

BOSTON SCIENTIFIC CORP

Form S-3ASR

December 10, 2009

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**As filed with the Securities and Exchange Commission on December 10, 2009**

**Registration No. 333-**

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

**Form S-3  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933**

**Boston Scientific Corporation**

*(Exact name of Registrant as specified in its charter)*

**Delaware**

*(State or other jurisdiction of  
incorporation or organization)*

**04-2695240**

*(I.R.S. Employer  
Identification No.)*

**One Boston Scientific Place  
Natick, Massachusetts 01760-1537  
Telephone: (508) 650-8000  
Facsimile: (508) 650-8960**

*(Address, including zip code, telephone number, including area code, and facsimile number, including area code, of  
the Registrant's principal executive offices)*

**Timothy A. Pratt, Esq.  
Boston Scientific Corporation  
One Boston Scientific Place  
Natick, Massachusetts 01760-1537  
Telephone: (508) 650-8000  
Facsimile: (508) 650-8960**

*(Name, address, including zip code, telephone number, including area code, and facsimile number, including area  
code, of agent for the Registrant)*

***Copies of Correspondence to:***

**Danielle Carbone, Esq.**

**Shearman & Sterling LLP**  
**599 Lexington Avenue**  
**New York, New York 10022-6069**  
**Telephone: (212) 848-4000**  
**Facsimile: (212) 848-7179**

**Approximate date of commencement of proposed sale to the public:** From time to time after the effective date of this registration statement.

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

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

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

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

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

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

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

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company

(Do not check if a smaller reporting company)

#### CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Unit	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
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Senior Debt Securities

(1)

(2)

Subordinated Debt Securities

- (1) An indeterminate principal amount of debt securities, which may be senior or subordinated, is being registered as may from time to time be offered at indeterminate prices.
  - (2) In accordance with Rules 456(b) and 457(r), Boston Scientific Corporation is deferring payment of all of the registration fee.
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**Prospectus**

**BOSTON SCIENTIFIC CORPORATION**

**Senior Debt Securities  
Subordinated Debt Securities**

The securities covered by this prospectus may be sold from time to time by Boston Scientific Corporation in one or more offerings. We may offer the securities for sale directly to purchasers or through underwriters, dealers or agents to be designated at a future date.

When we offer securities we will provide you with a prospectus supplement or other offering material describing the specific terms of the specific issue of securities, including the offering price of the securities. You should carefully read this prospectus and the prospectus supplement relating to the specific issue of securities, as well as the documents incorporated by reference herein or therein, and any other offering materials before you decide to invest in any of these securities. This prospectus may not be used to offer or sell any securities unless accompanied by a prospectus supplement.

Our common stock is traded on the New York Stock Exchange under the symbol **BSX**.

**Investing in our securities involves risks. See **Forward Looking Statements** on page 3 and the risks described in the **Risk Factors** on page 8 of this prospectus, in the **Risk Factors** section of our periodic reports that we file with the Securities and Exchange Commission and in any applicable prospectus supplement or other offering materials before investing in any of our securities.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.**

The securities may be offered and sold to or through underwriters, dealers or agents as designated from time to time, or directly to one or more other purchasers or through a combination of such methods. See **Plan of Distribution**. If any underwriters, dealers or agents are involved in the sale of any of the securities, their names, and any applicable purchase price, fee, commission or discount arrangements between or among them, will be set forth, or will be calculable from the information set forth, in the applicable prospectus supplement or other offering material.

The date of this prospectus is December 10, 2009.

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**ABOUT THIS PROSPECTUS**

This prospectus is part of a registration statement that we filed with the United States Securities and Exchange Commission, or SEC, using the shelf registration process. Under this shelf process, we may sell the securities described in this prospectus in one or more offerings. This prospectus provides you with a general description of the securities we may offer. Each time we sell securities, we will provide a prospectus supplement or other offering material that will contain specific information about the terms of that offering and the specific manner in which they may be offered. The prospectus supplement and any other offering material may also add to, update or change information contained in this prospectus and, accordingly, to the extent inconsistent, information in this prospectus is superseded by the information in the prospectus supplement or offering material. You should read both this prospectus and any prospectus supplement and other offering material together with additional information described under the heading **Where You Can Find More Information** before making an investment decision.

The prospectus supplement will describe: the terms of the securities offered, any initial public offering price, the price paid to us for the securities, the net proceeds to us, the manner of distribution and any underwriting compensation and the other specific material terms related to the offering of these securities. For more detail on the terms of the securities, you should read the exhibits filed with or incorporated by reference in our registration statement of which this prospectus forms a part.

In this prospectus we use the terms **Boston Scientific Corporation, the Company, we, us, and our** to refer to Boston Scientific Corporation and our consolidated subsidiaries. References to **securities** includes any security that we might sell under this prospectus or any prospectus supplement. References to **\$** and **dollars** are to United States dollars.

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 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**.

Because we are a well-known seasoned issuer, as defined in Rule 405 of the Securities Act of 1933, as amended, or the Securities Act, we may add to and offer additional securities including secondary securities by filing a prospectus supplement with the SEC at the time of the offer.

You should rely only on the information contained or incorporated by reference in this prospectus, any prospectus supplement, or any other offering material or documents to which we otherwise refer you. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information in this prospectus, any prospectus supplement or other offering material is accurate only as of the date on the front cover of such document, regardless of the time of the sale or issuance of a security. Our business, financial condition, results of operations and prospects may have changed since then.

**WHERE YOU CAN FIND MORE INFORMATION**

We are subject to the informational requirements of the Securities Exchange Act of 1934, as amended, or the Exchange Act, and, in accordance therewith, we file annual, quarterly and current reports, proxy statements and other information with the SEC. These reports, proxy statements and other information can be read and copied at the public

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reference room of the SEC at 100 F Street, N.E., Washington, D.C. 20549 at prescribed rates. Please call the SEC at 1-800-SEC-0330 for further information about the public reference room. The SEC also maintains a web site at <http://www.sec.gov> that contains our SEC filings. In addition, reports, proxy statements and other information concerning us may be inspected at the offices of the New York Stock Exchange, 20 Broad Street, New York, New York 10005. You can also find information about us by visiting our website at [www.bostonscientific.com](http://www.bostonscientific.com). We have included our website address as an inactive textual reference



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only. Information on, or accessible through, our website is not incorporated by reference into and does not form a part of this prospectus.

We are incorporating by reference into this prospectus specific documents that we file with the SEC, which means that we can disclose important information to you by referring you to those documents that are considered part of this prospectus. Information that we file subsequently with the SEC will automatically update and supersede this information. We incorporate by reference the documents listed below, and any future documents that we file with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Exchange Act until the termination of the offerings of all of the securities covered by a particular prospectus supplement has been completed. This prospectus is part of a registration statement filed with the SEC.

We are incorporating by reference into this prospectus the following documents filed with the SEC (excluding any portions of such documents that have been furnished but not filed for purposes of the Exchange Act):

our Annual Report on Form 10-K for the year ended December 31, 2008, which we refer to as our 2008 Form 10-K.

portions of our Proxy Statement on Schedule 14A filed on March 18, 2009 that are incorporated by reference into Part III of our Annual Report on Form 10-K for the year ended December 31, 2008.

our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2009, June 30, 2009 and September 30, 2009.

our Current Reports on Form 8-K filed with the SEC on January 20, 2009, January 29, 2009, February 26, 2009, March 2, 2009, March 5, 2009, March 13, 2009, March 20, 2009, May 27, 2009, June 25, 2009, July 31, 2009, October 2, 2009, November 2, 2009, November 5, 2009 and December 10, 2009 (related to segment reporting).

The audited consolidated balance sheets of Guidant Corporation as of December 31, 2005 and December 31, 2004 and the related consolidated statements of income, shareholders equity and cash flows for the years ended December 31, 2005, 2004 and 2003, and the independent registered public accounting firm's report related thereto are incorporated herein by reference from Guidant Corporation's Annual Report on Form 10-K for the year ended December 31, 2005.

The unaudited condensed consolidated financial statements of Guidant Corporation as of and for the three months ended March 31, 2006 and March 31, 2005 (filed under Item 9.01(a) on our Form 8-K/A on May 31, 2006).

You may also request a copy of these filings, at no cost, by writing or telephoning our investor relations department at the following address:

Boston Scientific Corporation  
One Boston Scientific Place  
Natick, Massachusetts 01760-1537  
Attention: Investor Relations MS-C2  
Telephone: (508) 650-8555  
email: [Investor\\_Relations@bsci.com](mailto:Investor_Relations@bsci.com)

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

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**FORWARD-LOOKING STATEMENTS**

This prospectus, any accompanying prospectus supplement or other offering materials and the documents incorporated herein and therein by reference contain or incorporate by reference statements that may constitute forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act. Forward-looking statements may be identified by words like anticipate, expect, project, believe, plan, estimate, intend and similar words and include, among other things, statements regarding our financial performance; our growth strategy; the effectiveness of our restructuring, expense, head count reduction and plant network optimization initiatives; timing of regulatory approvals and plant certifications; our regulatory and quality compliance; expected research and development efforts; product development and iterations; new product launches and launches of our existing products in new geographies; our market position in the marketplace for our products and our sales and marketing strategy; the effect of new accounting pronouncements; the effect of proposed tax laws; the outcome of matters before taxing authorities; intellectual property and litigation matters; our ability to finance our capital needs and expenditures; the ability of our suppliers and third-party sterilizers to meet our requirements; our ability to meet the financial covenants required by our term loan and revolving credit facility, or to renegotiate the terms of or obtain waivers for compliance with those covenants; and our strategy regarding acquisitions, divestitures and strategic investments, as well as integration execution. These forward-looking statements are based on our beliefs, assumptions and estimates using information available to us at this time and are not intended to be guarantees of future events or performance. If our underlying assumptions turn out to be incorrect, or if certain risks or uncertainties materialize, actual results could vary materially from the expectations and projections expressed or implied by our forward-looking statements. As a result, investors are cautioned not to place undue reliance on any of our forward-looking statements.

Except as required by law, we do not intend to update any forward-looking statements even if new information becomes available or other events occur in the future. In addition to the factors described under Risk Factors in this prospectus, any prospectus supplement, or any other offering material as well as in the documents incorporated by reference, some of these factors include:

**Cardiac Rhythm Management ( CRM ) Products**

Our estimates for the worldwide CRM market, the increase in the size of the CRM market above existing levels and our ability to increase CRM net sales;

The overall performance of, and referring physician, implanting physician and patient confidence in, our and our competitors CRM products and technologies, including our COGNIS® cardiac resynchronization therapy defibrillator ( CRT-D ) and TELIGEN® implantable cardioverter defibrillator ( ICD ) systems and our LATITUDE® Patient Management System;

The results of CRM clinical trials undertaken by us, our competitors or other third parties;

Our ability to successfully launch next-generation products and technology features, including the INGENIO™ pacemaker system;

Our ability to grow sales of both new and replacement implant units, and to benefit timely from the expansion of our CRM sales force;

Our ability to retain key members of our CRM sales force and other key personnel;

Competitive offerings in the CRM market and the timing of receipt of regulatory approvals to market existing and anticipated CRM products and technologies;

Our ability to successfully and timely implement a direct sales model for our CRM products in Japan; and

Our ability to avoid disruption in the supply of certain components, materials, or products; or to quickly secure additional or replacement components, materials, or products on a timely basis.

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### **Coronary Stent Business**

Volatility in the coronary stent market, our estimates for the worldwide coronary stent market, the recovery of the coronary stent market, our ability to increase coronary stent net sales, competitive offerings and the timing of receipt of regulatory approvals, both in the U.S. and internationally, to market existing and anticipated drug-eluting stent technology and other stent platforms;

Our ability to successfully launch next-generation products and technology features, including our TAXUS® Element™ and PROMUS® Element™ stent systems;

The results of coronary stent clinical trials undertaken by us, our competitors or other third parties;

Our ability to maintain or expand our worldwide market positions through reinvestment in our two drug-eluting stent programs;

Our ability to manage the mix of net sales of everolimus-eluting stent systems supplied to us by Abbott relative to our total drug-eluting stent net sales and to launch on-schedule a next-generation internally-manufactured everolimus-eluting stent system with gross profit margins more comparable to our TAXUS® stent system;

Our share of the worldwide and U.S. drug-eluting stent markets, the distribution of share within the coronary stent market in the U.S. and around the world, the average number of stents used per procedure, average selling prices, and the penetration rate of drug-eluting stent technology in the U.S. and international markets;

The overall performance of, and continued physician confidence in, our and other drug-eluting stent systems, our ability to adequately address concerns regarding the perceived risk of late stent thrombosis;

Abbott's ability to obtain approval for its XIENCE™ everolimus-eluting coronary stent system in Japan and Abbott's payment to us of the associated milestone obligation;

Our reliance on Abbott's manufacturing capabilities and supply chain, and our ability to align our everolimus-eluting stent system supply from Abbott with customer demand;

Enhanced requirements to obtain regulatory approval in the U.S. and around the world and the associated impact on new product launch schedules and the cost of product approval and compliance; and

Our ability to retain key members of our cardiology sales force and other key personnel.

### **Litigation and Regulatory Compliance**

Any conditions imposed in resolving, or any inability to resolve, our corporate warning letter or other U.S. Food and Drug Administration (FDA) matters, as well as risks generally associated with our regulatory compliance and quality systems in the U.S. and around the world;

Our ability to minimize or avoid future FDA warning letters or field actions relating to our products and the on-going inherent risk of potential physician advisories or field actions related to medical devices;

Heightened global regulatory enforcement arising from political and regulatory changes as well as economic pressures;

The effect of our litigation, risk management practices, including self-insurance, and compliance activities on our loss contingencies, legal provision and cash flows;

The impact of our stockholder derivative and class action, patent, product liability, contract and other litigation, governmental investigations and legal proceedings;

Costs associated with our on-going compliance and quality activities and sustaining organizations;

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The impact of increased pressure on the availability and rate of third-party reimbursement for our products and procedures worldwide; and

Legislative or regulatory efforts to modify the product approval or reimbursement process, including a trend toward demonstrating clinical outcomes, comparative effectiveness and cost efficiency.

## **Innovation**

Our ability to complete planned clinical trials successfully, to obtain regulatory approvals and to develop and launch products on a timely basis within cost estimates, including the successful completion of in-process projects from purchased research and development;

Our ability to manage research and development and other operating expenses consistent with our expected net sales growth;

Our ability to develop next-generation products and technologies successfully across all of our businesses;

Our ability to fund with cash or common stock any acquisitions or alliances, or to fund contingent payments associated with these alliances;

Our ability to achieve benefits from our focus on internal research and development and external alliances as well as our ability to capitalize on opportunities across our businesses;

Our failure to succeed at, or our decision to discontinue, any of our growth initiatives;

Our ability to integrate the strategic acquisitions we have consummated or may consummate in the future;

Our ability to prioritize our internal research and development project portfolio and our external investment portfolio to identify profitable growth opportunities and keep expenses in line with expected revenue levels, or our decision to sell, discontinue, write down or reduce the funding of any of these projects;

The timing, size and nature of strategic initiatives, market opportunities and research and development platforms available to us and the ultimate cost and success of these initiatives; and

Our ability to successfully identify, develop and market new products or the ability of others to develop products or technologies that render our products or technologies noncompetitive or obsolete.

## **International Markets**

Dependency on international net sales to achieve growth;

Risks associated with international operations, including compliance with local legal and regulatory requirements as well as changes in reimbursement practices and policies; and

The potential effect of foreign currency fluctuations and interest rate fluctuations on our net sales, expenses and resulting margins.

## **Liquidity**

Our ability to implement, fund, and achieve timely and sustainable cost improvement measures consistent with our expectations, including our 2007 Restructuring plan, intended to better align operating expenses with expected revenue levels and reallocate resources to better support growth initiatives, and our Plant Network Optimization program, intended to improve overall gross profit margins;

Our ability to generate sufficient cash flow to fund operations, capital expenditures, and strategic investments and acquisitions, as well as to effectively manage our debt levels and covenant compliance and to minimize the impact of interest rate fluctuations on our earnings and cash flows;



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Our ability to access the public and private capital markets when desired and to issue debt or equity securities on terms reasonably acceptable to us, including our ability to refinance our existing debt on favorable terms;

Our ability to resolve open tax matters favorably and recover substantially all of our deferred tax assets; and

The impact of examinations and assessments by domestic and international taxing authorities on our tax provision, financial condition or results of operations.

**Other**

Our ability to maintain or expand our worldwide market positions in the various markets in which we compete;

Risks associated with significant changes made or to be made to our organizational structure, or to the membership of our executive committee or Board of Directors;

Our ability to manage inventory levels, accounts receivable, gross margins and operating expenses and to react effectively to worldwide economic and political conditions;

Our ability to retain our key employees and avoid business disruption and employee distraction as we execute our 2007 Restructuring plan and Plant Network Optimization program; and

Our ability to maintain management focus on core business activities while also concentrating on resolving the corporate warning letter and implementing strategic initiatives, including our 2007 Restructuring plan and Plant Network Optimization program, in order to streamline our operations, reduce our debt obligations and improve our gross margins.

Several important factors, in addition to the specific factors discussed in connection with each forward-looking statement individually and the risk factors described in the section entitled Risk Factors, could affect our future results and growth rates and could cause those results and rates to differ materially from those expressed in the forward-looking statements and the risk factors contained or incorporated by reference in this prospectus and any accompanying prospectus supplement or other offering material. These additional factors include, among other things, future economic, competitive, reimbursement and regulatory conditions; new product introductions; demographic trends; intellectual property; litigation and government investigations; financial market conditions; and future business decisions made by us and our competitors, all of which are difficult or impossible to predict accurately and many of which are beyond our control. Therefore, we wish to caution each reader of this prospectus and any accompanying prospectus supplement or other offering material to consider carefully these factors as well as the specific factors discussed with each forward-looking statement and risk factors in this prospectus and any accompanying prospectus supplement or other offering material and the documents incorporated by reference herein and therein and as disclosed in our filings with the SEC. These factors, in some cases, have affected and in the future (together with other factors) could affect our ability to implement our business strategy and may cause actual results to differ materially from those contemplated by the statements expressed in this prospectus and any accompanying prospectus supplement or other offering material.

**BOSTON SCIENTIFIC CORPORATION**

We are a worldwide developer, manufacturer and marketer of medical devices that are used in a broad range of interventional medical specialties, including interventional cardiology, cardiac rhythm management, peripheral interventions, electrophysiology, neurovascular intervention, endoscopy, urology, gynecology and neuromodulation.

Since we were formed in 1979, we have advanced the practice of less-invasive medicine by helping physicians and other medical professionals treat a variety of diseases and improve patients' quality of life by providing alternatives to surgery and other medical procedures that are typically traumatic to the body. Some of the uses of our products include: enlarging narrowed blood vessels to prevent heart attack and stroke; clearing passages blocked by plaque to restore blood flow; detecting and managing fast, slow or irregular heart

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rhythms; performing biopsies and intravascular ultrasounds; placing filters to prevent blood clots from reaching the lungs, heart or brain; treating urological, gynecological, renal, pulmonary, neurovascular and gastrointestinal diseases; and modulating nerve activity to treat chronic pain.

Our growth has been fueled in part by strategic acquisitions and alliances designed to improve our ability to take advantage of growth opportunities in the medical device industry. On April 21, 2006, we consummated our acquisition of Guidant Corporation. With this acquisition, we became a major provider in the cardiac rhythm management (CRM) market, enhancing our overall competitive position and long-term growth potential and further diversifying our product portfolio. This acquisition has established us as one of the world's largest cardiovascular device companies and a global leader in microelectronic therapies. This and other strategic acquisitions have helped us to add promising new technologies to our pipeline and to offer one of the broadest product portfolios in the world for use in less-invasive procedures.

Our principal executive offices are located at One Boston Scientific Place, Natick, MA 01760-1537. Our telephone number is (508) 650-8000. Our website is located at *www.bostonscientific.com*. We have included our website address as an inactive textual reference only. Information contained on, or accessible through, our website is not incorporated in this prospectus or any accompanying prospectus supplement (or any document incorporated by reference herein or therein).

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Our business is subject to significant risks. You should carefully consider the risks and uncertainties set forth in Part I, Item 1A. Risk Factors included in our Annual Report on Form 10-K for the year ended December 31, 2008, and in Part II, Item 1A. Risk Factors included in our Quarterly Reports filed on Form 10-Q thereafter, which documents are incorporated by reference in this prospectus. Additional risk factors that you should carefully consider may be included in a prospectus supplement or other offering material relating to an offering of our securities as well as the other documents filed with the SEC that are incorporated by reference herein or therein.

The risks and uncertainties described in any applicable prospectus supplement or other offering material as well as the documents incorporated by reference herein are not the only ones facing us. Additional risks and uncertainties that we do not presently know about or that we currently believe are not material may also adversely affect our business. If any of the risks and uncertainties described in this prospectus, any applicable prospectus supplement or other offering material as well as the documents incorporated by reference herein actually occur, our business, financial condition, results of operations and prospects could be adversely affected in a material way. The occurrence of any of these risks may cause you to lose all or part of your investment in the offered securities.

**USE OF PROCEEDS**

Unless otherwise indicated in a prospectus supplement or other offering material, we intend to use the net proceeds from the sale of our securities for general corporate purposes, which may include, without limitation, repurchases or redemptions of our outstanding debt securities or other reductions of our outstanding borrowings, working capital, business acquisitions, investments or other strategic alliances, investments in or loans to subsidiaries, capital expenditures or for such other purposes as may be specified in the applicable prospectus supplement or other offering material relating to such offering.

**RATIO OF EARNINGS TO FIXED CHARGES**

Our ratios of earnings to fixed charges on a consolidated basis for the periods indicated were as follows:

	<b>Nine Months Ended September 30,</b>		<b>Year Ended December 31,</b>				
	<b>2009</b>	<b>2008</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>	<b>2005</b>	<b>2004</b>
	<b>(Dollars in millions)</b>						
	<b>(Unaudited)</b>						
<b>Fixed Charges:</b>							
Interest expense and amortization of debt issuance costs(a)	\$ 285	\$ 361	\$ 468	\$ 570	\$ 435	\$ 90	\$ 64
Interest portion of rental expense	16	15	18	14	16	13	10
Total fixed charges	301	376	\$ 486	\$ 584	\$ 451	\$ 103	\$ 74
<b>Earnings:</b>							
Income (loss) before income taxes	39	494	\$ (2,031)	\$ (569)	\$ (3,535)	\$ 891	\$ 1,494

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Fixed charges per above	301	376	486	584	451	103	74
Total earnings, as adjusted	340	870	\$ (1,545)	\$ 15	\$ (3,084)	\$ 994	\$ 1,568
<b>Ratio of earnings to fixed charges(b)</b>	1.13	2.31		0.03		9.65	21.19

(a) The interest expense included in fixed charges above reflects only interest on third party indebtedness and excludes any interest expense accrued on uncertain tax positions, as permitted by Financial Accounting Standards Board ( FASB ) Accounting Standards Codification Topic 740, *Income Taxes* (formerly FASB Interpretation No. 48, *Accounting for Income Taxes*.)

(b) Earnings were deficient by \$1.545 billion for the year ended December 31, 2008 and \$3.084 billion for the year ended December 31, 2006.

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**DESCRIPTION OF DEBT SECURITIES**

This section contains a description of the general terms and provisions of the debt securities to which any prospectus supplement may relate. Particular terms of the debt securities offered by any prospectus supplement and the extent to which these general provisions may apply to any series of debt securities will be described in the relevant prospectus supplement. This description is not complete and is subject to, and qualified in its entirety by reference to, all of the provisions of the indenture covering the debt securities, as described below, including definitions of some terms used in the indenture. You should review the indenture that is filed as an exhibit to the registration statement of which this prospectus forms a part for additional information.

We may issue debt securities from time to time in one or more series. Senior debt securities and/or subordinated debt securities may be issued under an indenture, dated as of June 1, 2006, as amended or supplemented from time to time, between us and The Bank of New York Mellon Trust Company, N.A., as successor to JPMorgan Chase Bank, N.A., as trustee. Any modifications to the terms applicable to any debt securities will be described in the relevant prospectus supplement. The indenture will be subject to and governed by the Trust Indenture Act of 1939, as amended, or the Trust Indenture Act.

**General**

The debt securities will be our unsecured obligations. The indebtedness represented by (i) senior unsecured debt securities will rank on a parity with all of our other unsecured and unsubordinated indebtedness and (ii) subordinated debt securities will be unsecured and subordinated in right of payment to the prior payment in full of all of our senior indebtedness. Unsecured debt securities will be effectively junior to any existing or future secured debt, and all of our debt securities will be effectively junior to any existing and future liabilities of our subsidiaries. See Subordination.

The indenture will provide for the issuance by us from time to time of debt securities in one or more series. The indenture will set forth the specific terms of any series of debt securities or provide that such terms shall be set forth in, or determined pursuant to, an authorizing resolution and/or a supplemental indenture, if any, relating to that series.

You should refer to the prospectus supplement relating to the particular series of debt securities for a description of the following terms of the debt securities offered thereby and by this prospectus:

the form and title of those debt securities, and whether they are senior debt securities or subordinated debt securities;

the aggregate principal amount of that series of debt securities;

the date or dates on which the principal of the debt securities is payable;

the price or prices at which the debt securities are being offered or the method of determining those prices;

the rate or rates, if any, at which the debt securities will bear interest, the date or dates from which that interest will accrue, the interest payment dates on which that interest will be payable, our right, if any, to defer or extend an interest payment date and the regular record date, if any, for interest payable on any registered security on any interest payment date, or the method by which any of the foregoing will be determined, and the basis upon which interest will be calculated if other than on the basis of a 360-day year of twelve 30-day

months;

the place or places, if any, other than or in addition to the Borough of Manhattan, The City of New York, where the principal of, premium, if any, on and interest, if any, on the debt securities will be payable, where any registered securities of the series may be surrendered for registration of transfer, where the debt securities that are exchangeable may be surrendered for exchange, as applicable and, if different than the location specified in the indenture, the place or places where notices or demands to or upon us in respect of the debt securities and the indenture may be served;

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the period or periods within which, the price or prices at which, the currency or currencies in which, and other terms and conditions upon which the debt securities may be redeemed, in whole or in part, at our option or the option of a Holder (as defined in the indenture), if we or a Holder is to have that option;

our obligation or right, if any, to redeem, repay or purchase the debt securities pursuant to any sinking fund or analogous provision or at the option of a Holder, and the terms and conditions upon which the debt securities will be redeemed, repaid or purchased, in whole or in part, pursuant to that obligation;

if other than as expressed in the indenture, the denomination or denominations in which any registered securities or bearer securities of that series will be issuable;

if other than the trustee, the identity of each security registrar and/or paying agent;

if other than the principal amount thereof, the portion of the principal amount of the debt securities that will be payable upon declaration of acceleration of the maturity thereof under the indenture, or the method by which that portion will be determined;

if other than United States dollars, the currency or currencies in which payment of principal of, or premium, if any, on or interest, if any, on the debt securities will be payable or in which the debt securities will be denominated;

whether payments on the debt securities may be determined with reference to an index, formula or other method and the manner in which those payments will be determined;

whether the principal of, or premium, if any, on or interest, if any, on the debt securities are to be payable, at our election or the election of a Holder thereof, in a currency or currencies other than that in which the debt securities are denominated or stated to be payable, the period or periods within which (including the election date) and the terms and conditions upon which this election may be made, and the time and manner of determining the exchange rate between the currency 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, in each case in accordance with, in addition to or in lieu of any of the provisions of the indenture;

the designation of the initial Exchange Rate Agent (as defined in the indenture), if any, or any depositaries;

the applicability, if any, of the defeasance or covenant defeasance provisions, and any modifications to the related provisions of the indenture;

provisions, if any, granting special rights to Holders of debt securities upon the occurrence of specified events;

any changes to the events of default or covenants specified in the indenture with respect to the debt securities;

whether the debt securities are to be issuable as registered securities or bearer securities and the related terms and conditions;

the date as of which any bearer securities and any temporary global security will be dated if other than the date of original issuance of the first debt security of the series;



the person to whom any interest in any registered security of the series will be payable (if other than the person in whose name that debt security is registered at the close of business on the regular record date for that interest), the manner in which, or the person to whom, any interest on any bearer security will be payable (if other than upon presentation and surrender of the coupons appertaining thereto as they severally mature) and the extent to which, or the manner in which, any interest payable on a temporary global security on an interest payment date will be paid if other than in the manner provided in the indenture;

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if the debt securities are to be issuable in definitive form and any related conditions;

whether, under what circumstances and the currency or currencies in which we will pay Additional Amounts (as defined in the indenture) to any Holder who is not a United States person in respect of any tax, assessment or governmental charge and, if so, whether we will have the option to redeem those debt securities rather than pay the Additional Amounts;

the terms and conditions upon which the debt securities may be exchangeable;

whether the debt securities are subject to subordination and the terms of that subordination; and

any other terms, conditions, rights and preferences relating to the debt securities.

With respect to debt securities of any series denominated in United States dollars, the registered securities of that series, other than registered securities issued in global form (which may be of any denomination), will be issuable in denominations of \$2,000 and any integral multiples of \$1,000 in excess thereof, and the bearer securities of that series, other than bearer securities issued in global form (which may be of any denomination), will be issuable in a denomination of \$5,000, unless otherwise provided in the applicable prospectus supplement. The prospectus supplement relating to a series of debt securities denominated in any currency other than United States dollars or a composite currency will specify the denominations thereof.

One or more series of debt securities may be sold at a substantial discount below their stated principal amount, bearing no interest or interest at a rate that is below market rates at the time of issuance. One or more series of debt securities may be floating rate debt securities which are exchangeable for fixed rate debt securities. We may describe certain federal income tax consequences and special considerations, if any, applicable to each series of debt securities in the prospectus supplement relating thereto.

Unless otherwise indicated in the applicable prospectus supplement, interest, if any, on any registered security which is payable, and is punctually paid or duly provided for, on any interest payment date will be paid to the person in whose name that security is registered at the close of business on the regular record date for such interest at our office or agency maintained for such purpose as set forth in the indenture; provided, however, that we may, at our option, pay each installment of interest, if any, on any registered security by (i) mailing a check for that interest installment, payable to or upon the written order of the person entitled thereto as set forth in the indenture, to the address of that person as it appears on the Security Register (as defined in the indenture) or (ii) transferring an amount equal to that interest installment to an account located in the United States maintained by the payee.

**Events of Default**

The indenture provides that the following will be events of default with respect to any series of debt securities:

default in the payment of any interest on any debt security of that series, when it becomes due and payable, and continuance of such default for a period of 30 days;

default in the payment of, the principal of, or premium, if any, on any debt security of that series when due at its maturity or upon acceleration;

default in the deposit of any sinking fund payment, when and as due by the terms of the debt securities of that series and the indenture;

default in the performance, or breach, of any covenant or agreement by us in the indenture which affects or is applicable to debt securities of such series (other than a default in the performance, or breach of a covenant or agreement that is specifically dealt with elsewhere in the indenture), and the continuation of that default or breach for a period of 60 days after the trustee has given us, or after Holders of at least 25% in aggregate principal amount of all outstanding securities of that series have given us and the trustee, written notice thereof;

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certain events relating to our bankruptcy, insolvency or reorganization; and

any other event of default provided with respect to debt securities of that series.

No event of default with respect to a particular series of debt securities issued under the indenture necessarily constitutes an event of default with respect to any other series of debt securities issued thereunder. Any modifications to the foregoing events of default will be described in any prospectus supplement.

The indenture provides that if an event of default specified in the first, second, third, fourth or sixth bullets above occurs and is continuing, either the trustee or the Holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series may declare the principal of all those debt securities (or, in the case of original issue discount securities or indexed securities, the portion of the principal amount thereof as may be specified in the terms thereof) to be due and payable immediately. If an event of default specified in the fifth bullet above occurs and is continuing, then the principal of all those debt securities (or, in the case of original issue discount securities or indexed securities, that portion of the principal amount thereof as may be specified in the terms thereof) will be due and payable immediately, without any declaration or other act on the part of the trustee or any Holder. In certain cases, Holders of a majority in principal amount of the outstanding debt securities of any series may, on behalf of Holders of all those debt securities, rescind and annul a declaration of acceleration.

The indenture provides that the trustee will not be liable for any action taken, suffered or omitted by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by the indenture. The indenture provides that no Holder may institute any proceedings, judicial or otherwise, to enforce the indenture except in the case of failure of the trustee thereunder to act for 60 days after it has received a request to enforce the indenture by Holders of at least 25% in aggregate principal amount of the then outstanding debt securities of that series (in the case of an event of default specified in the first, second, third, fourth or sixth bullets above) or a request to enforce the indenture by Holders of at least 25% in aggregate principal amount of all of the debt securities then outstanding (in the case of an event of default specified in the fifth bullet above), and an offer of reasonable indemnity. This provision will not prevent any Holder from enforcing payment of principal thereof, and premium, if any, on and interest, if any, thereon at the respective due dates.

Holders of a majority in aggregate principal amount of the debt securities of any series then outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the trustee or exercising any trust or power conferred on it with respect to debt securities of that series. The trustee may, however, refuse to follow any direction that it determines may not lawfully be taken or would be illegal or in conflict with the indenture or involve it in personal liability or which would be unjustly prejudicial to Holders not joining in that proceeding.

The indenture provides that the trustee will, within 90 days after the occurrence of a default with respect to any series of debt securities, give to Holders of debt securities of that series notice of such default if that default has not been cured or waived. Except in the case of a default in the payment of principal of, or premium, if any, on or interest on, or in the payment of any sinking fund installment in respect of, any debt securities of that series, the trustee will be protected in withholding the notice if it determines in good faith that the withholding of the notice is in the interest of Holders of the debt securities of such series.

We will be required to file annually with the trustee an officers' certificate as to compliance with all conditions and covenants under the terms of the indenture.

**Modification and Waiver**

Modifications of and amendments to the indenture may be made by us and the trustee with the consent of Holders of a majority in principal amount of the outstanding debt securities of each series issued under the

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indenture that is affected by the modification or amendment; provided, however, that no such modification or amendment may, without the consent of the Holder of each outstanding debt security affected thereby:

change the Stated Maturity (as defined in the indenture) of the principal of, or premium, if any, on or any installment of interest on any debt security of that series, or reduce the principal amount thereof, or premium, if any, on or the rate of interest, if any, thereon, or change any of our obligations to pay Additional Amounts (except as contemplated or permitted by the indenture), or reduce the amount of principal of an Original Issue Discount Security (as defined in the indenture) of that series that would be due and payable upon a declaration of acceleration of the maturity thereof or the amount thereof provable in bankruptcy, or adversely affect any right of repayment at the option of any Holder of any debt security of such series, or change any place of payment where, or the currency in which, any debt security of that series or premium, if any, on or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption or repayment at the option of the Holder, on or after the redemption date or repayment date, as the case may be), or adversely affect any right to exchange any debt security;

reduce the percentage in principal amount of the outstanding debt securities of any series, the consent of whose Holders is required for any supplemental indenture, for any waiver of compliance with certain provisions of the indenture or certain defaults applicable to that series thereunder and their consequences provided for in the indenture, or reduce the quorum or voting with respect to debt securities of that series; or

modify any of the provisions relating to supplemental indentures requiring the consent of Holders or relating to the waiver of past defaults or relating to the waiver of certain covenants, except to increase any such percentage or to provide that certain other provisions of the indenture which affect that series cannot be modified or waived without the consent of the Holder of each outstanding debt security affected thereby.

We may, with respect to any series of debt securities, omit to comply with certain restrictive provisions of the indenture if Holders of at least a majority in principal amount of all outstanding debt securities affected waive compliance. No such waiver will extend to or affect any term, provision or condition except to the extent so expressly waived, and, until the waiver becomes effective, our obligations and the duties of the trustee to Holders of debt securities of that series in respect of the applicable term, provision or condition will remain in full force and effect.

Holders of a majority in principal amount of the outstanding debt securities of each series (in the case of an event of default specified in the first, second, third, fourth or sixth bullets under Events of Default, above) or the Holders of a majority in principal amount of all of the debt securities then outstanding (in the case of an event of default specified in the fifth bullet under Events of Default, above) may, on behalf of all those Holders, waive any past default under the indenture with respect to debt securities of that series except a default in the payment of the principal of, or premium, if any, on or interest, if any, on any such debt security and except a default in respect of a covenant or provision the modification or amendment of which would require the consent of the Holder of each outstanding debt security affected.

## **Merger, Consolidation, or Sale of Assets**

We will not consolidate with or merge with or into any other corporation or transfer all or substantially all of our property and assets as an entirety to any person, unless:

either we will be the continuing person, or the person (if other than us) formed by the consolidation or into which we are merged or to which all or substantially all of our properties and assets are transferred is a corporation organized and existing under the laws of the United States or any State thereof or the District of

Columbia which expressly assumes all of our obligations under each series of debt securities and the indenture with respect to each such series;

immediately before and immediately after giving effect to that transaction, no event of default and no event which, after notice or passage of time or both, would become an event of default has occurred

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and is continuing. Notwithstanding this limitation, any of our Subsidiaries (as defined in the indenture) may consolidate with, merge with or into or transfer all or part of its properties and assets to us or any other Subsidiary or Subsidiaries; and

we have delivered to the trustee an officer's certificate and an opinion of counsel each stating that the consolidation, merger, conveyance or transfer and the supplemental indenture complies with the indenture and that all conditions precedent therein provided for relating to the transaction have been complied with.

## **Limitation on Liens**

The indenture will provide that with respect to each series of senior debt securities, unless otherwise set forth in the related prospectus supplement, we will not, and will not permit any of our Subsidiaries (as defined in the indenture) to, directly or indirectly, create, incur, assume or suffer to exist any Lien (as defined in the indenture) upon any of our property, assets or revenues, whether now owned or hereafter acquired, except for:

Liens for taxes not yet due or which are being contested in good faith by appropriate proceedings; provided that adequate reserves with respect thereto are maintained on our or our Subsidiaries' books, as the case may be, in conformity with accounting principles generally accepted in the United States;

carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business that are not overdue for a period of more than 60 days or which are being contested in good faith by appropriate proceedings;

pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation and deposits securing liability to insurance carriers under insurance or self-insurance arrangements;

deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

easements, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business which, in the aggregate, are not substantial in amount and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of our business or any of our Subsidiaries;

Liens in existence on the date of the first issuance by us of senior debt securities issued pursuant to the indenture; provided that no such Lien is spread to cover any additional property after such date and that the amount of debt secured thereby is not increased;

Liens securing our debt and that of our Subsidiaries incurred to finance the acquisition of fixed or capital assets; provided that (A) such Liens will be created substantially simultaneously with the acquisition of such fixed or capital assets, (B) such Liens do not at any time encumber any property other than the property financed by such debt and (C) the amount of debt secured thereby is not increased;

Liens on the property or assets of a corporation that becomes a Subsidiary after the date of the indenture; provided that (A) such Liens existed at the time such corporation became a Subsidiary and were not created in anticipation thereof, (B) any such Lien is not spread to cover any property or assets of such corporation after the time such corporation becomes a Subsidiary, and (C) the amount of debt secured thereby is not increased;



Liens pursuant to any Receivables Transaction (as defined in the indenture) in an aggregate principal amount not exceeding 20% of our Consolidated Tangible Assets (as defined in the indenture); and

Liens (not otherwise permitted hereunder) (A) which secure obligations not exceeding (as to our and our Subsidiaries) the greater of (1) \$100.0 million or (2) 20% of our Consolidated Net Worth (as defined in the indenture), in each case in aggregate amount at any time outstanding, or (B) with respect to which we effectively provide that the senior debt securities outstanding under the indenture are secured equally and ratably with (or, at our option, prior to) the debt secured by such Lien.

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### **Defeasance**

If so specified in the prospectus supplement with respect to debt securities of any series, we at our option:

will be discharged from any and all obligations in respect of the debt securities of that series (except for certain obligations to register the transfer or exchange of debt securities of that series, replace stolen, lost or mutilated debt securities of that series, maintain paying agencies, and hold money for payment in trust); or

will not be subject to certain specified covenants with respect to the debt securities of that series as set forth in the related prospectus supplement,

in each case if we deposit with the trustee, in trust, money or Government Obligations (as defined in the indenture) which through the payment of interest thereon and principal thereof in accordance with their terms will provide money in an amount sufficient to pay all the principal (including any mandatory sinking fund payments) of, and interest on, the outstanding debt securities of that series on the dates such payments are due in accordance with the terms of such debt securities.

To exercise any such option, we are required to deliver to the trustee an opinion of counsel to the effect that the deposit and related defeasance would not cause the Holders of the debt securities of that series to recognize income, gain or loss for federal income tax purposes and, in the case of a discharge pursuant to the first bullet above, either a ruling to such effect received from or published by the United States Internal Revenue Service or an opinion that there has been a change in applicable federal income tax law to such effect. We are required to deliver to the trustee an officer's certificate stating that no event of default with respect to the debt securities of that series has occurred and is continuing.

### **Subordination**

Certain provisions of the indenture relating to the subordination of the subordinated debt securities are summarized below. The extent to which a particular series of subordinated debt securities is subordinated to other of our indebtedness will be set forth in the prospectus supplement for that series and the indenture may be modified by a supplemental indenture to reflect those subordination provisions. The particular terms of subordination of an issue of subordinated debt securities may supersede the general provisions of the indenture summarized below.

Upon any distribution to our creditors in a liquidation, dissolution or reorganization, payment of the principal of, premium, if any, on and interest, if any, on the subordinated debt securities will be subordinated to the extent provided in the indenture in right of payment to the prior payment in full of all senior indebtedness, but our obligation to make payment of the principal of and premium, if any, on and interest, if any, on the subordinated debt securities will not otherwise be affected. Except as provided in a prospectus supplement and the related authorizing resolution and/or supplemental indenture, if any, no payment of principal or interest may be made on the subordinated debt securities at any time if a default on senior indebtedness exists that permits the holders of such senior indebtedness to accelerate its maturity and the default is the subject of judicial proceedings or we have received notice of such default. The authorizing resolution and/or supplemental indenture may also provide that subordinated debt securities issued thereunder are subordinated and junior in right of payment to the prior payment in full of future senior subordinated debt securities, if any. After all senior indebtedness is paid in full and until the subordinated debt securities are paid in full, Holders of the subordinated debt securities will be subrogated to the rights of holders of senior indebtedness to the extent that distributions otherwise payable to such Holders have been applied to the payment of senior indebtedness. By reason of such subordination, in the event of any distribution of assets upon our insolvency, certain of our general creditors may recover more, ratably, than holders of subordinated debt securities.



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### **Global Securities**

If so specified in any prospectus supplement, debt securities of any series may be issued under a book-entry system in the form of one or more global securities. Each global security will be deposited with, or on behalf of, a depository, which will be The Depository Trust Company, New York, New York, or the Depository. Global securities will be registered in the name of the Depository or its nominee.

The Depository has advised us that it is a limited purpose trust company organized under the laws of the State of New York, a banking organization within the meaning of the New York banking law, a member of the Federal Reserve System, a clearing corporation within the meaning of the New York Uniform Commercial Code, and a clearing agency registered pursuant to the provisions of Section 17A of the Exchange Act. The Depository was created to hold securities of its participants and to facilitate the clearance and settlement of securities transactions among its participants through electronic book-entry changes in accounts of the participants, thereby eliminating the need for physical movement of securities certificates. The Depository's participants include securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations, some of which (and/or their representatives) own the Depository. Access to the Depository's book-entry system is also available to others, such as banks, brokers, dealers, and trust companies that clear through or maintain a custodial relationship with a participant, either directly or indirectly.

Unless and until it is exchanged in whole or in part for debt securities in definitive registered form, a global security may not be transferred except as a whole by the Depository for such global security to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor of the Depository or a nominee of that successor.

The specific terms of the Depository arrangement with respect to any debt securities of a series will be described in the relevant prospectus supplement. We anticipate that the following provisions will apply to all Depository arrangements.

Upon the issuance of a global security, the Depository will credit on its book-entry registration and transfer system the respective principal amounts of the debt securities represented by that global security to the participants' accounts. The accounts to be credited will be designated by the underwriters or agents with respect to the debt securities or by us if the debt securities are offered and sold directly by us.

Ownership of beneficial interests in a global security will be limited to participants or persons that may hold interests through participants. Ownership of a participant's interests in a global security will be shown on, and the transfer of that ownership will be effected only through, records maintained by the Depository for that global security. Ownership of beneficial interests in a global security will be shown on, and the transfer of that ownership will be effected only through, records maintained by participants or persons that hold interests through participants. The laws of some states require that some purchasers of securities take physical delivery of those securities in definitive form. These limits and laws may impair the ability to transfer beneficial interests in a global security.

So long as the Depository or its nominee is the registered owner of a global security, the Depository or its nominee, as the case may be, will be considered the sole owner or holder of the debt securities represented by the global security for all purposes under the indenture. Except as set forth below, owners of beneficial interests in a global security will not be entitled to have debt securities of the series represented by a global security registered in their names, will not receive or be entitled to receive physical delivery of debt securities of that series in definitive form and will not be considered the owners or holders thereof under the indenture.

Principal, premium, if any, on and any interest payments on debt securities registered in the name of a Depository or its nominee will be made to the Depository or its nominee, as the case may be, as the registered owner of a global

security representing the debt securities. None of us, the trustee, any paying agent or the security registrar for any debt securities will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests in the global security or securities for the debt securities or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

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We expect that the Depository, upon receipt of any payment of principal, premium or interest, will credit immediately participants' accounts with payments in amounts proportionate to their respective beneficial interests in the principal amount of the global security or securities for the debt securities as shown on the records of the Depository. We also expect that payments by participants to owners of beneficial interests in a global security or securities held through such participants will be governed by standing instructions and customary practices, as is now the case with securities held for the accounts of customers in bearer form or registered in street name, and will be the responsibility of such participants.

A global security representing all but not part of an offering of debt securities will be exchangeable for debt securities in definitive form of like tenor and terms if:

the Depository notifies us that it is unwilling or unable to continue as depository for the global security or if at any time the Depository is no longer eligible to be in good standing as a clearing agency registered under the Exchange Act, and we do not appoint a successor depository within 90 days after we receive notice or become aware of the ineligibility; or

we at any time determine not to have all of the debt securities represented in an offering by a global security and notify the trustee to this effect.

Further, if we so specify with respect to the debt securities of a series, an owner of a beneficial interest in a global security may, on terms acceptable to us, receive debt securities in definitive form. In that instance, an owner of a beneficial interest in a global security will be entitled to have debt securities of the series represented by that global security equal in principal amount to such beneficial interest registered in its name and will be entitled to physical delivery of those debt securities in definitive form.

## **The Trustee**

The indenture provides that, except during the continuance of an event of default, the trustee will perform only such duties as are specifically set forth in the indenture. During the existence of an event of default, the trustee will exercise those rights and powers vested in it under the indenture and use the same degree of care and skill in its exercise as a prudent person would exercise under the circumstances in the conduct of such person's own affairs.

The indenture and the provisions of the Trust Indenture Act incorporated by reference therein contain limitations on the rights of the trustee, should it become one of our creditors, to obtain payment of claims in certain cases or to realize on certain property received by it in respect of any such claim as security or otherwise. The trustee is permitted to engage in other transactions with us or any Affiliate (as defined in the indenture); provided, however, that if the trustee acquires any conflicting interest (as defined in the indenture or in the Trust Indenture Act), it must eliminate that conflict or resign.

## **No Personal Liability of Officers, Directors, Employees or Stockholders**

None of our directors, officers, employees or stockholders, as such, or any of our Affiliates will have any personal liability in respect of our obligations under the indenture or the debt securities by reason of his, her or its status as such.

## **Applicable Law**

The indenture is, and any debt securities offered hereby will be, governed by and construed in accordance with the laws of the State of New York.

**PLAN OF DISTRIBUTION**

We may sell our securities in any one or more of the following ways from time to time: (i) through agents; (ii) to or through underwriters; (iii) through dealers; (iv) directly by us to purchasers; or (v) through a combination of any of these methods of sale. The applicable prospectus supplement or other offering material will contain the terms of the transaction, name or names of any underwriters, dealers, agents and the respective

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amounts of securities underwritten or purchased by them, the initial public offering price of the securities, and the applicable agent's commission, dealer's purchase price or underwriter's discount. Any dealers and agents, in addition to any underwriter, participating in the distribution of the securities may be deemed to be underwriters within the meaning of the Securities Act, and compensation received by them on resale of the securities may be deemed to be underwriting discounts.

Any initial offering price, dealer purchase price, discount or commission, and concessions allowed or reallocated or paid to dealers may be changed from time to time.

Offers to purchase securities may be solicited directly by us or by agents designated by us from time to time. Any such agent may be deemed to be an underwriter, as that term is defined in the Securities Act, of the securities so offered and sold.

If underwriters are utilized in the sale of any securities in respect of which this prospectus is being delivered, such securities will be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions, including negotiated transactions, at fixed public offering prices or at varying prices determined by the underwriters at the time of sale. Securities may be offered to the public either through underwriting syndicates represented by managing underwriters or directly by one or more underwriters. If any underwriter or underwriters are utilized in the sale of securities, unless otherwise indicated in the applicable prospectus supplement, the obligations of the underwriters are subject to certain conditions precedent and that the underwriters will be obligated to purchase all such securities if any are purchased.

The maximum compensation to be received by any participating Financial Industry Regulatory Authority (FINRA) member will not be greater than 8% for the sale of any securities being registered pursuant to SEC Rule 415 under this prospectus.

If a dealer is utilized in the sale of the securities in respect of which this prospectus is delivered, we will sell such securities as principal. The dealer may then resell such securities to the public at varying prices to be determined by such dealer at the time of resale. Any such dealer may be deemed to be an underwriter, as such term is defined in the Securities Act, of the securities so offered and sold.

Offers to purchase securities may be solicited directly by us and the sale thereof may be made by us directly to institutional investors or others, who may be deemed to be underwriters within the meaning of the Securities Act with respect to any resale thereof.

If so indicated in the applicable prospectus supplement, we may authorize agents and underwriters to solicit offers by certain institutions to purchase securities from us at the public offering price set forth in the applicable prospectus supplement pursuant to delayed delivery contracts providing for payment and delivery on the date or dates stated in the applicable prospectus supplement. Such delayed delivery contracts will be subject only to those conditions set forth in the applicable prospectus supplement.

Securities may also be offered and sold, if so indicated in the applicable prospectus supplement or other offering material, in connection with a remarketing upon their purchase, in accordance with a redemption or repayment pursuant to their terms, or otherwise, by one or more firms, which we refer to herein as the remarketing firms, acting as principals for their own accounts or as our agents, as applicable. Any remarketing firm will be identified and the terms of its agreement, if any, with us and its compensation will be described in the applicable prospectus supplement or other offering material. Remarketing firms may be deemed to be underwriters, as that term is defined in the Securities Act in connection with the securities remarketed thereby.



Agents, underwriters and dealers may be entitled under relevant agreements with us to indemnification by us against certain liabilities, including liabilities under the Securities Act, or to contribution with respect to payments which such agents, underwriters and dealers may be required to make in respect thereof. The terms and conditions of any indemnification or contribution will be described in the applicable prospectus supplement.

We may enter into derivative transactions with third parties, or sell securities not covered by this prospectus to third parties in privately negotiated transactions. If the applicable prospectus supplement

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indicates, in connection with those derivatives, the third parties may sell securities covered by this prospectus and the applicable prospectus supplement, including in short sale transactions. If so, the third party may use securities pledged by us or borrowed from us or others to settle those sales or to close out any related open borrowings of stock, and may use securities received from us in settlement of those derivatives to close out any related open borrowings of stock. The third party in such sale transactions will be an underwriter and will be identified in the applicable prospectus supplement (or a post-effective amendment).

Each series of securities will be a new issue and will have no established trading market. We may elect to list any series of securities on an exchange, but, unless otherwise specified in the applicable prospectus supplement, we shall not be obligated to do so. No assurance can be given as to the liquidity of the trading market for any of the securities.

Agents, underwriters and dealers may engage in transactions with, or perform services for, us and our respective subsidiaries in the ordinary course of business.

Any underwriter may engage in overallotment, stabilizing transactions, short covering transactions and penalty bids in accordance with Regulation M under the Exchange Act. Overallotment involves sales in excess of the offering size, which create a short position. Stabilizing transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum. Short covering transactions involve purchases of the securities in the open market after the distribution is completed to cover short positions. Penalty bids permit the underwriters to reclaim a selling concession from a dealer when the securities originally sold by the dealer are purchased in a covering transaction to cover short positions. Those activities may cause the price of the securities to be higher than it would otherwise be. If commenced, the underwriters may discontinue any of the activities at any time.

The place and time of delivery for securities will be set forth in the accompanying prospectus supplement for such securities.

**LEGAL MATTERS**

The validity of the securities will be passed upon for us by Shearman & Sterling LLP, New York, New York. If the securities are being distributed in an underwritten offering, the validity of the securities will be passed upon for the underwriters by counsel identified in the related prospectus supplement.

**EXPERTS**

The consolidated financial statements of Boston Scientific Corporation as of December 31, 2008 and 2007, and for each of the three years in the period ended December 31, 2008 appearing in Boston Scientific Corporation's Current Report on Form 8-K dated December 10, 2009 (including the schedule appearing therein), have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their report thereon appearing therein and incorporated herein by reference, and the effectiveness of Boston Scientific Corporation's internal control over financial reporting as of December 31, 2008 has been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their report thereon appearing in Boston Scientific Corporation's Annual Report on Form 10-K for the year ended December 31, 2008 and incorporated herein by reference. Such consolidated financial statements have been incorporated herein by reference in reliance upon such reports given on the authority of such firm as experts in accounting and auditing.

The consolidated balance sheets of Guidant Corporation as of December 31, 2005 and 2004 and the consolidated statements of income, shareholders' equity and cash flows for each of the three years in the period ended December 31, 2005 incorporated by reference in this prospectus from Guidant Corporation's Annual Report on Form 10-K for the year ended December 31, 2005, have been audited by Ernst & Young LLP, independent registered public accounting

firm, as set forth in their report thereon, included therein, and incorporated herein by reference. Such consolidated financial statements have been incorporated herein by reference in reliance upon such report given on the authority of such firm as experts in accounting and auditing.

**Table of Contents****PART II****INFORMATION NOT REQUIRED IN PROSPECTUS****Item 14. *Other Expenses of Issuance and Distribution.***

The aggregate estimated expenses, other than underwriting discounts and commissions, in connection with the sale of the securities being registered hereby are currently anticipated to be as follows (all amounts except for the Securities and Exchange Commission and FINRA filing fees are estimated). All expenses of the offering will be paid by Boston Scientific Corporation.

	<b>Amount</b>
Securities and Exchange Commission registration fee	*
Blue Sky fees and expenses	\$ 20,000
Printing and engraving expenses	40,000
Legal fees and expenses (other than Blue Sky fees and expenses)	175,000
FINRA filing fees	75,500
Accounting fees and expenses	115,000
Ratings Agency fees and expenses	1,417,500
Miscellaneous (including any applicable listing fees, Trustee and Transfer Agent s fees and expenses)	20,000
Total	\$ 1,863,000

\* In accordance with Rule 456(b) and 457(r), we are deferring payment of the registration fee. The registration fee will be paid at the time of any particular offering of securities under the registration statement and is therefore not currently determinable.

**Item 15. *Indemnification of Directors and Officers.***

Under our Third Restated Certificate of Incorporation, as amended, and by-laws (and in accordance with Section 145 of the Delaware General Corporate Law), we will indemnify to the fullest extent permitted by the Delaware General Corporate Law any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding. These include civil, criminal, administrative, investigative or other proceedings by reason of the fact that the person is or was a director, officer or employee of the Company, or is or was serving in that capacity or as an agent at the request of the Company for another entity.

Our indemnity covers expenses, judgments, fines and amounts paid or to be paid in settlement actually and reasonably incurred in connection with the defense or settlement of an action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to our best interest and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was unlawful. We will indemnify a person in a derivative action under the same conditions, except that no indemnification is permitted without judicial approval if the person is adjudged to be liable to us in performance of his or her duty. Derivative actions are actions by us or in our right to procure a judgment in our favor. Our agents may be similarly indemnified at the discretion of our board of directors.

**Item 16. Exhibits.**

- \*1.1 Form of Debt Securities Underwriting Agreement – Basic Provisions
- +3.1 Third Restated Certificate of Incorporation of the Company (Exhibit 3.2 to the Company’s Annual Report on Form 10-K for the year ended December 31, 2007 (File No. 1-11083))
- +3.2 Restated By-laws of the Company (Exhibit 3.1(ii), Current report on Form 8-K dated May 11, 2007 (File No. 1-11083))
- +4.1 Debt Securities Indenture (Exhibit 4.1 to the Company’s Current Report on Form 8-K dated June 9, 2006)

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\*4.2 Form of Debt Securities

- 5.1 Opinion of Shearman & Sterling LLP as to legality of the Securities
- 12.1 Statement of computation of ratios of earnings to fixed charges of the Company
- 23.1 Consent of Ernst & Young LLP, independent registered public accounting firm
- 23.2 Consent of Ernst & Young LLP, independent registered public accounting firm
- 23.3 Consent of Shearman & Sterling LLP (included in Exhibit 5.1)
- 24.1 Powers of Attorney (included in signature pages)
- 25.1 Form T-1 Statement of Eligibility under the Trust Indenture Act of 1939 of Bank of New York Mellon Trust Company, N.A., as Trustee for the Debt Securities.

\* To be filed as an exhibit to a Current Report on Form 8-K to be filed by the Company in connection with a specific offering.

+ Incorporated by reference.

**Item 17. *Undertakings.***

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) under the Securities Act of 1933 if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective Registration Statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that clauses (1)(i), (1)(ii) and (1)(iii) do not apply if the information required to be included in a post-effective amendment by those clauses is contained in reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

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(4) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:

(i) Each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(ii) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which the prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof; provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(5) That, for the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) the undersigned registrant hereby undertakes that,

(i) for purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of



prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h)

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under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(ii) for the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(d) The undersigned registrant hereby undertakes to file an application for the purpose of determining the eligibility of the Trustee to act under subsection (a) of Section 310 of the Trust Indenture Act of 1939, as amended, in accordance with the rules and regulations prescribed by the Securities and Exchange Commission under Section 305(b)(2) of the Trust Indenture Act of 1939, as amended.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

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**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, Boston Scientific Corporation certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Natick, State of Massachusetts, on the 10<sup>th</sup> day of December, 2009.

BOSTON SCIENTIFIC CORPORATION

By /s/ Sam R. Leno

Sam R. Leno  
Executive Vice President, Finance and  
Information Systems and Chief Financial  
Officer

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints J. Raymond Elliot, Sam R. Leno, Jeffrey D. Capello, Timothy A. Pratt and Lawrence J. Knopf, and each of them, his or her true and lawful attorney-in-fact and agent, severally, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any or all amendments (including post-effective amendments) to this registration statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power of authority to do and perform each and every act and thing requisite or necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, thereby ratifying and confirming all that said attorneys-in-fact and agents, or their substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities indicated on the 10<sup>th</sup> day of December, 2009.

**Name and Signature**

**Title**

/s/ John E. Abele

Director

John E. Abele

/s/ Katharine T. Bartlett

Director

Katharine T. Bartlett

/s/ Bruce L. Byrnes

Director

Bruce L. Byrnes

Chief Accounting Officer

/s/ Jeffrey D. Capello

Jeffrey D. Capello

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<b>Name and Signature</b>	<b>Title</b>
/s/ J. Raymond Elliott J. Raymond Elliott	Director, President and Chief Executive Officer (Principal Executive Officer)
/s/ Marye Anne Fox Marye Anne Fox	Director
/s/ Ray J. Groves Ray J. Groves	Director
/s/ Sam R. Leno Sam R. Leno	Executive Vice President, Finance and Information Systems and Chief Financial Officer (Principal Financial Officer)
/s/ Ernest Mario Ernest Mario	Director
/s/ N.J. Nicholas, Jr. N.J. Nicholas, Jr.	Director
/s/ Peter M. Nicholas Peter M. Nicholas	Director, Chairman of the Board of Directors
/s/ John E. Pepper John E. Pepper	Director
/s/ Uwe E. Reinhardt Uwe E. Reinhardt	Director

Director

/s/ Warren B. Rudman

Warren B. Rudman

Director

/s/ John E. Sununu

John E. Sununu

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**EXHIBIT INDEX**

- \*1.1 Form of Debt Securities Underwriting Agreement – Basic Provisions
  - +3.1 Third Restated Certificate of Incorporation of the Company (Exhibit 3.2 to the Company’s Annual Report on Form 10-K for the year ended December 31, 2007 (File No. 1-11083))
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- + Incorporated by reference.