right is then exercisable, and (y) dividing that product by 50% of the current market price per share of Common Stock on the date of such first occurrence. Notwithstanding any of the foregoing, following the occurrence of the event set forth in this paragraph, all Rights that are, or (under certain circumstances specified in the Rights Agreement) were, beneficially owned by any Acquiring Person will be null and void. The event summarized in this paragraph is referred to as Section 11(a)(ii) Event.

In the event that, at any time after any Person becomes an Acquiring Person, (i) the Company is acquired in certain merger or other business combination transactions in which the Company is not the surviving corporation or its Common Stock is changed or exchanged (other than a merger which follows a Permitted Offer), or (ii) 50% or more of the Company's assets or earning power is sold or transferred, each holder of a Right (except Rights which previously have been voided as set forth above) shall thereafter have the right to receive, upon exercise, that number of shares of common stock of the acquiring company which equals the exercise price of the Right divided by one-half of the current market price of such common stock at the date of the occurrence of the event. The events summarized in this paragraph are referred to as Section 13 Events. Section 11(a)(ii) Events and Section 13 Events are collectively referred to as Triggering Events.

At any time after the occurrence of a Section 11(a)(ii) Event, subject to certain conditions, the Board of Directors of the Company may exchange the Rights (other than Rights owned by such Acquiring Person which have become void), in whole or in part, at an exchange ratio of one share of Common Stock, or one one-thousandth of a share of Preferred Stock (or of a share of a class or series of the Company's preferred stock having equivalent rights, preferences and privileges), per Right (subject to adjustment).

The Purchase Price payable, and the number of Units of Preferred Stock or other securities or property issuable, upon exercise of the Rights are subject to adjustment from time to time to prevent dilution (i) in the event of a stock dividend on, or a subdivision, combination or reclassification of, the Preferred Stock, (ii) if holders of the Preferred Stock are granted certain rights or warrants to subscribe for Preferred Stock or convertible securities at less than the then-current market price of the Preferred Stock, or (iii) upon the distribution to holders of the

Preferred Stock of evidences of indebtedness or assets (excluding regular periodic cash dividends paid out of earnings or retained earnings) or of subscription rights or warrants (other than those referred to above).

The number of Rights associated with each share of Common Stock is also subject to adjustment in the event of a stock split of the Common Stock or a stock dividend on the Common Stock payable in Common Stock or subdivisions, consolidations or combinations of the Common Stock occurring, in any such case, prior to the Distribution Date.

Preferred Stock purchasable upon exercise of the Rights will not be redeemable. Each share of Preferred Stock will be entitled to a minimum preferential quarterly dividend payment of \$10 per share and will be entitled to an aggregate dividend of 1000 times the dividend declared per share of Common Stock. In the event of liquidation, the holders of the Preferred Stock will be entitled to a minimum preferential liquidation payment of \$1000 per share and will be entitled to an aggregate payment of 1000 times the payment made per share of Common Stock. Each share of Preferred Stock will have 1000 votes, voting together with the Common Stock. In the event of any merger, consolidation or other transaction in which Common Stock is exchanged, each share of Preferred Stock will be entitled to receive 1000 times the amount received per share of Common Stock. These rights are protected by customary antidilution provisions.

Because of the nature of the Preferred Stock's dividend, liquidation and voting rights, the value of one one-thousandth of a share of Preferred Stock purchasable upon exercise of each Right should approximate the value of one share of Common Stock.

With certain exceptions, no adjustment in the Purchase Price will be required until cumulative adjustments amount to at least 1% of the Purchase Price. No fractional Units will be issued and, in lieu thereof, an adjustment in cash will be made based on the market price of the Preferred Stock on the last trading date prior to the date of exercise.

At any time prior to the earlier of (i) ten business days (or such later date as may be determined by the Board of Directors of the Company) following the Stock Acquisition Date (or if the Stock Acquisition Date shall have occurred prior to the Record Date, ten business days following the Record Date), or (ii) the Final Expiration Date, the Company may redeem the Rights in whole, but not in part, at a price of \$.01 per Right (the Redemption Price), payable in cash, shares of Common Stock or any other form of consideration, or any combination of the foregoing, deemed appropriate by the Board of Directors of the Company. Immediately upon the action of the Board of Directors ordering redemption of the Rights, the Rights will terminate and the only right of the holders of Rights will be to receive the Redemption Price.

Until a Right is exercised, the holder thereof, as such, will have no rights as a stockholder of the Company, including, without limitation, the right to vote or to receive dividends. While the distribution of the Rights will not be taxable to stockholders or to the Company, stockholders may, depending upon the circumstances, recognize taxable income in the event that the Rights become exercisable for Common Stock (or other consideration) of the Company or for common stock of the acquiring company as set forth above.

Subject to certain exceptions, any of the provisions of the Rights Agreement may be amended by the Board of Directors of the Company prior to such time as the Rights are no longer redeemable.

A copy of the Rights Agreement, which includes as Exhibit A the Form of Certificate of Designations, as Exhibit B the Form of Rights Certificate, and as Exhibit C the Summary of Rights to Purchase Preferred Stock, is filed as Exhibit 1 to this Amendment No. 2 to Form 8-A and is incorporated herein by reference. The foregoing description of the Rights Agreement and the Rights does not purport to be complete and is qualified in its entirety by reference to such Exhibit.

Item 2. Exhibits.

1. Amended and Restated Rights Agreement dated as of November 17, 2003 between the Company and The Bank of New York.

SIGNATURE

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the Registrant has duly caused this Amendment No. 2 to Registration Statement to be signed on its behalf by the undersigned, thereto duly authorized.

BJ S WHOLESALE CLUB, INC.

Date: December 17, 2003

By:

/s/ MICHAEL T. WEDGE

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Michael T. Wedge

President and Chief Executive Officer

EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Description</u>
1.	Amended and Restated Rights Agreement dated as of November 17, 2003 between the Company and The Bank of New York