

TIFFANY & CO
Form S-3ASR
August 24, 2017

As filed with the Securities and Exchange Commission on August 24, 2017

Registration No. 333-

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM S-3
REGISTRATION STATEMENT UNDER
THE SECURITIES ACT OF 1933

TIFFANY & CO.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

13-3228013

(IRS Employer Identification Number)

727 Fifth Avenue

New York, New York 10022

(212) 755-8000

(Address, including zip code, and telephone number, including area code,
of registrant's principal executive offices)

Leigh M. Harlan, Esq.

Senior Vice President, Secretary & General Counsel

Tiffany & Co.

727 Fifth Avenue

New York, New York 10022

(212) 755-8000

(Name, address, including zip code, and telephone number,
including area code, of agent for service)

Copy to:

Andrew L. Fabens, Esq.

Gibson, Dunn & Crutcher LLP

200 Park Avenue

New York, New York 10166

(212) 351-4000

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, check the following box. **X**

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

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

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

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, a smaller reporting company, or an emerging growth company. See the definitions of “large accelerated filer,” “accelerated filer,” “smaller reporting company” and “emerging growth company” in Rule 12b-2 of the Exchange Act.

Large accelerated filer **X** Accelerated filer ____
 Non-accelerated filer ____ Smaller reporting company ____
 (Do not check if a smaller reporting company) Emerging growth company ____

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered (1)	Amount to be Registered Proposed Maximum Offering Price Per Unit Proposed Maximum Aggregate Offering Price Amount of Registration Fee(2)
Debt Securities	
Common Stock, par value \$0.01 per share	
Preferred Stock, par value \$0.01 per share	
Warrants (3)	
Depository Shares (4)	
Purchase Contracts	
Units	
Total	

-
- (1) Any securities registered hereunder may be sold separately or as units with other securities registered hereunder. Omitted pursuant to General Instructions II.E of Form S-3. An indeterminate aggregate offering price or number of securities of each identified class is being registered as may from time to time be offered at indeterminate prices.
 - (2) Separate consideration may or may not be received for securities that are issuable on exercise, conversion or exchange of other securities. In accordance with Rules 456(b) and 457(r) of the Securities Act of 1933, as amended, the registrant is deferring payment of the entire registration fee.
 - (3) The warrants covered by this registration statement may be warrants for common stock, preferred stock or debt securities.
 - (4) Each depository share will be issued under a deposit agreement and will be evidenced by a depository receipt.

PROSPECTUS

TIFFANY & CO.

DEBT SECURITIES
COMMON STOCK
PREFERRED STOCK
WARRANTS
DEPOSITARY SHARES
PURCHASE CONTRACTS
UNITS

We may from time to time offer to sell our senior or subordinated debt securities, common stock or preferred stock, either separately or represented by warrants, depositary shares or purchase contracts, as well as units that include any of these securities (collectively referred to in this prospectus as the “securities”). The senior or subordinated debt securities may consist of debentures, notes or other types of debt. Our common stock is listed on the New York Stock Exchange and trades under the ticker symbol “TIF.” Each prospectus supplement to this prospectus will indicate if the securities offered thereby will be listed on any securities exchange. The senior or subordinated debt securities, preferred stock, warrants and purchase contracts may be convertible or exercisable or exchangeable for common or preferred stock or other securities of ours.

We may offer and sell the securities to or through one or more underwriters, dealers and agents, or directly to purchasers, on a continuous or delayed basis. 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 arrangement between or among them will be set forth, or will be calculable from the information set forth, in any applicable prospectus supplement. See the sections entitled “About this Prospectus” and “Plan of Distribution” for more information. The securities also may be resold by security holders. We will provide specific terms of any securities to be offered in supplements to this prospectus. Any prospectus supplement may also add, update or change information contained in this prospectus. You should read this prospectus and any applicable prospectus supplement carefully before you invest.

Our principal executive offices are located at 727 Fifth Avenue, New York, NY 10022. Our telephone number is (212) 755-8000.

Investing in our securities involves certain risks. See the “Risk Factors” section of our filings with the Securities and Exchange Commission and any applicable prospectus supplement. See “Risk Factors” on page 5.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this prospectus is August 24, 2017

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ABOUT THE PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission (the “SEC”), utilizing a “shelf” registration process. By using a shelf registration statement, we may sell, at any time and from time to time in one or more offerings, any combination of the securities described in this prospectus.

You should rely only on the information contained in this prospectus, in any accompanying prospectus supplement or as expressly incorporated by reference herein or therein. We have not authorized anyone to provide you with different information. If anyone provides you with different information, you should not rely on it. We are not making an offer of these securities in any jurisdiction where the offer is not permitted. You should not assume that the information in this prospectus or any prospectus supplement is accurate as of any date other than the date on the front of the document.

This prospectus provides you with a general description of the securities we may offer. Each time we sell securities, we may provide a prospectus supplement containing specific information about the terms of that offering. That prospectus supplement may include a discussion of any risk factors or other special considerations applicable to those securities. The prospectus supplement also may add, update or change information in this prospectus. If there is any inconsistency between the information in this prospectus and any prospectus supplement, you should rely on the information in the prospectus supplement. You should read both this prospectus and any prospectus supplement together with the additional information described under the heading “Where You Can Find More Information.” The registration statement containing this prospectus, including the exhibits to the registration statement, provides additional information about us and the securities offered under this prospectus.

The exhibits to the registration statement contain the full text of certain contracts and other important documents we have summarized in this prospectus. You should review the full text of these documents because these summaries may not contain all the information that you may find important in deciding whether to purchase the securities we offer.

The registration statement, including the exhibits, can be read at the SEC’s website or at the SEC’s offices mentioned under the heading “Where You Can Find More Information.”

Unless otherwise indicated or the context otherwise requires, references in this prospectus to the “Registrant,” “we,” “us,” and “our” refer to Tiffany & Co. and its subsidiaries, collectively.

WHERE YOU CAN FIND MORE INFORMATION

We file annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, proxy and information statements and amendments to reports filed or furnished pursuant to Sections 13(a), 14 and 15(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). You may read and copy these materials at the SEC’s Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. You may obtain information on the operation of the public reference room by calling the SEC at 1-800-SEC-0330. The SEC also maintains a website at www.sec.gov that contains reports, proxy and information statements and other information regarding Tiffany & Co. and other companies that file materials with the SEC electronically. Copies of our periodic and current reports and proxy statements, may be obtained, free of charge, on our website at <http://investor.tiffany.com/financials.cfm>. This reference to our Internet address is for informational purposes only and shall not, under any circumstances, be deemed to incorporate the information available at or through such Internet address into this prospectus.

INCORPORATION BY REFERENCE

The SEC allows us to “incorporate by reference” certain information into this prospectus from certain documents that were filed with the SEC prior to the date of this prospectus, which means that we can disclose important information to you by referring to those documents. We hereby incorporate by reference the documents listed below. Information that we file later with the SEC will automatically update and in some cases supersede this information. Specifically, we incorporate by reference the following documents or information filed with the SEC (other than, in each case, documents or information deemed to have been furnished and not filed in accordance with SEC rules):

Our Annual Report on Form 10-K for the fiscal year ended January 31, 2017, filed with the SEC on March 17, 2017 (including the portions of our Definitive Proxy Statement on Schedule 14A, filed with the SEC on April 7, 2017, incorporated by reference therein);

Our Quarterly Reports on Form 10-Q for the quarterly periods ended April 30, 2017 and July 31, 2017, filed with the SEC on May 24, 2017 and August 24, 2017, respectively;

- Our Current Reports on Form 8-K and Form 8-K/A, as applicable, filed with the SEC on February 6, 2017 (only with respect to Items 5.02 and 9.01), February 21, 2017 (only with respect to Items 1.01, 5.02 and 9.01), February 22, 2017, March 7, 2017, March 7, 2017, March 16, 2017, April 25, 2017, May 25, 2017, June 1, 2017, July 13, 2017 and July 26, 2017;

The description of our Common Stock contained in our Registration Statement filed with the SEC on Form 8-A, dated April 29, 1987; and

Future filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus and before the termination of the offering of the securities made under this prospectus; provided, however, that we are not incorporating by reference any documents or information, including parts of documents that we file with the SEC, that are deemed to be furnished and not filed with the SEC. Unless specifically stated to the contrary, none of the information we disclose under Items 2.02 or 7.01 of any Current Report on Form 8-K that we may from time to time furnish to the SEC will be incorporated by reference into, or otherwise included in, this prospectus.

We will provide, without charge, to each person to whom a copy of this prospectus has been delivered, including any beneficial owner, a copy of any and all of the documents referred to herein that are summarized and incorporated by reference in this prospectus, if such person makes a written or oral request directed to:

Tiffany & Co.
ATTN: Corporate Secretary
727 Fifth Avenue
New York, NY 10022
212-755-8000

YOU SHOULD RELY ONLY ON THE INFORMATION CONTAINED OR INCORPORATED BY REFERENCE IN THIS PROSPECTUS AND ANY ACCOMPANYING PROSPECTUS SUPPLEMENT IN MAKING YOUR DECISION WHETHER TO INVEST IN THE SECURITIES. WE HAVE NOT AUTHORIZED ANYONE TO PROVIDE YOU WITH INFORMATION THAT DIFFERS FROM THAT CONTAINED IN THIS PROSPECTUS AND ANY ACCOMPANYING PROSPECTUS SUPPLEMENT. THIS PROSPECTUS IS DATED AUGUST 24, 2017. YOU SHOULD NOT ASSUME THAT THE INFORMATION CONTAINED IN THIS PROSPECTUS IS ACCURATE AS OF ANY DATE OTHER THAN THAT DATE, UNLESS WE OTHERWISE NOTE IN THIS PROSPECTUS OR ANY ACCOMPANYING PROSPECTUS SUPPLEMENT.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus, including documents incorporated herein by reference, contains certain “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), Section 21E of the Exchange Act, and the Private Securities Litigation Reform Act of 1995 concerning our plans, assumptions, expectations, beliefs and objectives with respect to store openings and closings, product introductions, sales, sales growth, sales trends, store traffic, our strategy and initiatives and the pace of execution thereon, our objectives to compete in the global luxury market and to improve financial performance, retail prices, gross margin, operating margin, expenses, interest expense and financing costs, effective income tax rate, net earnings and net earnings per share, share count, inventories, capital expenditures, cash flow, liquidity, currency translation, macroeconomic conditions, growth opportunities, litigation outcomes and recovery related thereto, contributions to our pension plans, and certain ongoing or planned real estate, product, marketing, retail, customer experience, manufacturing, supply chain, information systems development, upgrades and replacement, and other operational and strategic initiatives. In addition, management makes other forward-looking statements from time to time concerning plans, assumptions, objectives and expectations. Forward-looking statements include, but are not limited to, statements that can be identified by the use of words such as “expects,” “projects,” “anticipates,” “assumes,” “forecasts,” “plans,” “believes,” “intends,” “estimates,” “pursues,” “scheduled,” “continues,” “outlook,” “may,” “will,” “can,” “should” and variations of such words and expressions. One can also identify forward-looking statements by the fact that they do not relate strictly to historical or current facts. These forward-looking statements are based upon the current views and plans of management, speak only as of the date on which they are made and are subject to a number of risks and uncertainties, many of which are outside of our control. Actual results could therefore differ materially from the planned, assumed or expected results expressed in, or implied by, these forward-looking statements. While we cannot predict all of the factors that could form the basis of such differences, key factors include, but are not limited to: global macroeconomic and geopolitical developments; changes in interest and foreign currency rates; changes in taxation policies and regulations; shifting tourism trends; regional instability; violence (including terrorist activities); political activities or events; weather conditions that may affect local and tourist consumer spending; changes in consumer confidence, preferences and shopping patterns, as well as our ability to accurately predict and timely respond to such changes; shifts in our product and geographic sales mix; variations in the cost and availability of diamonds, gemstones and precious metals; adverse publicity regarding us and our products, our third-party vendors or the diamond or jewelry industry more generally; any non-compliance by third-party vendors and suppliers with our sourcing and quality standards, codes of conduct, or contractual requirements as well as applicable laws and regulations; changes in our competitive landscape; disruptions impacting our business and operations; failure to successfully implement or make changes to our information systems; gains or losses in the trading value of our stock, which may impact the amount of stock repurchased; our ability to successfully control costs and execute on, and achieve the expected benefits from, the operational and strategic initiatives referenced above; and any adverse developments or delays that we encounter in securing work authorization for, or otherwise on-boarding, our next chief executive officer. Developments relating to these and other factors may also warrant changes to our operating and strategic plans, including with respect to store openings, closings and renovations, capital expenditures, information systems development, inventory management, and continuing execution on, or timing of, the aforementioned initiatives. Such changes could also cause actual results to differ materially from the expected results expressed in, or implied by, the forward-looking statements. Additional information about potential risks and uncertainties that could affect our business and financial results is included under “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in our Annual Report on Form 10-K for the fiscal year ended January 31, 2017 and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in our Quarterly Report on Form 10-Q for the quarterly period ended July 31, 2017.

Although we believe that we have been prudent in our plans and the underlying assumptions, no assurance can be given that any goal or plan set forth in forward-looking statements can or will be achieved, and readers are cautioned not to place undue reliance on such statements which speak only as of the date they are made. We undertake no obligation to update any of the forward-looking information included in this prospectus or any document we incorporate by reference in this prospectus, whether as a result of new information, future events, changes in

expectations or otherwise.

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ABOUT THE REGISTRANT

Tiffany & Co. is a holding company that operates through its subsidiary companies. Tiffany & Co.'s principal subsidiary is Tiffany and Company ("Tiffany"). Charles Lewis Tiffany founded Tiffany's business in 1837. He incorporated Tiffany in New York in 1868. Tiffany & Co. acquired Tiffany in 1984 and completed the initial public offering of its common stock in 1987. Tiffany & Co., through its subsidiaries, sells jewelry and other items that it manufactures or has made by others to its specifications.

Tiffany & Co. is a Delaware corporation. Its principal executive offices are located at 727 Fifth Avenue, New York, NY 10022. Its telephone number is (212) 755-8000.

RISK FACTORS

Investing in our securities involves risk. Before you decide whether to purchase any of our securities, you should carefully consider the risk factors in the section entitled “Risk Factors” in any prospectus supplement to this prospectus, our most recent Annual Report on Form 10-K and the Quarterly Reports on Form 10-Q filed subsequently to such Annual Report on Form 10-K, that are incorporated by reference into this prospectus and any prospectus supplement in their entirety, as the same may be amended, supplemented or superseded from time to time by our filings under the Exchange Act. For more information, see the section entitled “Where You Can Find More Information.” You should also carefully consider the risks and other information, documents or reports included in or incorporated by reference into this prospectus and any accompanying prospectus supplement. These risks could materially and adversely affect our business, results of operations and financial condition and could result in a partial or complete loss of your investment.

USE OF PROCEEDS

Unless otherwise stated in any applicable prospectus supplement, we will use the net proceeds of any offering for general corporate purposes, which may include repayment of debt, repurchases of outstanding shares of common stock, acquisitions, investments, additions to working capital, investments in our subsidiaries and capital expenditures. Net proceeds may be temporarily invested prior to use.

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RATIO OF EARNINGS TO FIXED CHARGES

The following table sets forth our historical ratios of earnings to fixed charges for the periods indicated. This information should be read in conjunction with the consolidated financial statements and the accompanying notes incorporated by reference in this prospectus. See “Where You Can Find More Information” and “Incorporation By Reference.”

	Six		Year Ended				
	Months	Year Ended	Ended	January 31,			
	Ended	July 31,	2017	2016	2017	2016	
	2017	2016	2015	2014	2013		
Ratio of earnings to fixed charges	6.0x	5.5x	6.2x	6.6x	6.4x	2.9x	6.3x

Earnings available for fixed charges represent income before income taxes and fixed charges before preferred stock dividend requirements of consolidated subsidiaries. Fixed charges represent interest expense (before interest is capitalized), amortization of deferred financing costs and an appropriate interest factor on operating leases. Interest expense does not include interest related to uncertain tax positions and other non-third party indebtedness.

DESCRIPTION OF DEBT SECURITIES

The following is a general description of the debt securities that we may offer from time to time. The particular terms of the debt securities offered by any prospectus supplement and the extent, if any, to which the general provisions described below may apply to those securities will be described in such prospectus supplement. We also may sell hybrid securities that combine certain features of debt securities and other securities described in this prospectus. As you read this section, please remember that the specific terms of a debt security as described in any applicable prospectus supplement will supplement and may modify or replace the general terms described in this section. If there are any differences between any applicable prospectus supplement and this prospectus, the applicable prospectus supplement will control. As a result, the statements we make in this section may not apply to the debt security you purchase.

Tiffany & Co. is the issuer of the applicable series of debt securities and references to “we”, “our” and “us” in this description do not, unless the context otherwise indicates, include any of its subsidiaries. Capitalized terms used but not defined in this section have the respective meanings set forth in the applicable indenture.

General

The debt securities that we may offer will be either senior debt securities or subordinated debt securities. Any senior debt securities will be issued under an indenture, dated as of September 25, 2014, between us and The Bank of New York Mellon Trust Company, N.A., which we refer to as the senior indenture. Any subordinated debt securities will be issued under a different indenture, which we refer to as the subordinated indenture, to be entered into between us and the trustee named in any applicable prospectus supplement. We refer to both the senior indenture and the subordinated indenture as the indentures, and to each of the trustees under the indentures as a trustee. The terms of each series of debt securities will be set forth in a resolution of our board of directors, an officers’ certificate or by a supplemental indenture. You should read the indentures, including any amendments or supplements thereto and any officers’ certificate setting forth the terms of any series of debt securities, carefully to fully understand the terms of the debt securities. The senior indenture and the form of the subordinated indenture have been filed as exhibits to the registration statement of which this prospectus is a part. The indentures are subject to, are governed by, and will be qualified under, the Trust Indenture Act of 1939, as amended (the “Trust Indenture Act”).

Any senior debt securities that we may issue will be our unsubordinated obligations. They will rank equally with each other and all of our other unsubordinated debt, unless otherwise indicated in any applicable prospectus supplement. Any subordinated debt securities that we may issue will be subordinated in right of payment to the prior payment in full of our senior debt. See “ Subordination of Subordinated Debt Securities.” The subordinated debt securities will rank equally with each other, unless otherwise indicated in any applicable prospectus supplement. We will indicate in each applicable prospectus supplement, as of the most recent practicable date, the aggregate amount of our outstanding debt that would rank senior to the subordinated debt securities.

The indentures do not limit the aggregate principal amount of debt securities that can be issued thereunder and provide that debt securities of any series may be issued thereunder up to the aggregate principal amount that we may authorize from time to time. Unless otherwise provided in any applicable prospectus supplement, the indentures do not limit the amount of other indebtedness or securities that we may issue. We may issue debt securities of the same series at more than one time and, unless prohibited by the terms of the applicable series, we may reopen a series for issuances of additional debt securities without the consent of the holders of the outstanding debt securities of that series. All debt securities issued as a series, including those issued pursuant to any reopening of a series, will vote together as a single class.

Reference is made to any prospectus supplement for the following and other possible terms of each series of the debt securities with respect to which this prospectus is being delivered:

the title of the debt securities;

the principal amount of debt securities being offered and, if a series, any limit upon the aggregate principal amount of the debt securities of that series that may be authenticated and delivered under the applicable indenture, except for debt securities authenticated and delivered upon registration of transfer of, or in exchange for or in lieu of, other debt securities of that series;

the date or dates on which the principal and premium, if any, of the debt securities of the series is payable;

the rate or rates, which may be fixed or variable, at which the debt securities of the series shall bear interest or the manner of calculation of such rate or rates, if any, including any procedures to vary or reset such rate or rates, and the basis upon which interest will be calculated if other than that of a 360-day year of twelve 30-day months;

the place or places where the principal of, and premium, if any, and interest on, the debt securities of the series shall be payable, where the debt securities of such series may be surrendered for registration of transfer or exchange and where notices and demands to or upon us with respect to the debt securities of such series and the applicable indenture may be served, and the method of such payment, if by wire transfer, mail or other means if other than as set forth in the applicable indenture;

the date or dates from which such interest shall accrue, the dates on which such interest will be payable or the manner of determination of such dates, and the record date for the determination of holders to whom interest is payable on any such dates;

any trustees, authenticating agents or paying agents with respect to such series, if different from those set forth in the applicable indenture;

the right, if any, to extend the interest payment periods or defer the payment of interest and the duration of such extension or deferral;

the period or periods within which, the price or prices at which and the terms and conditions upon which, debt securities of the series may be redeemed, in whole or in part, at our option;

our obligation, if any, to redeem, purchase or repay debt securities of the series pursuant to any sinking fund or analogous provisions, including payments made in cash in anticipation of future sinking fund obligations, or at the option of a holder thereof and the period or periods within which, the price or prices at which, and the terms and conditions upon which, debt securities of the series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligation;

the form of the debt securities of the series including the form of the trustee's certificate of authentication for such series;

if other than denominations of \$2,000 or integral multiples of \$1,000 in excess thereof, the denominations in which the debt securities of the series shall be issuable;

the currency or currencies in which payment of the principal of, premium, if any, and interest on, debt securities of the series shall be payable;

if the principal amount payable at the stated maturity of debt securities of the series will not be determinable as of any one or more dates prior to such stated maturity, the amount which will be deemed to be such principal amount as of any such date for any purpose, including the portion of the principal amount thereof that will be due and payable upon declaration of acceleration of the maturity thereof or upon any maturity other than the stated maturity or that will be

deemed to be outstanding as of any such date, or, in any such case, the manner in which such deemed principal amount is to be determined;

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the terms of any repurchase or remarketing rights;

if the debt securities of the series shall be issued in whole or in part in the form of a global security or securities, the type of global security to be issued; the terms and conditions, if different from those contained in the applicable indenture, upon which such global security or securities may be exchanged in whole or in part for other individual securities in definitive registered form; the depositary for such global security or securities; and the form of any legend or legends to be borne by any such global security or securities in addition to or in lieu of the legends referred to in the applicable indenture;

whether the debt securities of the series will be convertible into or exchangeable for other securities, and, if so, the terms and conditions upon which such debt securities will be so convertible or exchangeable, including the initial conversion or exchange price or rate or the method of calculation, how and when the conversion price or exchange ratio may be adjusted, whether conversion or exchange is mandatory, at the option of the holder or at our option, the conversion or exchange period, and any other provision in addition to or in lieu of those described herein;

any additional restrictive covenants or events of default that will apply to the debt securities of the series, or any changes to the restrictive covenants set forth in the applicable indenture that will apply to the debt securities of the series, which may establish different terms or provisions from those set forth in the applicable indenture or eliminate any such restrictive covenant or event of default set forth in the applicable indenture with respect to the debt securities of the series;

any provisions granting special rights to holders when a specified event occurs;

- if the amount of principal or any premium or interest on debt securities of a series may be determined with reference to an index or pursuant to a formula, the manner in which such amounts will be determined;

any special tax implications of the debt securities, including provisions for original issue discount securities, if offered;

whether and upon what terms debt securities of a series may be defeased if different from the provisions set forth in the applicable indenture;

with regard to the debt securities of any series that do not bear interest, the dates for certain required reports to the trustee;

whether the debt securities of the series will be issued as unrestricted securities or restricted securities, and, if issued as restricted securities, the rule or regulation promulgated under the Securities Act in reliance on which they will be sold;

any other restrictions on transfer, sale or other assignment;

any guarantees on the debt securities, including the identity of the guarantors and the terms of such guarantees;

the provisions, if any, relating to any security provided for the debt securities of the series;

any depositaries, interest rate calculation agents, exchange rate calculation agents or other agents with respect to debt securities of such series if other than those appointed in the applicable indenture;

if the debt securities are subordinated debt securities, the subordination terms of the debt securities; and

any and all additional, eliminated or changed terms that shall apply to the debt securities of the series, including any terms that may be required by or advisable under United States laws or regulations, including the Securities Act and the rules and regulations promulgated thereunder, or advisable in connection with the marketing of debt securities of that series.

We will comply with Section 14(e) under the Exchange Act, to the extent applicable, and any other tender offer rules under the Exchange Act that may then be applicable, in connection with any obligation to purchase debt securities at the option of the holders thereof. Any such obligation applicable to a series of debt securities will be described in any prospectus supplement relating thereto.

Unless otherwise described in any prospectus supplement relating to any debt securities, there are no covenants or provisions contained in the indentures that may afford the holders of debt securities protection in the event that we enter into a highly leveraged transaction.

The statements made hereunder relating to the indentures and any debt securities that we may issue are summaries of certain provisions thereof and are qualified in their entirety by reference to all provisions of the applicable indentures and debt securities and the descriptions thereof, if different, in any applicable prospectus supplement.

Subordination of Subordinated Debt Securities

We will set forth in any applicable prospectus supplement the terms and conditions, if any, upon which any series of subordinated debt securities is subordinated to any other series of debt securities issued pursuant to this prospectus or any accompanying prospectus supplement, or to our other indebtedness. The terms will include a description of:

the debt securities and other indebtedness ranking senior to the debt securities being offered and any applicable limitations on the issuance of additional senior debt securities and/or other indebtedness;

the restrictions, if any, on payments to the holders of the debt securities being offered while a default with respect to the senior debt securities and/or other indebtedness is continuing; and

the provisions requiring holders of the debt securities being offered to remit some payments to the holders of senior debt securities and/or other indebtedness.

Redemption

If specified in any applicable prospectus supplement, we may redeem the debt securities of any series, as a whole or in part, at our option on and after the dates and in accordance with the terms established for such series in such prospectus supplement. If we redeem the debt securities of any series, we also must pay accrued and unpaid interest, if any, to the date of redemption on such debt securities.

Selection and Notice

If less than all of the debt securities of a series are to be redeemed at any time, the trustee will select the debt securities of such series for redemption on a pro rata basis or, in the case of debt securities issued in global form as discussed under "Book-Entry, Delivery and Form," based on the applicable procedures of The Depository Trust Company ("DTC"). No debt securities in principal amount of \$2,000 or less can be redeemed in part. Notices of redemption will be mailed by first class mail at least 30 but not more than 60 days before the redemption date to each holder of debt securities of such series to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with the exercise of our defeasance option with respect to the debt securities of such series or a satisfaction and discharge of the indenture applicable thereto.

If any debt security is to be redeemed in part only, the notice of redemption that relates to that debt security will state the portion of the principal amount of that debt security that is to be redeemed. A new debt security in principal amount equal to the unredeemed portion of the original debt security will be issued in the name of the holder of the original debt security upon cancellation of the original debt security. Debt securities called for redemption become due on the date fixed for redemption. Unless we default in payment of the redemption price, on and after the redemption date, interest will cease to accrue on the debt securities or portions of the debt securities called for redemption on the date fixed for redemption.

The trustee will not be liable for selections made by it as contemplated in this section. For any debt securities which are represented by global securities held on behalf of DTC, Euroclear Systems (“Euroclear”) or Clearstream Banking, S.A. (“Clearstream”), notices may be given by delivery of the relevant notices to DTC, Euroclear or Clearstream for communication to entitled account holders in substitution for the aforesaid mailing.

Reports

Whether or not required by the rules and regulations of the SEC, so long as any debt securities are outstanding, we shall file with the trustee, within the time periods specified by the SEC’s rules and regulations, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the SEC may from time to time by rules and regulations prescribe) that we would be required to file with the SEC pursuant to Section 13 or Section 15(d) of the Exchange Act. We shall be deemed to have complied with the previous sentence to the extent that such information, documents and reports are filed with the SEC via EDGAR, or any successor electronic delivery procedure. Delivery of such reports, information and documents to the trustee is for informational purposes only, and the trustee’s receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including our compliance with any covenants under the indenture (as to which the trustee is entitled to rely exclusively on officers’ certificates).

Events of Default

The following will be “Events of Default” under the indentures with respect to debt securities of a particular series, unless otherwise specified in any applicable prospectus supplement:

- failure to pay any interest on any of the debt securities of such series within 30 days after such interest becomes due and payable;

- failure to pay principal of (or premium, if any, on) any of the debt securities of such series at maturity, or if applicable, the redemption price, when the same becomes due and payable by the terms of the debt securities of such series;

- failure to pay any sinking fund installment as and when the same shall become due and payable by the terms of the debt securities of such series;

- failure to comply with (or obtain a waiver with respect to) any of the covenants or agreements in any of the debt securities of such series or the applicable indenture (other than an agreement or covenant that has been expressly included in the indenture solely for the benefit of one or more particular series of securities) for 90 days after there has been given, by registered or certified mail, to us by the trustee or to us by the holders of at least 25% in principal amount of all outstanding debt securities affected by that failure a written notice specifying such failure and requiring it to be remedied and stating that such notice is a “notice of default” under the applicable indenture;

- certain events involving our bankruptcy, insolvency or reorganization; and

- any other Event of Default provided in the supplemental indenture, officers’ certificate or resolution of our board of directors under which such series of debt securities is issued or in the form of security for such series.

A default under one series of debt securities issued under the applicable indenture will not necessarily be a default under another series of debt securities under such indenture. The trustee may withhold notice to the holders of a series of debt securities issued under such indenture of any default or event of default (except with respect to a failure by us to make any payment on the debt securities of such series as described above) if the trustee considers it in the interest of the holders of the debt securities of that series to do so.

If an event of default for a series of debt securities occurs and is continuing, other than an event of default specified in the penultimate bullet point above, the trustee or the holders of at least 25% in principal amount of the debt securities of that series then outstanding may require us to pay immediately the principal amount (and premium, if any) plus accrued and unpaid interest on all the debt securities of that series. If an event of default specified in the penultimate bullet point above occurs with respect to us, the principal amount (and premium, if any) plus accrued and unpaid interest on the debt securities of that series will become immediately due and payable without any action on the part of the trustee or any holder. The holders of a majority in principal amount of the debt securities of such series then outstanding may in some cases waive or rescind this accelerated payment requirement.

A holder of debt securities of any series may pursue any remedy under the indenture applicable to the debt securities of that series only if:

• the holder gives the trustee written notice of a continuing event of default;

• the holders of at least 25% in principal amount of the debt securities of such series then outstanding make a written request to the trustee to pursue the remedy;

• the holder furnishes to the trustee indemnity reasonably satisfactory to the trustee;

• the trustee fails to act for a period of 60 days after receipt of notice and furnishing of indemnity; and

• during that 60-day period, the holders of a majority in principal amount of the debt securities of that series then outstanding do not give the trustee a direction inconsistent with the request.

This provision does not, however, affect the right of any holder to receive