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FRANKLIN RESOURCES INC
Form DEF 14A
January 03, 2005

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

SCHEDULE 14A
Proxy Statement Pursuant to Section 14(a) of the Securities
Exchange Act of 1934 (Amendment No.)

Filed by the Registrant [X]
Filed by a Party other than the Registrant []

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to Section 240.14a-12

.....
FRANKLIN RESOURCES, INC.
.....
(Name of Registrant as Specified In Its Charter)

.....
(Name of Person(s) Filing Proxy Statement if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

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- 1) Amount Previously Paid:
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- 4) Date Filed: []
.....

FRANKLIN RESOURCES, INC.
NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

DEAR STOCKHOLDER:

The Board of Directors of Franklin Resources, Inc. (the "Company") invites you to attend the annual meeting of stockholders (the "Annual Meeting"). The Annual Meeting will be held on January 25, 2005 at 10:00 a.m., Pacific Standard Time, in the H. L. Jamieson Auditorium, at One Franklin Parkway, Building 920, San Mateo, California, for the following purposes:

- 1. To elect eleven (11) Directors to the Board of Directors. Each Director will hold office until the next Annual Meeting of Stockholders or until that person's successor is elected and qualified;
- 2. To ratify the appointment of PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm for the current fiscal year ending September 30, 2005;
- 3. To approve the amendment and restatement of the Franklin Resources, Inc. 2002 Universal Stock Incentive Plan;
- 4. To approve the amendment of the Company's Certificate of Incorporation, as amended, to increase the number of shares of common stock, par value \$0.10 per share, from 500,000,000 shares to 1,000,000,000 shares authorized for issuance by the Company; and
- 5. To transact such other business that may be raised at the Annual Meeting or any adjournments or postponements of the Annual Meeting.

You must have owned shares at the close of business on November 30, 2004 to be entitled to receive notice of, and to vote on, all matters presented at the Annual Meeting. Your vote is very important. Even if you think that you will attend the Annual Meeting, we ask you to please return the proxy card. You can vote by telephone, over the Internet, or by using the proxy card that is enclosed.

By order of the Board of Directors,

BARBARA J. GREEN
SECRETARY

JANUARY 3, 2005

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SAN MATEO, CALIFORNIA

PLEASE VOTE BY TELEPHONE OR BY USING THE INTERNET AS INSTRUCTED ON THE ENCLOSED PROXY CARD OR COMPLETE, SIGN AND RETURN THE PROXY CARD IN THE ENCLOSED ENVELOPE.

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FRANKLIN RESOURCES, INC.
ONE FRANKLIN PARKWAY
SAN MATEO, CALIFORNIA 94403

PROXY STATEMENT
JANUARY 3, 2005

This Proxy Statement and the accompanying Notice of Annual Meeting of Stockholders are furnished in connection with the solicitation by the Board of Directors of Franklin Resources, Inc., a Delaware corporation ("Franklin" or the "Company"), of the accompanying proxy to be voted at the Annual Meeting of Stockholders (the "Annual Meeting"), which will be held on January 25, 2005, at 10:00 a.m., Pacific Standard Time, in the H. L. Jamieson Auditorium, One Franklin Parkway, Building 920, San Mateo, California. We expect that this Proxy Statement and the enclosed proxy will be mailed on or about January 3, 2005 to each stockholder entitled to vote.

All materials filed by the Company with the Securities and Exchange Commission (the "SEC") can be obtained at the SEC's Public Reference Room at 450 Fifth Street, N.W., Washington, D.C. 20549 or through the SEC's website at www.sec.gov. You may obtain information on the operation of the Public Reference Room by calling 1-800-SEC-0330.

VOTING INFORMATION

WHO CAN VOTE?

You may vote if you held shares of the Company's common stock directly as a stockholder of record or beneficially in street name, at the close of business on November 30, 2004 (the "Record Date"). You are entitled to one vote for each share owned on that date on each matter presented in person or by proxy at the meeting. As of the Record Date, Franklin had 251,352,866 shares outstanding.

HOW MANY VOTES ARE NEEDED TO HOLD THE MEETING?

In order to take any action at the Annual Meeting, a majority of Franklin's outstanding shares as of the Record Date must be present at the meeting. This is called a quorum.

WHO COUNTS THE VOTES?

The final voting results will be tallied by our Transfer Agent, The Bank of New York, and the Inspector of Elections, and published in our next quarterly report on Form 10-Q.

WHAT IS A PROXY?

A "proxy" allows someone else (the "proxy holder") to vote your shares on your behalf. The Board of Directors of Franklin ("Board of Directors" or "Board") is

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asking you to allow any of the persons named on the proxy card (Charles B. Johnson, Chairman of the Board; Martin L. Flanagan, President and Co-Chief Executive Officer; and Barbara J. Green, Secretary) to vote your shares at the Annual Meeting.

HOW DO I VOTE BY PROXY?

Whether you hold shares directly as a stockholder of record or beneficially in street name, you may vote without attending the Annual Meeting. You may vote by granting a proxy or, for shares held in street name, by submitting voting instructions to your stockbroker or nominee. You will be able to do this by telephone, using the Internet or by mail. The deadline for voting by telephone or by using the Internet is 11:59 p.m., Eastern Standard Time, on January 24, 2005. Please see your proxy card or the information your bank, broker, or other holder of record provided to you for more information on these options. Unless you indicate otherwise on your proxy card,

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the persons named as your proxy holders on the proxy card will vote your shares FOR all nominees to the Board of Directors, FOR the ratification of the appointment of PricewaterhouseCoopers LLP as the independent registered public accounting firm (the "independent auditors") for the fiscal year ending September 30, 2005, FOR the approval of the amendment and restatement of the Franklin Resources, Inc. 2002 Universal Stock Incentive Plan, and FOR the approval of the amendment of the Company's Certificate of Incorporation, as amended, ("Certificate of Incorporation") to increase the number of shares of common stock authorized for issuance. If any other matters come before the Annual Meeting to be voted on, the persons named as your proxy holders on the proxy card will vote, act and consent on those matters in their discretion.

CAN I CHANGE OR REVOKE MY VOTE AFTER I RETURN MY PROXY CARD?

Yes. You can change or revoke your proxy by submitting another proxy with a later date before the beginning of the Annual Meeting. You may also revoke your proxy by attending the Annual Meeting and voting in person.

CAN I VOTE IN PERSON AT THE ANNUAL MEETING INSTEAD OF VOTING BY PROXY?

Yes. However, we encourage you to complete and return the enclosed proxy card to ensure that your shares are represented and voted.

HOW ARE VOTES COUNTED?

To be counted as "represented", either a proxy card must have been returned for those shares, or the stockholder must be present at the meeting. Under New York Stock Exchange ("NYSE") rules, the proposals to elect Directors (Proposal No. 1) and to ratify the appointment of the independent auditors (Proposal No. 2) are considered routine items. This means that brokers may vote in their discretion on these matters on behalf of clients who have not furnished voting instructions. The proposal to approve the amendment and restatement of the Franklin Resources, Inc. 2002 Universal Stock Incentive Plan (Proposal No. 3) and to approve the amendment of the Company's Certificate of Incorporation, as amended, to increase the number of shares of common stock authorized for issuance (Proposal No. 4) are considered "non-routine" items. This means brokers that have not received voting instructions from their clients may not vote on this proposal. Broker "non-votes" are considered as represented for purposes of determining a quorum, but will not be considered as entitled to vote with respect to Proposal No. 3. Broker "non-votes" will have the same effect as a

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vote against Proposal No. 4 to increase the number of shares of common stock that the Company may issue.

WHAT IS THE VOTING REQUIREMENT TO APPROVE EACH OF THE PROPOSALS?

For the election of Directors, a plurality of the votes cast is required (Proposal No. 1). This means that the eleven (11) candidates who receive the most votes will be elected to the eleven (11) available positions on the Board. An affirmative vote of the holders of shares of common stock, having a majority of the votes present in person or represented by proxy at the Annual Meeting and entitled to vote on the matters, are necessary to ratify the appointment of PricewaterhouseCoopers LLP (Proposal No. 2), as amended, and to approve the amendment and restatement of the Franklin Resources, Inc. 2002 Universal Stock Incentive Plan (Proposal No. 3). In order to approve the amendment of the Company's Certificate of Incorporation to increase the number of shares of common stock authorized for issuance (Proposal No. 4), a majority of the outstanding common stock of the Company will be required to vote in favor of the amendment. Shares properly voted "ABSTAIN" on a particular matter are considered as shares present at the meeting for quorum purposes, but are treated as having voted against the matter, although such abstentions will have no effect on the voting for the election of directors (Proposal No. 1).

WHO PAYS FOR THIS PROXY SOLICITATION?

Your proxy is being solicited by the Board of Directors of Franklin. Franklin pays the cost of soliciting your proxy and reimburses brokerage costs and other fees for forwarding proxy materials to you.

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PROPOSAL NO. 1

ELECTION OF DIRECTORS

GENERAL

The Corporate Governance Committee of the Board recommended, and the Board approved, the nominees named below for election as members of the Board of Directors of Franklin Resources, Inc. The Chairman of the Board recommended Samuel H. Armacost for consideration by the Corporate Governance Committee as a nominee for director. Mr. Armacost was elected as member of the Board as of December 21, 2004. All nominees are currently directors; however Mr. Armacost is standing for election by stockholders of the Company for the first time. If elected, each director will serve until the next Annual Meeting of Stockholders and until that person's successor is elected and qualified or until his/her earlier resignation, retirement, disqualification or removal. In accordance with the Company's Director Independence Standards, as amended ("Director Independence Standards"), described more fully below, the Board has affirmatively determined that the Board is currently composed of a majority of independent directors, and that the director nominee, Mr. Armacost, and the following current members standing for re-election are independent within the meaning of the Company's Director Independence Standards and under the rules in the listing standards of the NYSE and do not have a material relationship with the Company: Samuel H. Armacost, Charles Crocker, Robert D. Joffe, Thomas H. Kean, Chutta Ratnathicam, and Louis E. Woodworth. Unless you mark "Exceptions" on your proxy card to withhold authority to vote for one or all of the director nominees, the persons named as proxy holders intend to vote for all of these nominees. Listed below are the names, ages, and principal occupations for the

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past five years of the director nominees.

RECOMMENDATION OF THE BOARD

The Board of Directors recommends a vote "FOR" the election to the Board of each of the following nominees. The voting requirements for this proposal are described in the "Voting Information" section.

NOMINEES

SAMUEL H. ARMACOST
AGE 65
DIRECTOR SINCE DECEMBER 21, 2004

Chairman of the Board of Directors of SRI International, formerly Stanford Research Institute, an independent technology development and consulting organization for more than the past five (5) years. Managing Director, Weiss, Peck & Greer LLC from 1990 until 1998 and Merrill Lynch Capital Markets from 1987 until 1990. President, Director and Chief Executive Officer, BankAmerica Corporation from 1981 until 1986. Director, ChevronTexaco Corp., Del Monte Foods Company, Exponent, Inc. and Callaway Golf Company.

HARMON E. BURNS
AGE 59
DIRECTOR SINCE 1991

Vice Chairman and Member - Office of the Chairman of the Company; formerly, Executive Vice President of the Company for more than the past five (5) years; officer and/or director of many Company subsidiaries; officer and/or director or trustee of 49 investment companies managed or advised by subsidiaries of the Company.

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CHARLES CROCKER
AGE 65
DIRECTOR SINCE 2003

Chairman, Chief Executive Officer and director of BEI Technologies, Inc. since October 1997; President of BEI Technologies, Inc. from October 1997 to May 2000. Director, Pope & Talbot, Inc., Teledyne Technologies, Inc. and Fiduciary Trust Company International, a subsidiary of the Company.

ROBERT D. JOFFE
AGE 61
DIRECTOR SINCE 2003

Presiding Partner and partner of Cravath, Swaine & Moore, LLP for more than the past five (5) years. Director of Fiduciary Trust Company International, a subsidiary of the Company.

CHARLES B. JOHNSON
AGE 71
DIRECTOR SINCE 1969

Chairman of the Board and Member - Office of the Chairman of the Company; formerly, Chief Executive Officer of the Company; officer and/or director of

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many Company subsidiaries; officer and/or director or trustee of 46 investment companies managed or advised by subsidiaries of the Company.

RUPERT H. JOHNSON, JR.
AGE 64
DIRECTOR SINCE 1969

Vice Chairman and Member - Office of the Chairman of the Company; formerly, Executive Vice President of the Company for more than the past five (5) years; officer and/or director of many Company subsidiaries; officer and/or director or trustee of 49 investment companies managed or advised by subsidiaries of the Company.

THOMAS H. KEAN
AGE 69
DIRECTOR SINCE 2003

President, Drew University since 1990; formerly, Governor of the State of New Jersey from 1982 to 1990. Director, Aramark Corporation, Amerada Hess Corp., The CIT Group, Inc., Fiduciary Trust Company International, a subsidiary of the Company, The Pepsi Bottling Group and UnitedHealth Group Incorporated.

CHUTTA RATNATHICAM
AGE 57
DIRECTOR SINCE 2003

Senior Vice President and Chief Financial Officer of CNF Inc. (formerly CNF Transportation Inc.) since 1997; formerly, Chief Executive Officer of the Emery Worldwide reporting segment of CNF from September 2000 to December 2001; Vice President-International of Emery for five (5) years prior to 1997. Chartered Accountant (Sri Lanka). Member, American Institute of Certified Management Accountants.

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PETER M. SACERDOTE
AGE 67
DIRECTOR SINCE 1993

Advisory director and Chairman of the Investment Committee of the principal investment area of Goldman, Sachs & Co. (investment banking) since May 1999; formerly, a general partner and then a limited partner of the Goldman Sachs Group, L.P. for five (5) years prior to 1999. Director, Qualcomm, Inc. and Hexcel Corporation.

ANNE M. TATLOCK
AGE 65
DIRECTOR SINCE DECEMBER 21, 2004 AND FROM JANUARY 2001 TO DECEMBER 2004

Vice Chairman and Member - Office of the Chairman of the Company since 2001; director of the Company from January 2001 to early December 2004 and re-elected in late December 2004; Chairman of the Board, Chief Executive Officer (since 2000), and director of Fiduciary Trust Company International, a subsidiary of the Company; formerly President of Fiduciary Trust Company International for more than the past five (5) years; officer and/or director of certain other Company subsidiaries. Director, Fortune Brands, Inc. and Merck & Co., Inc.

LOUIS E. WOODWORTH

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AGE 71
DIRECTOR SINCE 1981

Private investor. President, Alpine Corp., a private investment company, for the past five (5) years.

FAMILY RELATIONS. Charles B. Johnson, the Chairman of the Board and director of the Company, and Rupert H. Johnson, Jr., the Vice Chairman and director of the Company, are brothers. Peter M. Sacerdote, a director of the Company, is a brother-in-law of Charles B. Johnson and Rupert H. Johnson, Jr. Gregory E. Johnson, a President and Co-Chief Executive Officer of the Company, is the son of Charles B. Johnson, the nephew of Rupert H. Johnson, Jr. and Peter M. Sacerdote and the brother of Jennifer J. Bolt, a Senior Vice President and Chief Information Officer of the Company. Jennifer J. Bolt is the daughter of Charles B. Johnson, the niece of Rupert H. Johnson, Jr. and Peter M. Sacerdote and the sister of Gregory E. Johnson.

CORPORATE GOVERNANCE

The Company regularly monitors regulatory developments and reviews its policies, processes and procedures in the area of corporate governance to respond to such developments. As part of those efforts, we review federal laws affecting corporate governance, such as the Sarbanes-Oxley Act of 2002, as well as rules adopted by the Securities and Exchange Commission and the NYSE.

CORPORATE GOVERNANCE GUIDELINES. The Board has adopted Corporate Governance Guidelines, as amended ("Corporate Governance Guidelines") which are attached as Appendix D. The Corporate Governance Guidelines are posted in the corporate governance section of the Company's website at WWW.FRANKLINTempleton.COM (the "Company's website") and are available in print to stockholders who request a copy from the Company's Secretary at the Company's principal executive offices. The Corporate Governance Guidelines set forth the practices the Board follows with respect to the composition of the Board, director responsibilities, Board committees, director access to officers, employees and independent advisors, director compensation, director orientation and continuing education, management succession and performance evaluation of the Board.

CODE OF ETHICS AND BUSINESS CONDUCT. The Board has adopted a Code of Ethics and Business Conduct, as amended (the "Code of Ethics"), which is applicable to all employees, directors and officers of the Company. The Code of Ethics is posted in the corporate governance section of the Company's website and is available in print to stockholders who request a copy from the Company's Secretary at the Company's principal executive offices. The Company also established a Compliance and Ethics Hotline, where employees can report a violation

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of the Code of Ethics or anonymously submit a complaint concerning auditing or accounting matters. Interested parties may address a written request for a printed copy of the Code of Ethics to: Secretary, Franklin Resources, Inc., One Franklin Parkway, San Mateo, California 94403-1906. We intend to satisfy the disclosure requirement regarding any amendment to, or a waiver of, a provision of the Code of Ethics for the Registrant's principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions by posting such information on our website.

DIRECTOR INDEPENDENCE STANDARDS. The Board has adopted guidelines for determining whether a director is independent. The Board will monitor and review as necessary, but at least once annually, commercial, charitable, family and

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other relationships that directors have with the Company to determine whether the Company's directors are independent.

For a director to be considered independent, the Board must determine affirmatively that the director does not have material relationships with the Company either directly or as a partner, shareholder or officer of an organization that has a relationship with the Company. Such determination will be made and disclosed pursuant to applicable NYSE rules. A material relationship can include, but is not limited to, commercial, industrial, banking, consulting, legal, accounting, charitable and family relationships. The Board has established the following guidelines to assist it in determining whether a director does not have material relationships and thereby qualifies as independent:

- A. A director will not be independent if, at any time within the preceding three years (unless otherwise specified below):
1. (a) the director was employed by the Company; or
(b) an immediate family member /1/ of the director was employed by the Company as an executive officer /2/ of the Company;
 2. the director (or an immediate family member of the director who in the capacity of an executive officer of the Company) received direct compensation from the Company (other than for prior service as a director, or as pension or deferred compensation) of more than \$100,000 in any 12-month period;
 3. (a) the director or an immediate family member of the director is currently a partner of the Company's internal auditor or external independent auditor;
(b) the director is currently employed by the Company's internal auditor or external independent auditor;
(c) an immediate family member of the director is currently employed by the Company's internal auditor or external independent auditor and participates in the auditor's audit assurance or tax compliance (but not tax planning) practice; or
(d) the director or an independent family member of the director was formerly employed by or a partner of the Company's internal auditor or external independent auditor and personally worked on the Company's audit;
 4. the director or an immediate family member of the director was an executive officer of another company and an executive officer of the Company served on the compensation committee of such other company; or
 5. (a) the director is an employee of a company that made payments to or received payments from the

/1/ An immediate family member includes a spouse, parent, child, sibling, father- and mother-in-law, son- and daughter-in-law, brother- and sister-in-law and anyone (other than a domestic employee) sharing the director's home.

/2/ An executive officer means a Section 16 reporting person under the Securities Exchange Act of 1934, as amended.

Company for property or services, in any single fiscal year, of more than the greater of \$1 million or 2% of the other company's consolidated gross revenues;

(b) an immediate family member of the director is an executive officer of a company that made payments to or received payments from the Company for property or services, in any single fiscal year, of more than the greater of \$1 million or 2% of the Company's consolidated gross revenues; or

(c) the director or an immediate family member of the director serves as an officer, director or trustee of a tax exempt organization, and the Company's contributions to the organization, in any single fiscal year, are more than the greater of \$3 million or 5% of that organization's consolidated gross revenues.

B. The following relationships are not by themselves considered to be material and would not by themselves impair a director's independence:

1. a director (or an immediate family member of the director) serves as an executive officer, employee, partner or significant owner (more than 10%) of a company that made payments to or received payments from the Company, in any single fiscal year, of less than the greater of \$1 million or 2% of the consolidated gross revenues of the other entity;

2. a director is an executive officer of another company, which is indebted to the Company, or to which the Company is indebted, and the total amount of either company's indebtedness to the other, in any single fiscal year, is less than 2% of the total consolidated assets of the other company;

3. a director (or an immediate family member of a director) serves as an officer, director or trustee of a tax exempt organization, and the Company's contributions to the organization, in any single fiscal year, are more than the greater of \$1 million or 2% of that organization's consolidated gross revenues, provided that such contributions do not exceed the limits set forth in Paragraph A.5(c) above and that disclosure is made in the Company's annual proxy statement; or

4. a director serves or served as a director of a subsidiary, which is a privately held, wholly-owned, direct or indirect subsidiary of the Company.

C. For all relationships not specifically and clearly addressed by the guidelines above, the determination of whether or not a director has a material relationship, and therefore whether or not the director qualifies as independent or not, shall be made by the Board based on the totality of circumstances.

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The Board held in the fiscal year ended September 30, 2004 ("fiscal year 2004") nine (9) meetings (not including committee meetings). For fiscal year 2004, each director attended at least seventy-five percent (75%) of the aggregate of the total number of meetings held by the Board and the total number of meetings held by all committees of the Board on which he served. The Board has an Audit Committee, a Compensation Committee and a Corporate Governance Committee. To promote open discussion among the non-management directors (those directors who are not officers or employees of the Company), the non-management directors generally meet in executive session after regularly scheduled Board meetings without management. The independent directors (as defined below) meet in executive session a minimum of two times per year. Charles Crocker, an independent director, has been appointed to preside at the executive sessions of the non-management and the independent directors. The Board encourages directors to attend the annual meeting of stockholders. All of the Company's directors standing for re-election, other than Mr. Armacost who was elected to the Board as of December 21, 2004, attended last year's annual meeting, in person or telephonically.

COMMITTEE MEMBERSHIP AND MEETINGS

The current standing committees of the Board are the Audit Committee, the Compensation Committee and the Corporate Governance Committee. The table below provides current membership and meeting information.

	AUDIT	COMPENSATION
CHARLES CROCKER	M	C
ROBERT D. JOFFE		
THOMAS H. KEAN		M
CHUTTA RATNATHICAM	C	
LOUIS E. WOODWORTH	M	M
2004 Meetings	10	7

M - Member
C - Chairman

Below is a description of each standing committee of the Board. The Board has affirmatively determined that each standing committee consists entirely of independent directors pursuant to rules established by the NYSE and promulgated under the Securities Exchange Act of 1934, as amended, and the Director Independence Standards established by the Board. See also "Director Independence Standards" above.

The Board has also determined that each current member of the Audit Committee is independent under the criteria established by the NYSE and the SEC for audit committee members.

THE AUDIT COMMITTEE

The Audit Committee currently consists of Messrs. Ratnathicam (Chairman), Crocker and Woodworth. The primary purpose of the Audit Committee is to assist the Board in fulfilling its responsibility to oversee: (1) the Company's financial reporting, auditing and internal control activities, including the

integrity of the Company's financial statements; (2) the Company's compliance with legal and regulatory requirements; (3) the independent auditors' qualifications and independence; and (4) the performance of the Company's internal audit function and independent auditors. The Audit Committee also prepares the report the Audit Committee is required to include in the Company's proxy statement. In addition, the Audit Committee is responsible for the appointment,

compensation, retention and oversight of the work of the independent auditors, including approval of all services and fees of the independent auditors. The Audit Committee meets with the Company's independent auditors and reviews the scope of their audit, the related reports and any recommendations they may make. The Audit Committee also reviews the annual audited financial statements for the Company.

The Audit Committee operates under a written charter adopted by the Board. The Audit Committee met ten (10) times during fiscal year 2004. The Audit Committee Charter, as amended, is attached as Appendix A and posted in the corporate governance section of the Company's website. A written copy of the Charter may also be obtained by making a written request to the Company's Secretary at the Company's principal executive offices. The Board has determined that all Audit Committee members are financially literate under the NYSE listing standards and that Mr. Chutta Ratnathicam is an audit committee financial expert within the meaning of the rules and regulations of the SEC.

THE COMPENSATION COMMITTEE

The Compensation Committee currently consists of Messrs. Crocker (Chairman), Kean and Woodworth. The Compensation Committee has the responsibilities set forth in its charter and reviews and sets compensation for the Co-Chief Executive Officers, determines the general policies and guidelines for compensating other executive officers, and performs other duties as assigned from time to time by the Board. The Compensation Committee also administers the 2002 Universal Stock Incentive Plan, as amended and restated, (the "2002 Stock Plan"), the Amended and Restated Annual Incentive Compensation Plan, and the 2004 Key Executive Incentive Compensation Plan. The Compensation Committee met seven (7) times during fiscal year 2004. The Compensation Committee Charter, as amended, is attached as Appendix B and posted in the corporate governance section of the Company's website. A written copy of the Charter may also be obtained by making a written request to the Company's Secretary at the Company's principal executive offices.

THE CORPORATE GOVERNANCE COMMITTEE

The Corporate Governance Committee currently consists of Messrs. Joffe (Chairman), Kean and Woodworth. The Corporate Governance Committee has the responsibilities set forth in its charter and provides counsel to the Board of Directors with respect to the organization, function and composition of the Board and committees, and oversees the evaluation of the Board and management of the Company. The Corporate Governance Committee is also responsible for developing and recommending to the Board corporate governance policies and procedures applicable to Franklin. The Corporate Governance Committee met six (6) times during fiscal year 2004. The Corporate Governance Committee Charter, as amended, is attached as Appendix C and posted in the corporate governance section of the Company's website. A written copy of the Charter may also be obtained by making a written request to the Company's Secretary at the Company's principal executive offices.

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The Corporate Governance Committee is responsible for identifying candidates for election to the Board at the annual meeting of stockholders and uses a variety of means as it determines are necessary or appropriate, including recommendations of stockholders. The Corporate Governance Committee has adopted policies regarding nominations and qualifications of Directors. Under such policy, the Corporate Governance Committee may solicit recommendations from current and former directors, management or others who may be familiar with qualified candidates, and may consider current directors for re-nomination. The Corporate Governance Committee may, in its sole discretion, retain and terminate any search firm (and approve such search firm's fees and other retention terms) to assist in the identification of candidates.

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The Corporate Governance Committee believes there are certain minimum skills and qualifications that each director nominee must possess or satisfy, including:

- * high personal and professional integrity and ethical character;
- * significant accomplishments in business, finance, government, education, law, technology or other fields important to the operation of the Company;
- * the ability to exercise sound business judgment on a broad range of issues;
- * sufficiently broad experience and professional and educational background to have a general appreciation of the major issues facing public companies;
- * the willingness and ability to devote the necessary time to Board duties, including preparing for and attending meetings of the Board and its Committees; and
- * being prepared to represent the best interests of the Company and its stockholders and committed to enhancing stockholder value.

The Corporate Governance Committee also believes there are other skills and qualifications that at least one or more directors must possess or satisfy, including:

- * experience and knowledge of the industry sector in which the Company operates its businesses;
- * a majority of the directors being "independent" directors in accordance with the corporate governance listing standards of the NYSE;
- * at least three directors meeting the additional independence requirements for members of the Audit Committee of the Board in accordance with the applicable rules of the NYSE and the SEC;
- * at least three directors who are eligible to serve on the Audit Committee of the Board being "financially literate" or capable of becoming "financially literate" within a reasonable period of time; and
- * at least one director who is eligible to serve on the Audit Committee of the Board being an "audit committee financial expert" in accordance with applicable rules of the SEC.

In considering candidates for director nominee, the Corporate Governance Committee generally assembles all information regarding a candidate's background and qualifications, evaluates a candidate's mix of skills and qualifications and determines the contribution the candidate could be expected to make to the overall functioning of the Board, giving due consideration to the overall Board

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balance of diversity of perspectives, backgrounds and experiences. With respect to current directors, the Corporate Governance Committee considers past attendance at meetings and assesses the participation in and contributions to the activities of the Board. The Corporate Governance Committee, in its discretion, may designate one or more of its members to interview any candidate. In addition, the Corporate Governance Committee may seek input from the Company's management or the Board, who may interview any candidate. The Corporate Governance Committee recommends director nominees to the Board based on its assessment of overall suitability to serve on the Board in accordance with the Company's policies.

The Corporate Governance Committee will consider candidates recommended for nomination to the Board by stockholders of the Company. Stockholders may make such a recommendation by submitting a completed Director Nomination Form, which is posted in the corporate governance section of the Company's website at WWW.FRANKLINTEMPLETON.COM, at least 120 days prior to the one-year anniversary of the date of the proxy statement for the preceding annual meeting. Completed Director Nomination Forms shall be sent to: Corporate Governance Committee, Franklin Resources, Inc., c/o Barbara J. Green, Secretary, One Franklin Parkway, San Mateo, CA 94403. This year our proxy statement is dated January 3, 2005; therefore we must receive any notice of recommendation by September 5, 2005.

The manner in which the Corporate Governance Committee evaluates candidates recommended by stockholders is generally the same as any other candidate. However, the Corporate Governance Committee will also seek and consider information concerning any relationship between the stockholder and the candidate to determine if the candidate can represent the interests of all of the stockholders. The Corporate Governance Committee will not

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evaluate a candidate recommended by a stockholder unless the Director Nomination Form provides that the potential candidate has indicated a willingness to serve as a director, to comply with the expectations and requirements for Board service as publicly disclosed by the Company and to provide all of the information necessary to conduct an evaluation.

NON-EMPLOYEE DIRECTOR FEES

PAYMENTS TO DIRECTORS. In fiscal year 2004, directors who were not Franklin employees were paid \$10,000 per quarter, plus \$3,000 per meeting attended. These directors received a grant of restricted stock valued at \$25,000 in December of 2003, and a stock grant valued at \$40,000 in January of 2004. In addition to the per committee meeting fee of \$1,500 paid to directors who serve on Board committees, Chairpersons of the Compensation Committee and the Corporate Governance Committee receive \$1,250 per quarter and the Chairperson of the Audit Committee receives \$2,500 per quarter. Effective January 1, 2005, directors who are not Franklin employees will be paid \$12,500 per quarter, plus \$3,000 per meeting and will receive an annual stock grant valued at \$75,000 on the date of grant on January 25, 2005 and on the date of the annual organizational meeting of the Board in subsequent fiscal years. In addition, the Company has a policy of reimbursing certain health insurance coverage for a director who is retired from other employment and is not otherwise eligible for group health coverage under Franklin's group health plan or any other company's health plan. Franklin will reimburse the cost of health insurance coverage comparable to that provided to Franklin employees. During the fiscal year 2004, Mr. Woodworth, a director, was reimbursed \$15,904 for health insurance expenses. In connection with their service as members of the Board of Directors of Fiduciary Trust Company International ("Fiduciary Trust"), a subsidiary of the Company, Messrs. Crocker,

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Joffe and Kean also received from Fiduciary Trust an annual retainer fee for Board services of \$25,000 (paid quarterly) and an annual retainer fee for committee services of \$5,000 (paid quarterly). Mr. Crocker also received \$4,000 for his service as the Chairman of a committee.

DEFERRED DIRECTOR FEES. Franklin also allows directors to defer payment of their directors' fees, and to treat the deferred amounts as hypothetical investments in Franklin common stock. Upon termination, the number of shares of stock that the director hypothetically purchased are added together, and Franklin must pay the director an amount equal to the value of the hypothetical investment, including dividend reinvestment. Either Franklin or the individual director can terminate the fee deferral with ninety (90) days notice. Pursuant to the Deferred Compensation Agreement for Directors Fees, as amended, Mr. Woodworth elected to defer all of his director's fees. Mr. Crocker elected to defer all of his director's fees relating to his service as a director of Fiduciary Trust and 50% of his directors fees related to his service as a director of the Company. Mr. Joffe elected to defer fifty percent (50%) of his director's fees and receive the remainder in cash. Mr. McCarthy, a former director of the Company during fiscal year 2004, elected to defer his quarterly director's fee of \$10,000 and receive all meeting fees and Chairman fees in cash.

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SECURITY OWNERSHIP OF PRINCIPAL STOCKHOLDERS

The following table sets forth the common stock beneficially owned by each stockholder known to us to beneficially own more than five percent (5%) of Franklin's total outstanding common stock as of November 30, 2004:

NAME AND ADDRESS OF BENEFICIAL OWNER (a)	AMOUNT AND NATURE OF BENEFICIAL OWNERSHIP (f)
CHARLES B. JOHNSON	44,859,416 (b) (c)
RUPERT H. JOHNSON, JR.	37,842,496 (b) (d)
ELIZABETH S. WISKEMANN	15,812,201 (e)

- (a) The addresses of Messrs. C. Johnson and R. Johnson, Jr. are: c/o Franklin Resources, Inc., One Franklin Parkway, San Mateo, CA 94403. The address of Ms. Elizabeth S. Wiskemann is: c/o Mr. John Bessolo, 7 Mount Lassen Drive, Suite B-156, San Rafael, CA 94905.
- (b) Excludes 403,174 shares held as of November 30, 2004 by the Franklin Templeton Profit Sharing/401(k) Plan (the "Profit Sharing Plan"), for which Messrs. C. Johnson and R. Johnson, Jr. serve on the investment committee.
- (c) Includes 37,245,352 shares held directly, 3,563,675 shares held in an IRA account and 3,000,000 shares held in a limited partnership for which Mr. C. Johnson holds sole voting and investment power. Also includes 45,059 shares, which may be purchased pursuant to currently exercisable options. Also includes 1,005,330 shares of which Mr. C. Johnson disclaims beneficial ownership, held by a private foundation of which Mr. C. Johnson is a trustee.
- (d) Includes 35,252,145 shares held directly and 2,205,245 shares held in an IRA account for which Mr. R. Johnson, Jr. holds sole voting and investment power. Also includes 381,734 shares of which Mr. R. Johnson, Jr. disclaims

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beneficial ownership, held by a private foundation of which Mr. R. Johnson, Jr. is a trustee. Also includes 3,372 shares held by a member of Mr. R. Johnson, Jr.'s immediate family, of which Mr. R. Johnson, Jr. disclaims beneficial ownership.

- (e) Includes (i) 6,815,698 shares held by Ms. Wiskemann, as trustee of the Elizabeth S. Wiskemann Family Trust, (ii) 7,713,349 shares held by Ms. Wiskemann as trustee of the Wiskemann Family Non-Exempt Marital Trust, (iii) 10,416 shares held by Ms. Wiskemann, as trustee of the Wiskemann Family Exempt Trust, and (iv) 1,015,000 shares held in an IRA account for which Ms. Wiskemann holds sole voting and investment power. Also includes 257,738 shares of which Ms. Wiskemann disclaims beneficial ownership, held by a private foundation, of which Ms. Wiskemann is a trustee.
- (f) Except as described otherwise in the footnotes to this table, each beneficial owner in the table has sole voting and investment power with regard to the shares beneficially owned by such owner.

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SECURITY OWNERSHIP OF MANAGEMENT

The following table lists the common stock beneficially owned by each director, each executive officer named in the Summary Compensation Table, each nominee for director and all directors, nominees and executive officers as a group. The stock holdings are listed as of November 30, 2004:

NAME	AMOUNT AND NATURE OF BENEFICIAL OWNERSHIP (a)
SAMUEL H. ARMACOST	2,000
JAMES R. BAILO	66,461 (b)
JENNIFER J. BOLT	611,919 (c)
HARMON E. BURNS	1,703,996 (d)
CHARLES CROCKER	7,503 (e) (f)
MARTIN L. FLANAGAN	1,169,834 (g)
ROBERT D. JOFFE	3,916 (f) (h)
CHARLES B. JOHNSON	44,859,416 (i)
GREGORY E. JOHNSON	917,283 (j)
RUPERT H. JOHNSON, JR.	37,842,496 (k)
THOMAS H. KEAN	8,873 (l)
CHUTTA RATNATHICAM	2,417 (m)
PETER M. SACERDOTE	27,417 (n)
MURRAY L. SIMPSON	91,348 (o)
ANNE M. TATLOCK	304,868 (p)
LOUIS E. WOODWORTH	1,778,339 (f) (q)
DIRECTORS, DIRECTOR NOMINEES AND EXECUTIVE OFFICERS AS A GROUP (CONSISTING OF 24 PERSONS)	89,960,586 (r)

* Represents less than 1% of class

- (a) Excludes 403,174 shares held as of November 30, 2004 by the Profit Sharing Plan, for which Ms. Bolt, Mr. Burns, Mr. Flanagan, Mr. C. Johnson, Mr. G. Johnson, Mr. R. Johnson, Jr. and Ms. Tatlock serve on the investment committee. Except as described otherwise in the footnotes to this table,

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each beneficial owner in the table has sole voting and investment power with regard to the shares beneficially owned by such owner.

- (b) Includes 26,462 shares held directly for which Mr. Baio holds sole vesting and investment power, and which includes a total of 9,752 shares of unvested restricted stock of which 601, 1,544 and 7,607 shares were granted in November 2002, November 2003 and November 2004, respectively, under the 2002 Stock Plan. Also includes 39,999 shares which may be purchased pursuant to currently exercisable options.
- (c) Includes 469,227 shares held directly for which Ms. Bolt holds sole voting and investment power, and which includes a total of 11,948 shares of unvested restricted stock of which 1,127, 2,058 and 8,763 shares were granted in November 2002, November 2003 and November 2004, respectively, under the 2002 Stock Plan. Also includes 103,511 shares which may be purchased pursuant to currently exercisable options. Also includes 11,000 shares for which Ms. Bolt serves as an investment trustee of a subtrust for her brother, who is beneficiary under such trust. Also includes 39,181 shares held by Ms. Bolt's immediate family of which Ms. Bolt disclaims beneficial ownership.
- (d) Includes 1,131,994 shares held directly and 500,002 shares held in an IRA account for which Mr. Burns holds sole voting and investment power. Also includes 72,000 shares of which Mr. Burns disclaims beneficial ownership, held by a private foundation of which Mr. Burns is a trustee.
- (e) Includes 7,503 shares held directly for which Mr. Crocker holds sole voting and investment power, and which includes a total of 340 shares of unvested restricted stock granted in December 2003 under the 2002 Stock Plan.
- (f) Does not include any hypothetical shares described under "Proposal No. 1, Election of Directors - Deferred Director Fees".

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- (g) Includes 656,496 shares held directly for which Mr. Flanagan holds sole voting and investment power, and which includes a total of 57,507 shares of unvested restricted stock, of which 4,698, 15,436 and 37,373 shares were granted in November 2002, November 2003 and November 2004, respectively, under the 2002 Stock Plan. Also includes 513,338 shares, which may be purchased pursuant to currently exercisable options.
- (h) Includes 3,916 shares held directly for which Mr. Joffe holds sole voting and investment power and which includes a total of 340 shares of unvested restricted stock granted in December 2003 under the 2002 Stock Plan.
- (i) See footnote (c) under "Security Ownership of Principal Stockholders".
- (j) Includes 483,632 shares held directly for which Mr. G. Johnson holds sole voting and investment power, and which includes a total of 57,507 shares of unvested restricted stock, of which 4,698, 15,436 and 37,373 shares were granted in November 2002, November 2003 and November 2004, respectively, under the 2002 Stock Plan. Also includes 415,931 shares, which may be purchased pursuant to currently exercisable options. Also includes 17,720 shares held by members of Mr. G. Johnson's immediate family, of which Mr. G. Johnson disclaims beneficial ownership.
- (k) See footnote (d) under "Security Ownership of Principal Stockholders".

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- (l) Includes 8,873 shares held directly for which Mr. Kean holds sole voting and investment power, and which includes a total of 340 shares of unvested restricted stock granted in December 2003 under the 2002 Stock Plan.
- (m) Includes 2,417 shares held directly for which Mr. Ratnathicam holds sole voting and investment power, and which includes a total of 340 shares of unvested restricted stock granted in December 2003 under the 2002 Stock Plan.
- (n) Includes 27,417 shares held directly for which Mr. Sacerdote holds sole voting and investment power, and which includes a total of 340 shares of unvested restricted stock granted in December 2003 under the 2002 Stock Plan.
- (o) Includes 28,014 shares held directly for which Mr. Simpson holds sole voting and investment power, and which includes a total of 9,605 shares of unvested restricted stock, of which 1,127, 2,058 and 6,420 shares were granted in November 2002, November 2003 and November 2004, respectively, under the 2002 Stock Plan. Also includes a total of 63,334 shares which may be purchased pursuant to currently exercisable options.
- (p) Includes 193,502 shares held directly for which Ms. Tatlock holds sole voting and investment power, and which includes a total of 18,218 shares of unvested restricted stock, of which 2,931, 2,514, 2,333, 4,168 and 6,272 shares were granted in December 2001, September 2002, November 2002, November 2003 and November 2004, respectively, under the 2002 Stock Plan. Also includes 70,252 shares, which may be purchased pursuant to currently exercisable options. Also includes 38,493 shares held in an employee benefit plan in effect prior to the acquisition of Fiduciary Trust Company International by the Company. Also includes 2,621 shares held by a member of Ms. Tatlock's immediate family, of which Ms. Tatlock disclaims beneficial ownership.
- (q) Includes 1,080,251 shares held directly for which Mr. Woodworth holds sole voting and investment power, and which includes a total of 340 shares of unvested restricted stock granted in December 2003 under the 2002 Stock Plan. Also includes 478,088 shares held in an IRA account for which Mr. Woodworth holds sole voting and investment power. Also includes 220,000 shares held by a member of Mr. Woodworth's immediate family, of which Mr. Woodworth disclaims beneficial ownership.
- (r) Includes 1,616,390 shares, which may be purchased pursuant to currently exercisable options.

EXECUTIVE COMPENSATION

The following table provides compensation information for the Company's Co-Chief Executive Officers and each of the four highest compensated executive officers of the Company (the "Named Executive Officers") for the fiscal year ended September 30 during the last three fiscal years.

SUMMARY COMPENSATION TABLE

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NAME AND PRINCIPAL POSITION	FISCAL YEAR	ANNUAL COMPENSATION			LONG-TERM
		SALARY	BONUS (a)	OTHER ANNUAL COMPENSATION	COMPENSATION
					RESTRICTED STOCK AWARDS
MARTIN L. FLANAGAN	2004	\$789,138	\$2,650,000	\$ 50,094 (b)	\$2,350,014 (e)
PRESIDENT AND CO-CHIEF EXECUTIVE OFFICER	2003	\$785,758	\$1,050,000	-	\$1,134,132 (f)
	2002	\$728,119	\$ 812,500	-	\$ 463,726 (g)
GREGORY E. JOHNSON	2004	\$789,137	\$2,650,000	-	\$2,350,014 (e)
PRESIDENT AND CO-CHIEF EXECUTIVE OFFICER	2003	\$783,303	\$1,050,000	-	\$1,134,132 (f)
	2002	\$728,123	\$ 812,500	-	\$ 463,726 (g)
ANNE M. TATLOCK	2004	\$596,535	\$ 650,000	-	\$ 383,909 (e)
VICE CHAIRMAN, MEMBER-OFFICE OF THE CHAIRMAN	2003	\$596,690	\$ 526,500	-	\$ 306,223 (f)
	2002	\$555,583	\$ 296,500	-	\$ 775,016 (g)
MURRAY L. SIMPSON	2004	\$671,344	\$ 406,250	-	\$ 399,943 (e)
EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL	2003	\$671,098	\$ 260,000	-	\$ 151,250 (f)
	2002	\$627,350	\$ 195,000	-	\$ 111,301 (g)
JENNIFER J. BOLT	2004	\$401,782	\$ 390,000	-	\$ 550,333 (e)
SENIOR VICE PRESIDENT AND CHIEF INFORMATION OFFICER	2003	\$372,042	\$ 260,000	-	\$ 151,250 (f)
	2002	\$233,811	\$ 195,000	-	\$ 111,301 (g)
JAMES R. BAIO	2004	\$401,169	\$ 373,750	\$ 63,991 (c)	\$ 476,784 (e)
SENIOR VICE PRESIDENT AND CHIEF FINANCIAL OFFICER	2003	\$350,874	\$ 195,000	\$ 65,598 (c)	\$ 113,438 (f)
	2002	\$253,054	\$ 104,000	-	\$ 59,385 (g)
CHARLES B. JOHNSON	2004	\$594,330	\$ 0	\$296,008 (d)	\$ 0
CHAIRMAN OF THE BOARD, MEMBER-OFFICE OF THE CHAIRMAN	2003	\$594,330	\$2,000,000	\$296,560 (d)	\$ 0
	2002	\$554,707	\$ 0	\$172,169 (d)	\$ 0

(a) Includes bonuses earned in the fiscal year and paid in the subsequent fiscal year.

(b) Includes \$50,094 representing the incremental cost of personal use of Company aircraft by Mr. Flanagan during fiscal year 2004, based upon a personal rate per nautical mile of use as generally used by corporate aviation operators for cost and budget estimation purposes as published from time to time by Conklin & deDecker Associates, Inc. for each particular aircraft type utilized by the Company.

(c) Includes \$62,731 representing relocation costs reimbursed to Mr. Baio in fiscal 2004 in connection with his relocation from Florida to California. Also includes \$59,923 representing household and automobile relocation costs reimbursed to Mr. Baio in connection with his relocation from Florida to California during fiscal 2003.

(d) Includes \$259,124, \$293,380 and \$144,001 representing the incremental cost of personal use of Company aircraft by Mr. C. Johnson during fiscal years 2004, 2003 and 2002, respectively, based upon a personal rate per nautical mile of use as generally used by corporate aviation operators for cost and budget estimation purposes as published from time to time by Conklin & deDecker

Associates, Inc. for each particular aircraft type utilized by the Company. Also includes \$30,642 representing the incremental costs associated with the personal use of Company-owned housing during fiscal year 2004. Mr. C. Johnson served as Chief Executive Officer of the Company during fiscal year 2004 until his resignation on December 31, 2003. Mr. C. Johnson continues to serve as Chairman of the Board.

- (e) Recipients of restricted stock are entitled to vote such shares and receive dividends.

The amounts in the Summary Compensation Table reflect restricted stock awards granted on November 8, 2004 and November 24, 2004 by the Compensation Committee, which were earned in fiscal year 2004 and awarded in fiscal year 2005. The following were the number of shares and value on the grant date of the fiscal year 2004 restricted stock awards granted on November 8, 2004 considered attributable to: Ms. Tatlock, 6,272 (\$383,909); Mr. Simpson, 3,920 (\$239,943); Mr. Baio, 3,607 (\$220,784); and Ms. Bolt, 3,763 (\$230,333). The following were the number of shares and value of the fiscal year 2004 restricted stock awards granted on November 24, 2004: Mr. Flanagan, 37,373 (\$2,350,014); Mr. G. Johnson, 37,373 (\$2,350,014). The fiscal 2004 restricted stock awards vest in approximately three equal installments on September 30, 2005, September 29, 2006 and September 28, 2007.

The amounts in the Summary Compensation Table also reflect restricted stock awards granted on November 15, 2004 by the Compensation Committee which were earned in fiscal year 2004 and awarded in fiscal year 2005. The following were the number of shares and value on the grant date of these fiscal year 2004 restricted stock awards considered attributable to: Mr. Simpson: 2,500 shares (\$160,000); Mr. Baio: 4,000 shares (\$256,000); Ms. Bolt: 5,000 shares (\$320,000). The shares of common stock of the Company (the "Stock") granted to the executive officers listed above shall vest in full on September 28, 2007 unless subject to earlier vesting. An accelerated vesting of the Stock will occur if either or both of the following performance goals (the "Performance Goals") are achieved:

One-third of the number of shares of Stock granted pursuant to the award (the "First Vesting Shares") shall vest (the "2005 Fiscal Year Operating Income Goal") if Operating Income (as defined below) for the fiscal year of the Company ending September 30, 2005 (the "2005 Fiscal Year") is at least 15% greater than Operating Income for the fiscal year of the Company ended September 30, 2004 (the "2004 Fiscal Year"). This accelerated vesting, if any, will be effective on the later of December 15, 2005 or ten (10) business days after the release of the annual financial statements included in the Company's Annual Report on Form 10-K for the 2005 Fiscal Year (the "First Vesting Date"). If the 2005 Fiscal Year Operating Income Goal is not met by the First Vesting Date, there shall be no acceleration of the vesting of the First Vesting Shares, even if the 2005 Fiscal Year Operating Income Goal is later achieved and such Stock shall vest in accordance with their terms on September 28, 2007.

One-third of the number of shares of Stock granted pursuant to the award (the "Second Vesting Shares") shall vest (the "2006 Fiscal Year Operating Income Goal") if Operating Income for the fiscal year of the Company ending September 30, 2006 (the "2006 Fiscal Year") is at least 32.25% greater than Operating Income for the 2004 Fiscal Year. This accelerated vesting, if any, will be effective on the later of December 15, 2006 or ten (10) business days after the release of the

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annual financial statements included in the Company's Annual Report on Form 10-K for the 2006 Fiscal Year (the "Second Vesting Date"). If the 2006 Fiscal Year Operating Income Goal is not met by the Second Vesting Date, there shall be no acceleration of the vesting of the Second Vesting Shares, even if the 2006 Fiscal Year Operating Income Goal is later achieved and such Stock shall vest in accordance with their terms on September 28, 2007.

"Operating Income" with respect to any fiscal year is defined as total operating revenues less total operating expenses determined on a consolidated basis reported in the annual financial statements included in the Company's Annual Report on Form 10-K for such fiscal year.

At the end of the fiscal year ended September 30, 2004, the aggregate number and value of restricted stock holdings for the persons named in the Summary Compensation Table were:

NAME	NUMBER OF SHARES	VALUE
M. FLANAGAN	20,134	\$1,122,672
G. JOHNSON	20,134	\$1,122,672
A. TATLOCK	11,946	\$ 666,109
M. SIMPSON	3,185	\$ 177,596
J. BOLT	3,185	\$ 177,596
J. BAIO	2,145	\$ 119,605
C.B. JOHNSON	0	\$ 0

The above amounts exclude any restricted stock grants on November 8, November 15 and November 24, 2004, as described above.

- (f) In fiscal year 2003, the Compensation Committee granted the following number of shares of restricted stock to the persons named in the Summary Compensation Table: Mr. Flanagan, 23,155; Mr. G. Johnson, 23,155; Ms. Tatlock, 6,252; Mr. Simpson, 3,088; Mr. Baio, 2,316; and Ms. Bolt, 3,088. The fiscal 2003 restricted stock vested or will vest in approximately three equal installments on September 30, 2004, September 30, 2005, and September 29, 2006.
- (g) In fiscal year 2002, the Compensation Committee granted the following number of shares of restricted stock to the persons named in the Summary Compensation Table: Mr. Flanagan, 14,095; Mr. G. Johnson, 14,095; Ms. Tatlock, 14,543; Mr. Simpson, 3,383; Mr.

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Baio, 1,805; and Ms. Bolt, 3,383. The fiscal 2003 restricted stock vested or will vest in approximately three equal installments on September 30, 2003, September 30, 2004, and September 30, 2005. In addition, Ms. Tatlock received a restricted stock grant of 8,793 shares, which vested or will vest in approximately three equal installments on December 31, 2002, December 31, 2003, and December 31, 2004.

- (h) Represents options granted November 12, 2003, which vest in equal one-third increments over a 3-year period. There were no options granted after November 2003 to the Named Executive Officers.
- (i) The amounts in the Summary Compensation Table reflect the following amounts paid or contributed by the Company in fiscal year 2004 to: Mr. Flanagan: \$4,936 for the combined Profit Sharing/401(k) Plan (collectively, the

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"Profit Sharing Plan") and \$4,944 for premium payments under the Franklin Templeton Companies, Inc. Employee Welfare Plan (the "EW Plan"); Mr. G. Johnson: \$10,935 for the Profit Sharing Plan and \$540 for premium payments under the EW Plan; Ms. Tatlock: \$10,936 for the Profit Sharing Plan, \$6,172 for premium payments under the EW Plan, and \$425,000, which represents annual cash payments, which Ms. Tatlock was entitled to receive under her employment agreement with the Company (see the "Employment Contracts and Change-In Control Arrangements" section); Mr. Simpson: \$10,936 for the Profit Sharing Plan and \$6,858 for premium payments under the EW Plan; Ms. Bolt: \$10,936 for the Profit Sharing Plan and \$529 for premium payments under the EW Plan; Mr. Baio: \$10,936 for the Profit Sharing Plan; \$1,152 for premium payments under the EW Plan, and \$21,756, which represent the value of matching shares under the Employee Stock Investment Plan; and Mr. C. Johnson: \$4,936 for the Profit Sharing Plan and \$4,944 for premium payments under the EW Plan.

- (j) Also includes a relocation cash bonus of \$170,000 and \$100,000, which Mr. Baio was entitled to receive under his relocation agreement from the Company in fiscal years 2003 and 2002, respectively.

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OPTION GRANTS IN LAST FISCAL YEAR

During the last fiscal year ended September 30, 2004, options were granted to the persons listed in the Summary Compensation Table as indicated in the table below. No stock appreciation rights were awarded.

INDIVIDUAL GRANTS

NAME	NUMBER OF SECURITIES UNDERLYING OPTIONS GRANTED (a)	% OF TOTAL OPTIONS GRANTED TO EMPLOYEES IN FISCAL YEAR (c)	EXERCISE OR BASE PRICE (\$/SHARE)	EXPIRATION DATE	
MARTIN L. FLANAGAN	45,000 (b)	2.5%	\$48.98	11/11/13	\$1
GREGORY E. JOHNSON	45,000 (b)	2.5%	\$48.98	11/11/13	\$1
ANNE M. TATLOCK	25,000 (b)	1.8%	\$48.98	11/11/13	\$
MURRAY L. SIMPSON	15,000 (b)	0.8%	\$48.98	11/11/13	\$
JENNIFER J. BOLT	17,500 (b)	1.0%	\$48.98	11/11/13	\$
JAMES R. BAIO	15,000 (b)	0.8%	\$48.98	11/11/13	\$
CHARLES B. JOHNSON	0	0%	-	-	

- (a) All options in this column were granted under our 2002 Universal Stock Incentive Plan. All options have an exercise price equal to the fair market value of the underlying common stock on the date of grant.

- (b) Represents options granted on November 12, 2003, which become exercisable in equal one-third increments over a 3-year period.

- (c) Represents the aggregate percentage granted to each Named Executive Officer of the total options awarded to employees of 1,824,244 shares in fiscal

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year 2004.

- (d) We are required by the SEC to use a 5% and 10% assumed rate of appreciation over the applicable option term. This does not represent our estimate or projection of the future common stock price. If Franklin's common stock does not appreciate in value from the grant price, the Named Executive Officers will receive no benefit from the options.

AGGREGATED OPTION EXERCISES IN LAST FISCAL YEAR
AND FISCAL YEAR-END OPTION VALUES

The following table provides information on option exercises in fiscal year 2004 by the persons listed in the Summary Compensation Table and the value of their unexercised options at September 30, 2004.

NAME	SHARES ACQUIRED ON EXERCISE (#)	VALUE REALIZED (\$)	NUMBER OF SECURITIES UNDERLYING UNEXERCISED OPTIONS AT FISCAL YEAR-END EXERCISABLE/UNEXERCISABLE
MARTIN L. FLANAGAN	82,800	\$1,198,058	513,338/63,333
GREGORY E. JOHNSON	100,000	\$1,489,645	415,931/63,333
ANNE M. TATLOCK	0	\$0.00	70,252/63,584
MURRAY L. SIMPSON	20,000	\$437,914	63,334/16,666
JENNIFER J. BOLT	35,500	\$501,800	103,511/18,332
JAMES R. BAIO	0	\$0.00	39,999/15,000
CHARLES B. JOHNSON	0	\$0.00	45,059/0

- (a) The market value of underlying securities is based on the closing price of Franklin's common stock on the NYSE on September 30, 2004 of \$55.76 per share minus the exercise price.

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LONG-TERM INCENTIVE PLAN AWARDS

On December 15, 2004, after the fiscal year 2004, the Compensation Committee of the Board of Directors approved the grant of restricted stock awards under the 2002 Stock Plan to Mr. Flanagan and Mr. G. Johnson, the Company's Presidents and Co-Chief Executive Officers. The following were the numbers of shares and value of the restricted stock awards that were granted to Mr. Flanagan: 15,625 shares, (\$1,000,000) and Mr. G. Johnson: 15,625 shares, (\$1,000,000). The restricted stock awards vest upon the achievement of certain increases in pre-tax operating income for a fiscal year of the Corporation. Pre-tax operating income is defined as total operating revenue less total operating expenses determined on a consolidated basis and is reported in the Corporation's annual financial statements as operating income. One-third of the shares of restricted stock shall vest if pre-tax operating income for the 2005, 2006 or 2007 fiscal year is at least 15% greater than pre-tax operating income for the 2004 fiscal year. Two-thirds of the shares of restricted stock shall vest if pre-tax operating income for the 2005, 2006 or 2007 fiscal year is at least 32.25% greater than pre-tax operating income for the 2004 fiscal year. All of the shares of restricted stock shall vest if pre-tax operating income for the 2005, 2006 or 2007 fiscal year is at least 52.09% greater than pre-tax operating income for the 2004 fiscal year. After the conclusion of the 2007 fiscal year, any shares

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of restricted stock that do not vest based upon the achievement of the foregoing performance goals related to increases in pre-tax operating income shall be forfeited back to the Corporation. These awards differ in structure from those granted to other top contributing employees and officers of the Company, in that specific installments of restricted stock are subject to company-related performance metrics in order to be vested over a three-year period. Should those performance metrics not be achieved, the awards will be forfeited either in whole or in part at the end of the performance-vesting period. The Compensation Committee intended that the design and structure of the Co-Chief Executive Officer performance share awards be aligned wholly and clearly with the Company's performance, and therefore, the stockholders' interests.

On December 23, 2004, the Compensation Committee of the Board of Directors established maximum individual target awards of \$5,000,000 for the 2005 fiscal year for each of Mr. Flanagan and Mr. G. Johnson under the Company's 2004 Key Executive Incentive Compensation Plan. If the Company's operating profit margin is at least 26.35% for the 2005 fiscal year, then each participant will receive \$1,500,000 of the aggregate maximum individual target awards. If such operating profit margin is less than 26.35%, then each participant will forfeit any right to receive this \$1,500,000 portion of the target awards. If the average percentage growth of earnings per share and pre-tax operating income for the 2005 fiscal year is 25% or greater, then each participant will receive \$3,500,000 of the aggregate maximum individual target awards. If such percentage is 20% to 24%, then the award will be \$2,800,000; if the percentage is 15% to 19%, then the award will be \$2,100,000; if the percentage is 10% to 14%, then the award will be \$1,400,000; and if the percentage is 5% to 9%, then the award will be \$700,000. If such percentage is less than 5%, then each participant will forfeit any right to receive this \$3,500,000 portion of the maximum target award. Notwithstanding these potential target awards, the actual awards payable to either or both of Mr. Flanagan and Mr. G. Johnson are subject to the Compensation Committee's authority to reduce the award otherwise payable to the participant. The awards are payable in cash or Company stock at the discretion of the Compensation Committee.

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EMPLOYMENT CONTRACTS AND CHANGE-IN-CONTROL ARRANGEMENTS

During the first quarter of fiscal year 2004, Mr. Charles B. Johnson had an employment contract with Franklin, which expired on December 31, 2003, pursuant to which the Company was obligated, in the event of Mr. C. Johnson's death or permanent disability, to pay one year's salary to his estate. Under the contract, Mr. C. Johnson was employed as the Chairman of the Board, Chief Executive Officer, and Member - Office of the Chairman at a salary determined from time to time by the Board, which assigned the review of Mr. C. Johnson's compensation arrangements to the Compensation Committee.

Ms. Anne M. Tatlock has a five year employment agreement with Franklin and Fiduciary Trust, which commenced in April 2001. Under the employment agreement, Ms. Tatlock was entitled to a base salary equal to a minimum of \$590,000 per year, which is subject to review by the Chief Executive Officer and Franklin's Compensation Committee (which shall not result in a decrease in such base salary). Ms. Tatlock was also entitled to, at a minimum, the following bonus and incentive compensation: (a) a bonus for each period (i) commencing January 1, 2001 and ending December 31, 2001 and (ii) commencing January 1, 2002 and ending September 30, 2002, on an annualized basis, of not less than \$609,281, of which Ms. Tatlock is entitled to receive an annualized short-term bonus of \$296,500 payable in cash and an annualized long-term bonus of \$312,781 to be granted in the form of restricted stock that vests over 3 years; (b) after September 30,

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2002, awards, grants or payments that may be awarded under Franklin's incentive compensation plan; (c) additional services compensation, in the amount of \$2,125,000, which is payable in equal annual cash payments of \$425,000 over five years, subject to certain conditions relating to Ms. Tatlock's continued employment; (d) stock options representing 38,836 shares of common stock of Franklin, 50% of which were exercisable on April 10, 2004 and 50% of which are exercisable on April 10, 2005, subject to Ms. Tatlock's continued employment with Franklin; (e) an allowance for financial and tax planning of up to \$15,000 for fiscal year 2001 and \$5,000 for each subsequent fiscal year during the term of the employment agreement; and (f) such luncheon club memberships and other memberships in accordance with Fiduciary Trust's policy and practices.

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NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN ANY OF FRANKLIN'S PREVIOUS OR FUTURE FILINGS UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, THAT MIGHT INCORPORATE FILINGS MADE BY FRANKLIN UNDER THOSE STATUTES, THE FOLLOWING REPORT SHALL NOT BE DEEMED TO BE INCORPORATED BY REFERENCE INTO ANY PRIOR FILINGS NOR FUTURE FILINGS MADE BY FRANKLIN UNDER THOSE STATUTES.

COMPENSATION COMMITTEE REPORT ON EXECUTIVE COMPENSATION

The Compensation Committee of the Board of Directors is composed entirely of non-employee directors who are independent, as defined under the New York Stock Exchange listing standards. The role of the Compensation Committee is to oversee our compensation plans and policies, review and set compensation for the Company's Co-Chief Executive Officers, determine the general policies and guidelines for compensating other executive officers, and perform other duties as assigned from time to time by the Board of Directors of the Company. The Compensation Committee also administers the Company's Amended and Restated Annual Incentive Compensation Plan (the "Incentive Plan"), the 2004 Key Executive Incentive Compensation Plan ("Key Executive Incentive Plan") and the 2002 Universal Stock Incentive Plan (the "2002 Stock Plan") which is the successor to the Amended and Restated 1998 Universal Stock Incentive Plan. The Compensation Committee's charter reflects these various responsibilities, and the Committee and the Board periodically review and revise the charter. The current Compensation Committee charter is posted in the corporate governance section of the Company's website.

This report discusses the Committee's overall objectives in designing the Company's compensation programs. It also reviews the Compensation Committee's compensation determinations in 2004 for the Co-Chief Executive Officers and the Company's executive officers, including other executive officers named (the "Named Executive Officers") in the Summary Compensation Table elsewhere in this Proxy Statement.

COMPENSATION PHILOSOPHY AND POLICIES

The Compensation Committee believes that total compensation should vary with the Company's performance in achieving financial and non-financial objectives and that compensation should be aligned with the interests of the stockholders. The Committee further believes that at least a portion of compensation should encourage executive officers to focus on the Company's long-range growth and development. The Company's compensation program for executive officers (including the Co-Chief Executive Officers) consists primarily of salary and annual cash and equity incentive bonuses based upon individual and Company performance.

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In its review of executive officer compensation, and, in particular, in determining the amount and form of awards under the Incentive Plan, Key Executive Incentive Plan and 2002 Stock Plan, the Compensation Committee generally considers, among other things: market survey information with respect to cash and long-term compensation for comparable companies; amounts paid to the executive officer in prior years as salary, bonus and other compensation; the officer's responsibilities and performance during the fiscal year ended September 30, 2004; and the Company's overall performance during prior fiscal years and its future objectives and challenges.

The Company generally uses a combination of employee benefit plans to award bonuses to employees including executive officers. The overall bonus pool is determined pursuant to the Incentive Plan, which allows for both cash and stock awards to Company employees, including executive officers. Bonuses awarded to the Co-Chief Executive Officers are generally made under the Key Executive Incentive Plan, which was ratified and approved by stockholders in fiscal 2004. A component of such awards may be in the form of equity securities, as was the case in fiscal 2004, which awards are granted through the 2002 Stock Plan. As a general matter, the size of the award pool available for bonus payments is a percentage of the Company's net operating income, exclusive of passive income and calculated before interest, taxes, extraordinary and certain special items, and before the accrual of awards under both the Incentive Plan and the Key Executive Incentive Plan (referred to as "Pre-Tax Operating Income"). In determining the percentage of the Pre-Tax Operating Income that will go into the award pool, the Compensation Committee considers a variety of factors, including the performance of the Company's stock compared to the indices set forth in the performance graph included in this Proxy Statement and the increase or decrease in market price of the Company's common stock.

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In 2004, the Compensation Committee directly engaged a third-party compensation consultant to provide independent analyses of, and counsel on, the Company's executive compensation program and practices. The role of the independent consultant is to objectively assess all comparative elements of executive officer compensation, including market competitiveness and the judiciousness of base, variable and long-term compensation.

SALARIES

Base salaries are evaluated annually for all executive officers, including the Co-Chief Executive Officers. In connection with a Company-wide review of base salaries, the Compensation Committee determined that employees, including the Named Executive Officers (Messrs. C. Johnson, M. Flanagan, G. Johnson, M. Simpson, and J. Baio and Mmes. A. Tatlock, and J. Bolt), whose salary levels were in excess of a pre-determined amount would not be eligible to receive an increase to base salary for fiscal 2004. This decision was based upon several considerations, including the desire to limit base salary increases to executive officers who, the Committee believes, should have a majority component of their annual pay in variable compensation tied to Company performance, while judiciously managing the Company's compensation expenses. Consequently, the base salaries of each of the Named Executive Officers were not increased for fiscal 2004.

INCENTIVE COMPENSATION

The Compensation Committee determined that each of the Named Executive Officers,

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including the Co-Chief Executive Officers, warranted incentive bonus awards in respect of fiscal 2004 performance. Each bonus award was comprised of a combination of cash and restricted stock. In contrast to past years, and in light of pending accounting treatment of stock options, there were no stock options granted in fiscal 2004. In the compensation tables included in this Proxy Statement, stock options reported reflect the prior fiscal year grant, consistent with the Company's past practice. In particular, the Company reports the cash and restricted stock portion of any bonus award earned during a particular fiscal year by a Named Executive Officer, and reports the stock option related portion of any bonus awarded for a particular fiscal year only after it has actually been awarded, which normally occurs in the subsequent fiscal year.

In making the awards to the Named Executive Officers, the Compensation Committee considers, as discussed above, a number of different individual and Company performance factors. In particular, the Committee considered the following: the 54.4% increase to Pre-Tax Operating Income between the end of fiscal year 2003 through fiscal year 2004; the 26.1% increase in the Company's simple monthly average assets under management; and the 26.1% increase in the value of the Company's common stock from the end of fiscal year 2003. The foregoing performance factors were taken into consideration in determining to increase both the award pool and size of awards granted to employees.

The Compensation Committee notes that Ms. A. Tatlock, in addition to her incentive bonus award, received the third of five equal annual \$425,000 cash payments pursuant to the terms of her 2001 employment agreement, in respect of a previously agreed upon integration services cash bonus.

For fiscal year 2004, the Compensation Committee awarded other employees, including other executive officers, bonuses consisting of cash and restricted stock. Consistent with the practice established in fiscal year 2000, bonuses awarded were comprised of 65% cash and 35% deferred vesting restricted stock. Certain non-executive officer Company employees, whose awards were in excess of \$1.0 million, were awarded those amounts in excess of \$1.0 million in the form of 50% cash and 50% of such restricted stock. The Compensation Committee determined that the bonuses awarded to Messrs. G. Johnson and M. Flanagan should be treated in a consistent manner as that of other highly compensated non-executive officer employees.

In addition, in cases where special recognition of contributions was warranted, additional performance-based restricted stock awards were granted to employees, including executive officers. While these awards have an established vesting date of September 28, 2007, a performance feature was designed to accelerate vesting of a portion of shares should corporate performance measures exceed established target levels.

CO-CEO COMPENSATION

On January 1, 2004, Messrs. G. Johnson and M. Flanagan became Co-Chief Executive Officers of the Company. In determining incentive compensation for Messrs. G. Johnson and M. Flanagan, the Compensation Committee considered a number of individual and Company performance factors, as described in the Key Executive Incentive Plan. In light of the Company's very strong performance this fiscal year, the Compensation Committee awarded Messrs. G. Johnson and M. Flanagan cash and restricted stock incentive bonuses valued at \$5 million each under the Key Executive Incentive Plan. The Compensation Committee also determined that an

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additional performance-based restricted stock award would be granted to each Co-Chief Executive Officer under the 2002 Stock Plan. These awards differ in structure from those granted to other top contributing employees and officers of the Company, in that specific installments of restricted stock are subject to company-related performance metrics in order to be vested over a three-year period. Should those performance metrics not be achieved, the awards will be forfeited either in whole or in part at the end of the performance-vesting period. The Compensation Committee intended that the design and structure of the Co-Chief Executive Officer performance share awards be aligned wholly and clearly with the Company's performance and therefore the stockholders interests.

The compensation of Mr. C. Johnson, who was Chief Executive Officer of the Company until January 1, 2004, at which time he assumed his current role as Chairman, reflects his status as a principal stockholder of the Company. Mr. C. Johnson's compensation is significantly lower than that received by chief executive officers or chairmen of comparable companies. The Compensation Committee considers a number of individual factors and Company performance factors in determining incentive compensation for Mr. C. Johnson, as they would with the other executive officers of the company. The Compensation Committee also took into account Mr. C. Johnson's position as a principal stockholder of the Company, and the dividends received on those holdings, in determining his compensation and bonus. The Compensation Committee believes that because of his large share holdings of Company common stock, Mr. C. Johnson is materially impacted by changes in the Company's stock price. Therefore, the Compensation Committee determined not to award an incentive bonus to Mr. C. Johnson for fiscal 2004.

OTHER BENEFITS AND PERQUISITES

All executive officers are entitled to receive medical, life and disability insurance coverage and other corporate benefits available to most employees of the Company. All executive officers participate in a combined Profit Sharing/401(k) Plan. The Board determines contributions to this Plan.

TAX DEDUCTIBILITY OF COMPENSATION

In evaluating compensation program alternatives, the Compensation Committee considers the potential impact on the Company of Section 162(m) of the U.S. Internal Revenue Code of 1986, as amended. Section 162(m) limits to \$1 million the amount that a publicly traded corporation, such as the Company, may deduct for compensation paid in any year to its chief executive officer or any other of its four most highly compensated executive officers. However, compensation which qualifies as "performance-based" is excluded from the \$1 million per executive officer limit if, among other requirements, the compensation is payable only upon attainment of pre-established, objective performance goals under a plan approved by the Company's stockholders.

The Compensation Committee endeavors to maximize deductibility of compensation under Section 162(m) to the extent practicable while maintaining competitive compensation. The Company expects that performance-based awards either in the form of cash or restricted stock should qualify for the performance-based compensation exception to Section 162(m). The Compensation Committee, however, believes that it is important for it to retain maximum flexibility in designing compensation programs that are in the best interests of the Company and its stockholders. Therefore, the Compensation Committee, while considering tax deductibility as a factor in determining compensation, will not limit compensation to those levels or types of compensation that will be

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deductible if it believes that the compensation is commensurate with the performance of the covered employee and is necessary and appropriate to meet competitive requirements.

Respectfully Submitted:

COMPENSATION COMMITTEE
 Charles Crocker
 Thomas H. Kean
 Louis E. Woodworth

COMPENSATION COMMITTEE INTERLOCKS AND INSIDER PARTICIPATION

The members of the Compensation Committee are set forth in the preceding section. No member of the Compensation Committee was an officer or employee of the Company or any of its subsidiaries during fiscal year 2004. None of the executive officers of the Company has served on the board of directors or on the compensation committee of any other entity that has or had executive officers serving as a member of the Board of Directors or Compensation Committee of the Company.

In fiscal year 2004, Michael P. McCarthy, a senior vice president and portfolio manager of Franklin Advisers, Inc., a subsidiary of the Company, and the son of James A. McCarthy, a former director of the Company and member of the Compensation Committee during the 2004 fiscal year, was paid \$1,083,402, which included a cash bonus of \$825,000. Mr. M. McCarthy also received 9,408 shares of restricted stock. Mr. M. McCarthy's base salary for fiscal year 2005 is \$325,001. Mr. M. McCarthy is entitled to receive medical, life and disability insurance coverage and other benefits available generally to employees of the Company.

EQUITY COMPENSATION PLAN INFORMATION /1/

The following table sets forth certain information as of September 30, 2004 with respect to the shares of the Company's common stock that may be issued under the Company's existing compensation plans that have been approved by stockholders and plans that have not been approved by stockholders.

PLAN CATEGORY	NUMBER OF SECURITIES TO BE ISSUED UPON EXERCISE OF OUTSTANDING OPTIONS, WARRANTS AND RIGHTS (a)	WEIGHTED-AVERAGE EXERCISE PRICE OF OUTSTANDING OPTIONS, WARRANTS AND RIGHTS (b)
Equity compensation plans approved by security holders /2/	11,268,840 /3/	\$38.16
Equity compensation plans not		

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approved by security holders	0	0
TOTAL	11,268,840	\$38.16

- (1) The table includes information for equity compensation plans assumed by the Company in connection with acquisitions of the companies that originally established those plans.
- (2) Consists of the 2002 Stock Plan and the 1998 Employee Stock Investment Plan (the "Purchase Plan"). Equity securities granted under the 2002 Stock Plan may include awards contemplated by the Amended and Restated Annual Incentive Compensation Plan and the 2004 Key Executive Incentive Compensation Plan.
- (3) Excludes options to purchase accruing under the Company's Purchase Plan. Under the Purchase Plan each eligible employee is granted a separate option to purchase up to 2,000 shares of common stock each semi-annual accrual period on January 31 and July 31 at a purchase price per share equal to 90% of the fair market value of the common stock on the enrollment date or the exercise date, whichever is lower.
- (4) Includes shares available for future issuance under the Purchase Plan. As of September 30, 2004, 1,436,376 of shares of common stock were available for issuance under the Purchase Plan.

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PERFORMANCE GRAPH

The following performance graph compares the performance of an investment in Franklin's common stock for the last five (5) fiscal years to that of the Standard & Poor's 500 Composite Stock Price Index (the "S&P 500 Index"), an index to which the Company was added in April 1998, and to the Standard & Poor's 500 Financials Index (the "S&P 500 Financials Index"). The S&P 500 Index consists of 500 stocks chosen for market size, liquidity, and industry group representation. It is a market-value weighted index (stock price times number of shares outstanding), with each stock's weight in the index proportionate to its market value. The S&P 500 Index is one of the most widely used benchmarks of U.S. equity performance. The S&P 500 Financials Index is a capitalization-weighted index of the stocks of approximately 70 companies that are in the S&P 500 Index and whose primary business is in a sub-sector of the financial industry. It is designed to measure the performance of the financial sector of the S&P 500 Index. The graph assumes that the value of the investment in the Company's common stock and each index was \$100 on September 30, 1999 and that all dividends were reinvested.

COMPARISON OF FIVE YEAR CUMULATIVE TOTAL RETURN

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
FY99 Franklin Resources, Inc.:	\$100.00	114.52	102.86	105.10	116.99	89.12	109.81	105.91
S&P 500								

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Index:	\$100.00	106.33	108.49	114.87	109.10	107.04	117.50	113.97
S&P 500								
Fin. Index	\$100.00	116.67	110.95	108.76	105.31	93.92	111.31	107.82
FY00								
Franklin Resources								
Inc.:	146.39	141.15	119.31	125.75	154.33	137.76	129.30	144.31
S&P 500								
Index:	113.27	112.79	103.91	104.42	108.12	98.27	92.04	99.19
S&P 500								
Fin. Index	133.78	133.19	125.34	136.67	136.29	127.34	123.50	128.09
FY01								
Franklin Resources								
Inc.:	114.79	106.50	118.61	117.25	124.49	135.83	139.59	139.52
S&P 500								
Index:	83.13	84.72	91.22	92.02	90.67	88.92	92.27	86.68
S&P 500								
Fin. Index	115.80	113.66	121.77	124.43	122.49	120.70	128.73	125.29
FY02								
Franklin Resources								
Inc.:	103.77	110.31	123.55	114.20	111.72	109.48	110.54	117.15
S&P 500								
Index:	66.12	71.93	76.16	71.69	69.81	68.76	69.43	75.15
S&P 500								
Fin. Index	98.87	107.80	112.23	106.22	104.45	101.19	100.79	113.13
FY03								
Franklin Resources								
Inc.:	148.77	159.83	161.21	175.75	195.03	190.74	188.26	185.39
S&P 500								
Index:	82.23	86.88	87.65	92.24	93.93	95.24	93.80	92.33
S&P 500								
Fin. Index	124.44	133.01	132.64	139.15	143.58	147.38	145.93	139.20
FY04								
Franklin Resources								
Inc.:	189.15							
S&P 500								
Index:	93.62							
S&P 500								
Fin. Index	142.96							

	1999	2000	2001	2002	
	----	----	----	----	
Franklin Resources, Inc.	100.0	146.4	114.8	103.8	1
S&P 500 Index	100.0	113.3	83.1	66.1	
S&P 500 Financials Index	100.0	133.8	115.8	98.9	1

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NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN ANY OF FRANKLIN'S PREVIOUS OR FUTURE FILINGS UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, THAT MIGHT INCORPORATE FILINGS MADE BY US UNDER THOSE STATUTES, THE FOLLOWING REPORT SHALL NOT BE DEEMED TO BE INCORPORATED BY REFERENCE INTO ANY PRIOR FILINGS NOR FUTURE FILINGS MADE BY FRANKLIN UNDER THOSE STATUTES.

REPORT OF THE AUDIT COMMITTEE

MEMBERSHIP AND ROLE OF THE AUDIT COMMITTEE

The Audit Committee of the Board of Directors of Franklin Resources, Inc. (the "Company") consists of Chutta Ratnathicam, Charles Crocker and Louis E. Woodworth. Each of the members of the Audit Committee is independent as defined under the New York Stock Exchange ("NYSE") rules and applicable law. The primary purpose of the Audit Committee is to assist the Board of Directors in fulfilling its responsibility to oversee the Company's financial reporting activities. The Audit Committee's function is more fully described in the written charter, which is attached as Appendix A to this Proxy Statement. Chutta Ratnathicam serves as the Chairman.

REVIEW OF THE COMPANY'S AUDITED FINANCIAL STATEMENTS FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2004

The Audit Committee has reviewed and discussed the audited financial statements of the Company for the fiscal year ended September 30, 2004 with the Company's management.

The Audit Committee has discussed with PricewaterhouseCoopers LLP ("PwC"), the Company's independent registered public accounting firm, the matters required to be discussed by the Statement on Auditing Standards No. 61 (Communication with Audit Committees).

The Audit Committee has also received the written disclosures and the letter from PwC required by Independence Standards Board Standard No. 1 (Independence Discussion with Audit Committees), and has discussed the independence of PwC with that firm.

Based on the Audit Committee's review and discussions noted above, the Audit Committee recommended to the Board of Directors that the Company's audited financial statements be included in the Company's Annual Report on Form 10-K for the fiscal year ended September 30, 2004, for filing with the SEC.

Respectfully Submitted:

AUDIT COMMITTEE
Chutta Ratnathicam, Chairman
Charles Crocker
Louis E. Woodworth

FEES PAID TO INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board, with the ratification of the stockholders, engaged PricewaterhouseCoopers LLP ("PwC") to perform an annual audit of the Company's financial statements for the fiscal year 2004.

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The following table sets forth the approximate aggregate fees billed or expected to be billed to the Company for fiscal years 2004 and 2003 by PwC for the audit of the Company's annual financial statements and services rendered by PwC.

(in thousands)	FISCAL YEARS ENDED	
	2004	2003
AUDIT FEES	\$ 1,800	\$ 1,500
AUDIT RELATED FEES (a)	\$ 700	\$ 500
TAX FEES (b)	\$ 700	\$ 1,000
ALL OTHER FEES (c)	\$ 200	\$ 1,100
TOTAL FEES	\$ 3,400	\$ 4,100

- (a) Audit Related Fees consist of assurance and related services that are reasonably related to the performance of the audit or review of the Company's financial statements. Such services related primarily to internal control examinations pursuant to the Statement of Auditing Standards No. 70, audits of employee benefit plans and other attestation services.
- (b) Tax Fees consist of tax preparation and compliance services rendered by PwC.
- (c) All Other Fees consist principally of services rendered in connection with assistance in regulatory reporting in various jurisdictions and tax advice and tax planning.

NOTE: 2.0% of the fees for services described under Audit Related Fees, Tax Fees and All Other Fees were approved by the Audit Committee pursuant to the pre-approval waiver requirements under 17 CFR 210.2-01(c)(7)(i)(C), of which 1.9% represented Tax Fees and 0.1% represented All Other Fees.

PRE-APPROVAL PROCESS AND POLICY

The audit and non-audit services provided to the Company and its subsidiaries by PwC, the independent auditors, during fiscal year 2004 were pre-approved by the Audit Committee. The Audit Committee has adopted policies and procedures for pre-approving all audit and non-audit services provided by PwC. This policy describes the permitted audit, audit-related, tax and other services that the independent auditors may perform.

Any requests for audit, audit-related, tax and other services must initially be submitted to the Company's Chief Financial Officer (the "CFO"). Any requests preliminarily approved by the CFO are then submitted to the Audit Committee for final and specific pre-approval. Normally, pre-approval is considered at regularly scheduled meetings. However, the authority to grant specific pre-approval between meetings up to a designated approval amount (the "Chairman Approval Amount"), has been delegated to the Chairman of the Audit Committee. The decision of the Chairman to grant specific pre-approval of a service shall be presented to the Audit Committee at its next scheduled meeting. If the estimated fees for proposed services exceed the Chairman Approval Amount, specific pre-approval by the entire Audit Committee shall be required.

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Prior to the time that Franklin acquired substantially all of the assets of Templeton, Galbraith & Hansberger Ltd. ("Templeton") in 1992, Templeton made a loan to Mr. Martin L. Flanagan secured by a deed of trust on Mr. Flanagan's then residence in Nassau, Bahamas. Such loan was outstanding to a subsidiary of the Company and bore interest at the annual rate of 5.98%. The largest aggregate amount outstanding during fiscal year 2004 was \$330,380. On or about December 4, 2004, Mr. Flanagan paid off the outstanding amount of the loan.

In October 1997, prior to the time that Mr. Charles R. Sims became an executive officer of Franklin, in connection with his relocation from Canada to California, Franklin made a loan to Mr. Sims, which is secured by a deed of trust on his residence and bears interest at the annual rate of 5%. The largest amount outstanding on the loan during fiscal year 2004 was \$586,203 and as of November 30, 2004, \$573,355 was outstanding.

In accordance with the Sarbanes-Oxley Act of 2002, the Company will not enter into any similar such loan transactions with its executive officers or directors.

During fiscal year 2004, Franklin Templeton Bank & Trust, F.S.B., and various bank related subsidiaries of Fiduciary Trust, a subsidiary of Franklin, entered into various transactions in the ordinary course of their business with certain directors or executive officers of Franklin and members of their immediate families. In particular, these transactions involved loans, deposits and sales of commercial paper, certificates of deposit and other money market instruments and certain other banking transactions, including, among others, a loan made in March 2002 to Harmon E. Burns, Vice Chairman and Director of the Company. As transactions made in the ordinary course of business, all such transactions were made on substantially the same terms, including interest rates and collateral, that prevailed at the time for comparable transactions with other persons and did not involve more than the normal risk of collectibility or present other unfavorable features.

In fiscal year 2004, Robert Dean, a vice president and portfolio manager for Franklin Advisers, Inc., a subsidiary of the Company, and the son-in-law of Mr. Burns, a Vice Chairman and director of the Company, was paid \$300,976, which included a cash bonus of \$162,500. Mr. Dean also received 1,568 shares of restricted stock. Mr. Dean's base salary for fiscal year 2005 is \$152,500. Mr. Dean is entitled to receive medical, life and disability insurance coverage and other benefits available generally to employees of the Company.

Under a stock repurchase program first authorized by the Board of Directors of the Company in September of 1985, the Company can repurchase shares of its common stock from time to time on the open market and in private transactions in accordance with applicable securities laws. Pursuant to this stock repurchase program, the Company repurchased shares of the Company's common stock from, among others, certain directors, executive officers and greater than five percent (5%) beneficial owners of the Company's common stock, and certain members of the immediate family of the foregoing persons, during fiscal year 2004 and in the current fiscal year. In particular, Mr. Charles B. Johnson, the Company's Chairman of the Board, Member - Office of the Chairman, and a director of the Company, sold back to the Company 123,000 shares of common stock for an aggregate amount of \$8,372,610 on December 15, 2004. On September 7, 2004, Mr. C. B. Johnson also sold back to the Company 300,000 shares of common stock for an aggregate amount of \$16,104,000. Mr. Burns, a Company Vice Chairman, Member - Office of the Chairman, and a director of the Company, sold back to the Company 50,000 shares of common stock for an aggregate amount of \$3,403,500 on December 15, 2004. Similarly, on the same date, Mr. Rupert H. Johnson, Jr., a Company Vice Chairman, Member - Office of the Chairman, and a director of the Company, sold back to the Company 50,000 shares of common stock for an aggregate amount of \$3,403,500. On December 15, 2004, Mr. Flanagan, President and Co-Chief

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Executive Officer of the Company, sold back to the Company 7,975 shares of common stock for an aggregate amount of \$542,858. On the same date, Mr. Greg E. Johnson, President and Co-Chief Executive Officer of the Company, sold back to the Company 11,981 shares of common stock for an aggregate amount of \$815,547. On December 15, 2004, Mr. Sims, a Vice President of the Company, also sold back to the Company 6,000 shares of common stock for an aggregate amount of \$408,420. On the same date, Mr. Kenneth A. Lewis, a Vice President and Treasurer of the Company, sold back to the Company 3,000 shares of common stock for an aggregate amount of \$204,120. On February 11, 2004,

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Penelope Alexander, Vice PresidenDIV>

100% of the principal amount of the notes to be redeemed; or

the sum of the present values of the remaining scheduled payments of principal and interest on the notes to be redeemed (exclusive of interest accrued to the date of redemption) discounted to the date of redemption on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) at the then current Treasury Rate plus 50 basis points in the case of the 2017 Notes and 50 basis points in the case of the 2020 Notes.

Notwithstanding the foregoing, if the 2017 Notes are redeemed on or after December 15, 2016, or the 2020 Notes are redeemed on or after December 16, 2019, the redemption price will be 100% of the principal amount of the applicable series of notes to be redeemed.

In each case we will pay accrued and unpaid interest on the principal amount being redeemed to the date of redemption.

Comparable Treasury Issue means the United States Treasury security selected by an Independent Investment Banker as having a maturity comparable to the remaining term (Remaining Life) of the notes to be redeemed that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the Remaining Life.

Comparable Treasury Price means, with respect to any redemption date, (1) the average of the Reference Treasury Dealer Quotations for such redemption date, after excluding the highest and lowest Reference Treasury Dealer Quotations, or (2) if the trustee obtains fewer than four such Reference Treasury Dealer Quotations, the average of all such quotations.

Independent Investment Banker means one of the Reference Treasury Dealers that we appoint to act as the Independent Investment Banker from time to time.

Reference Treasury Dealer means each of Banc of America Securities LLC, Citigroup Global Markets Inc., Goldman, Sachs & Co. and RBS Securities Inc., and their successors, and two other firms that are primary U.S. Government securities dealers (each a Primary Treasury Dealer) which we specify from time to time; provided, however, that if any of them ceases to be a Primary Treasury Dealer, we will substitute another Primary Treasury Dealer.

Reference Treasury Dealer Quotations means, with respect to each Reference Treasury Dealer and any redemption date, the average, as determined by the trustee, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the trustee by such Reference Treasury Dealer at 5:00 p.m., New York City time, on the third business day preceding such redemption date.

Treasury Rate means, with respect to any redemption date, the rate per year equal to: (1) the yield, under the heading which represents the average for the immediately preceding week, appearing in the most recently published statistical release designated H.15 (519) or any successor publication which is published weekly by the Board of Governors of the Federal Reserve System and which establishes yields on actively traded United States Treasury securities adjusted to constant maturity under the caption Treasury Constant Maturities, for the maturity corresponding to the Comparable Treasury Issue; provided that, if no maturity is within three months before or after the Remaining Life of the notes to be redeemed, yields for the two published maturities most closely corresponding to the Comparable Treasury Issue shall be determined and the

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Treasury Rate shall be interpolated or extrapolated from those yields on a straight line basis, rounding to the nearest month; or (2) if such release (or any successor release) is not published during the week preceding the calculation date or does not contain such yields, the rate per year equal to the semiannual equivalent yield to maturity of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such redemption date. The Treasury Rate shall be calculated on the third business day preceding the redemption date.

Notice of redemption will be mailed at least 30 but not more than 60 days before the redemption date to each holder of record of the notes to be redeemed at its registered address. The notice of redemption for the notes will state, among other things, the amount of notes to be redeemed, the redemption date, the redemption price and the place or places that payment will be made upon presentation and surrender of notes to be redeemed. Unless we default in payment of the redemption price, interest will cease to accrue on any notes that have been called for redemption at the redemption date.

If less than all of the notes within a series are to be redeemed at our option, we will notify the trustee under the Indenture at least 45 days prior to the redemption date, or any shorter period as may be satisfactory to the trustee, of the aggregate principal amount of the notes of such series to be redeemed and the redemption date. The trustee will select, in the manner as it deems fair and appropriate, the notes to be redeemed. Notes may be redeemed in part in the minimum authorized denomination for notes or in any integral multiple of such amount.

Covenants

This section describes covenants we make in the Indenture, as modified and amended through the Ninth Supplemental Indenture, for the benefit of the holders of the notes and the other debt securities. The covenants described below apply to the notes, all of our other outstanding debt securities (other than our convertible debt securities) and to future issuances of debt securities, unless the Indenture is further modified or supplemented.

Limitations on Incurrence of Debt

We will not, and will not permit any Subsidiary to, incur any Debt if, immediately after giving effect to the incurrence of such additional Debt and the application of the proceeds of the additional Debt, the aggregate principal amount of all our outstanding Debt and that of our Subsidiaries on a consolidated basis as determined in accordance with GAAP is greater than 60% of the sum of (without duplication):

(1) our Total Assets as of the end of the calendar quarter covered in our Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, most recently filed with the Securities and Exchange Commission (or, if such filing is not permitted under the Exchange Act, with the trustee) prior to the incurrence of such additional Debt; and

(2) the purchase price of any real estate assets or mortgages receivable acquired, and the amount of any securities offering proceeds received (to the extent such proceeds were not used to acquire real estate assets or mortgages receivable or used to reduce Debt), by us or any Subsidiary since the end of such calendar quarter, including those proceeds obtained in connection with the incurrence of such additional Debt.

Additionally, we will not, and will not permit any Subsidiary to, incur any Debt if the ratio of Consolidated Income Available for Debt Service to the Annual Service Charge for the four consecutive fiscal quarters most recently ended prior to the date on which such additional Debt is to be incurred shall have been less than 1.5, on a pro forma basis after giving effect thereto and to the application of the proceeds therefrom, and calculated on the assumption that:

(1) such Debt and any other Debt incurred by us and our Subsidiaries since the first day of such four-quarter period and the application of the proceeds therefrom, including to refinance other Debt, had occurred at the beginning of such period;

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(2) the repayment or retirement of any other Debt by us and our Subsidiaries since the first day of such four-quarter period had been incurred, repaid or retired at the beginning of such period (except that, in making such computation, the amount of Debt under any revolving credit facility shall be computed based upon the average daily balance of such Debt during such period);

(3) in the case of Acquired Debt or Debt incurred in connection with any acquisition since the first day of such four-quarter period, the related acquisition had occurred as of the first day of such period with the appropriate adjustments with respect to such acquisition being included in such pro forma calculation; and

(4) in the case of any acquisition or disposition by us or our Subsidiaries of any asset or group of assets since the first day of such four-quarter period, whether by merger, stock purchase or sale, or asset purchase or sale, such acquisition or disposition or any related repayment of Debt had occurred as of the first day of such period with the appropriate adjustments with respect to such acquisition or disposition being included in such pro forma calculation.

No Subsidiary may incur any Unsecured Debt; provided, however, that we or a Subsidiary may acquire an entity that becomes a Subsidiary that has Unsecured Debt if the incurrence of such Debt (including any guarantees of such Debt assumed by us or any Subsidiary) was not intended to evade the foregoing restrictions and the incurrence of such Debt (including any guarantees of such Debt assumed by us or any Subsidiary) would otherwise be permitted under the Indenture.

We and our Subsidiaries may not at any time own Total Unencumbered Assets equal to less than 150% of the aggregate outstanding principal amount of the Unsecured Debt and Pari Passu Debt of us and our Subsidiaries on a consolidated basis.

In addition to the foregoing limitations on the incurrence of Debt, we will not, and will not permit any Subsidiary to, incur any Debt for borrowed money secured by any mortgage, lien, charge, pledge, encumbrance or security interest upon any of our property or the property of any Subsidiary, whether owned at the date hereof or hereafter acquired (other than Pari Passu Debt), if, immediately after giving effect to the incurrence of such additional Debt and the application of the proceeds thereof, the aggregate principal amount of all of our outstanding Debt and the outstanding Debt of our Subsidiaries on a consolidated basis for borrowed money which is secured by any mortgage, lien, charge, pledge, encumbrance or security interest on our property or the property of any Subsidiary (excluding any Pari Passu Debt) is greater than 40% of the sum of (without duplication):

(1) our Total Assets as of the end of the calendar quarter covered in our Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, most recently filed with the Securities and Exchange Commission (or, if such filing is not permitted under the Exchange Act, with the Trustee) prior to the incurrence of such additional Debt and

(2) the purchase price of any real estate assets or mortgages receivable acquired, and the amount of any securities offering proceeds received (to the extent that such proceeds were not used to acquire real estate assets or mortgages receivable or used to reduce Debt), by us or any Subsidiary since the end of such calendar quarter, including those proceeds obtained in connection with the incurrence of such additional Debt.

For purposes of the covenants described under this Limitations on Incurrence of Debt, Debt shall be deemed to be incurred by us or a Subsidiary whenever we or such Subsidiary shall create, assume, guarantee or otherwise become liable in respect thereof.

Nothing in the above covenants shall prevent: (i) the incurrence by us or any Subsidiary of Debt between or among us, and any Subsidiary or any Equity Investee or (ii) us or any Subsidiary from incurring Refinancing Debt.

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For purposes of the foregoing covenants the following definitions apply:

Acquired Debt means Debt of a Person (i) existing at the time such Person becomes a Subsidiary or (ii) assumed in connection with the acquisition of assets from such Person, in each case, other than Debt incurred in connection with, or in contemplation of, such Person becoming a Subsidiary or such acquisition. Acquired Debt shall be deemed to be incurred on the date of the related acquisition of assets from any Person or the date the acquired Person becomes a Subsidiary.

Annual Service Charge as of any date means the maximum amount which is payable in any period for interest on, and original issue discount of, our or our subsidiaries Debt and the amount of dividends which are payable in respect of any Disqualified Stock.

Consolidated Income Available for Debt Service for any period means Earnings from Operations of us and our Subsidiaries plus amounts which have been deducted, and minus amounts which have been added, for the following (without duplication):

(A) interest on Debt of us and our Subsidiaries,

(B) provision for taxes of us and our Subsidiaries based on income,

(C) amortization of debt discount,

(D) provisions for unrealized gains and losses, depreciation and amortization, and the effect of any other non-cash items,

(E) extraordinary, non-recurring and other unusual items (including, without limitation, any costs and fees incurred in connection with any debt financing or amendments thereto, any acquisition, disposition, recapitalization or similar transaction (regardless of whether such transaction is completed)),

(F) the effect of any noncash charge resulting from a change in accounting principles in determining Earnings from Operations for such period,

(G) amortization of deferred charges, and

(H) any of the items described in clauses (D) and (E) above that were included in Earnings From Operations on account of an Equity Investee.

Debt of us or any Subsidiary means any indebtedness of us or any Subsidiary, excluding any accrued expense or trade payable, whether or not contingent, in respect of

(1) borrowed money evidenced by bonds, notes, debentures or similar instruments,

(2) indebtedness secured by any mortgage, pledge, lien, charge, encumbrance or any security interest existing on property owned by us or any Subsidiary,

(3) the reimbursement obligations, contingent or otherwise, in connection with any letters of credit actually issued or amounts representing the balance deferred and unpaid of the purchase price of any property or services, or all conditional sale obligations or obligations under any title retention agreement,

(4) the principal amount of all obligations of us or any Subsidiary with respect to redemption, repayment or other repurchase of any Disqualified Stock or

(5) any lease of property by us or any Subsidiary as lessee which is reflected on our consolidated balance sheet as a capitalized lease in accordance with GAAP

and to the extent, in the case of items of indebtedness under (1) through (3) above, that any such items (other than letters of credit) would appear as a liability on our Consolidated Balance Sheet in accordance with GAAP, and also includes, to the extent not otherwise included, any obligation by us or any Subsidiary to be liable for, or to pay, as obligor, guarantor or otherwise (other than for purposes of collection in the ordinary course of business), Debt of another Person (other than us or any Subsidiary).

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Disqualified Stock means, with respect to any person, any capital stock of such person which by the terms of such capital stock (or by the terms of any security into which it is convertible or for which it is exchangeable or exercisable), upon the happening of any event or otherwise, (i) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, (ii) is convertible into or exchangeable or exercisable for Debt or Disqualified Stock or (iii) is redeemable at the option of the holder thereof, in whole or in part, in each case on or prior to the stated maturity of a series of debt securities.

Earnings from Operations for any period means net earnings excluding gains and losses on sales of investments, net, as reflected in the financial statements of us and our Subsidiaries for such period determined on a consolidated basis in accordance with GAAP.

Encumbrance means any mortgage, pledge, lien, charge, encumbrance or any security interest existing on property owned by us or any Subsidiary securing indebtedness for borrowed money, other than a Permitted Encumbrance.

Equity Investee means any Person in which we or any Subsidiary hold an ownership interest that is accounted for by us or a Subsidiary under the equity method of accounting.

GAAP means generally accepted accounting principles as used in the United States applied on a consistent basis as in effect from time to time; provided, that solely for purposes of calculating these financial covenants, *GAAP* means generally accepted accounting principles as used in the United States on August 14, 2009 consistently applied.

Pari Passu Debt means (i) any Debt of us or a Subsidiary that is secured only by Encumbrances that also secure the debt securities issued under the Indenture on an equal and ratable basis and (ii) any series of debt securities issued under the Indenture that is secured only by Encumbrances that also secure all other series of debt securities issued under the Indenture on an equal and ratable basis.

Permitted Encumbrances means leases, Encumbrances securing taxes, assessments and similar charges, mechanics liens and other similar Encumbrances.

Person means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

Refinancing Debt means Debt issued in exchange for, or the net proceeds of which are used to refinance or refund, then outstanding Debt (including the principal amount, accrued interest and premium, if any, of such Debt plus any fees and expenses incurred in connection with such refinancing); provided that (a) if such new Debt, or the proceeds of such new Debt, are used to refinance or refund Debt that is subordinated in right of payment to the notes, such new Debt shall only be permitted if it is expressly made subordinate in right of payment to the notes at least to the extent that the Debt to be refinanced is subordinated to the notes and (b) such new Debt does not mature prior to the stated maturity of the Debt to be refinanced or refunded, and the weighted average life of such new Debt is at least equal to the remaining weighted average life of the Debt to be refinanced or refunded.

Subsidiary means, with respect to any Person, any corporation or other entity of which a majority of (a) the voting power of the voting equity securities or (b) in the case of a partnership or any other entity other than a corporation, the outstanding equity interests of which are owned, directly or indirectly, by such Person. For the purposes of this definition, *voting equity securities* means equity securities having voting power for the election of directors, whether at all times or only so long as no senior class of security has such voting power by reason of any contingency.

Total Assets means, as of any date, the sum of (i) Undepreciated Real Estate Assets and (ii) all of our and our Subsidiaries other assets, but excluding accounts receivable and intangibles, determined in accordance with GAAP.

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Total Unencumbered Assets means the sum of our and our Subsidiaries Undepreciated Real Estate Assets and the value determined in accordance with GAAP of all our and our Subsidiaries other assets, other than accounts receivable and intangibles, in each case not subject to an Encumbrance.

Undepreciated Real Estate Assets as of any date means the cost (original cost plus capital improvements) of real estate assets of us and our Subsidiaries on such date, before depreciation, amortization and impairment charges determined on a consolidated basis in accordance with GAAP.

Unsecured Debt means Debt of the types described in clauses (1), (3) and (4) of the definition thereof which is not secured by any mortgage, lien, charge, pledge or security interest of any kind upon any of the properties of us or any Subsidiary.

Book-Entry Procedures

DTC. The Depository Trust Company, New York, New York (DTC), will act as securities depository for the notes. The notes will be issued as fully-registered securities registered in the name of Cede & Co., which is DTC s nominee. One fully-registered global note will be issued with respect to the 2017 Notes and two fully-registered global notes will be issued with respect to the 2020 Notes. See Description of Debt Securities Global securities in the accompanying prospectus for a description of DTC s procedures with respect to global notes.

Redemption notices will be sent to DTC. If less than all of the notes within a series are being redeemed, DTC s practice is to determine by lot the amount of the interest of each direct participant in the series to be redeemed.

Neither DTC nor Cede & Co. will consent or vote with respect to the notes. Under its usual procedures, DTC mails an omnibus proxy to us as soon as possible after the record date. The omnibus proxy assigns Cede & Co. s consenting or voting rights to those direct participants to whose accounts the notes are credited on the record date, which are identified in a listing attached to the omnibus proxy.

We may, at any time, decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, certificates representing the notes will be printed and delivered.

Beneficial interests in the Global Securities will be represented through book-entry accounts of financial institutions acting on behalf of beneficial owners as direct and indirect participants in DTC. Investors may elect to hold interests in the Global Securities through DTC either directly if they are participants in DTC or indirectly through organizations that are participants in DTC.

Clearstream. Clearstream is incorporated under the laws of Luxembourg as a professional depository. Clearstream holds securities for its participating organizations (Clearstream Participants) and facilitates the clearance and settlement of securities transactions between Clearstream Participants through electronic book-entry changes in accounts of Clearstream Participants, thereby eliminating the need for physical movement of certificates. Clearstream provides Clearstream Participants with, among other things, services for safekeeping, administration, clearance and establishment of internationally traded securities and securities lending and borrowing. Clearstream interfaces with domestic markets in several countries. As a professional depository, Clearstream is subject to regulation by the Luxembourg Monetary Institute. Clearstream Participants are recognized financial institutions around the world, including underwriters, securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations, and may include the underwriters. Indirect access to Clearstream is also available to others, such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a Clearstream Participant either directly or indirectly.

Distributions with respect to notes held beneficially through Clearstream will be credited to cash accounts of Clearstream Participants in accordance with its rules and procedures to the extent received by DTC for Clearstream.

Euroclear. Euroclear was created in 1968 to hold securities for participants of Euroclear (Euroclear Participants) and to clear and settle transactions between Euroclear Participants through simultaneous

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electronic book-entry delivery against payment, thereby eliminating the need for physical movement of certificates and any risk from lack of simultaneous transfers of securities and cash. Euroclear includes various other services, including securities lending and borrowing and interfaces with domestic markets in several markets in several countries. Euroclear is operated by Euroclear Bank S.A./N.V. (the Euroclear Operator), under contract with Euro-clear Clearance Systems S.C., a Belgian cooperative corporation (the Cooperative). All operations are conducted by the Euroclear Operator, and all Euroclear securities clearance accounts and Euroclear cash accounts are accounts with the Euroclear Operator, not the Cooperative. The Cooperative establishes policy for Euroclear on behalf of Euroclear Participants. Euroclear Participants include banks (including central banks), securities brokers and dealers and other professional financial intermediaries and may include the underwriters. Indirect access to Euroclear is also available to other firms that clear through or maintain a custodial relationship with a Euroclear Participant, either directly or indirectly.

The Euroclear Operator is regulated and examined by the Belgian Banking Commission.

Links have been established among DTC, Clearstream and Euroclear to facilitate the initial issuance of the notes sold outside of the United States and cross-market transfers of the notes associated with secondary market trading. Although DTC, Clearstream and Euroclear have agreed to the procedures provided below in order to facilitate transfers, they are under no obligation to perform these procedures, and these procedures may be modified or discontinued at any time.

Clearstream and Euroclear will record the ownership interests of their participants in much the same way as DTC, and DTC will record the total ownership of each of the U.S. agents of Clearstream and Euroclear, as participants in DTC. When notes are to be transferred from the account of a DTC participant to the account of a Clearstream participant or a Euroclear participant, the purchaser must send instructions to Clearstream or Euroclear through a participant at least one day prior to settlement. Clearstream or Euroclear, as the case may be, will instruct its U.S. agent to receive notes against payment. After settlement, Clearstream or Euroclear will credit its participant's account. Credit for the notes will appear on the next day (European time).

Because settlement is taking place during New York business hours, DTC participants will be able to employ their usual procedures for sending notes to the relevant U.S. agent acting for the benefit of Clearstream or Euroclear participants. The sale proceeds will be available to the DTC seller on the settlement date. As a result, to the DTC participant, a cross-market transaction will settle no differently than a trade between two DTC participants. When a Clearstream or Euroclear participant wishes to transfer notes to a DTC participant, the seller will be required to send instructions to Clearstream or Euroclear through a participant at least one business day prior to settlement. In these cases, Clearstream or Euroclear will instruct its U.S. agent to transfer these notes against payment for them. The payment will then be reflected in the account of the Clearstream or Euroclear participant the following day, with the proceeds back valued to the value date, which would be the preceding day, when settlement occurs in New York, if settlement is not completed on the intended value date, that is, the trade fails, proceeds credited to the Clearstream or Euroclear participant's account will instead be valued as of the actual settlement date.

You should be aware that you will only be able to make and receive deliveries, payments and other communications involving the notes through Clearstream and Euroclear on the days when those clearing systems are open for business. Those systems may not be open for business on days when banks, brokers and other institutions are open for business in the United States. In addition, because of time zone differences there may be problems with completing transactions involving Clearstream and Euroclear on the same business day as in the United States.

Same-Day Settlement and Payment

Settlement for the notes will be made by the purchasers in immediately available funds. All payments of principal and interest will be made by us in immediately available funds or the equivalent, so long as DTC continues to make its Same-Day Funds Settlement System available to us.

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We are offering the notes described in this prospectus supplement through a number of underwriters. Banc of America Securities LLC, Citigroup Global Markets Inc., Goldman, Sachs & Co. and RBS Securities Inc. are the representatives of the underwriters. We have entered into a firm commitment underwriting agreement with the representatives. Subject to the terms and conditions of the underwriting agreement, we have agreed to sell to the underwriters, and each underwriter has severally agreed to purchase, the aggregate principal amount of notes listed next to its name in the following table:

Underwriter	Principal Amount of 2017 Notes	Principal Amount of 2020 Notes
Banc of America Securities LLC	\$ 48,750,000	\$ 130,000,000
Citigroup Global Markets Inc.	48,750,000	130,000,000
Goldman, Sachs & Co.	48,750,000	130,000,000
RBS Securities Inc.	48,750,000	130,000,000
SG Americas Securities, LLC	20,000,000	53,333,334
U.S. Bancorp Investments, Inc.	20,000,000	53,333,333
Wells Fargo Securities, LLC	20,000,000	53,333,333
Daiwa Securities America Inc.	15,000,000	40,000,000
Scotia Capital (USA) Inc.	15,000,000	40,000,000
The Williams Capital Group, L.P.	15,000,000	40,000,000
Total	\$ 300,000,000	\$ 800,000,000

The underwriting agreement is subject to a number of terms and conditions and provides that the underwriters must buy all of the notes if they buy any of them. The underwriters will sell the notes to the public when and if the underwriters buy the notes from us.

The underwriters have advised us that they propose initially to offer the notes to the public for cash at the public offering prices set forth on the cover of this prospectus supplement, and may offer the notes to certain dealers at such price less concessions not in excess of 0.375% of the principal amount of the 2017 Notes and 0.400% of the principal amount of the 2020 Notes. The underwriters may allow, and such dealers may reallow, a concession not in excess of 0.225% of the principal amount of the 2017 Notes and 0.250% of the principal amount of the 2020 Notes to certain other dealers. After the public offering of the notes, the public offering price and other selling terms may be changed. The offering of the notes by the underwriters is subject to receipt and acceptance and subject to the underwriters' right to reject any order in whole or in part.

We estimate that our share of the total expenses of the offering, excluding underwriting discounts, will be approximately \$1.8 million.

We have agreed to indemnify the several underwriters against, or contribute to payments that the underwriters may be required to make in respect of, certain liabilities, including liabilities under the Securities Act of 1933. Each series of the notes are a new issue of securities with no established trading market. The notes will not be listed on any securities exchange or on any automated dealer quotation system. The underwriters may make a market in the notes after

completion of the offering, but will not be obligated to do so and may discontinue any market-making activities at any time without notice. No assurance can be given as to the liquidity of the trading market for the notes or that an active public market for the notes will develop. If an active public market for the notes does not develop, the market price and liquidity of the notes may be adversely affected.

In connection with the offering of the notes, certain of the underwriters may engage in transactions that stabilize, maintain or otherwise affect the price of the notes. Specifically, the underwriters may overallocate in connection with the offering, creating a short position. In addition, the underwriters may bid for, and purchase, the notes in the open market to cover short positions or to stabilize the price of the notes. The underwriters also may impose a penalty bid. This occurs when a particular underwriter repays to the underwriters a portion of the underwriting discount received by it because the representatives have repurchased notes sold by or for the account of such underwriter in stabilizing or short covering transactions. Any of these activities, as well as

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other purchases by the underwriters for their own accounts, may stabilize or maintain the market price of the notes above independent market levels, but no representation is made hereby of the magnitude of any effect that the transactions described above may have on the market price of the notes. The underwriters will not be required to engage in these activities, and may engage in these activities, and may end any of these activities, at any time without notice. These transactions may be effected in the over-the-counter market or otherwise.

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a Relevant Member State), each underwriter has represented and agreed that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the Relevant Implementation Date) it has not made and will not make an offer of securities to the public in that Relevant Member State prior to the publication of a prospectus in relation to the securities which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, all in accordance with the Prospectus Directive, except that it may, with effect from and including the Relevant Implementation Date, make an offer of securities to the public in that Relevant Member State at any time:

- (a) to legal entities which are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities;
- (b) to any legal entity which has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more than EUR 43,000,000 and (3) an annual net turnover of more than EUR 50,000,000, as shown in its last annual or consolidated accounts;
- (c) to fewer than 100 natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior consent of the representatives of any such offer; or
- (d) in any other circumstances that do not require the publication by the Issuer of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an offer of notes to the public in relation to any notes in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the notes to be offered so as to enable an investor to decide to purchase or subscribe the notes, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression Prospectus Directive means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

Each underwriter has represented and agreed that:

- (a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 (FSMA)) received by it in connection with the issue or sale of the securities in circumstances in which Section 21(1) of the FSMA does not apply to us; and
- (b) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the securities in, from or otherwise involving the United Kingdom.

Affiliates of certain of the underwriters are lenders under our Global Credit Agreement, and therefore will receive proceeds from the offering to the extent that the proceeds are used to repay borrowings under our Global Credit Agreement. Additionally, an affiliate of Banc of America Securities LLC is the global administrative agent under our

Global Credit Agreement and is the collateral agent under the Security Agency Agreement. The underwriters and certain of their affiliates have provided from time to time, and may provide in the future, investment and commercial banking (including acting as a lender under our Global Credit Agreement) and financial advisory services to us and our affiliates in the ordinary course of business, for which they have received and may continue to receive customary fees and commissions. In the ordinary course of their business, the underwriters and their affiliates may actively trade or hold the securities or our loans for their own accounts or for the accounts of customers and, accordingly, may at any time hold long or short positions in these securities or loans. In addition, from time to time, as a result of market making activities, the underwriters may own debt securities issued by us or our affiliates. In addition, Citigroup Global Markets Inc. and its affiliates own a 63% equity interest in and are lenders to North American Industrial Fund II, a joint venture property fund sponsored by us.

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Citigroup Global Markets Inc. is also an underwriter for our concurrent offering of the convertible notes. Citigroup Global Markets Inc. is also a dealer manager for our offer to purchase certain of our outstanding senior notes, which we commenced on March 8, 2010.

EXPERTS

The consolidated financial statements and related financial statement schedule of ProLogis as of December 31, 2009 and 2008, and for each of the years in the three-year period ended December 31, 2009, and management's assessment of the effectiveness of internal control over financial reporting as of December 31, 2009 have been incorporated by reference herein in reliance upon the reports of KPMG LLP, independent registered public accounting firm, incorporated by reference herein, and upon the authority of said firm as experts in accounting and auditing.

LEGAL MATTERS

The validity of the notes will be passed upon for us by Mayer Brown LLP, Chicago, Illinois. The underwriters have been represented by Shearman & Sterling LLP, New York, New York.

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DEBT SECURITIES
PREFERRED SHARES
COMMON SHARES

We may offer and sell from time to time debt securities, common shares of beneficial interest, preferred shares of beneficial interest and rights to purchase common shares of beneficial interest covered by this prospectus independently, or together in any combination that may include other securities set forth in an accompanying prospectus supplement, in one or more offerings, for sale directly to purchasers or through underwriters, dealers or agents to be designated at a future date. Our outstanding common shares, Series F cumulative redeemable preferred shares of beneficial interest and Series G cumulative redeemable preferred shares of beneficial interest, are listed on the New York Stock Exchange under the symbols PLD, PLD-PRF and PLD-PRG, respectively. This prospectus provides you with a general description of the securities we may offer.

We may sell securities to or through underwriters, dealers or agents. For additional information on the method of sale, you should refer to the section entitled Plan of Distribution. The names of any underwriters, dealers or agents involved in the sale of any securities and the specific manner in which they may be offered will be set forth in the prospectus supplement covering the sale of those securities.

This prospectus contains summaries of certain provisions contained in some of the documents described herein, but reference is made to the actual documents for complete information. All of the summaries are qualified in their entirety by the actual documents. Copies of some of the documents referred to herein have been filed or will be filed or incorporated by reference as exhibits to the registration statement of which this prospectus is a part, and you may obtain copies of those documents as described below under Where You Can Find More Information.

Investment in any securities offered by this prospectus involves risk. See Risk Factors on page 1 of this prospectus, in our periodic reports filed from time to time with the Securities and Exchange Commission and in the applicable prospectus supplement.

These securities have not been approved or disapproved by the Securities and Exchange Commission or any state securities commission, nor has the securities and exchange commission or any state securities commission passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this Prospectus is October 27, 2009.

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This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission (which we refer to in this prospectus as the SEC) utilizing a shelf registration process. Under this shelf process, we may sell any combination of our securities, as described in this prospectus, from time to time and in one or more offerings. This prospectus provides you with a general description of the securities we may offer. When we sell securities, we may provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement and any free writing prospectus prepared by or on behalf of us together with additional information described below under Where You Can Find More Information.

WHERE YOU CAN FIND MORE INFORMATION

We are subject to the informational requirements of the Securities Exchange Act of 1934 (which we refer to herein as the Exchange Act) and, in accordance therewith, file reports, proxy statements and other information with the SEC. Such reports, proxy statements and other information can be inspected and copied at the public reference facilities maintained by the SEC at 100 F Street NE, Washington, D.C. 20549. You may obtain information on the operation of the Public Reference Room by calling 1-800-SEC-0330. This material can also be obtained from the SEC's worldwide web site at <http://www.sec.gov>, and all such reports, proxy statements and other information filed by us with the New York Stock Exchange may be inspected at the New York Stock Exchange's offices at 20 Broad Street, New York, New York 10005. You can also obtain information about us at our web site, www.prologis.com. Information available on or through our web site is not intended to constitute part of the prospectus.

We have filed with the SEC a registration statement on Form S-3 under the Securities Act of 1933 (which we refer to herein as the Securities Act) with respect to our securities being offered. This prospectus, which constitutes part of the registration statement, does not contain all of the information set forth in the registration statement. Parts of the registration statement are omitted from this prospectus in accordance with the rules and regulations of the SEC. For further information, your attention is directed to the registration statement. Statements made in this prospectus concerning the contents of any documents referred to herein are not necessarily complete, and in each case are qualified in all respects by reference to the copy of such document filed with the SEC.

The SEC allows us to incorporate by reference the information we file with the SEC, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information.

We incorporate by reference the documents listed below:

- (a) Our annual report on Form 10-K for the year ended December 31, 2008, filed on March 2, 2009;
- (b) Our quarterly reports on Form 10-Q for the quarters ended March 31, 2009 and June 30, 2009, filed on May 7, 2009 and August 4, 2009, respectively;
- (c) Our periodic reports on Form 8-K filed January 7, 2009, January 13, 2009, February 9, 2009 and February 13, 2009, April 7, 2009 (filed with respect to Item 8.01 and Item 9.01), April 14, 2009, June 2, 2009, August 14, 2009, August 26, 2009, September 16, 2009 and October 2, 2009;
- (d) The description of our common shares contained or incorporated by reference in our registration statement on Form 8-A filed February 23, 1994;
- (e)

The description of Series F cumulative redeemable preferred shares of beneficial interest contained or incorporated by reference in our registration statement on Form 8-A filed November 26, 2003; and

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- (f) The description of Series G cumulative redeemable preferred shares of beneficial interest contained or incorporated by reference in our registration statement on Form 8-A filed December 24, 2003.

The SEC has assigned file number 1-12846 to the reports and other information that ProLogis files with the SEC.

All documents subsequently filed (other than any portions of the respective filings that were furnished, under applicable SEC rules, rather than filed) by us pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act, prior to the termination of the offering, shall be deemed to be incorporated by reference into this prospectus.

Any statement contained in a document incorporated or deemed to be incorporated herein shall be deemed modified or superseded for purposes of this prospectus to the extent that a statement contained herein or in any other subsequently filed document that is deemed to be incorporated herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus.

You should rely only on the information contained in this document or to which we have referred you. We have not authorized anyone to provide you with information that is inconsistent with information contained in this document or any document incorporated herein. This prospectus is not an offer to sell these securities in any state where the offer and sale of these securities is not permitted. The information in this prospectus is current as of the date it is mailed to security holders, and not necessarily as of any later date. If any material change occurs during the period that this prospectus is required to be delivered, this prospectus will be supplemented or amended.

You may request a copy of each of the above-listed ProLogis documents at no cost, by writing or telephoning us at the following address or telephone number.

Investor Relations Department
ProLogis
4545 Airport Way
Denver, Colorado 80239
(800) 820-0181
<http://ir.prologis.com>

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FORWARD-LOOKING STATEMENTS

This prospectus, the prospectus supplement, the documents incorporated by reference in this prospectus and other written reports and oral statements made from time to time by the company may contain forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Such forward-looking statements may include:

- (1) statements, including our possible or assumed future results of operations including any forecasts, projections and descriptions of anticipated cost savings or other synergies referred to in such statements, and any such statements incorporated by reference from documents filed with the SEC by us, including any statements contained in such documents or this prospectus regarding the development or possible or assumed future results of operations of our businesses, the markets for our services and products, anticipated capital expenditures or competition;
- (2) any statements preceded by, followed by or that include the words believes, expects, anticipates, intends, plans, seeks, estimates or similar expressions; and
- (3) other statements contained or incorporated by reference in this prospectus regarding matters that are not historical facts.

Because such statements are subject to risks and uncertainties, actual results may differ materially from those expressed or implied by such forward-looking statements. Investors are cautioned not to place undue reliance on such statements, which speak only as of the date the statements were made.

Among the factors that could cause actual results to differ materially are: national, international, regional and local economic climates, changes in financial markets, interest rates and foreign currency exchange rates, increased or unanticipated competition for our properties, risks associated with acquisitions, maintenance of real estate investment trust status, availability of financing and capital, changes in demand for developed properties, and other risks detailed from time to time in the reports filed with the SEC by us.

Except for our ongoing obligations to disclose material information as required by the federal securities laws, we do not undertake any obligation to release publicly any revisions to any forward-looking statements to reflect events or circumstances after the date of the filing of this prospectus or to reflect the occurrence of unanticipated events.

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We are a leading global provider of industrial distribution facilities. We are a Maryland real estate investment trust and have elected to be taxed as a REIT under the Internal Revenue Code. Our world headquarters is located at 4545 Airport Way Denver, Colorado 80239 and our phone number is (303) 567-5000. Our European headquarters is located in the Grand Duchy of Luxembourg with our European customer service headquarters located in Amsterdam, the Netherlands. Our primary office in Asia is located in Tokyo, Japan.

We were formed in 1991, primarily as a long-term owner of industrial distribution space operating in the United States. Over time, our business strategy evolved to include the development of property for contribution to property funds in which we maintain an ownership interest and the management of those property funds and the properties they own. Originally, we sought to differentiate ourselves from our competition by focusing on our corporate customers distribution space requirements on a national, regional and local basis and providing customers with consistent levels of service throughout the United States. However, as our customers' needs expanded to markets outside the United States, so did our portfolio and our management team. Today we are an international real estate company with operations in North America, Europe and Asia. Our business strategy is to integrate international scope and expertise with a strong local presence in our markets, thereby becoming an attractive choice for our targeted customer base, the largest global users of distribution space, while achieving long-term sustainable growth in cash flow.

RISK FACTORS

Investment in any securities offered pursuant to this prospectus involves risks. You should carefully consider the risk factors incorporated by reference to our most recent Annual Report on Form 10-K and our subsequent Quarterly Reports on Form 10-Q and the other information contained in this prospectus, as updated by our subsequent filings under the Exchange Act and the risk factors and other information contained in the applicable prospectus supplement before acquiring any of such securities.

RATIOS

For purposes of computing these ratios: (i) earnings consist of earnings from continuing operations, excluding income taxes, minority interest share in earnings and fixed charges, other than capitalized interest, and (ii) fixed charges consist of interest on borrowed funds, including amounts that have been capitalized, and amortization of capitalized debt issuance costs, debt premiums and debt discounts.

The following table shows our ratio of earnings to fixed charges for each of the periods indicated:

Six Months Ended June 30,		Year Ended December 31,				
2009	2008(a)	2008(a)(b)	2007(a)	2006	2005	2004
1.8x	2.3x	0.4x	2.8x	2.7x	2.1x	2.2x

(a) These periods have been restated to reflect the retroactive adoption of FSP APB 14-1, also known as ASC 470-20, for interest expense related to our convertible debt.

(b) The loss from continuing operations for 2008 includes impairment charges of \$901.8 million. Due to these impairment charges, our fixed charges exceed our earnings as adjusted by \$339.3 million.

The following table shows our ratio of earnings to combined fixed charges and preferred share dividends for each of the periods indicated:

Six Months Ended June 30,		Year Ended December 31,				
2009	2008(a)	2008(a)(b)	2007(a)	2006	2005	2004
1.7x	2.2x	0.4x	2.6x	2.5x	1.9x	1.9x

(a) These periods have been restated to reflect the retroactive adoption of FSP APB 14-1, also known as ASC 470-20, for interest expense related to our convertible debt.

(b) The loss from continuing operations for 2008 includes impairment charges of \$901.8 million. Due to these impairment charges, our combined fixed charges and preferred share dividends exceed our earnings as adjusted by \$364.7 million.

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USE OF PROCEEDS

Unless otherwise described in the applicable prospectus supplement, the net proceeds from the sale of the offered securities will be used for the acquisition and development of properties as suitable opportunities arise, for the repayment of any outstanding indebtedness, for capital improvements to properties and for general corporate purposes.

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DESCRIPTION OF DEBT SECURITIES

The debt securities are to be issued under an Indenture, dated as of March 1, 1995, (the Original Indenture) between us and U.S. Bank National Association (successor in interest to State Street Bank and Trust Company), as trustee. The Indenture has been supplemented by a First Supplemental Indenture dated February 9, 2005, a Second Supplemental Indenture dated November 2, 2005, a Third Supplemental Indenture dated November 2, 2005, a Fourth Supplemental Indenture dated March 26, 2007, a Fifth Supplemental Indenture dated November 8, 2007, a Sixth Supplemental Indenture dated May 7, 2008, a Seventh Supplemental Indenture dated May 7, 2008, an Eighth Supplemental Indenture dated August 14, 2009 and a Ninth Supplemental Indenture dated October 1, 2009. We collectively refer to the Original Indenture as amended and supplemented by the First Supplemental Indenture, Second Supplemental Indenture, Third Supplemental Indenture, Fourth Supplemental Indenture, Fifth Supplemental Indenture, Sixth Supplemental Indenture, Seventh Supplemental Indenture, Eighth Supplemental Indenture and Ninth Supplemental Indenture as the Indenture. The Indenture has been incorporated by reference as an exhibit to the registration statement of which this prospectus is a part and is available for inspection at the corporate trust office of the trustee at 100 Wall Street, Suite 1600, New York, New York 10005 or as described above under Where You Can Find More Information. The Indenture is subject to, and governed by, the Trust Indenture Act of 1939. The statements made in this prospectus relating to the Indenture and the debt securities to be issued pursuant to the Indenture are summaries of some of the provisions of the Indenture and do not purport to be complete. The statements are subject to and are qualified in their entirety by reference to all the provisions of the Indenture and the debt securities. As used in this section, Description of Debt Securities, the terms we, our, and us refer to ProLogis and not to any of its subsidiaries.

General

The debt securities will be our direct, unsubordinated obligations and will rank equally with all of our other unsubordinated indebtedness outstanding from time to time, unless otherwise stated in the prospectus supplement relating to the series of debt securities being offered. Additionally, unless otherwise stated in the prospectus supplement relating to the debt securities being offered, the debt securities will be included as Designated Senior Debt and the holders of the debt securities will be included as Credit Parties that receive the benefit of the Security Agency Agreement described below under Security and Sharing Agreements. The Indenture provides that the debt securities may be issued without limit as to aggregate principal amount, in one or more series. Each series may be as established from time to time in or pursuant to authority granted by a resolution of our board of trustees or as established in one or more indentures supplemental to the Indenture. All debt securities of one series need not be issued at the same time and, unless otherwise provided, a series may be reopened for issuances of additional debt securities of that series without the consent of the holders of the debt securities of that series.

Please refer to the prospectus supplement relating to the series of debt securities being offered for the specific terms of the securities, including:

- (1) the title of the series of debt securities;
- (2) the aggregate principal amount of the series of debt securities and any limit on the principal amount;
- (3) the percentage of the principal amount at which the debt securities of the series will be issued and, if other than the full principal amount of the debt securities, the portion of the principal amount of the debt securities payable upon declaration of acceleration of the maturity of the securities, or the method by which any portion will be determined;

- (4) the date or dates, or the method by which the date or dates will be determined, on which the principal of the debt securities of the series will be payable and the amount of principal payable on the debt securities;
- (5) the rate or rates at which the debt securities will bear interest, if any which may be fixed or variable or the method by which the rate or rates will be determined;

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- (6) the date or dates, or the method by which the date or dates will be determined, from which any interest will accrue, the interest payment dates on which any interest will be payable, the regular record dates for the interest payment dates, or the method by which the dates will be determined, the person to whom, and the manner in which, the interest will be payable, and the basis upon which interest will be calculated if other than that of a 360-day year comprised of twelve 30-day months;
- (7) the place or places where the principal of and premium or make-whole amounts, if any and interest and additional amounts, if any, on the debt securities of the series will be payable, where the debt securities may be surrendered for registration of transfer or exchange and where notices or demands to or upon us in respect of the debt securities and the Indenture may be served;
- (8) the period or periods within which, the price or prices, including the premium or make-whole amounts, if any, at which, the currency or currencies in which, and the other terms and conditions upon which the debt securities of the series may be redeemed, as a whole or in part, at our option, if we are to have such an option;
- (9) our obligation, if any, to redeem, repay or purchase the debt securities of the series pursuant to any sinking fund or analogous provision or at the option of a holder of the debt securities, and the period or periods within which, the date or dates upon which, the price or prices at which, the currency or currencies, currency unit or units or composite currency or currencies in which, and the other terms and conditions upon which the debt securities shall be redeemed, repaid or purchased, as a whole or in part, pursuant to that obligation;
- (10) if other than United States dollars, the currency or currencies in which the debt securities of the series are denominated and payable, which may be a foreign currency or units of two or more foreign currencies or a composite currency or currencies, and the terms and conditions relating to the currency;
- (11) whether the amount of payments of principal and premium or make-whole amounts, if any or interest, if any, on the debt securities of the series may be determined with reference to an index, formula or other method, and the manner in which those amounts will be determined; the index, formula or method may be, but need not be, based on a currency, currencies, currency unit or units or composite currency or currencies;
- (12) whether the principal and premium or make-whole amounts, if any or interest or additional amounts, if any, on the debt securities of the series are to be payable, at our election or at the election of a holder of debt securities, in a currency or currencies, currency unit or units or composite currency or currencies, other than that in which the debt securities are denominated or stated to be payable, the period or periods within which, and the terms and conditions upon which, the election may be made, and the time and manner of, and identity of the exchange rate agent with responsibility for, determining the exchange rate between the currency or currencies in which the debt securities are denominated or stated to be payable and the currency or currencies in which the debt securities are to be so payable;
- (13) any deletions from, modifications of or additions to the terms of the series of debt securities with respect to the events of default or covenants set forth in the Indenture;
- (14) whether the debt securities of the series will be issued in certificated or book-entry form;

- (15) whether the debt securities of the series will be in registered or bearer form and, if in registered form, the denominations of the debt securities if other than \$1,000 and any integral multiple of the debt securities and, if in bearer form, the denominations of the debt securities if other than \$5,000 and the terms and conditions relating to the debt securities;

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- (16) the applicability, if any, of the defeasance and covenant defeasance provisions of Article Fourteen of the Indenture to the series of debt securities and any additions to or substitutions of the provisions;
- (17) if the debt securities of the series are to be issued upon the exercise of debt warrants, the time, manner and place for the debt securities to be authenticated and delivered;
- (18) whether and under what circumstances we will pay additional amounts as contemplated in the Indenture on the debt securities of the series in respect of any tax, assessment or governmental charge and, if so, whether we will have the option to redeem the debt securities rather than pay the additional amounts; and
- (19) any other terms of the series of debt securities not inconsistent with the provisions of the Indenture.

We may issue original issue discount securities. Original issue discount securities refer to debt securities which may provide that less than the entire principal amount of the debt securities will be paid if their maturity is accelerated, or bear no interest or bear interest at a rate which at the time of issuance is below market rates. Special U.S. federal income tax, accounting and other considerations apply to original issue discount securities and will be described in the applicable prospectus supplement.

Under the Indenture, in addition to the ability to issue debt securities with terms different from those of debt securities previously issued, we will have the ability to reopen a previous issue of a series of debt securities and issue additional debt securities of the series without the consent of the holders.

Except as set forth below under **Covenants** **Limitations on incurrence of debt**, the Indenture does not contain any other provisions that would limit our ability to incur indebtedness or that would afford holders of debt securities protection in the event of a highly leveraged or similar transaction involving us or in the event of a change of control. However, our Declaration of Trust restricts beneficial ownership of our outstanding shares of beneficial interest by a single person, or persons acting as a group, to 9.8% of such shares, with exceptions. See **Description of Common Shares** **Restriction on size of holdings**. Additionally, the articles supplementary relating to the Series C preferred shares, Series F preferred shares and Series G preferred shares restrict beneficial ownership of such shares by a person, or persons acting as a group, to 25% of the Series C preferred shares, Series F preferred shares and Series G preferred shares, respectively, with limited exceptions. Similarly, the articles supplementary for each other series of preferred shares will contain specific provisions restricting the ownership and transfer of the preferred shares. See **Description of Preferred Shares** **Restrictions on ownership**. These restrictions are designed to preserve our status as a real estate investment trust under the Internal Revenue Code and may act to prevent or hinder a change of control. Refer to the applicable prospectus supplement for information with respect to any deletions from, modifications of or additions to the events of default or covenants that are described below, including any addition of a covenant or other provision providing event risk or similar protection.

Denominations

Unless otherwise described in the applicable prospectus supplement, the debt securities of any series issued in registered form will be issuable in denominations of \$1,000 and integral multiples of \$1,000. Unless otherwise described in the applicable prospectus supplement, the debt securities of any series issued in bearer form will be issuable in denominations of \$5,000.

Principal and interest

Unless otherwise specified in the applicable prospectus supplement, the principal of and premium or make-whole amounts, if any and interest on any series of debt securities will be payable at the corporate trust office of U.S. Bank National Association, initially located at 100 Wall Street, Suite 1600, New York, New York 10005; provided that, at our option, payment of interest may be made by check mailed to the address of the person entitled to the payment as it appears in the security register or by wire transfer of funds to the person to an account maintained within the United States.

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If any interest payment date, principal payment date or the maturity date falls on a day that is not a business day, the required payment will be made on the next business day as if it were made on the date the payment was due and no interest will accrue on the amount so payable for the period from and after the interest payment date, principal payment date or the maturity date, as the case may be. Business day means any day, other than a Saturday, Sunday or holiday, on which banks in Boston, Massachusetts or New York, New York are not authorized or required by law or executive order to close. Any interest not punctually paid or duly provided for on any interest payment date with respect to a debt security, will cease to be payable to the holder on the applicable regular record date and either may be paid to the person in whose name the debt security is registered at the close of business on a special record date for the payment of the defaulted interest to be fixed by the trustee, notice of which will be given to the holder of the debt security not less than 10 days prior to the special record date, or may be paid at any time in any other lawful manner, all as more completely described in the Indenture.

Security and sharing arrangements

Pursuant to various pledge agreements, we and certain of our subsidiaries have pledged specified intercompany indebtedness to Bank of America, N.A., as collateral agent, for the benefit of the Credit Parties under and as defined in the Security Agency Agreement. We refer to the Amended and Restated Security Agency Agreement dated as of October 6, 2005 among us, the collateral agent, Bank of America, N.A., as global administrative agent under our Global Senior Credit Agreement (the Global Credit Agreement), and various other creditors of ours, as amended by Amendment and Supplement No. 1 dated as of August 21, 2009, as the Security Agency Agreement. The Credit Parties under the Security Agency Agreement are the holders of our senior debt, including debt arising under certain guarantees, that we have designated as Designated Senior Debt, including (i) all obligations arising under the Global Credit Agreement among us, various of our affiliates and various lenders and agents, (ii) certain of our hedging obligations, (iii) certain other senior debt specified in the Security Agency Agreement and (iv) any other senior debt designated from time to time by us as Designated Senior Debt in accordance with the Security Agency Agreement. Unless otherwise stated in the applicable prospectus supplement relating to any series of debt securities, and subject to the revocation provisions described below, all debt securities issued under the Indenture are included within the definition of Designated Senior Debt and the holders of such debt securities will be Credit Parties under the Security Agency Agreement and will be entitled to a pro rata share of the proceeds of the collateral granted under the various pledge agreements.

The Security Agency Agreement also provides that, upon the occurrence of a triggering event (which includes bankruptcy or insolvency events of us or any other borrower under the Global Credit Agreement, the acceleration of indebtedness under the Global Credit Agreement or any other indebtedness in excess of \$50 million, and similar events), the Credit Parties will, subject to certain exceptions and limitations (including, in the case of the holders of the debt securities, the requirements set forth in the following paragraph), share payments and other recoveries received from us and our subsidiaries to be applied to Designated Senior Debt in a manner such that all Credit Parties receive payment of substantially the same percentage of their respective credit obligations. The sharing arrangements are intended to eliminate or mitigate structural subordination issues that otherwise might entitle some Credit Parties (such as Credit Parties that lend directly to a subsidiary of us or that have the benefit of guarantees from one or more of our subsidiaries) to recover a higher percentage of their Designated Senior Debt than other Credit Parties that do not have the benefit of such arrangements.

The trustee (or another representative of the holders of the debt securities issued under the Indenture) must take certain actions in order for the holders of the debt securities to participate in the sharing arrangements described in the preceding paragraph. If a triggering event occurs under the Security Agency Agreement, then the collateral agent is required to give notice of such event to the trustee (or such other representative) within 45 days. As promptly as practicable, but in any event within 90 days after receiving any notice from the collateral agent with respect to the

occurrence of a triggering event, the trustee will (x) forward such notice to holders of the debt securities, (y) execute and deliver, on behalf of the holders, an acknowledgment entitling the holders to participate in the sharing arrangements described in the preceding

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paragraph and (z) take such further actions as a majority of the holders (voting as a single class) may request with respect thereto and with respect to any rights such holders or the trustee may have under the Security Agency Agreement; provided that, in the case of this clause (z), such holders shall have offered the trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction. Upon delivery of such acknowledgement by the trustee, the holders of the debt securities will be entitled to participate in the sharing arrangements described above. Not later than 120 days after its receipt of such notice, the trustee (or such other representative) must deliver to the collateral agent an acknowledgement pursuant to which it would agree (i) to be subject to the obligations applicable to all Credit Parties under the Security Agency Agreement (including obligations to indemnify the collateral agent) and (ii) to turn over to the collateral agent, for sharing in accordance with the Security Agency Agreement, any payment received directly from us or any of our affiliates that should have been paid to the collateral agent as provided in the Security Agency Agreement. The trustee (or such other representative) likely would require reasonable indemnity or security against the costs, expenses and liabilities that it might incur in connection with its becoming a party to, and acting on behalf of the holders of the debt securities in connection with, the Security Agency Agreement.

We and other parties have the right to take actions under various provisions of the Security Agency Agreement that could affect the rights of the holders of the debt securities with respect to, or the value of, the security and sharing arrangements described above, including the following:

- (1) We may designate other senior debt of ProLogis as Designated Senior Debt , thereby increasing the amount of debt that has the benefit of the security and sharing arrangements.
- (2) We may revoke our designation of all or one or more series of the debt securities as Designated Senior Debt effective not less than 90 days after disclosing such revocation (in a footnote or otherwise) in a Form 10-Q or Form 10-K filed with the SEC. If we revoked our designation of any debt securities issued under the indenture governing such debt securities as Designated Senior Debt, the holders of such debt securities would cease to be Credit Parties under the Security Agency Agreement and would no longer be entitled to any benefit from the security and sharing arrangements contemplated by the Security Agency Agreement and the related pledge agreements.
- (3) Notwithstanding the foregoing clause (2), we may agree that we will not, at any time prior to a specified date, revoke the Designated Senior Debt status from all or one or more series of debt securities issued under the indenture governing such debt securities (or certain other senior debt) until a particular future date.
- (4) Subject to certain limitations, we may specify which Credit Parties are entitled to vote on issues arising under the Security Agency Agreement (and all holders of debt securities are non-voting Credit Parties).
- (5) A majority of the voting Credit Parties under the Security Agency Agreement may instruct the collateral agent to release some or all of the collateral held pursuant to the Security Agency Agreement.
- (6) The collateral agent or a majority of the voting Credit Parties may, under certain circumstances, defer payments to Credit Parties pursuant to the sharing arrangements either (a) generally for various reasons or (b) specifically with respect to certain holders of Designated Senior Debt (which could include the holders of the debt securities) if the majority voting Credit Parties determine that such holders might receive more than their pro rata share of payments and other recoveries pursuant to the Security Agency Agreement.
- (7)

We may grant additional collateral (Specified Collateral) to the holders of some, but not all, of the Designated Senior Debt (Specified DS Debt) and exclude the proceeds of such collateral from the sharing arrangements with other holders of Designated Senior Debt; provided that no property that is pledged pursuant to the pledge agreements described above may become Specified Collateral. No proceeds from Specified Collateral received by any holder of Specified

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DS Debt would be deducted or otherwise taken into consideration when calculating the amount of proceeds to be allocated among all Credit Parties pursuant to the sharing arrangements under the Security Agency Agreement. Accordingly, the holders of any Specified DS Debt would receive a higher percentage (but not more than 100%) recovery on their Designated Senior Debt than other Credit Parties.

- (8) The collateral agent, a majority of the voting Credit Parties and we may amend the Security Agency Agreement without notice to or consent of the holders of the debt securities, even if such amendment were adverse to the interests of the holders of the debt securities.

The Security Agency Agreement provides that whenever the majority voting Credit Parties have the right to make decisions under the Security Agency Agreement, including decisions with respect to pledged collateral or how and when recoveries are shared, such decisions will be made in their sole and complete discretion. The Security Agency Agreement states that the voting Credit Parties have no obligation or duty (including implied obligations of reasonableness, good faith or fair dealing) to, and have no obligation or duty to take into consideration the interests of, the holders of the debt securities when taking any action or making any determination contemplated by the Security Agency Agreement. By accepting the benefits of the Security Agency Agreement, each holder of debt securities expressly waives and disclaims any claim or cause of action based upon any vote, decision or determination (including the giving or withholding of consent) made by the majority voting Credit Parties in accordance with the terms of the Security Agency Agreement. Bank of America, N.A., which is the collateral agent under the Security Agency Agreement and under the various pledge agreements, is also a voting Credit Party under the Security Agency Agreement and its interests in such capacity may conflict with the interests of the holders of the debt securities.

Notwithstanding any benefit to which a holder of notes may become entitled pursuant to the security and sharing arrangements referred to above, the notes will be effectively subordinated to (1) our indebtedness that is secured by collateral other than the intercompany loans referred to above, to the extent of the value of such collateral, and (2) liabilities of our subsidiaries that are not subject to, or are owing to creditors not parties to, the sharing arrangements.

Investors in Designated Senior Debt should refer to the Security Agency Agreement for further information regarding the collateral subject thereto, the sharing arrangements set forth therein and the restrictions and limitations on the rights of the holders of the debt securities thereunder. By purchasing a debt security that falls within the definition of Designated Senior Debt, each investor will be deemed to acknowledge that its rights to share in the benefits of such collateral and participate in such sharing arrangements are limited as described above and as more fully set forth in the Security Agency Agreement.

Merger, consolidation or sale

We may consolidate with or merge with or into another entity, or sell, lease or convey all or substantially all of our assets to another entity, provided that the following three conditions are met:

- (1) After the transaction, we, or a person organized and existing under the laws of the United States or one of the fifty states are the continuing entity. If the continuing entity is an entity other than us, that entity must also assume our payment obligations under the Indenture, as well as, the due and punctual performance and observance of all of the covenants contained in the Indenture;
- (2) After giving effect to the transaction and treating any indebtedness which became an obligation of ours or any of our subsidiaries as a result of the transaction as having been incurred by us or such subsidiary at the time of such transaction, an event of default (or an event which, with notice or lapse of time or

both, would become an event of default) has not occurred under the Indenture. Additionally, the transaction may not cause an event which, after notice or a lapse of time, or both, would become an event of default; and

- (3) The continuing entity delivers an officer's certificate and legal opinion covering (1) and (2) above.

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Covenants

This section describes covenants we make in the Indenture, as modified and amended through the Ninth Supplemental Indenture, for the benefit of the holders of the debt securities. The covenants described below apply to all of our outstanding debt securities (other than our convertible debt securities) and to future issuances of debt securities, unless the Indenture is further modified or supplemented.

Limitations on incurrence of debt

We will not, and will not permit any Subsidiary to, incur any Debt if, immediately after giving effect to the incurrence of such additional Debt and the application of the proceeds of the additional Debt, the aggregate principal amount of all our outstanding Debt and that of our Subsidiaries on a consolidated basis as determined in accordance with GAAP is greater than 60% of the sum of (without duplication):

- (1) our Total Assets as of the end of the calendar quarter covered in our Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, most recently filed with the Securities and Exchange Commission (or, if such filing is not permitted under the Exchange Act, with the trustee) prior to the incurrence of such additional Debt; and
- (2) the purchase price of any real estate assets or mortgages receivable acquired, and the amount of any securities offering proceeds received (to the extent such proceeds were not used to acquire real estate assets or mortgages receivable or used to reduce Debt), by us or any Subsidiary since the end of such calendar quarter, including those proceeds obtained in connection with the incurrence of such additional Debt.

Additionally, we will not, and will not permit any Subsidiary to, incur any Debt if the ratio of Consolidated Income Available for Debt Service to the Annual Service Charge for the four consecutive fiscal quarters most recently ended prior to the date on which such additional Debt is to be incurred shall have been less than 1.5, on a pro forma basis after giving effect thereto and to the application of the proceeds therefrom, and calculated on the assumption that:

- (1) such Debt and any other Debt incurred by us and our Subsidiaries since the first day of such four-quarter period and the application of the proceeds therefrom, including to refinance other Debt, had occurred at the beginning of such period;
- (2) the repayment or retirement of any other Debt by us and our Subsidiaries since the first day of such four-quarter period had been incurred, repaid or retired at the beginning of such period (except that, in making such computation, the amount of Debt under any revolving credit facility shall be computed based upon the average daily balance of such Debt during such period);
- (3) in the case of Acquired Debt or Debt incurred in connection with any acquisition since the first day of such four-quarter period, the related acquisition had occurred as of the first day of such period with the appropriate adjustments with respect to such acquisition being included in such pro forma calculation; and
- (4) in the case of any acquisition or disposition by us or our Subsidiaries of any asset or group of assets since the first day of such four-quarter period, whether by merger, stock purchase or sale, or asset purchase or sale, such acquisition or disposition or any related repayment of Debt had occurred as of the first day of such period with the appropriate adjustments with respect to such acquisition or

disposition being included in such pro forma calculation.

No Subsidiary may incur any Unsecured Debt; provided, however, that we or a Subsidiary may acquire an entity that becomes a Subsidiary that has Unsecured Debt if the incurrence of such Debt (including any guarantees of such Debt assumed by us or any Subsidiary) was not intended to evade the foregoing restrictions and the incurrence of such Debt (including any guarantees of such Debt assumed by us or any Subsidiary) would otherwise be permitted under the Indenture.

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We and our Subsidiaries may not at any time own Total Unencumbered Assets equal to less than 150% of the aggregate outstanding principal amount of the Unsecured Debt and Pari Passu Debt of us and our Subsidiaries on a consolidated basis.

In addition to the foregoing limitations on the incurrence of Debt, we will not, and will not permit any Subsidiary to, incur any Debt for borrowed money secured by any mortgage, lien, charge, pledge, encumbrance or security interest upon any of our property or the property of any Subsidiary, whether owned at the date hereof or hereafter acquired (other than Pari Passu Debt), if, immediately after giving effect to the incurrence of such additional Debt and the application of the proceeds thereof, the aggregate principal amount of all of our outstanding Debt and the outstanding Debt of our Subsidiaries on a consolidated basis for borrowed money which is secured by any mortgage, lien, charge, pledge, encumbrance or security interest on our property or the property of any Subsidiary (excluding any Pari Passu Debt) is greater than 40% of the sum of (without duplication):

- (1) our Total Assets as of the end of the calendar quarter covered in our Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, most recently filed with the Securities and Exchange Commission (or, if such filing is not permitted under the Exchange Act, with the Trustee) prior to the incurrence of such additional Debt and
- (2) the purchase price of any real estate assets or mortgages receivable acquired, and the amount of any securities offering proceeds received (to the extent that such proceeds were not used to acquire real estate assets or mortgages receivable or used to reduce Debt), by us or any Subsidiary since the end of such calendar quarter, including those proceeds obtained in connection with the incurrence of such additional Debt.

For purposes of the covenants described under this Limitations on incurrence of debt , Debt shall be deemed to be incurred by us or a Subsidiary whenever we or such Subsidiary shall create, assume, guarantee or otherwise become liable in respect thereof.

Nothing in the above covenants shall prevent: (i) the incurrence by us or any Subsidiary of Debt between or among us, any Subsidiary or any Equity Investee or (ii) us or any Subsidiary from incurring Refinancing Debt.

For purposes of the foregoing covenants the following definitions apply:

Acquired Debt means Debt of a Person (i) existing at the time such Person becomes a Subsidiary or (ii) assumed in connection with the acquisition of assets from such Person, in each case, other than Debt incurred in connection with, or in contemplation of, such Person becoming a Subsidiary or such acquisition. Acquired Debt shall be deemed to be incurred on the date of the related acquisition of assets from any Person or the date the acquired Person becomes a Subsidiary.

Annual Service Charge as of any date means the maximum amount which is payable in any period for interest on, and original issue discount of, our or our subsidiaries Debt and the amount of dividends which are payable in respect of any Disqualified Stock.

Consolidated Income Available for Debt Service for any period means Earnings from Operations of us and our Subsidiaries plus amounts which have been deducted, and minus amounts which have been added, for the following (without duplication):

- (A) interest on Debt of us and our Subsidiaries,

- (B) provision for taxes of us and our Subsidiaries based on income,
- (C) amortization of debt discount,
- (D) provisions for unrealized gains and losses, depreciation and amortization, and the effect of any other non-cash items,
- (E) extraordinary, non-recurring and other unusual items (including, without limitation, any costs and fees incurred in connection with any debt financing or amendments thereto, any acquisition,

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- disposition, recapitalization or similar transaction (regardless of whether such transaction is completed)),
- (F) the effect of any noncash charge resulting from a change in accounting principles in determining Earnings from Operations for such period,
 - (G) amortization of deferred charges, and
 - (H) any of the items described in clauses (D) and (E) above that were included in Earnings From Operations on account of an Equity Investee.

Debt of us or any Subsidiary means any indebtedness of us or any Subsidiary, excluding any accrued expense or trade payable, whether or not contingent, in respect of

- (1) borrowed money evidenced by bonds, notes, debentures or similar instruments,
- (2) indebtedness secured by any mortgage, pledge, lien, charge, encumbrance or any security interest existing on property owned by us or any Subsidiary,
- (3) the reimbursement obligations, contingent or otherwise, in connection with any letters of credit actually issued or amounts representing the balance deferred and unpaid of the purchase price of any property or services, or all conditional sale obligations or obligations under any title retention agreement,
- (4) the principal amount of all obligations of us or any Subsidiary with respect to redemption, repayment or other repurchase of any Disqualified Stock or
- (5) any lease of property by us or any Subsidiary as lessee which is reflected on our consolidated balance sheet as a capitalized lease in accordance with GAAP

and to the extent, in the case of items of indebtedness under (1) through (3) above, that any such items (other than letters of credit) would appear as a liability on our Consolidated Balance Sheet in accordance with GAAP, and also includes, to the extent not otherwise included, any obligation by us or any Subsidiary to be liable for, or to pay, as obligor, guarantor or otherwise (other than for purposes of collection in the ordinary course of business), Debt of another Person (other than us or any Subsidiary).

Disqualified Stock means, with respect to any person, any capital stock of such person which by the terms of such capital stock (or by the terms of any security into which it is convertible or for which it is exchangeable or exercisable), upon the happening of any event or otherwise, (i) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, (ii) is convertible into or exchangeable or exercisable for Debt or Disqualified Stock or (iii) is redeemable at the option of the holder thereof, in whole or in part, in each case on or prior to the stated maturity of a series of debt securities.

Earnings from Operations for any period means net earnings excluding gains and losses on sales of investments, net, as reflected in the financial statements of us and our Subsidiaries for such period determined on a consolidated basis in accordance with GAAP.

Encumbrance means any mortgage, pledge, lien, charge, encumbrance or any security interest existing on property owned by us or any Subsidiary securing indebtedness for borrowed money, other than a Permitted Encumbrance.

Equity Investee means any Person in which we or any Subsidiary hold an ownership interest that is accounted for by us or a Subsidiary under the equity method of accounting.

GAAP means generally accepted accounting principles as used in the United States applied on a consistent basis as in effect from time to time; provided, that solely for purposes of calculating these financial covenants, GAAP means generally accepted accounting principles as used in the United States on August 14, 2009 consistently applied.

Pari Passu Debt means (i) any Debt of us or a Subsidiary that is secured only by Encumbrances that also secure the debt securities issued under the Indenture on an equal and ratable basis and (ii) any series of

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debt securities issued under the Indenture that is secured only by Encumbrances that also secure all other series of debt securities issued under the Indenture on an equal and ratable basis.

Permitted Encumbrances means leases, Encumbrances securing taxes, assessments and similar charges, mechanics liens and other similar Encumbrances.

Person means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

Refinancing Debt means Debt issued in exchange for, or the net proceeds of which are used to refinance or refund, then outstanding Debt (including the principal amount, accrued interest and premium, if any, of such Debt plus any fees and expenses incurred in connection with such refinancing); provided that (a) if such new Debt, or the proceeds of such new Debt, are used to refinance or refund Debt that is subordinated in right of payment to the notes, such new Debt shall only be permitted if it is expressly made subordinate in right of payment to the notes at least to the extent that the Debt to be refinanced is subordinated to the notes and (b) such new Debt does not mature prior to the stated maturity of the Debt to be refinanced or refunded, and the weighted average life of such new Debt is at least equal to the remaining weighted average life of the Debt to be refinanced or refunded.

Subsidiary means, with respect to any Person, any corporation or other entity of which a majority of (a) the voting power of the voting equity securities or (b) in the case of a partnership or any other entity other than a corporation, the outstanding equity interests of which are owned, directly or indirectly, by such Person. For the purposes of this definition, voting equity securities means equity securities having voting power for the election of directors, whether at all times or only so long as no senior class of security has such voting power by reason of any contingency.

Total Assets means, as of any date, the sum of (i) Undepreciated Real Estate Assets and (ii) all of our and our Subsidiaries other assets, but excluding accounts receivable and intangibles, determined in accordance with GAAP.

Total Unencumbered Assets means the sum of our and our Subsidiaries Undepreciated Real Estate Assets and the value determined in accordance with GAAP of all our and our Subsidiaries other assets, other than accounts receivable and intangibles, in each case not subject to an Encumbrance.

Undepreciated Real Estate Assets as of any date means the cost (original cost plus capital improvements) of real estate assets of us and our Subsidiaries on such date, before depreciation, amortization and impairment charges determined on a consolidated basis in accordance with GAAP.

Unsecured Debt means Debt of the types described in clauses (1), (3) and (4) of the definition thereof which is not secured by any mortgage, lien, charge, pledge or security interest of any kind upon any of the properties of us or any Subsidiary.

Existence

Except as permitted under Merger, consolidation or sale, we will do or cause to be done all things necessary to preserve and keep in full force and effect our and our subsidiaries existence, rights, both charter and statutory, and franchises; provided, however, that we will not be required to preserve any right or franchise if we determine that the preservation of the right or franchise is no longer desirable in the conduct of our business and that the loss of the right or franchise is not disadvantageous in any material respect to the holders of the debt securities.

Maintenance of properties

We will cause all of our properties used or useful in the conduct of our business or the business of any subsidiary to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and will cause to be made all necessary repairs, renewals, replacements, betterments and improvements of our properties, all as in our judgment may be necessary so that the business carried on in

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connection therewith may be properly and advantageously conducted at all times; provided, however, that we and our subsidiaries will not be prevented from selling or otherwise disposing for value our properties in the ordinary course of business.

Insurance

We will, and will cause each of our subsidiaries to, keep all of our insurable properties insured against loss or damage at least equal to their then full insurable value with financially sound and reputable insurance companies.

Payment of taxes and other claims

We will pay or discharge or cause to be paid or discharged, before the same shall become delinquent, all taxes, assessments and governmental charges levied or imposed upon us or any subsidiary or upon our income, profits or property or any subsidiary and all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien upon our property or any subsidiary; provided, however, that we will not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings.

Provision of financial information

Whether or not we are subject to Section 13 or 15(d) of the Exchange Act, we will file with the SEC, to the extent permitted under the Exchange Act, the annual reports, quarterly reports and other documents which we would have been required to file with the SEC pursuant to Section 13 or 15(d) if we were so subject. We will file the documents with the SEC on or prior to the respective filing dates by which we would have been required so to file the documents if we were so subject. We will also in any event within 15 days of each required filing date transmit to all holders of debt securities, as their names and addresses appear in the security register, without cost to such holders, copies of the annual reports and quarterly reports which we would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if we were subject to Section 13 or 15(d). Additionally, we will provide the trustee with copies of the annual reports, quarterly reports and other documents which we would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if we were subject to such sections. If filing the documents by us with the SEC is not permitted under the Exchange Act, we will promptly upon written request and payment of the reasonable cost of duplication and delivery, supply copies of such documents to any prospective holder.

Events of default, notice and waiver

The Indenture provides that the following events are events of default with respect to any series of debt securities issued pursuant to it:

- (1) default in the payment of any installment of interest or additional amounts payable on any debt security of such series which continues for 30 days;
- (2) default in the payment of the principal, or premium or make-whole amount, if any, on, any debt security of such series at its maturity or redemption date;
- (3) default in making any sinking fund payment as required for any debt security of such series;
- (4) default in the performance of any other of our covenants contained in the Indenture, other than a covenant added to the Indenture solely for the benefit of another series of debt securities issued under the Indenture, which continues for

60 days after written notice as provided in the Indenture;

(5) default in the payment of an aggregate principal amount exceeding \$50,000,000 under any bond, note or other evidence of indebtedness or any mortgage, indenture or other instrument under which such indebtedness is issued or by which such indebtedness is secured (or any such indebtedness

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of any of our subsidiaries, which we have guaranteed), such default having occurred after the expiration of any applicable grace period and having resulted in the acceleration of the maturity of such indebtedness, but only if such indebtedness is not discharged or such acceleration is not rescinded or annulled within 10 days after written notice as provided in the Indenture;

(6) the entry by a court of competent jurisdiction of one or more judgments, orders or decrees against us or any of our subsidiaries in an aggregate amount, excluding amounts fully covered by insurance, in excess of \$50,000,000 and such judgments, orders or decrees remain undischarged, unstayed and unsatisfied in an aggregate amount, excluding amounts fully covered by insurance, in excess of \$50,000,000 for a period of 30 consecutive days;

(7) events of bankruptcy, insolvency or reorganization, or court appointment of a receiver, liquidator or trustee for us or any significant subsidiary or for all or substantially all of our or our significant subsidiary's property; and

(8) any other event of default provided with respect to a particular series of debt securities.

The term significant subsidiary means each of our significant subsidiaries, as defined in Regulation S-X promulgated under the Securities Act.

If an event of default under the Indenture with respect to a series of debt securities occurs and is continuing, then in every such case, unless the principal of all of the debt securities shall already have become due and payable, the trustee or the holders of not less than 25% in principal amount of a particular series of debt securities may declare the principal and the make-whole amount on the debt securities of that series to be due and payable immediately by written notice to us that payment of the debt securities is due, and to the trustee if given by the holders. However, at any time after such a declaration of acceleration with respect to a series of debt securities has been made, but before a judgment or decree for payment of the money due has been obtained by the trustee, the holders of not less than a majority in principal amount of the debt securities may rescind and annul such declaration and its consequences if we shall have deposited with the trustee all required payments of the principal of, and premium or make-whole amount and interest, on the debt securities, plus fees, expenses, disbursements and advances of the trustee and all events of default, other than the nonpayment of accelerated principal, and the make-whole amount or interest, with respect to debt securities have been cured or waived as provided in the Indenture. The Indenture also provides that the holders of not less than a majority in principal amount of the debt securities may waive any past default with respect to such series and its consequences, except a default in the payment of the principal of, or premium or make-whole amount or interest payable on the debt securities or in respect of a covenant or provision contained in the Indenture that cannot be modified or amended without the consent of the holder of each outstanding debt security affected by the proposed modification or amendment.

The trustee is required to give notice to the holders of the debt securities within 90 days of a default under the Indenture known to the trustee, unless the default has been cured or waived; provided, however, that the trustee may withhold notice to the holders of the debt securities of any default with respect to such series, except a default in the payment of the principal of, or premium or make-whole amount, if any, or interest payable on the debt securities if the responsible officers of the trustee consider such withholding to be in the interest of such holders.

The Indenture provides that no holders of the debt securities may institute any proceedings, judicial or otherwise, with respect to the Indenture or for any remedy which the Indenture provides, except in the case of failure of the trustee, for 60 days, to act after it has received a written request to institute proceedings in respect of an event of default from the holders of not less than 25% in principal amount of the outstanding debt securities, as well as an offer of reasonable indemnity. This provision will not prevent, however, any holder of the debt securities from instituting suit for the enforcement of payment of the principal of, and premium or make-whole amount, or interest on the debt securities at the due date of the debt securities.

Subject to provisions in the Indenture relating to its duties in case of default, the trustee is under no obligation to exercise any of its rights or powers under the Indenture at the request or direction of any holders of any series of debt securities then outstanding under the Indenture, unless such holders shall have offered to

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the trustee reasonable security or indemnity. The holders of not less than a majority in principal amount of the debt securities of a series shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee, or of exercising any trust or power conferred upon the trustee with respect to that series. However, the trustee may refuse to follow any direction which is in conflict with any law or the Indenture, which may involve the trustee in personal liability or which may be unduly prejudicial to the holders of the debt securities not joining in the proceeding.

Within 120 days after the close of each fiscal year, we must deliver to the trustee a certificate, signed by one of several specified officers, stating whether or not such officer has knowledge of any default under the Indenture and, if so, specifying each such default and the nature and status of the default.

Modification of the Indenture

Modifications and amendments of the Indenture may be made with the consent of the holders of not less than a majority in principal amount of all outstanding debt securities which are affected by such modification or amendment; provided, however, that no such modification or amendment may, without the consent of the holder of each debt security affected by the modification or amendment:

- (1) change the stated maturity of the principal of, or premium or make-whole amounts, if any, or any installment of principal of or interest or additional amounts payable on, any such debt security;
- (2) reduce the principal amount of, or the rate or amount of interest on, or any premium or make-whole amounts payable on redemption of, or any additional amounts payable with respect to, any such debt security, or reduce the amount of principal of an original issue discount security or make-whole amount, if any, that would be due and payable upon declaration of acceleration of the maturity of the security or would be provable in bankruptcy, or adversely affect any right of repayment of the holder of any such debt security;
- (3) change the place of payment, or the coin or currency, for payment of principal of, and premium or make-whole amounts, if any, or interest on, or any additional amounts payable with respect to, any such debt security;
- (4) impair the right to institute suit for the enforcement of any payment on or with respect to any such debt security;
- (5) reduce the above-stated percentage of outstanding debt securities of any series necessary to modify or amend the Indenture, to waive compliance with a provisions of the debt security or defaults and consequences under the Indenture or to reduce the quorum or voting requirements set forth in the Indenture; or
- (6) modify any of the provisions relating to modification of the Indenture or any of the provisions relating to the waiver of past defaults or covenants, except to increase the required percentage to effect such action or to provide that other provisions may not be modified or waived without the consent of the holder of the effected debt security.

The holders of not less than a majority in principal amount of outstanding debt securities have the right to waive our compliance with covenants in the Indenture.

Modifications and amendments of the Indenture may be made by us and the trustee without the consent of any holder of debt securities for any of the following purposes:

- (1) to evidence the succession of another person to us as obligor under the Indenture;
- (2) to add to our covenants for the benefit of the holders of all or any series of debt securities or to surrender any right or power conferred upon us in the Indenture;
- (3) to add events of default for the benefit of the holders of all or any series of debt securities;

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- (4) to add or change any provisions of the Indenture to facilitate the issuance of, or to liberalize terms of, debt securities in bearer form, or to permit or facilitate the issuance of debt securities in uncertificated form, provided that such action shall not adversely affect the interests of the holders of the debt securities of any series in any material respect;
- (5) to change or eliminate any provisions of the Indenture, provided that any such change or elimination will become effective only when there are no debt securities outstanding of any series created prior to such change which are entitled to the benefit of that provision;
- (6) to secure the debt securities;
- (7) to establish the form or terms of debt securities of any series and any related coupons;
- (8) to provide for the acceptance of appointment by a successor trustee or facilitate the administration of the trust under the Indenture by more than one trustee;
- (9) to cure any ambiguity, defect or inconsistency in the Indenture or to make any other changes, provided that in each case, the action shall not adversely affect the interests of holders of debt securities of any series in any material respect;
- (10) to close the Indenture with respect to the authentication and delivery of additional series of debt securities or to qualify, or maintain qualification of, the Indenture under the Trust Indenture Act of 1939; or
- (11) to supplement any of the provisions of the Indenture to the extent necessary to permit or facilitate defeasance and discharge of any series of such debt securities, provided that the action shall not adversely affect the interests of the holders of the debt securities of any series in any material respect.

The Indenture provides that in determining whether the holders of the requisite principal amount of outstanding debt securities of a series have given any request, demand, authorization, direction, notice, consent or waiver under the Indenture or whether a quorum is present at a meeting of holders of debt securities:

- (1) the principal amount of an original issue discount security that will be deemed to be outstanding shall be the amount of the principal of the security that would be due and payable as of the date of the determination upon declaration of acceleration of the maturity of the debt security;
- (2) the principal amount of a debt security denominated in a foreign currency that will be deemed outstanding shall be the United States dollar equivalent, determined on the issue date for the debt security, of the principal amount, or, in the case of an original issue discount security, the United States dollar equivalent on the issue date of the debt security of the amount determined as provided in (1) above;
- (3) the principal amount of an indexed security that shall be deemed outstanding will be the principal face amount of the indexed security at original issuance, unless otherwise provided with respect to the indexed security pursuant to Section 301 of the Indenture; and
- (4) debt securities owned by us or any other obligor upon the debt securities or any of our affiliates or of the other obligor will be disregarded.

The Indenture contains provisions for convening meetings of the holders of debt securities of a series. A meeting may be called at any time by the trustee, and also, upon request, by us or the holders of at least 10% in principal amount of the outstanding debt securities of that series, in any such case upon notice given as provided in the Indenture.

Except for any consent that must be given by the holder of each debt security affected by modifications and amendments of the Indenture, any resolution presented at a meeting or at an adjourned meeting duly reconvened, at which a quorum is present, may be adopted by the affirmative vote of the holders of a majority in principal amount of the outstanding debt securities of that series; provided, however, that, except as referred to above, any resolution with respect to any request, demand, authorization, direction, notice, consent, waiver

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or other action that may be made, given or taken by the holders of a specified percentage, which is less than a majority, in principal amount of the outstanding debt securities of a series may be adopted at a meeting or adjourned meeting duly reconvened at which a quorum is present by the affirmative vote of the holders of the specified percentage in principal amount of the outstanding debt securities of that series. Any resolution passed or decision taken at any meeting of holders of debt securities of any series duly held in accordance with the Indenture will be binding on all holders of debt securities of that series. The quorum at any meeting called to adopt a resolution, and at any reconvened meeting, will be persons holding or representing a majority in principal amount of the outstanding debt securities of a series; provided, however, that if any action is to be taken at the meeting with respect to a consent or waiver which may be given by the holders of not less than a specified percentage in principal amount of the outstanding debt securities of a series, the persons holding or representing the specified percentage in principal amount of the outstanding debt securities of that series will constitute a quorum.

Notwithstanding the foregoing provisions, if any action is to be taken at a meeting of holders of debt securities of any series with respect to any request, demand, authorization, direction, notice, consent, waiver or other action that the Indenture expressly provides may be made, given or taken by the holders of a specified percentage in principal amount of all outstanding debt securities affected by the action, or of the holders of that series and one or more additional series:

- (1) there shall be no minimum quorum requirement for the meeting; and
- (2) the principal amount of the outstanding debt securities of that series that vote in favor of the request, demand, authorization, direction, notice, consent, waiver or other action will be taken into account in determining whether the request, demand, authorization, direction, notice, consent, waiver or other action has been made, given or taken under the Indenture.

Any request, demand, authorization, direction, notice, consent, waiver or other action provided by the Indenture to be given or taken by a specified percentage in principal amount of the holders of any or all series of debt securities may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by the specified percentage of holders in person or by agent duly appointed in writing; and, except as otherwise expressly provided in the Indenture, the action will become effective when the instrument or instruments are delivered to the trustee. Proof of execution of any instrument or of a writing appointing any the agent will be sufficient for any purpose of the Indenture and, subject to the Indenture provisions relating to the appointment of any such agent, conclusive in favor of the trustee and us, if made in the manner specified above.

Discharge, defeasance and covenant defeasance

We may discharge various obligations to holders of any series of debt securities that have not already been delivered to the trustee for cancellation and that either have become due and payable or will become due and payable within one year, or that are scheduled for redemption within one year. The discharge will be completed by irrevocably depositing with the trustee the funds needed to pay the principal, any make-whole amounts, interest and additional amounts payable to the date of deposit or to the date of maturity, as the case may be.

If the defeasance provisions are applicable to a series of debt securities, we may take either of the following actions with respect to that series of debt securities:

- (1) We may elect to defease and be discharged from any and all obligations with respect to that series of debt securities. However, we would continue to be obligated to pay any additional amounts resulting from tax events, assessment or governmental charges with respect to payments on the series of debt securities and the obligations to register the transfer or exchange of the series of debt securities.

Additionally, we would remain responsible for replacing temporary or mutilated, destroyed, lost or stolen debt securities, for maintaining an office or agency in respect of the series of debt securities and for holding moneys for payment in trust.

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- (2) With respect to the series of debt securities, we may elect to effect covenant defeasance and be released from our obligations to fulfill the covenants contained under the heading "Covenants" in this prospectus. Further, we may elect to be released from our obligations with respect to any other covenant in the Indenture, if such a provision is included in the series of debt securities at the time that they are issued. Once we have made this election, any omission to comply with those covenants shall not constitute a default or an event of default with respect to the series of debt securities.

In either case, we must irrevocably deposit the needed funds in trust, with the trustee.

The trust may only be established if, among other things, we have delivered an opinion of counsel to the trustee. The opinion of counsel shall state that the holders of the series of debt securities will not recognize income, gain or loss for United States federal income tax purposes as a result of the defeasance or covenant defeasance and will be subject to United States federal income tax on the same amounts, in the same manner and at the same times as would have been the case if the defeasance or covenant defeasance had not occurred. The opinion of counsel, in the case of defeasance, must refer to and be based upon a ruling of the Internal Revenue Service or a change in applicable United States federal income tax law occurring after the date of the Indenture.

Unless otherwise provided in the applicable prospectus supplement, if after we have deposited funds and/or government obligations to effect defeasance or covenant defeasance with respect to debt securities of any series and

- (1) the holder of a series of debt securities is entitled to and elects to receive payment in a currency, currency unit or composite currency other than that in which the deposit has been made in respect of the debt security or
- (2) a conversion event occurs in respect of the currency, currency unit or composite currency in which such deposit has been made,

the indebtedness represented by the debt security will be deemed to have been, and will be, fully discharged. The indebtedness will be satisfied through the payment of the principal of, and premium or any make-whole amount and interest on, the debt security as they become due out of the proceeds yielded by converting the amount so deposited in respect of the debt security into the currency, currency unit or composite currency in which the debt security becomes payable as a result of the holder's election or the cessation of usage based on the applicable market exchange rate.

Conversion event means the cessation of use of:

- (1) a currency, currency unit or composite currency, other than the European Community Unit or other currency unit, both by the government of the country which issued such currency and for the settlement of transactions by a central bank or other public institutions of or within the international banking community;
- (2) the European Community Unit both within the European Monetary System and for the settlement of transactions by public institutions of or within the European Communities; or
- (3) any currency unit or composite currency other than the European Community Unit for the purposes for which it was established.

Unless otherwise provided in the applicable prospectus supplement, all payments of principal of, and premium or any make-whole amount and interest on any debt security that is payable in a foreign currency that ceases to be used by its

government of issuance shall be made in United States dollars.

In the event we effect covenant defeasance with respect to any debt securities and the debt securities are declared due and payable because of the occurrence of any event of default, other than the events of default that would no longer be applicable because of the covenant defeasance or an event of default triggered by an event of bankruptcy or other insolvency proceeding, the amount of funds on deposit with the trustee, will be sufficient to pay amounts due on the debt securities at the time of their stated maturity, but may not be

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sufficient to pay amounts due on the debt securities at the time of the acceleration resulting from the event of default. However, we would remain liable to make payment of the amounts due at the time of acceleration.

The applicable prospectus supplement may further describe the provisions, if any, permitting such defeasance or covenant defeasance, including any modifications to the provisions described above, with respect to the debt securities of or within a particular series.

Registration and transfer

Subject to limitations imposed upon debt securities issued in book-entry form, the debt securities of any series will be exchangeable for other debt securities of the same series and of a like aggregate principal amount and tenor of different authorized denominations upon surrender of the debt securities at the corporate trust office of the trustee referred to above. In addition, subject to the limitations imposed upon debt securities issued in book-entry form, the debt securities of any series may be surrendered for conversion or registration of transfer of the security at the corporate trust office of the trustee referred to above. Every debt security surrendered for registration of transfer or exchange will be duly endorsed or accompanied by a written instrument of transfer. No service charge will be made for any registration of transfer or exchange of any debt securities, but we may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith. We may at any time designate a transfer agent, in addition to the trustee, with respect to any series of debt securities. If we have designated such a transfer agent or transfer agents, we may at any time rescind the designation of any such transfer agent or approve a change in the location at which any such transfer agent acts, except that we will be required to maintain a transfer agent in each place of payment for the series.

Neither we nor the trustee will be required to:

- (1) issue, register the transfer of or exchange debt securities of any series during a period beginning at the opening of business 15 days before any selection of debt securities of that series to be redeemed and ending at the close of business on the day of mailing of the relevant notice of redemption;
- (2) register the transfer of or exchange any debt security, or portion of security, called for redemption, except the unredeemed portion of any debt security being redeemed in part; or
- (3) issue, register the transfer of or exchange any debt security which has been surrendered for repayment at the option of the holder, except the portion, if any, of such debt security not to be so repaid.

Global securities

The debt securities of a series may be issued in whole or in part in the form of one or more global securities that will be deposited with, or on behalf of, a depository identified in the applicable prospectus supplement relating to the series. Global securities, if any, are expected to be deposited with The Depository Trust Company (DTC) as depository. Each global security will be issued:

only in fully registered form; and

without interest coupons.

You may hold your beneficial interests in the global securities directly through DTC if you have an account at DTC, or indirectly through organizations that have accounts at DTC.

What is a global security? A global security is a special type of indirectly held security in the form of a certificate held by a depository for the investors in a particular issue of securities. If we choose to issue the debt securities in the form of a global security, the ultimate beneficial owners can only be indirect holders. We do this by requiring that the global securities be registered in the name of a financial institution we select and by requiring that the debt securities included in the global securities not be transferred to the name of any other direct holder unless the special circumstances described below occur. The financial institution that acts

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as the sole direct holder of the global securities is called the Depository. Any person wishing to own a debt security must do so indirectly by virtue of an account with a broker, bank or other financial institution that in turn has an account with the Depository.

Except as described below, each global security may be transferred, in whole and not in part, only to DTC, to another nominee of DTC or to a successor of DTC or its nominee. Beneficial interests in global securities will be represented, and transfers of such beneficial interests will be made, through accounts of financial institutions acting on behalf of beneficial owners either directly as account holders, or indirectly through account holders, at DTC.

Special investor considerations for global securities.

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

An investor in global securities should be aware that because the debt securities are issued only in the form of global securities:

The investor cannot get debt securities registered in his or her own name.

The investor cannot receive physical certificates for his or her interest in the debt securities.

The investor will be a street name holder and must look to his or her own bank or broker for payments on the debt securities and protection of his or her legal rights relating to the debt securities.

The investor may not be able to sell interests in the debt securities to some insurance companies and other institutions that are required by law to own their securities in the form of physical certificates.

DTC's policies will govern payments, transfers, exchanges and other matters relating to the investor's interest in the global notes. We and the trustee have no responsibility for any aspect of DTC's actions or for its records of ownership interests in the global securities. We and the trustee also do not supervise DTC in any way.

Exchanges among the global securities

Any beneficial interest in one of the global securities that is transferred to a person who takes delivery in the form of an interest in another global security will, upon transfer, cease to be an interest in such global note and become an interest in the other global security and, accordingly, will thereafter be subject to all transfer restrictions, if any, and other procedures applicable to beneficial interests in such other global security for as long as it remains such an interest.

Certain book-entry procedures for the global securities

The descriptions of the operations and procedures of DTC, Euroclear and Clearstream set forth below are provided solely as a matter of convenience. These operations and procedures are solely within the control of the respective settlement systems and are subject to change by them from time to time. Neither we nor the underwriters take any responsibility for these operations or procedures, and investors are urged to contact the relevant system or its participants directly to discuss these matters.

Beneficial interests in the global securities will be represented through book-entry accounts of financial institutions acting on behalf of beneficial owners as direct and indirect participants in DTC. Investors may elect to hold interests in the global securities through DTC either directly if they are participants in DTC or indirectly through organizations that are participants in DTC.

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Clearstream. Clearstream is incorporated under the laws of the Grand Duchy of Luxembourg as a professional depository. Clearstream holds securities for its participating organizations (Clearstream Participants) and facilitates the clearance and settlement of securities transactions between Clearstream Participants through electronic book-entry changes in accounts of Clearstream Participants, thereby eliminating the need for physical movement of certificates. Clearstream provides Clearstream Participants with, among other things, services for safekeeping, administration, clearance and establishment of internationally traded securities and securities lending and borrowing. Clearstream interfaces with domestic markets in several countries. As a professional depository, Clearstream is subject to regulation by the Luxembourg Monetary Institute. Clearstream Participants are recognized financial institutions around the world, including underwriters, securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations, and may include the underwriters. Indirect access to Clearstream is also available to others, such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a Clearstream Participant either directly or indirectly.

Distributions with respect to debt securities held beneficially through Clearstream will be credited to cash accounts of Clearstream Participants in accordance with its rules and procedures to the extent received by the U.S. Depository for Clearstream.

Euroclear. Euroclear was created in 1968 to hold securities for participants of Euroclear (Euroclear Participants) and to clear and settle transactions between Euroclear Participants through simultaneous electronic book-entry delivery against payment, thereby eliminating the need for physical movement of certificates and any risk from lack of simultaneous transfers of securities and cash. Euroclear includes various other services, including securities lending and borrowing and interfaces with domestic markets in several markets in several countries. Euroclear is operated by Euroclear Bank S.A./N.V. (the Euroclear Operator), under contract with Euro-clear Clearance Systems S.C., a Belgian cooperative corporation (the Cooperative). All operations are conducted by the Euroclear Operator, and all Euroclear securities clearance accounts and Euroclear cash accounts are accounts with the Euroclear Operator, not the Cooperative. The Cooperative establishes policy for Euroclear on behalf of Euroclear Participants. Euroclear Participants include banks (including central banks), securities brokers and dealers and other professional financial intermediaries and may include the underwriters. Indirect access to Euroclear is also available to other firms that clear through or maintain a custodial relationship with a Euroclear Participant, either directly or indirectly.

The Euroclear Operator is regulated and examined by the Belgian Banking Commission.

DTC. DTC has advised us that it is:

- (1) a limited-purpose trust company organized under the New York State Banking Law;
- (2) a banking organization within the meaning of the New York State Banking Law;
- (3) a member of the Federal Reserve System;
- (4) a clearing corporation within the meaning of the New York Uniform Commercial Code, as amended; and
- (5) a clearing agency registered pursuant to Section 17A of the Exchange Act.

DTC was created to hold securities for its participants and facilitates the clearance and settlement of securities transactions between participants through electronic book-entry changes to the accounts of its participants, thereby eliminating the need for physical transfer and delivery of certificates. DTC's participants include securities brokers and

dealers, banks and trust companies, clearing corporations and certain other organizations. Indirect access to DTC's system is also available to other entities such as banks, brokers, dealers and trust companies (collectively, the Indirect Participants) that clear through or maintain a custodial relationship with a participant, either directly or indirectly. Investors who are not participants may beneficially own securities held by or on behalf of DTC only through participants or Indirect Participants.

We expect that pursuant to procedures established by DTC (1) upon deposit of each global security, DTC will credit the accounts of participants with an interest in the global security and (2) ownership of the

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debt securities will be shown on, and the transfer of ownership thereof will be effected only through, records maintained by DTC (with respect to the interests of participants) and the records of participants and the Indirect Participants (with respect to the interests of persons other than participants).

The laws of some jurisdictions may require that certain purchasers of securities take physical delivery of such securities in definitive form. Accordingly, the ability to transfer interests in the debt securities represented by a global security to such persons may be limited. In addition, because DTC can act only on behalf of its participants, who in turn act on behalf of persons who hold interests through participants, the ability of a person having an interest in debt securities represented by a global security to pledge or transfer such interest to persons or entities that do not participate in DTC's system, or to otherwise take actions in respect of such interest, may be affected by the lack of a physical definitive security in respect of such interest.

So long as DTC or its nominee is the registered owner of a global security, DTC or such nominee, as the case may be, will be considered the sole owner or holder of the debt securities represented by the global note for all purposes under the Indenture. Owners of beneficial interests in a global security will not be entitled to have debt securities represented by such global security registered in their names, will not receive or be entitled to receive physical delivery of certificated notes, and will not be considered the owners or holders thereof under the Indenture for any purpose, including with respect to the giving of any direction, instruction or approval to the trustee thereunder. Accordingly, each holder owning a beneficial interest in a global security must rely on the procedures of DTC and, if such holder is not a participant or an Indirect Participant, on the procedures of the participant through which such holder owns its interest, to exercise any rights of a holder of debt securities under the Indenture or such global security. We understand that under existing industry practice, in the event that we request any action of holders of debt securities, or a holder that is an owner of a beneficial interest in a global security desires to take any action that DTC, as the holder of such global security, is entitled to take, DTC would authorize the participants to take such action and the participants would authorize holders owning through such participants to take such action or would otherwise act upon the instruction of such holders. Neither we nor the trustee will have any responsibility or liability for any aspect of the records relating to or payments made on account of debt securities by DTC, or for maintaining, supervising or reviewing any records of DTC relating to such debt securities.

Payments with respect to the principal of, and premium, if any, additional interest, if any, and interest on, any debt securities represented by a global security registered in the name of DTC or its nominee on the applicable record date will be payable by the trustee to or at the direction of DTC or its nominee in its capacity as the registered holder of the global note representing such debt securities under the Indenture. Under the terms of the Indenture, we and the trustee may treat the persons in whose names the debt securities, including the global securities, are registered as the owners thereof for the purpose of receiving payment thereon and for any and all other purposes whatsoever. Accordingly, neither we nor the trustee has or will have any responsibility or liability for the payment of such amounts to owners of beneficial interests in a global security (including principal, premium, if any, additional interest, if any, and interest). Payments by the participants and the Indirect Participants to the owners of beneficial interests in a global security will be governed by standing instructions and customary industry practice and will be the responsibility of the participants or the Indirect Participants and DTC.

Transfers between participants in DTC will be effected in accordance with DTC's procedures, and will be settled in same-day funds. Transfers between participants in Euroclear or Clearstream will be effected in the ordinary way in accordance with their respective rules and operating procedures. Subject to compliance with the transfer restrictions applicable to the debt securities, cross-market transfers between the participants in DTC, on the one hand, and Euroclear or Clearstream participants, on the other hand, will be effected through DTC in accordance with DTC's rules on behalf of Euroclear or Clearstream, as the case may be, by its respective depository; however, such cross-market transactions will require delivery of instructions to Euroclear or Clearstream, as the case may be, by the counterparty in such system in accordance with the rules and procedures and within the established deadlines (Brussels, Belgium

time) of such system. Euroclear or Clearstream, as the case may be, will, if the transaction meets its settlement requirements, deliver instructions to DTC to take action to effect final settlement on its behalf by delivering or receiving interests in the relevant

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global securities in DTC, and making or receiving payment in accordance with normal procedures for same-day funds settlement applicable to DTC. Euroclear participants and Clearstream participants may not deliver instructions directly to the depositaries for Euroclear or Clearstream.

Because of time zone differences, the securities account of a Euroclear or Clearstream participant purchasing an interest in a global security from a participant in DTC will be credited, and any such crediting will be reported to the relevant Euroclear or Clearstream participant, during the securities settlement processing day (which must be a business day for Euroclear and Clearstream) immediately following the settlement date of DTC. Cash received in Euroclear or Clearstream as a result of sales of interests in a global security by or through a Euroclear or Clearstream participant to a participant in DTC will be received with value on the settlement date of DTC but will be available in the relevant Euroclear or Clearstream cash account only as of the business day for Euroclear or Clearstream following DTC's settlement date.

Although DTC, Euroclear and Clearstream have agreed to the foregoing procedures to facilitate transfers of interests in global securities among participants in DTC, Euroclear and Clearstream, they are under no obligation to perform or to continue to perform such procedures, and such procedures may be discontinued at any time. Neither we nor the trustee will have any responsibility for the performance by DTC, Euroclear or Clearstream or their respective participants or indirect participants of their respective obligations under the rules and procedures governing their operations.

Definitive securities

A global security is exchangeable for definitive securities in registered certificated form (*Certificated Securities*) if:

- (1) DTC (a) notifies the issuer that it is unwilling or unable to continue as depository for the global securities or (b) has ceased to be a clearing agency registered under the Exchange Act, and in each case the issuer fails to appoint a successor depository;
- (2) the issuer, at its option, notifies the trustee in writing that it elects to cause the issuance of the *Certificated Securities*; or
- (3) there shall have occurred and be continuing a default or event of default with respect to the debt securities.

In all cases, *Certificated Securities* delivered in exchange for any global security or beneficial interests in global securities will be registered in the names, and issued in any approved denominations, requested by or on behalf of DTC (in accordance with its customary procedures).

No personal liability

No past, present or future trustee, officer, employee or shareholder of ours or any successor to us will have any liability for any of our obligations under the debt securities or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each holder of debt securities by accepting the debt securities waives and releases all such liability. The waiver and release are part of the consideration for the issue of debt securities.

Trustee

The Indenture provides that there may be more than one trustee, each with respect to one or more series of debt securities. Any trustee under the Indenture may resign or be removed with respect to one or more series of debt securities, and a successor trustee may be appointed to act with respect to the series. In the event that two or more

persons are acting as trustee with respect to different series of debt securities, each such trustee will be a trustee of a trust under the Indenture separate and apart from the trust administered by any other trustee. Except as otherwise indicated in this prospectus, any action described in this prospectus to be taken by the trustee may be taken by each such trustee with respect to, and only with respect to, the one or more series of debt securities for which it is trustee under the Indenture.

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DESCRIPTION OF PREFERRED SHARES

General

Subject to limitations prescribed by Maryland law and the declaration of trust, the board of trustees is authorized to issue, from the authorized but unissued shares of beneficial interest, preferred shares in series and to establish from time to time the number of preferred shares to be included in the series and to fix the designation and any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends, qualifications and terms and conditions of redemption of the shares of each series, and such other subjects or matters as may be fixed by resolution of the board of trustees or one of its duly authorized committees. At December 31, 2008, 2,000,000 Series C preferred shares were issued and outstanding, 5,000,000 Series F preferred shares were issued and outstanding and 5,000,000 Series G preferred shares were issued and outstanding.

Reference is made to the prospectus supplement relating to the series of preferred shares being offered in such prospectus supplement for the specific terms of the series, including:

- (1) the title and stated value of the series of preferred shares;
- (2) the number of shares of the series of preferred shares offered, the liquidation preference per share and the offering price of such preferred shares;
- (3) the dividend rate(s), period(s) and/or payment date(s) or the method(s) of calculation for those values relating to the preferred shares of the series;
- (4) the date from which dividends on preferred shares of the series shall cumulate, if applicable;
- (5) the procedures for any auction and remarketing, if any, for preferred shares of the series;
- (6) the provision for a sinking fund, if any, for preferred shares of the series;
- (7) the provision for redemption, if applicable, of preferred shares of the series;
- (8) any listing of the series of preferred shares on any securities exchange;
- (9) the terms and conditions, if applicable, upon which preferred shares of the series will be convertible into common shares, including the conversion price, or manner of calculating the conversion price;
- (10) whether interests in preferred shares of the series will be represented by global securities;
- (11) any other specific terms, preferences, rights, limitations or restrictions of the series of preferred shares;
- (12) a discussion of federal income tax considerations applicable to preferred shares of the series;
- (13) the relative ranking and preferences of preferred shares of the series as to dividend rights and rights upon liquidation, dissolution or winding up of our affairs;
- (14)

any limitations on issuance of any series of preferred shares ranking senior to or on a parity with the series of preferred shares as to dividend rights and rights upon liquidation, dissolution or winding up of our affairs; and

- (15) any limitations on direct or beneficial ownership and restrictions on transfer of preferred shares of the series, in each case as may be appropriate to preserve our status as a real estate investment trust under the Internal Revenue Code.

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Rank

Unless otherwise specified in the applicable prospectus supplement, the preferred shares of each series will rank with respect to dividend rights and rights upon liquidation, dissolution or winding up of our affairs:

senior to all classes or series of common shares, and to all equity securities ranking junior to the series of preferred shares;

on a parity with all equity securities issued by us the terms of which specifically provide that such equity securities rank on a parity with preferred shares of the series; and

junior to all equity securities issued by us the terms of which specifically provide that such equity securities rank senior to preferred shares of the series.

Dividends

Holders of preferred shares of each series shall be entitled to receive cash dividends at such rates and on such dates as will be set forth in the applicable prospectus supplement. When and if declared by the board of trustees, dividends shall be payable out of our assets legally available for payment of dividends. Each such dividend shall be payable to holders of record as they appear on our share transfer books on such record dates as shall be fixed by the board of trustees.

Dividends on any series of the preferred shares may be cumulative or noncumulative, as provided in the applicable prospectus supplement. Dividends, if cumulative, will be cumulative from and after the date set forth in the applicable prospectus supplement. If the board of trustees fails to declare a dividend payable on a dividend payment date on any series of the preferred shares for which dividends are noncumulative, then the holders of the series of the preferred shares will have no right to receive a dividend in respect of the dividend period ending on such dividend payment date, and we will have no obligation to pay the dividend accrued for such period, whether or not dividends on the series are declared payable on any future dividend payment date.

If preferred shares of any series are outstanding, no full dividends shall be declared or paid or set apart for payment on the preferred shares of any other series ranking, as to dividends, on a parity with or junior to the preferred shares of the series for any period unless full dividends, including cumulative dividends if applicable, for the then current dividend period have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment of the dividend set apart for such payment on the preferred shares of the series. When dividends are not paid in full, or a sum sufficient for the full payment is not so set apart, upon the preferred shares of any series and the shares of any other series of preferred shares ranking on a parity as to dividends with the preferred shares of the series, all dividends declared upon preferred shares of the series and any other series of preferred shares ranking on a parity as to dividends with the preferred shares shall be declared pro rata so that the amount of dividends declared per share on the preferred shares of the series and the other series of preferred shares shall in all cases bear to each other the same ratio that accrued dividends per share on the preferred shares of the series and the other series of preferred shares bear to each other. The pro rata amount shall not include any cumulation in respect of unpaid dividends for prior dividend periods if the series of preferred shares does not have a cumulative dividend. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on preferred shares of the series which may be in arrears.

Except as provided in the immediately preceding paragraph, unless full dividends, including cumulative dividends, if applicable, on the preferred shares of the series have been or contemporaneously are declared and paid or declared and

a sum sufficient for the payment of the dividend set apart for payment for the then current dividend period, and any past period, if any, no dividends shall be declared or paid or set aside for payment or other distribution shall be declared or made upon the common shares or any other capital shares ranking junior to or on a parity with the preferred shares of the series as to dividends or upon liquidation. Additionally, shares ranking junior to or in parity with the series of preferred shares may not be redeemed, purchased or otherwise acquired for any consideration in such circumstances, except by conversion into or exchange for other capital shares ranking junior to the preferred shares of the series as to dividends and upon liquidation. We also may not pay any money or make any money available for a sinking fund for the

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redemption of junior or parity shares in such circumstances. Notwithstanding the preceding sentences, we may make dividends of common shares or other capital shares ranking junior to the preferred shares of the series of preferred shares, although full dividends may not have been paid or set aside.

Any dividend payment made on a series of preferred shares shall first be credited against the earliest accrued but unpaid dividend due with respect to shares of the series which remains payable.

Redemption

If so provided in the applicable prospectus supplement, the preferred shares of a series will be subject to mandatory redemption or redemption at our option, as a whole or in part, in each case upon the terms, at the times and at the redemption prices set forth in such prospectus supplement.

The prospectus supplement relating to a series of preferred shares that is subject to mandatory redemption will specify the number of preferred shares of the series that shall be redeemed by us in each year commencing after a date to be specified, at a redemption price per share to be specified, together with an amount equal to all accrued and unpaid dividends thereon, which shall not, if the series of preferred shares does not have a cumulative dividend, include any cumulation in respect of unpaid dividends for prior dividend periods, to the date of redemption. The redemption price may be payable in cash or other property, as specified in the applicable prospectus supplement. If the redemption price for preferred shares of any series is payable only from the net proceeds of the issuance of capital shares, the terms of the series of preferred shares may provide that, if no such capital shares shall have been issued or to the extent the net proceeds from any issuance are insufficient to pay in full the aggregate redemption price then due, preferred shares of the series shall automatically and mandatorily be converted into shares of the applicable capital shares pursuant to conversion provisions specified in the applicable prospectus supplement.

If full dividends on all preferred shares of any series, including cumulative dividends if applicable, have not been or contemporaneously are declared and paid or declared and a sum sufficient for the payment of the dividend set apart for payment for the then current dividend period and any past dividends, if any, we may not redeem preferred shares of any series unless all outstanding preferred shares of the series are simultaneously redeemed. This shall not prevent, however, the purchase or acquisition of preferred shares of the series pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding preferred shares of the series, and, unless full dividends, including cumulative dividends if applicable, on all preferred shares of any series shall have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment of the dividend set apart for payment for the then current dividend period and any past period, if any, we will not purchase or otherwise acquire directly or indirectly any preferred shares of the series, except by conversion into or exchange for capital shares ranking junior to the preferred shares of the series as to dividends and upon liquidation.

If fewer than all of the outstanding preferred shares of any series are to be redeemed, the number of shares to be redeemed will be determined by us and such shares may be redeemed pro rata from the holders of record of preferred shares of the series in proportion to the number of preferred shares of the series held by such holders with adjustments to avoid redemption of fractional shares or by lot in a manner determined by us.

Notice of redemption will be mailed at least 30 days but not more than 90 days before the redemption date to each holder of record of preferred shares of any series to be redeemed at the address shown on our share transfer books. Each notice shall state:

- (1) the redemption date;
- (2) the number of shares and series of the preferred shares to be redeemed;

- (3) the redemption price;
- (4) the place or places where certificates for such preferred shares are to be surrendered for payment of the redemption price;

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- (5) that dividends on the preferred shares to be redeemed will cease to accrue on such redemption date; and
- (6) the date upon which the holder's conversion rights, if any, as to such preferred shares shall terminate.

If fewer than all the preferred shares of any series are to be redeemed, the notice mailed to each such holder of the series shall also specify the number of preferred shares to be redeemed from each such holder. If notice of redemption of any preferred shares has been given and if the funds necessary for such redemption have been set aside by us in trust for the benefit of the holders of any preferred shares so called for redemption, then from and after the redemption date dividends will cease to accrue on such preferred shares, and all rights of the holders of such preferred shares will terminate, except the right to receive the redemption price.

Liquidation preference

Upon any voluntary or involuntary liquidation, dissolution or winding up of our affairs, then, before any distribution or payment shall be made to the holders of any common shares or any other class or series of shares of beneficial interest ranking junior to the series of preferred shares in the distribution of assets upon any liquidation, dissolution or winding up, the holders of each series of preferred shares shall be entitled to receive out of our assets legally available for distribution to shareholders liquidating distributions in the amount of the liquidation preference per share, set forth in the applicable prospectus supplement, plus an amount equal to all dividends accrued and unpaid thereon, which shall not include any cumulation in respect of unpaid dividends for prior dividend periods if the series of preferred shares does not have a cumulative dividend. After payment of the full amount of the liquidating distributions to which they are entitled, the holders of preferred shares of the series will have no right or claim to any of our remaining assets.

In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding up, our available assets are insufficient to pay the amount of the liquidating distributions on all outstanding preferred shares of the series and the corresponding amounts payable on all shares of other classes or series of capital shares ranking on a parity with preferred shares of the series in the distribution of assets, then the holders of preferred shares of the series and all other such classes or series of capital shares shall share ratably in any such distribution of assets in proportion to the full liquidating distributions to which they would otherwise be respectively entitled.

If liquidating distributions shall have been made in full to all holders of preferred shares of the series, our remaining assets shall be distributed among the holders of any other classes or series of capital shares ranking junior to the preferred shares of the series upon liquidation, dissolution or winding up, according to their respective rights and preferences and in each case according to their respective number of shares. For such purposes, the consolidation or merger of us with or into any other entity, or the sale, lease or conveyance of all or substantially all of our property or business, shall not be deemed to constitute a liquidation, dissolution or winding up of us.

Voting rights

Holders of the preferred shares of each series will not have any voting rights, except as set forth below or in the applicable prospectus supplement or as otherwise required by applicable law. The following is a summary of the voting rights that, unless provided otherwise in the applicable prospectus supplement, will apply to each series of preferred shares.

If six quarterly dividends, whether or not consecutively payable on the preferred shares of the series or any other series of preferred shares ranking on a parity with the series of preferred shares with respect in each case to the

payment of dividends, amounts upon liquidation, dissolution and winding up are in arrears, whether or not earned or declared, the number of trustees then constituting the board of trustees will be increased by two, and the holders of preferred shares of the series, voting together as a class with the holders of any other series of shares ranking in parity with such shares, will have the right to elect two additional trustees to serve

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on the board of trustees at any annual meeting of shareholders or a properly called special meeting of the holders of preferred shares of the series and other preferred shares ranking in parity with such shares and at each subsequent annual meeting of shareholders until all such dividends and dividends for the current quarterly period on the preferred shares of the series and other preferred shares ranking in parity with such shares have been paid or declared and set aside for payment. Such voting rights will terminate when all such accrued and unpaid dividends have been declared and paid or set aside for payment. The term of office of all trustees so elected will terminate with the termination of such voting rights.

The approval of two-thirds of the outstanding preferred shares of the series and all other series of preferred shares similarly affected, voting as a single class, is required in order to:

- (1) amend the declaration of trust to affect materially and adversely the rights, preferences or voting power of the holders of the preferred shares of the series or other preferred shares ranking in parity with such shares;
- (2) enter into a share exchange that affects the preferred shares of the series, consolidate with or merge into another entity, or permit another entity to consolidate with or merge into us, unless in each such case each preferred share of the series remains outstanding without a material and adverse change to its terms and rights or is converted into or exchanged for preferred shares of the surviving entity having preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends, qualifications and terms or conditions of redemption of the series identical to that of a preferred share of the series, except for changes that do not materially and adversely affect the holders of the preferred shares of the series; or
- (3) authorize, reclassify, create, or increase the authorized amount of any class of shares having rights senior to the preferred shares of the series with respect to the payment of dividends or amounts upon liquidation, dissolution or winding up.

However, we may create additional classes of parity shares and other series of preferred shares ranking junior to the series of preferred shares with respect in each case to the payment of dividends, amounts upon liquidation, dissolution and winding up junior shares, increase the authorized number of parity shares and junior shares and issue additional series of parity shares and junior shares without the consent of any holder of preferred shares of the series.

Except as provided above and as required by law, the holders of preferred shares of each series will not be entitled to vote on any merger or consolidation involving us or a sale of all or substantially all of our assets.

Conversion rights

The terms and conditions, if any, upon which preferred shares of any series are convertible into common shares will be set forth in the applicable prospectus supplement relating to the series. Such terms will include the number of common shares into which the preferred shares of the series are convertible, the conversion price, or manner of calculation of the conversion price, the conversion period, provisions as to whether conversion will be at the option of the holders of the preferred shares of the series or us, the events requiring an adjustment of the conversion price and provisions affecting conversion in the event of the redemption of the preferred shares of the series.

Restrictions on ownership

As discussed below under **Description of Common Shares** **Restriction on size of holdings**, for us to qualify as a real estate investment trust under the Internal Revenue Code, not more than 50% in value of our outstanding shares of

beneficial interest may be owned by five or fewer individuals at any time during the last half of any taxable year. Therefore, the articles supplementary for each series of preferred shares will contain various provisions restricting the ownership and transfer of the preferred shares. Except as otherwise described in the applicable prospectus supplement relating to the relevant series of preferred shares, the provisions of each articles supplementary relating to the preferred shares ownership limit will provide, as in

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the case of the Series C preferred shares, Series F preferred shares and Series G preferred shares, ownership restriction similar to the ownership restrictions described below.

The preferred shares ownership limit provision will provide that, subject to the exceptions contained in such articles supplementary, no person, or persons acting as a group, may beneficially own more than 25% of the series of preferred shares outstanding at any time, except as a result of our redemption of preferred shares. Shares acquired in excess of the preferred shares ownership limit provision must be redeemed by us at a price equal to the average daily per share closing sale price during the 30-day period ending on the business day prior to the redemption date. Such redemption is not applicable if a person's ownership exceeds the limitations due solely to our redemption of preferred shares; provided that thereafter any additional preferred shares acquired by such person shall be excess shares. See

Description of Common Shares Restriction on size of holdings. From and after the date of notice of such redemption, the holder of the preferred shares thus redeemed shall cease to be entitled to any distribution, other than distributions declared prior to the date of notice of redemption, voting rights and other benefits with respect to such shares except the right to receive payment of the redemption price determined as described above. The preferred shares ownership limit provision may not be waived with respect to some of our affiliates.

All certificates representing shares of preferred shares will bear a legend referring to the restrictions described above.

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DESCRIPTION OF COMMON SHARES

General

The declaration of trust authorizes us to issue up to 750,000,000 shares of beneficial interest, par value \$0.01 per share, consisting of 737,580,000 common shares, par value \$0.01 per share, 2,300,000 Series C preferred shares, par value \$0.01 per share, 5,060,000 Series F preferred shares, par value \$0.01 per share, and 5,060,000 Series G preferred shares, par value \$0.01 per share. At September 30, 2009, approximately 473,201,000 common shares were issued and outstanding and held of record by approximately 8,060 shareholders.

The following description sets forth general terms and provisions of the common shares to which any prospectus supplement may relate, including a prospectus supplement which provides for common shares issuable pursuant to subscription offerings or rights offerings or upon conversion of preferred shares which are offered pursuant to such prospectus supplement and convertible into common shares for no additional consideration. The statements below describing the common shares are in all respects subject to and qualified in their entirety by reference to the applicable provisions of the declaration of trust and our bylaws.

The outstanding common shares are fully paid and, except as set forth below under Shareholder liability, non-assessable. Each common share entitles the holder to one vote on all matters requiring a vote of shareholders, including the election of trustees. Holders of common shares do not have the right to cumulate their votes in the election of trustees, which means that the holders of a majority of the outstanding common shares can elect all of the trustees then standing for election. Holders of common shares are entitled to such distributions as may be declared from time to time by the board of trustees out of funds legally available therefor. Holders of common shares have no conversion, redemption, preemptive or exchange rights to subscribe to any of our securities. In the event of a liquidation, dissolution or winding up of our affairs, the holders of the common shares are entitled to share ratably in our assets remaining after provision for payment of all liabilities to creditors and payment of liquidation preferences and accrued dividends, if any, on the Series C preferred shares, Series F preferred shares and Series G preferred shares, and subject to the rights of holders of other series of preferred shares, if any. The right of holders of the common shares are subject to the rights and preferences established by the board of trustees for the Series C preferred shares, Series F preferred shares and Series G preferred shares and any other series of preferred shares which may subsequently be issued by us. See Description of Preferred Shares.

Transfer agent

The transfer agent and registrar for the common shares is Computershare Trust Company, N.A., 150 Royall Street, Canton, Massachusetts 02021. The common shares are listed on the New York Stock Exchange under the symbol PLD.

Restriction on size of holdings

The declaration of trust restricts beneficial ownership of our outstanding shares of beneficial interest by a single person, or persons acting as a group, to 9.8% of such shares. The purposes of the restriction are to assist in protecting and preserving our real estate investment trust status under the Internal Revenue Code and to protect the interest of shareholders in takeover transactions by preventing the acquisition of a substantial block of shares without the prior consent of the board of trustees. For us to qualify as a real estate investment trust under the Internal Revenue Code, not more than 50% in value of our outstanding shares of beneficial interest may be owned by five or fewer individuals at any time during the last half of any taxable year. The restriction permits five persons to acquire up to a maximum of

9.8% each, or an aggregate of 49% of the outstanding shares, and, thus, assists the board of trustees in protecting and preserving our real estate investment trust status under the Internal Revenue Code.

Excess shares of beneficial interest owned by a person or group of persons in excess of 9.8% of the outstanding shares of beneficial interest, other than, 30% in the case of shareholders who acquired shares prior to our initial public offering, are subject to redemption by us, at our option, upon 30 days notice, at a price

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equal to the average daily per share closing sale price during the 30-day period ending on the business day prior to the redemption date. We may make payment of the redemption price at any time or times up to the earlier of five years after the redemption date or liquidation. We may refuse to effect the transfer of any shares of beneficial interest which would make the transferee a holder of excess shares. Shareholders are required to disclose, upon demand of the board of trustees, such information with respect to their direct and indirect ownership of shares as the board of trustees deems necessary to comply with the provisions of the Internal Revenue Code pertaining to qualification, for tax purposes, of real estate investment trusts, or to comply with the requirements of any other appropriate taxing authority.

The 9.8% restriction does not apply to acquisitions by an underwriter in a public offering and sale of shares of beneficial interest or to any transaction involving the issuance of shares of beneficial interest in which a majority of the board of trustees determines that our eligibility to qualify as a real estate investment trust for federal income tax purposes will not be jeopardized or our disqualification as a real estate investment trust under the Internal Revenue Code is advantageous to the shareholders. The board of trustees has permitted the shareholders who acquired shares prior to our initial public offering to acquire up to 30% of the outstanding shares of beneficial interest.

Trustee liability

The declaration of trust provides that trustees shall not be individually liable for any obligation or liability incurred by or on our behalf or by trustees for our benefit and on our behalf. Under the declaration of trust and Maryland law governing real estate investment trusts, trustees are not liable to us or the shareholders for any act or omission except for acts or omissions which constitute bad faith, willful misfeasance or gross negligence in the conduct of their duties.

Shareholder liability

Both Maryland statutory law governing real estate investment trusts organized under the laws of that state and the declaration of trust provide that shareholders shall not be personally or individually liable for any debt, act, omission or obligation of ProLogis or the board of trustees. The declaration of trust further provides that we shall indemnify and hold each shareholder harmless from all claims and liabilities to which the shareholder may become subject by reason of his being or having been a shareholder and that we will reimburse each shareholder for all legal and other expenses reasonably incurred by the shareholder in connection with any such claim or liability, except to the extent that such claim or liability arises out of the shareholder's bad faith, willful misconduct or gross negligence and provided that such shareholder gives us prompt notice of any such claim or liability and permits us to conduct the defense of the shareholder. Nevertheless, with respect to tort claims, contractual claims where shareholder liability is not so negated, claims for taxes and statutory liability, the shareholders may, in some jurisdictions, be personally liable to the extent that such claims are not satisfied by us. Inasmuch as we carry public liability insurance which we consider adequate, any risk of personal liability to our shareholders is limited to situations in which our assets plus our insurance coverage would be insufficient to satisfy the claims against us and our shareholders.

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FEDERAL INCOME TAX CONSIDERATIONS

ProLogis intends to operate in a manner that permits it to satisfy the requirements for qualification and taxation as a real estate investment trust under the applicable provisions of the Internal Revenue Code. No assurance can be given, however, that such requirements will be met. The following is a description of (a) the U.S. federal income tax consequences to ProLogis and its shareholders of the treatment of ProLogis as a real estate investment trust and (b) the U.S. federal income tax consequences of the ownership and disposition of ProLogis shares. The tax consequences of owning and disposing of debt securities are not summarized in this discussion. Since these provisions are highly technical and complex, each prospective purchaser of debt securities, preferred shares or common shares is urged to consult his, her or its own tax advisor with respect to the U.S. federal, state, local, foreign and other tax consequences of the purchase, ownership and disposition of the debt securities, preferred shares or common shares.

Based upon representations of ProLogis with respect to the facts as set forth and explained in the discussion below, in the opinion of Mayer Brown LLP, counsel to ProLogis, ProLogis has been organized and has operated in conformity with the requirements for qualification as a real estate investment trust beginning with its taxable year ended December 31, 2000 through and including its taxable year ended December 31, 2008, and its actual and proposed method of operation described in this prospectus and as represented by management will enable it to satisfy the requirements for qualification and taxation as a real estate investment trust commencing with its taxable year ending on December 31, 2009 and each year thereafter.

This opinion is based on representations made by ProLogis as to factual matters relating to ProLogis organization and its actual and intended or expected manner of operation. In addition, this opinion is based on the law existing and in effect on the date of this prospectus. ProLogis qualification and taxation as a real estate investment trust will depend upon ProLogis ability to meet on a continuing basis, through actual operating results, asset composition, distribution levels and diversity of share ownership, the various qualification tests imposed under the Internal Revenue Code discussed below. Mayer Brown LLP will not review compliance with these tests on a continuing basis. No assurance can be given that ProLogis will satisfy such tests on a continuing basis.

In brief, if the conditions imposed by the real estate investment trust provisions of the Internal Revenue Code are met, entities, such as ProLogis, that invest primarily in real estate and that otherwise would be treated for U.S. federal income tax purposes as corporations, are allowed a deduction for dividends paid to shareholders. This treatment substantially eliminates the double taxation at both the corporate and shareholder levels that generally results from the use of corporations. However, as discussed in greater detail below, entities, such as ProLogis, remain subject to tax in certain circumstances even if they qualify as a real estate investment trust.

If ProLogis fails to qualify as a real estate investment trust in any year, however, it will be subject to U.S. federal income taxation as if it were a domestic corporation, and its shareholders will be taxed in the same manner as shareholders of ordinary corporations. In this event, ProLogis could be subject to potentially significant tax liabilities, and therefore the amount of cash available for distribution to its shareholders would be reduced or eliminated. In addition, ProLogis would not be obligated to make distributions to shareholders.

ProLogis elected real estate investment trust status effective beginning with its taxable year ended December 31, 1993, and the ProLogis board of trustees believes that ProLogis has operated and currently intends that ProLogis will operate in a manner that permits it to qualify as a real estate investment trust in each taxable year thereafter. There can be no assurance, however, that this expectation will be fulfilled, since qualification as a real estate investment trust depends on ProLogis continuing to satisfy numerous asset, income and distribution tests described below, which in turn will be dependent in part on ProLogis operating results.

The following summary is based on the Internal Revenue Code, its legislative history, administrative pronouncements, judicial decisions and Treasury regulations, subsequent changes to any of which may affect the tax consequences described in this prospectus, possibly on a retroactive basis. The following summary is not exhaustive of all possible tax considerations and does not give a detailed discussion of any state, local, or

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foreign tax considerations, nor does it discuss all of the aspects of U.S. federal income taxation that may be relevant to a prospective shareholder in light of his, her or its particular circumstances or to various types of shareholders, including insurance companies, tax-exempt entities, financial institutions or broker-dealers, foreign corporations and persons who are not citizens or residents of the United States, subject to special treatment under the U.S. federal income tax laws.

The following summary applies only to shareholders who hold preferred shares or common shares as capital assets. For purposes of the following summary, a U.S. shareholder is a beneficial owner of preferred shares or common shares that for U.S. federal income tax purposes is: a citizen of the United States or an individual who is a resident of the United States, a corporation (or other entity treated as a corporation) created or organized under the laws of the United States or any political subdivision thereof, an estate, the income of which is subject to U.S. federal income taxation regardless of its source, or a trust, if either (i) it was in existence on August 20, 1996, and has a valid election in effect under applicable Treasury regulations to be treated as a U.S. trust or (ii) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust. A foreign shareholder is any shareholder that is not a U.S. shareholder. For U.S. federal income tax purposes, income earned through a foreign or domestic partnership or other flow-through entity is generally attributed to its partners or owners. Accordingly, the U.S. federal income tax treatment of a partner in a partnership or owner in a flow-through entity that holds shares will generally depend on the status of the partner or other owner and the activities of the partnership or other flow-through entity.

Prospective shareholders that are partnerships or flow-through entities should consult their tax advisers concerning the U.S. federal income tax consequences to their partners or owners of the acquisition, ownership and disposition of ProLogis debt securities, preferred shares and common shares.

Taxation of ProLogis

General

In any year in which ProLogis qualifies as a real estate investment trust, in general it will not be subject to U.S. federal income tax on that portion of its real estate investment trust taxable income or capital gain that is distributed to shareholders. ProLogis may, however, be subject to U.S. federal income tax at normal corporate rates upon any taxable income or capital gain not distributed.

A real estate investment trust is permitted to designate in a notice mailed to shareholders within 60 days of the end of the taxable year, or in a notice mailed with its annual report for the taxable year, such amount of undistributed net long-term capital gains it received during the taxable year, which its shareholders are to include in their taxable income as long-term capital gains. Thus, if ProLogis made this designation, the shareholders of ProLogis would include in their income as long-term capital gains their proportionate share of the undistributed net capital gains as designated by ProLogis and ProLogis would have to pay the tax on such gains within 30 days of the close of its taxable year. Each shareholder of ProLogis would be deemed to have paid such shareholder's share of the tax paid by ProLogis on such gains, which tax would be credited or refunded to the shareholder. A shareholder would increase his, her or its tax basis in such shareholder's ProLogis shares by the difference between the amount of income to the holder resulting from the designation less the holder's credit or refund for the tax paid by ProLogis.

Notwithstanding its qualification as a real estate investment trust, ProLogis may also be subject to taxation in other circumstances. If ProLogis should fail to satisfy either the 75% or the 95% gross income test, as discussed below, and nonetheless maintains its qualification as a real estate investment trust because other requirements are met, it will be subject to a 100% tax on the greater of the amount by which ProLogis fails to satisfy either the 75% or the 95% gross income test, multiplied by a fraction intended to reflect ProLogis' profitability. Furthermore, if ProLogis fails to satisfy

the 5% asset test or the 10% vote and value test (and does not qualify for a de minimis safe harbor) or fails to satisfy the other asset tests, each of which are discussed below, and nonetheless maintains its qualification as a real estate investment trust because certain other requirements are met, ProLogis will be subject to a tax equal to the greater of \$50,000 or an amount determined (pursuant to regulations prescribed by the Treasury) by multiplying the highest corporate tax rate

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by the net income generated by the assets that caused the failure for the period beginning on the first date of the failure to meet the tests and ending on the date (which must be within 6 months after the last day of the quarter in which the failure is identified) that ProLogis disposes of the assets or otherwise satisfies the tests. If ProLogis fails to satisfy one or more real estate investment trust requirements other than the 75% or the 95% gross income tests and other than the asset tests, but nonetheless maintains its qualification as a real estate investment trust because certain other requirements are met, ProLogis will be subject to a penalty of \$50,000 for each such failure. ProLogis will also be subject to a tax of 100% on net income from any prohibited transaction, as described below, and if ProLogis has net income from the sale or other disposition of foreclosure property which is held primarily for sale to customers in the ordinary course of business or other nonqualifying income from foreclosure property, it will be subject to tax on such income from foreclosure property at the highest corporate rate. ProLogis will also be subject to a tax of 100% on the amount of any rents from real property, deductions or excess interest that would be reapportioned under Internal Revenue Code Section 482 to one of its taxable REIT subsidiaries in order to more clearly reflect income of the taxable REIT subsidiary. A taxable REIT subsidiary is any corporation for which a joint election has been made by a real estate investment trust and such corporation to treat such corporation as a taxable REIT subsidiary with respect to such real estate investment trust. See Other Tax Considerations Investments in taxable REIT subsidiaries. In addition, if ProLogis should fail to distribute during each calendar year at least the sum of:

- (1) 85% of its real estate investment trust ordinary income for such year;
- (2) 95% of its real estate investment trust capital gain net income for such year, other than capital gains ProLogis elects to retain and pay tax on as described below; and
- (3) any undistributed taxable income from prior years,

ProLogis would be subject to a 4% excise tax on the excess of such required distribution over the amounts actually distributed. To the extent that ProLogis elects to retain and pay income tax on its long-term capital gain, such retained amounts will be treated as having been distributed for purposes of the 4% excise tax. ProLogis may also be subject to the corporate alternative minimum tax, as well as tax in various situations and on some types of transactions not presently contemplated. ProLogis will use the calendar year both for U.S. federal income tax purposes and for financial reporting purposes.

In order to qualify as a real estate investment trust, ProLogis must meet, among others, the following requirements:

Share ownership test

ProLogis shares must be held by a minimum of 100 persons for at least 335 days in each taxable year or a proportional number of days in any short taxable year. In addition, at all times during the second half of each taxable year, no more than 50% in value of the ProLogis shares may be owned, directly or indirectly and by applying constructive ownership rules, by five or fewer individuals, which for this purpose includes some tax-exempt entities. For this purpose, any shares held by a qualified domestic pension or other retirement trust will be treated as held directly by its beneficiaries in proportion to their actuarial interest in such trust rather than by such trust. If ProLogis complies with the Treasury regulations for ascertaining its actual ownership and did not know, or exercising reasonable diligence would not have reason to know, that more than 50% in value of its outstanding shares was held, actually or constructively, by five or fewer individuals, then it will be treated as meeting such requirement.

In order to ensure compliance with the 50% test, ProLogis has placed restrictions on the transfer of its shares to prevent additional concentration of ownership. Moreover, to evidence compliance with these requirements under Treasury regulations, ProLogis must maintain records which disclose the actual ownership of its outstanding shares and such regulations impose penalties against ProLogis for failing to do so. In fulfilling its obligations to maintain

records, ProLogis must and will demand written statements each year from the record holders of designated percentages of its shares disclosing the actual owners of such shares as prescribed by Treasury regulations. A list of those persons failing or refusing to comply with such demand

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must be maintained as a part of ProLogis' records. A shareholder failing or refusing to comply with ProLogis' written demand must submit with his, her or its tax returns a similar statement disclosing the actual ownership of ProLogis shares and other information. In addition, ProLogis' declaration of trust provides restrictions regarding the transfer of shares that are intended to assist ProLogis in continuing to satisfy the share ownership requirements. ProLogis intends to enforce the percentage limitations on ownership of its shares to assure that its qualification as a real estate investment trust will not be compromised.

Asset tests

At the close of each quarter of ProLogis' taxable year, ProLogis must satisfy tests relating to the nature of its assets determined in accordance with generally accepted accounting principles. Where ProLogis invests in a partnership or other business entity taxed as a partnership or disregarded entity, ProLogis will be deemed to own a proportionate share of the partnership's or other business entity's assets. In addition, when ProLogis owns 100% of a corporation that is not a taxable REIT subsidiary, it will be deemed to own 100% of the corporation's assets. First, at least 75% of the value of ProLogis' total assets must be represented by interests in real property, interests in mortgages on real property, shares in other real estate investment trusts, cash, cash items, government securities, and qualified temporary investments. For this purpose, cash includes foreign currency if (i) the real estate investment trust or its qualified business unit uses such foreign currency as its functional currency, (ii) the foreign currency is held for use in the normal course of the activities of the real estate investment trust or the qualified business unit giving rise to income or gain described in the gross income tests below or directly related to acquiring or holding assets described in the asset test herein, and (iii) it is not held in connection with a trade or business of trading or dealing with securities. Second, although the remaining 25% of ProLogis' assets generally may be invested without restriction, ProLogis is prohibited from owning securities representing more than 10% of either the vote or value of the outstanding securities of any non-government issuer other than a qualified real estate investment trust subsidiary, another real estate investment trust or a taxable REIT subsidiary. Further, no more than 25% of the value of ProLogis' total assets may be represented by securities of one or more taxable REIT subsidiaries, and no more than 5% of the value of ProLogis' total assets may be represented by securities of any non-government issuer other than a qualified real estate investment trust subsidiary, another real estate investment trust or a taxable REIT subsidiary. Finally, if a real estate investment trust has met the asset tests as of the close of any quarter it will not fail them in a subsequent quarter solely because of a discrepancy due to variations in value that are not attributable to the acquisition of investments but rather caused solely by the change in the foreign currency exchange rate used to value a foreign asset.

As discussed above, ProLogis generally may not own more than 10% by vote or value of any one issuer's securities and no more than 5% of the value of the total assets of ProLogis generally may be represented by the securities of any issuer. If ProLogis fails to meet either of these tests at the end of any quarter and such failure is not cured within 30 days thereafter, ProLogis would fail to qualify as a real estate investment trust. After the 30-day cure period, ProLogis could dispose of sufficient assets to cure such a violation that does not exceed the lesser of 1% of ProLogis assets at the end of the relevant quarter or \$10,000,000 if the disposition occurs within 6 months after the last day of the calendar quarter in which ProLogis identifies the violation. For violations of these tests that are larger than this amount and for violations of the other asset tests described above, where such violations are due to reasonable cause and not willful neglect, ProLogis can avoid disqualification as a real estate investment trust, after the 30-day cure period, by taking steps including the disposition of sufficient assets to meet the asset tests (within 6 months after the last day of the calendar quarter in which ProLogis identifies the violation) and paying a tax equal to the greater of \$50,000 or an amount determined (pursuant to Treasury regulations) by multiplying the highest corporate tax rate by the net income generated by the non-qualifying assets for the period beginning on the first date of the failure to meet the tests and ending on the date that ProLogis disposes of the assets or otherwise satisfies the asset tests.

Table of Contents*Gross income tests*

There are currently two separate percentage tests relating to the sources of ProLogis' gross income that must be satisfied for each taxable year. For purposes of these tests, where ProLogis invests in a partnership or other business entity taxed as a partnership or disregarded entity, ProLogis will be treated as receiving its share of the income and loss of the partnership or other business entity, and the gross income of the partnership or other business entity will retain the same character in the hands of ProLogis as it has in the hands of the partnership or other business entity. The two tests are as follows:

1. *The 75% Gross Income Test.* At least 75% of ProLogis' gross income for the taxable year must be qualifying income. Qualifying income generally includes:

(1) rents from real property, except as modified below;

(2) interest on obligations secured by mortgages on, or interests in, real property;

(3) gains from the sale or other disposition of non-dealer property, which means interests in real property and real estate mortgages, other than gain from property held primarily for sale to customers in the ordinary course of ProLogis' trade or business;

(4) dividends or other distributions on shares in other real estate investment trusts, as well as gain from the sale of such shares;

(5) abatements and refunds of real property taxes;

(6) income from the operation, and gain from the sale, of foreclosure property, which means property acquired at or in lieu of a foreclosure of the mortgage secured by such property;

(7) commitment fees received for agreeing to make loans secured by mortgages on real property, or to purchase or lease real property; and

(8) certain qualified temporary investment income attributable to the investment of new capital received by ProLogis in exchange for its shares or certain publicly offered debt, which income is received or accrued during the one-year period following the receipt of such capital.

Rents received from a tenant will not, however, qualify as rents from real property in satisfying the 75% gross income test, or the 95% gross income test described below, if ProLogis, or an owner of 10% or more of ProLogis, directly or constructively owns 10% or more of such tenant, unless the tenant is a taxable REIT subsidiary of ProLogis and certain other requirements are met with respect to the real property being rented. In addition, if rent attributable to personal property leased in connection with a lease of real property is greater than 15% of the total rent received under the lease, then the portion of rent attributable to such personal property will not qualify as rents from real property. Moreover, an amount received or accrued will not qualify as rents from real property or as interest income for purposes of the 75% and 95% gross income tests if it is based in whole or in part on the income or profits of any person, although an amount received or accrued generally will not be excluded from rents from real property or interest solely by reason of being based on a fixed percentage or percentages of receipts or sales. Finally, for rents received to qualify as rents from real property, ProLogis generally must not furnish or render services to tenants, other than through a taxable REIT subsidiary, or an independent contractor from whom ProLogis derives no income, except that ProLogis may directly provide services that are usually or customarily rendered in connection with the rental of properties for occupancy only, or are not otherwise considered rendered to the occupant for his convenience. A real

estate investment trust is permitted to render a de minimis amount of impermissible services to tenants, or in connection with the management of property, and still treat amounts received with respect to that property (other than the amounts attributable to the provision of the de minimis impermissible services) as rent from real property. The amount received or accrued by the real estate investment trust during the taxable year for the impermissible services with respect to a property may not exceed 1% of all amounts received or accrued by the real estate investment trust directly or indirectly from the property. If this 1% threshold is exceeded, none of the amounts received with respect to that property will qualify as rent from real property. The amount received for any service or management operation for this purpose shall be deemed to

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be not less than 150% of the direct cost of the real estate investment trust in furnishing or rendering the service or providing the management or operation. Furthermore, ProLogis may furnish such impermissible services to tenants through a taxable REIT subsidiary and still treat amounts otherwise received with respect to the property as rent from real property.

2. *The 95% Gross Income Test.* In addition to deriving 75% of its gross income from the sources listed above, at least 95% of ProLogis' gross income for the taxable year must be derived from the above-described qualifying income, or from dividends, interest or gains from the sale or disposition of stock or other securities that are not dealer property. Dividends, other than on real estate investment trust shares, and interest on any obligations not secured by an interest in real property are included for purposes of the 95% gross income test, but not for purposes of the 75% gross income test.

Any income from (i) a hedging transaction that is clearly and timely identified and that hedges indebtedness incurred or to be incurred to acquire or carry real estate assets or (ii) a clearly and timely identified transaction entered into primarily to manage the risk of currency fluctuations with respect to any item of income that would qualify under the 75% or the 95% gross income tests, will not constitute gross income (rather than being treated either as qualifying income or non-qualifying income) for purposes of the 75% and the 95% gross income tests. Income from such transactions that does not meet these requirements will be treated as non-qualifying income for purposes of the 75% and the 95% gross income tests. Any income from foreign currency gain that is real estate foreign exchange gain as defined in the Internal Revenue Code will not constitute gross income for purposes of the 75% gross income test. Real estate foreign exchange gain includes foreign currency gains attributable to (i) any item of income or gain that would qualify under the 75% gross income test, (ii) the acquisition or ownership of obligations secured by mortgages on real property or interests in real property, (iii) becoming or being the obligor under obligations secured by mortgages on real property or on interests in real property, (iv) remittances from qualified business units that meet the 75% gross income test for the taxable year and the 75% asset test at the close of each quarter, and (v) any other foreign currency gain as determined by the Internal Revenue Service. Other foreign currency gain, if such foreign currency gain is passive foreign exchange gain as defined in the Internal Revenue Code, will not constitute gross income for purposes of the 95% gross income test (but will be treated as income that does not qualify under the 75% gross income test).

Passive foreign exchange gain includes foreign currency gains attributable to (i) real estate foreign exchange gain, (ii) any item of income or gain that would qualify under the 95% gross income test, (iii) the acquisition or ownership of obligations, (iv) becoming or being the obligor under obligations, and (v) any other foreign currency gain as determined by the Internal Revenue Service.

For purposes of determining whether ProLogis complies with the 75% and 95% gross income tests, gross income does not include income from prohibited transactions. A prohibited transaction is a sale of property held primarily for sale to customers in the ordinary course of a trade or business, excluding foreclosure property (described below), unless such property is held by ProLogis for at least two years and other requirements relating to the number of properties sold in a year, their tax bases or fair market values, and the cost of improvements made to the property are satisfied. See [Taxation of ProLogis](#) - General.

Foreclosure property is real property (including interests in real property) and any personal property incident to such real property (i) that is acquired by a real estate investment trust as a result of the real estate investment trust having bid in the property at foreclosure, or having otherwise reduced the property to ownership or possession by agreement or process of law, after there was a default (or default was imminent) on a lease of the property or a mortgage loan held by the real estate investment trust and secured by the property, (ii) for which the related loan or lease was made, entered into or acquired by the real estate investment trust at a time when default was not imminent or anticipated and (iii) for which such real estate investment trust makes an election to treat the property as foreclosure property. Real estate investment trusts generally are subject to tax at the maximum corporate tax rate (currently 35%) on any net income from foreclosure property, including any gain from the disposition of the foreclosure property, other than

income that would otherwise be qualifying income for purposes of the 75% gross income test. Any gain from the sale of property for which a foreclosure property election has been made will not be subject to the 100% penalty

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tax on gains from prohibited transactions described below, even if the property was held primarily for sale to customers in the ordinary course of a trade or business.

Even if ProLogis fails to satisfy one or both of the 75% or 95% gross income tests for any taxable year, it may still qualify as a real estate investment trust for such year if it is entitled to relief under provisions of the Internal Revenue Code. These relief provisions will generally be available if:

(1) following ProLogis' identification of the failure, it files a schedule with a description of each item of gross income that caused the failure in accordance with regulations prescribed by the Treasury; and

(2) ProLogis' failure to comply was due to reasonable cause and not due to willful neglect.

If these relief provisions apply, however, ProLogis will nonetheless be subject to a special tax equal to the greater of the amount by which it fails either the 75% or 95% gross income test for that year multiplied by a fraction the numerator of which is the real estate investment trust taxable income for the taxable year (adjusted for certain items) and the denominator of which is the gross income for the taxable year (adjusted for certain items).

Annual distribution requirements

In order to qualify as a real estate investment trust, ProLogis is required to make distributions, other than capital gain dividends, to its shareholders each year in an amount at least equal to the sum of 90% of ProLogis' real estate investment trust taxable income, computed without regard to the dividends paid deduction and real estate investment trust net capital gain, plus 90% of its net income after tax, if any, from foreclosure property, minus the sum of some items of excess non-cash income. Such distributions must be paid in the taxable year to which they relate, or in the following taxable year if declared before ProLogis timely files its tax return for such year and if paid on or before the first regular dividend payment after such declaration. To the extent that ProLogis does not distribute all of its net capital gain or distributes at least 90%, but less than 100%, of its real estate investment trust taxable income, as adjusted, it will be subject to tax on the undistributed amount at regular capital gains or ordinary corporate tax rates, as the case may be. A real estate investment trust is permitted, with respect to undistributed net long-term capital gains it received during the taxable year, to designate in a notice mailed to shareholders within 60 days of the end of the taxable year, or in a notice mailed with its annual report for the taxable year, such amount of such gains which its shareholders are to include in their taxable income as long-term capital gains. Thus, if ProLogis made this designation, the shareholders of ProLogis would include in their income as long-term capital gains their proportionate share of the undistributed net capital gains as designated by ProLogis and ProLogis would have to pay the tax on such gains within 30 days of the close of its taxable year. Each shareholder of ProLogis would be deemed to have paid such shareholder's share of the tax paid by ProLogis on such gains, which tax would be credited or refunded to the shareholder. A shareholder would increase his, her or its tax basis in his, her or its ProLogis shares by the difference between the amount of income to the holder resulting from the designation less the shareholder's credit or refund for the tax paid by ProLogis.

ProLogis intends to make timely distributions sufficient to satisfy the annual distribution requirements. It is possible that ProLogis may not have sufficient cash or other liquid assets to meet the 90% distribution requirement, due to timing differences between the actual receipt of income and actual payment of expenses on the one hand, and the inclusion of such income and deduction of such expenses in computing ProLogis' real estate investment trust taxable income on the other hand. To avoid any problem with the 90% distribution requirement, ProLogis will closely monitor the relationship between its real estate investment trust taxable income and cash flow and, if necessary, may borrow funds in order to satisfy the distribution requirement. However, there can be no assurance that such borrowing would be available at such time. Additionally, the Internal Revenue Service has recently issued a revenue procedure in which it provided that certain stock distributions declared by a publicly-traded real estate investment trust with respect to a

taxable year ending on or before December 31, 2009 may qualify as dividends for purposes of the distribution requirement so long as shareholders are given the choice of receiving stock or cash distributions, the aggregate amount of cash distributions are not limited to less than 10% of the aggregate distribution, and certain other requirements are

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met. ProLogis may declare a share distribution in 2009 that would meet the requirements set out in the revenue procedure for treatment as a dividend.

ProLogis generally must make distributions during the taxable year to which they relate. ProLogis may pay dividends in the following year in two circumstances. First, ProLogis may declare and pay dividends in the following year if the dividends are declared before it timely files its tax return for the year and if it pays the dividends before the first regular dividend payment made after such declaration. Second, if ProLogis declares a dividend in October, November, or December of any year with a record date in one of these months and pays the dividend on or before January 31 of the following year, it will be treated as having paid the dividend on December 31 of the year in which the dividend was declared. To the extent that ProLogis does not distribute all of its net capital gain or if it distributes at least 90%, but less than 100% of its real estate investment trust taxable income, as adjusted, it will be subject to tax on the undistributed amount at regular capital gains or ordinary corporate tax rates, as the case may be.

If ProLogis fails to meet the 90% distribution requirement as a result of an adjustment to ProLogis' tax return by the Internal Revenue Service, or if ProLogis determines that it has failed to meet the 90% distribution requirement in a prior taxable year, ProLogis may retroactively cure the failure by paying a deficiency dividend, plus applicable penalties and interest, within a specified period.

Tax aspects of ProLogis' investments in partnerships

A portion of ProLogis' investments are owned through business entities treated as partnerships for U.S. federal income tax purposes. As previously mentioned, ProLogis will include its proportionate share of (i) each partnership's income, gains, losses, deductions and credits for purposes of the various real estate investment trust gross income tests and in its computation of its real estate investment trust taxable income and (ii) the assets held by each partnership for purposes of the real estate investment trust asset tests.

ProLogis' interest in the partnerships involves special tax considerations, including the possibility of a challenge by the Internal Revenue Service of the status of the partnerships as partnerships, as opposed to associations taxable as corporations, for U.S. federal income tax purposes. If a partnership were to be treated as an association, such partnership would be taxable as a corporation and therefore subject to an entity-level tax on its income, in the case of a U.S. corporation or a foreign corporation with U.S. source income or income that is effectively connected with the conduct of a U.S. trade or business. In such a situation, regardless of whether or not the corporation would be treated as U.S. or foreign, the character of ProLogis' assets and items of gross income would change, which may preclude ProLogis from satisfying the real estate investment trust asset tests and may preclude ProLogis from satisfying the real estate investment trust gross income tests. See *Failure to qualify* below, for a discussion of the effect of ProLogis failure to meet such tests.

Failure to qualify

If ProLogis fails to qualify for taxation as a real estate investment trust in any taxable year and relief provisions do not apply, ProLogis will be subject to tax, including applicable alternative minimum tax, on its taxable income at regular corporate rates. Distributions to shareholders in any year in which ProLogis fails to qualify as a real estate investment trust will not be deductible by ProLogis, nor generally will they be required to be made under the Internal Revenue Code. In such event, to the extent of current or accumulated earnings and profits, all distributions to shareholders will be taxable as ordinary income, and subject to limitations in the Internal Revenue Code, corporate distributees may be eligible for the dividends-received deduction. Unless entitled to relief under specific statutory provisions, ProLogis also will be disqualified from re-electing taxation as a real estate investment trust for the four taxable years following the year during which qualification was lost.

In the event that ProLogis fails to satisfy one or more requirements for qualification as a real estate investment trust, other than the 75% and the 95% gross income tests and other than the asset tests, each of which is subject to the cure provisions described above, ProLogis will retain its real estate investment trust

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qualification if (i) the violation is due to reasonable cause and not willful neglect and (ii) ProLogis pays a penalty of \$50,000 for each failure to satisfy the provision.

Taxation of ProLogis shareholders*Taxation of U.S. shareholders*

As long as ProLogis qualifies as a real estate investment trust, distributions made to ProLogis U.S. shareholders out of current or accumulated earnings and profits, and not designated as capital gain dividends, will be taken into account by them as ordinary dividends and will not be eligible for the dividends-received deduction for corporations. Ordinary dividends will be taxable to ProLogis domestic shareholders as ordinary income, except that prior to January 1, 2011, such dividends will be taxed at the rate applicable to long-term capital gains to the extent that such dividends are attributable to dividends received by ProLogis from non-real estate investment trust corporations (such as U.S. and certain qualifying foreign taxable REIT subsidiaries) or are attributable to income upon which ProLogis has paid corporate income tax (e.g., to the extent that ProLogis distributes less than 100% of its taxable income). Distributions and undistributed amounts that are designated as capital gain dividends will be taxed as long-term capital gains, to the extent they do not exceed ProLogis actual net capital gain for the taxable year, without regard to the period for which the shareholder has held his, her or its shares. However, corporate shareholders may be required to treat up to 20% of some capital gain dividends as ordinary income. To the extent that ProLogis makes distributions in excess of current and accumulated earnings and profits, these distributions are treated first as a tax-free return of capital to its shareholders, reducing the tax basis of a shareholder's shares by the amount of such distribution, but not below zero, with distributions in excess of the shareholder's tax basis taxable as capital gains, if the shares are held as a capital asset. In addition, any dividend declared by ProLogis in October, November or December of any year and payable to a shareholder of record on a specific date in any such month shall be treated as both paid by ProLogis and received by the shareholder on December 31 of such year, provided that the dividend is actually paid by ProLogis during January of the following calendar year. Shareholders may not include in their individual income tax returns any net operating losses or capital losses of ProLogis. Instead, ProLogis will generally carry over these losses for potential offset against its future taxable income. U.S. federal income tax rules may also require that minimum tax adjustments and preferences be apportioned to ProLogis shareholders.

In general, any loss upon a sale or exchange of shares by a shareholder who has held such shares for six months or less, after applying holding period rules, will be treated as a long-term capital loss, to the extent of distributions from ProLogis required to be treated by such shareholder as long-term capital gains. In addition, under the so-called "wash sale" rules, all or a portion of any loss that a shareholder realizes upon a taxable disposition of ProLogis common shares may be disallowed if the shareholder purchases other common shares within 30 days before or after the disposition. A non-corporate taxpayer may deduct capital losses not offset by capital gains against ordinary income only up to a maximum annual amount of \$3,000. A non-corporate taxpayer may carry forward unused capital losses indefinitely. A corporate taxpayer must pay tax on its net capital gain at ordinary corporate rates. A corporate taxpayer may deduct capital losses only to the extent of capital gains, with unused losses being carried back three years and forward five years.

Gain from the sale or exchange of shares held for more than one year is taxed as long-term capital gain. Net long-term capital gains of non-corporate taxpayers are taxed at a maximum capital gain rate of 15% for sales or exchanges occurring prior to January 1, 2011 (and 20% for sales or exchanges occurring thereafter). Pursuant to Internal Revenue Service guidance, ProLogis may classify portions of its capital gain dividends as gains eligible for the 15% (or 20%) maximum capital gains rate or as unrecaptured Internal Revenue Code Section 1250 gain taxable at a maximum rate of 25%.

Shareholders of ProLogis should consult their tax advisors with respect to taxation of capital gains and capital gain dividends and with regard to state, local and foreign taxes on capital gains.

Taxable distributions that ProLogis pays and gain from the disposition of its common shares will not be treated as passive activity income and, therefore, shareholders generally will not be able to apply any passive activity losses, such as losses from certain types of limited partnerships in which the shareholder is a

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limited partner, against such income or gain. In addition, taxable distributions that ProLogis pays and gain from the disposition of its common shares generally will be treated as investment income for purposes of the investment interest limitations. ProLogis will notify shareholders after the close of its taxable year as to the portions of the distributions attributable to that year that constitute ordinary income, return of capital and capital gain.

If a domestic shareholder recognizes a loss upon a subsequent disposition of ProLogis' common shares in an amount that exceeds a prescribed threshold, it is possible that the provisions of Treasury regulations involving reportable transactions could apply, with a resulting requirement to separately disclose the loss generating transactions to the Internal Revenue Service. While these regulations are directed towards tax shelters, they are written quite broadly, and apply to transactions that would not typically be considered tax shelters. Significant penalties apply for failure to comply with these requirements. You should consult your tax advisor concerning any possible disclosure obligation with respect to the receipt or disposition of ProLogis' common shares, or transactions that might be undertaken directly or indirectly by ProLogis. Moreover, you should be aware that ProLogis and other participants in transactions involving ProLogis (including their advisors) might be subject to disclosure or other requirements pursuant to these regulations.

Information and reporting and backup withholding

ProLogis will report to its domestic shareholders and to the Internal Revenue Service the amount of distributions paid during each calendar year, and the amount of tax withheld, if any, with respect to the paid distributions. Under the backup withholding rules, a shareholder may be subject to backup withholding at applicable rates with respect to distributions paid unless such shareholder is a corporation or comes within other exempt categories and, when required, demonstrates this fact or provides a taxpayer identification number, certifies as to no loss of exemption from backup withholding, and otherwise complies with applicable requirements of the backup withholding rules. A shareholder that does not provide ProLogis with its correct taxpayer identification number may also be subject to penalties imposed by the Internal Revenue Service. Any amount paid as backup withholding will be credited against the shareholder's income tax liability. In addition, ProLogis may be required to withhold a portion of capital gain distributions made to any shareholders who fail to certify their non-foreign status to ProLogis.

Taxation of tax-exempt shareholders

The Internal Revenue Service has issued a revenue ruling in which it held that amounts distributed by a real estate investment trust to a tax-exempt employee's pension trust do not constitute unrelated business taxable income. Subject to the discussion below regarding a pension-held real estate investment trust, based upon the ruling, the analysis in the ruling and the statutory framework of the Internal Revenue Code, distributions by ProLogis to a shareholder that is a tax-exempt entity should also not constitute unrelated business taxable income, provided that the tax-exempt entity has not financed the acquisition of its shares with acquisition indebtedness within the meaning of the Internal Revenue Code, that the shares are not otherwise used in an unrelated trade or business of the tax-exempt entity, and that ProLogis, consistent with its present intent, does not hold a residual interest in a real estate mortgage investment conduit. Social clubs, voluntary employee benefit associations, supplemental unemployment benefit trusts, and qualified group legal services plans that are exempt from taxation under special provisions of the U.S. federal income tax laws are subject to different unrelated business taxable income rules, which generally will require them to characterize distributions that they receive from ProLogis as unrelated business taxable income.

However, if any pension or other retirement trust that qualifies under Section 401(a) of the Internal Revenue Code holds more than 10% by value of the interests in a pension-held real estate investment trust at any time during a taxable year, a portion of the dividends paid to the qualified pension trust by such real estate investment trust may constitute unrelated business taxable income. For these purposes, a pension-held real estate investment trust is defined as a real estate investment trust if such real estate investment trust would not have qualified as a real estate investment

trust but for the provisions of the Internal Revenue Code which look through such a qualified pension trust in determining ownership of shares of the real estate investment trust and at least one qualified pension trust holds more than 25% by value of the interests of such

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real estate investment trust or one or more qualified pension trusts, each owning more than a 10% interest by value in the real estate investment trust, hold in the aggregate more than 50% by value of the interests in such real estate investment trust. ProLogis believes that it is not a pension-held real estate investment trust.

Taxation of foreign shareholders

Distributions of cash generated by ProLogis' real estate operations, but not by its sale or exchange of such properties, that are paid to foreign persons generally will be subject to U.S. withholding tax at a rate of 30%, unless an applicable tax treaty or statutory provision reduces that tax and the foreign shareholder files an Internal Revenue Service Form W-8BEN (or other acceptable substitute or applicable form) with ProLogis or unless the foreign shareholder files an Internal Revenue Service Form W-8ECI with ProLogis claiming that the distribution is effectively connected income. Under applicable Treasury regulations, foreign shareholders generally must provide the Internal Revenue Service Form W-8ECI or Form W-8BEN (or other acceptable substitute or applicable form) beginning January 1, 2000 and every three years thereafter unless the information on the form changes before that date. However, if such form includes a taxpayer identification number, the form will remain in effect until a change in circumstances makes the information incorrect provided the withholding agent reports on Form 1042 at least one payment annually to the foreign shareholder. If a distribution is treated as effectively connected with a foreign shareholder's conduct of a U.S. trade or business, the foreign shareholder generally will be subject to U.S. federal income tax on the distribution at graduated rates, in the same manner as domestic shareholders are taxed on distributions, and also may be subject to the 30% branch profits tax (or reduced tax treaty rate, if applicable) in the case of a foreign shareholder that is a corporation.

A foreign shareholder will not incur tax on a distribution in excess of ProLogis' current and accumulated earnings and profits if the excess portion of the distribution does not exceed the adjusted tax basis of the shareholder's common shares. Instead, the excess portion of the distribution will reduce the foreign shareholder's adjusted tax basis for its common shares. A foreign shareholder will be subject to tax on a distribution that exceeds both ProLogis' current and accumulated earnings and profits and the adjusted tax basis for its common shares, if the foreign shareholder otherwise would be subject to tax on gain from the disposition of its common shares as described herein. Because ProLogis generally cannot determine at the time it makes a distribution whether or not the distribution will exceed its current and accumulated earnings and profits, it generally will withhold tax on the entire amount of any distribution at the same rate at which it would withhold on a dividend. However, a foreign shareholder may obtain a refund of amounts that ProLogis withholds if it is subsequently determined that a distribution was in excess of ProLogis' current and accumulated earnings and profits.

Distributions of proceeds attributable to the sale or exchange by ProLogis of U.S. real property interests are subject to income and withholding taxes pursuant to the Foreign Investment in Real Property Tax Act of 1980, (FIRPTA). Under FIRPTA, gains are considered effectively connected with a U.S. trade or business of the foreign shareholder and are taxed at the normal graduated rates applicable to U.S. shareholders. Moreover, gains may be subject to branch profits tax in the hands of a shareholder that is a foreign corporation if it is not entitled to treaty relief or exemption. However, distributions of proceeds attributable to the sale or exchange by ProLogis of U.S. real property interests will not be subject to tax under FIRPTA or the branch profits tax, and will instead be taxed in the same manner as distributions of cash generated by ProLogis' real estate operations other than the sale or exchange of properties (as described above) if (i) the distribution is made with regard to a class of shares that is regularly traded on an established securities market in the United States and (ii) the recipient shareholder does not own more than 5% of that class of shares at any time during the 1-year period ending on the date the distribution is received. ProLogis is required to withhold 35% (or less to the extent provided in applicable Treasury regulations) of any distribution to a foreign person owning more than 5% of the relevant class of shares (or otherwise has held more than 5% at any time during the 1-year period ending on the date the distribution is received) that could be designated by ProLogis as a capital gain dividend; this amount is creditable against the foreign shareholder's FIRPTA tax liability.

ProLogis will qualify as a domestically controlled qualified investment entity so long as it qualifies as a real estate investment trust and less than 50% in value of its shares is held by foreign persons (e.g.,

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nonresident aliens and foreign corporations). It is currently anticipated that ProLogis will qualify as a domestically controlled qualified investment entity. Under these circumstances, except as described in the next sentence, gain from the sale of the shares of ProLogis by a foreign person should not be subject to U.S. taxation, unless such gain is effectively connected with such person's U.S. trade or business or, in the case of an individual foreign person, such person is present within the U.S. for 183 days or more in such taxable year. Even if ProLogis is a domestically controlled qualified investment entity, upon a foreign shareholder's disposition of its common shares (subject to the 5% exception applicable to regularly traded shares described above), such foreign shareholder may be treated as having taxable gain from the sale or exchange of a U.S. real property interest (within the meaning of FIRPTA) if the foreign shareholder (i) disposes of ProLogis' common shares within a 30-day period preceding the ex-dividend date of a distribution, any portion of which, but for the disposition, would have been treated as gain from the sale or exchange of a U.S. real property interest (within the meaning of FIRPTA) and (ii) acquires, or enters into a contract or option to acquire, other common shares of ProLogis within 30 days after such ex-dividend date.

In the event that ProLogis does not constitute a domestically controlled qualified investment entity, a foreign shareholder's sale of its common shares nonetheless will generally not be subject to tax under FIRPTA as a sale of a U.S. real property interest (within the meaning of FIRPTA) provided that (i) ProLogis' common shares are regularly traded (as defined by applicable Treasury regulations) on an established securities market and (ii) the selling foreign shareholder held (taking into account constructive ownership rules) 5% or less of ProLogis' outstanding common shares at all times during a specified testing period. If gain on a foreign shareholder's sale of ProLogis' common shares were subject to taxation under FIRPTA, the foreign shareholder would be subject to the same treatment as a domestic shareholder with respect to such gain (subject to applicable alternative minimum tax and a special alternative minimum tax in the case of nonresident alien individuals). In addition, the purchaser of the common shares could be required to withhold 10% of the purchase price and remit such amount to the Internal Revenue Service.

The U.S. federal income taxation of foreign shareholders is a highly complex matter that may be affected by many other considerations. Accordingly, foreign investors in ProLogis should consult their own tax advisors regarding the income and withholding tax considerations with respect to their investment in ProLogis.

Tax Rates

Long-term capital gains and qualified dividends received by an individual are generally subject to U.S. federal income tax at a maximum rate of 15%. Because ProLogis is not generally subject to U.S. federal income tax on the portion of its real estate investment trust taxable income or capital gains distributed to its shareholders, ProLogis' dividends generally are not eligible for the 15% maximum tax rate on dividends. As a result, ProLogis' ordinary real estate investment trust dividends are taxed at the higher tax rates applicable to ordinary income. However, the 15% maximum tax rate for long-term capital gains and qualified dividends generally applies to:

a shareholder's long-term capital gains, if any, recognized on the disposition of ProLogis shares;

ProLogis' distributions designated as long-term capital gain dividends (except to the extent attributable to real estate depreciation, in which case such distributions continue to be subject to a 25% tax rate);

ProLogis' distributions attributable to dividends received by ProLogis from non-real estate investment trust corporations, such as U.S. and certain qualifying foreign taxable REIT subsidiaries; and

ProLogis' distributions to the extent attributable to income upon which ProLogis has paid corporate income tax (e.g., to the extent that ProLogis distributes less than 100% of its taxable income).

Without future congressional action, the maximum tax rate on long-term capital gains will increase to 20% in 2011, and the maximum rate on qualified dividends will increase to 39.6% in 2011.

Table of Contents**Other Tax Considerations***Investments in taxable REIT subsidiaries*

Several ProLogis subsidiaries have made timely elections to be treated as taxable REIT subsidiaries of ProLogis. As taxable REIT subsidiaries of ProLogis, these entities will pay U.S. federal and state income taxes at the full applicable corporate rates on their income prior to payment of any dividends to the extent such entities are either U.S. taxable REIT subsidiaries or foreign taxable REIT subsidiaries earning income that is effectively connected with the conduct of a U.S. trade or business. ProLogis taxable REIT subsidiaries will attempt to minimize the amount of such taxes, but there can be no assurance whether or the extent to which measures taken to minimize taxes will be successful. To the extent a taxable REIT subsidiary of ProLogis is required to pay U.S. federal, state or local taxes, the cash available for distribution by such taxable REIT subsidiary to its shareholders, including ProLogis, will be reduced accordingly.

While taxable REIT subsidiaries may be subject to full corporate level taxation on their earnings, they are permitted to engage in certain types of activities that cannot be performed directly by real estate investment trusts without jeopardizing their real estate investment trust status. Taxable REIT subsidiaries are subject to limitations on the deductibility of payments made to the associated real estate investment trust that could materially increase the taxable income of the taxable REIT subsidiary and are subject to prohibited transaction taxes on certain other payments made to the associated real estate investment trust. ProLogis will be subject to a tax of 100% on the amount of any rents from real property, deductions or excess interest that would be reapportioned under Section 482 of the Internal Revenue Code to one of its taxable REIT subsidiaries in order to more clearly reflect income of the taxable REIT subsidiary.

Under the taxable REIT subsidiary provision, ProLogis and any taxable entity in which ProLogis owns an interest are allowed to jointly elect to treat such entity as a taxable REIT subsidiary. In addition, if any of ProLogis taxable REIT subsidiaries owns, directly or indirectly, securities representing 35% or more of the vote or value of an entity treated as a corporation for tax purposes, that subsidiary will also automatically be treated as a taxable REIT subsidiary of ProLogis. As described above, taxable REIT subsidiary elections have been made for certain entities in which ProLogis owns an interest. Additional taxable REIT subsidiary elections may be made in the future for additional entities in which ProLogis owns an interest.

Tax on built-in gain

ProLogis has previously acquired assets from taxable U.S. C-corporations (and in one instance a foreign corporation holding a U.S. real property interest) in carry-over basis transactions, and may acquire additional assets in such manner in the future. As a result of such acquisitions, ProLogis could be liable for specified liabilities that are inherited from such C-corporations. If ProLogis recognizes gain on the disposition of such assets during the 10-year period beginning on the date on which such assets were acquired by ProLogis, then to the extent of such assets built-in gains (in other words, the excess of the fair market value of such assets at the time of the acquisition by ProLogis over the adjusted basis of such assets, determined at the time of such acquisition), ProLogis will be subject to tax on such gain at the highest corporate rate applicable. The results described above with respect to the recognition of built-in gain assume that the C-corporation whose assets are acquired does not make an election to recognize such built-in gain at the time of such acquisition.

Affiliated real estate investment trust

Palmtree Acquisition Corporation is a corporate subsidiary of ProLogis which intends to qualify as a real estate investment trust for U.S. federal income tax purposes. Palmtree Acquisition Corporation therefore needs to satisfy the real estate investment trust tests discussed in this prospectus. The failure of Palmtree Acquisition Corporation to

qualify as a real estate investment trust could cause ProLogis to fail to qualify as a real estate investment trust because ProLogis would then own more than 10% of the securities of an issuer that was not a real estate investment trust, a qualified real estate investment trust subsidiary or a taxable REIT subsidiary. ProLogis believes that Palmtree Acquisition Corporation has been organized and operated in a manner that will permit it to qualify as a real estate investment trust. As a real estate investment trust,

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Palmtree Acquisition Corporation will be subject to the built-in gain rules discussed in the section entitled "Tax on built-in gain" above. Palmtree Acquisition Corporation is the successor of Catellus Development Corporation, which was a C-corporation that elected to be treated as a real estate investment trust for U.S. federal income tax purposes effective January 1, 2004. Therefore, Palmtree Acquisition Corporation could be subject to a U.S. federal corporate level tax at the highest regular corporate rate (currently 35%) on any gain recognized within ten years of Catellus Development Corporation's conversion to a real estate investment trust from the sale of any assets that Catellus Development Corporation held at the effective time of its election to be a real estate investment trust, but only to the extent of the built-in gain based on the fair market value of those assets as of the effective date of the real estate investment trust election. ProLogis does not currently expect Palmtree Acquisition Corporation to dispose of any assets if such disposition would result in the imposition of a material tax liability unless ProLogis can effect a tax-deferred exchange of the property. However, certain assets are subject to third party purchase options that may require Palmtree Acquisition Corporation to sell such assets, and those assets may carry deferred tax liabilities that would be triggered on such sales.

Possible legislative or other actions affecting tax consequences

Prospective shareholders should recognize that the present U.S. federal income tax treatment of an investment in ProLogis may be modified by legislative, judicial or administrative action at any time and that any such action may affect investments and commitments previously made. The rules dealing with U.S. federal income taxation are constantly under review by persons involved in the legislative process and by the Internal Revenue Service and the Treasury, resulting in revisions of regulations and revised interpretations of established concepts as well as statutory changes. Revisions in federal tax laws and interpretations of these laws could adversely affect the tax consequences of an investment in ProLogis.

State and local taxes

ProLogis and its shareholders may be subject to state or local taxation in various jurisdictions, including those in which it or they transact business or reside. The state and local tax treatment of ProLogis and its shareholders may not conform to the U.S. federal income tax consequences discussed above. Consequently, prospective shareholders should consult their own tax advisors regarding the effect of state and local tax laws on an investment in the offered securities of ProLogis.

Foreign taxes

Various ProLogis subsidiaries and entities in which ProLogis and its subsidiaries invest may be subject to taxation in various foreign jurisdictions. Each of the parties will pay any such foreign taxes prior to payment of any dividends. Each entity will attempt to minimize the amount of such taxes, but there can be no assurance whether or the extent to which measures taken to minimize taxes will be successful. To the extent that any of these entities is required to pay foreign taxes, the cash available for distribution to ProLogis shareholders will be reduced accordingly.

You are advised to consult with your own tax advisor regarding the specific tax consequences to you of the ownership and sales of ProLogis debt securities, preferred shares and common shares, including the U.S. federal, state, local, foreign, and other tax consequences of such purchase and ownership and of potential changes in applicable tax laws.

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PLAN OF DISTRIBUTION

We may sell the offered securities to one or more underwriters for public offering and sale by them or may sell the offered securities to investors directly or through agents, which agents may be affiliated with us. Direct sales to investors may be accomplished through subscription offerings or through subscription rights distributed to our shareholders. In connection with subscription offerings or the distribution of subscription rights to shareholders, if all of the underlying offered securities are not subscribed for, we may sell such unsubscribed offered securities to third parties directly or through agents and, in addition, whether or not all of the underlying offered securities are subscribed for, we may concurrently offer additional offered securities to third parties directly or through agents, which agents may be affiliated with us. Any underwriter or agent involved in the offer and sale of the offered securities will be named in the applicable prospectus supplement.

The distribution of the offered securities may be effected from time to time in one or more transactions at a fixed price or prices, which may be changed, or at prices related to the prevailing market prices at the time of sale, such as an at the market offering, or at negotiated prices, any of which may represent a discount from the prevailing market price. We also may, from time to time, authorize underwriters acting as our agents to offer and sell the offered securities upon the terms and conditions set forth in the applicable prospectus supplement. In connection with the sale of offered securities, underwriters may be deemed to have received compensation from us in the form of underwriting discounts or commissions and may also receive commissions from purchasers of offered securities for whom they may act as agent. Underwriters may sell offered securities to or through dealers, and such dealers may receive compensation in the form of discounts, concessions or commissions from the underwriters and/or commissions from the purchasers for whom they may act as agent.

Any underwriting compensation paid by us to underwriters or agents in connection with the offering of offered securities, and any discounts, concessions or commissions allowed by underwriters to participating dealers, will be set forth in the applicable prospectus supplement. Underwriters, dealers and agents participating in the distribution of the offered securities may be deemed to be underwriters, and any discounts and commissions received by them and any profit realized by them on resale of the offered securities may be deemed to be underwriting discounts and commissions, under the Securities Act. Underwriters, dealers and agents may be entitled, under agreements entered into with us, to indemnification against and contribution toward civil liabilities, including liabilities under the Securities Act. Any such indemnification agreements will be described in the applicable prospectus supplement.

If so indicated in the applicable prospectus supplement, we will authorize dealers acting as our agents to solicit offers by institutions to purchase offered securities from us at the public offering price set forth in such prospectus supplement pursuant to delayed delivery contracts providing for payment and delivery on the date or dates stated in such prospectus supplement. Each contract will be for an amount not less than, and the aggregate principal amount of offered securities sold pursuant to contracts shall be not less nor more than, the respective amounts stated in the applicable prospectus supplement. Institutions with whom contracts, when authorized, may be made include commercial and savings banks, insurance companies, pension funds, investment companies, educational and charitable institutions, and other institutions but will in all cases be subject to our approval.

Contracts will not be subject to any conditions except the purchase by an institution of the offered securities covered by its contracts shall not at the time of delivery be prohibited under the laws of any jurisdiction in the United States to which such institution is subject, and if the offered securities are being sold to underwriters, we shall have sold to such underwriters the total principal amount of the offered securities less the principal amount of the securities covered by contracts. Some of the underwriters and their affiliates may be customers of, engage in transactions with and perform services for us and our subsidiaries in the ordinary course of business.

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EXPERTS

The consolidated balance sheets of ProLogis as of December 31, 2008 and 2007, and the related consolidated statements of earnings, shareholders' equity and comprehensive income (loss) and cash flows, for each of the years in the three-year period ended December 31, 2008, the related financial statement schedule and the effectiveness of internal control over financial reporting of ProLogis as of December 31, 2008, and the consolidated balance sheets of ProLogis North American Industrial Fund, LP and subsidiaries as of December 31, 2007 and 2006, and the related consolidated statements of earnings, partners' capital and comprehensive loss, and cash flows for the year ended December 31, 2007 and for the period from March 1, 2006 (inception) through December 31, 2006, have been incorporated by reference herein in reliance upon the reports of KPMG LLP, independent registered public accounting firm on such financial statements, incorporated by reference herein, and upon the authority of said firm as experts in accounting and auditing.

With respect to the unaudited interim financial information of ProLogis for the periods ended June 30, 2009 and 2008, and March 31, 2009 and 2008, incorporated by reference in this prospectus, the independent registered public accounting firm has reported that they applied limited procedures in accordance with professional standards for a review of such information. However, their separate reports included in ProLogis' quarterly reports on Form 10-Q for the quarters ended June 30, 2009 and March 31, 2009, incorporated by reference in this prospectus, state that they did not audit and they do not express an opinion on that interim financial information. Accordingly, the degree of reliance on their reports on such information should be restricted in light of the limited nature of the review procedures applied. The accountant is not subject to the liability provisions of Section 11 of the Securities Act of 1933 for their report on the unaudited interim financial information because their report is not a report or a part of the registration statement prepared or certified by the accountants within the meaning of Sections 7 and 11 of the Securities Act of 1933.

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LEGAL MATTERS

The validity of the offered securities will be passed upon for us by Mayer Brown LLP Chicago, Illinois.

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\$1,100,000,000

\$300,000,000 6.250% Notes due 2017

\$800,000,000 6.875% Notes due 2020

PROSPECTUS SUPPLEMENT

March 9, 2010

Joint Book-Running Managers

BofA Merrill Lynch

Citi

Goldman, Sachs & Co.

RBS

Senior Co-Managers

SOCIETE GENERALE

U.S. Bancorp Investments, Inc.

Wells Fargo Securities

Junior Co-Managers

Daiwa Securities America Inc.

Scotia Capital

The Williams Capital Group, L.P.