

Otter Tail Corp  
Form S-3ASR  
May 03, 2018  
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As filed with the Securities and Exchange Commission on May 3, 2018

Registration No. 333-

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

Washington, D.C. 20549

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**Form S-3**

**REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933**

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**Otter Tail Corporation**

(Exact name of registrant as specified in its charter)

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

**27-0383995**  
(I.R.S. Employer  
Identification No.)

**215 South Cascade Street, Box 496**  
**Fergus Falls, Minnesota 56538-0496**  
**(866) 410-8780**

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

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**Jennifer O. Smestad, Esq.**  
**Vice President, General Counsel and Corporate Secretary**  
**215 South Cascade Street, Box 496**  
**Fergus Falls, Minnesota 56538-0496**  
**(866) 410-8780**

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

**Copy to:**

**Gary L. Tygesson, Esq.**

Dorsey & Whitney LLP

50 South Sixth Street, Suite 1500

Minneapolis, Minnesota 55402

(612) 340-8753

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**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.

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

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

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer, smaller reporting company or emerging growth company in Rule 12b-1 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if a smaller reporting company)

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

### 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
Common Shares	(1)(2)	(1)(2)	(1)(2)	(1)(2)
Cumulative Preferred Shares				
Depository Shares				
Debt Securities				
Securities Warrants Units				

(1) Not applicable pursuant to Instruction II.E. to Form S-3.

(2) An indeterminate aggregate initial offering price or number of each identified class of securities is being registered as may from time to time be offered at indeterminate prices, along with an indeterminate number of securities that may be issued upon exercise, settlement, exchange or conversion of the securities offered hereunder. In accordance with Rules 456(b) and 457(r), the registrant is deferring payment of all of the registration fee.

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**PROSPECTUS**

**Common Shares  
Cumulative Preferred Shares  
Depositary Shares  
Debt Securities  
Securities Warrants  
Units**

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We may offer for sale, from time to time, either separately or together in any combination, the securities described in this prospectus. This prospectus provides you with a general description of the securities we may offer. Each time we sell any of these securities, we will provide one or more prospectus supplements containing specific information about the terms of that offering. The prospectus supplements may also add, update or change information contained in this prospectus. If information in the prospectus supplement is inconsistent with the information in this prospectus, then the information in the prospectus supplement will apply and will supersede the information in this prospectus. You should carefully read both this prospectus and any prospectus supplement together with additional information described under the heading **Where You Can Find More Information** before you invest.

We may offer and sell these securities directly or to or through underwriters, agents or dealers. The supplements to this prospectus will describe the terms of any particular plan of distribution including names of any underwriters, agents or dealers.

This prospectus may not be used to carry out sales of securities unless accompanied by a prospectus supplement.

Our common shares are traded on the Nasdaq Global Select Market under the symbol **OTTR**.

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**Investing in our securities involves risks. See **Risk Factors** beginning on page 4 of this prospectus and, if applicable, any risk factors described in any applicable prospectus supplement and in our Securities and Exchange Commission filings that are incorporated by reference in this prospectus.**

**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.**

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The date of this prospectus is May 3, 2018.

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**ABOUT THIS PROSPECTUS**

This prospectus is part of an automatic shelf registration statement on Form S-3 that we filed with the Securities and Exchange Commission ( SEC ) as a well-known seasoned issuer as defined in Rule 405 under the Securities Act of 1933, as amended ( Securities Act ). By using this shelf registration statement, we may, at any time and from time to time, in one or more offerings, sell any of the securities described in this prospectus. The registration statement that contains this prospectus (including the exhibits to the registration statement) contains additional information about us and the securities we are offering under this prospectus. You can read that registration statement at the SEC web site at [www.sec.gov](http://www.sec.gov) or at the SEC office mentioned under the heading Where You Can Find More Information.

This prospectus provides you with a general description of the securities we may offer. Each time we offer any of these securities, we will provide one or more prospectus supplements containing specific information about the terms of that offering. The prospectus supplements may also add, update or change information contained in this prospectus. If information in the prospectus supplement is inconsistent with the information in this prospectus, then the information in the prospectus supplement will apply and will supersede the information in this prospectus. You should carefully read both this prospectus and any prospectus supplement together with additional information described under the heading Where You Can Find More Information before you invest.

All references in this prospectus to Otter Tail, we, us, our, our company and the corporation are to Otter Tail Corporation including our consolidated subsidiaries, unless otherwise indicated or the context otherwise requires. All references in this prospectus to \$, U.S. Dollars and dollars are to United States dollars.

**You should rely only on the information provided or incorporated by reference in this prospectus, any prospectus supplement or any free writing prospectus prepared by us or on our behalf. We have not authorized anyone else to provide you with different or additional information. If anyone provides you with additional or 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, any prospectus supplement or any free writing prospectus is accurate as of any date other than the date on the front of those documents. Our business, properties, financial condition, results of operation and prospects may have changed since those dates.**

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**WHERE YOU CAN FIND MORE INFORMATION**

We file annual, quarterly and current reports, proxy statements and other information with the SEC. Our SEC filings are available to the public through the Internet at the SEC's web site at [www.sec.gov](http://www.sec.gov). You may also read and copy any document we file with the SEC at the SEC's public reference room at 100 F Street N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information about its public reference facilities and their copy charges.

The SEC allows us to incorporate by reference the information we file with them. This allows us to disclose important information to you by referencing those filed documents. We have previously filed the following documents with the SEC and are incorporating them by reference into this prospectus (other than any portions of such documents that are not deemed filed under the Securities Exchange Act of 1934, as amended (the Exchange Act), in accordance with the Exchange Act and applicable SEC rules):

- Annual Report on Form 10-K for the year ended December 31, 2017, as amended by Amendment No. 1 thereto on Form 10-K/A filed on February 22, 2018;
- Current Reports on Form 8-K filed on February 13, 2018, April 10, 2018 and April 20, 2018; and
- the description of our common shares contained in any registration statement on Form 8-A that we have filed, and any amendment or report filed for the purpose of updating this description.

We also are incorporating by reference any future filings made by us with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus and prior to the expiration or termination of the registration statement of which this prospectus is a part (other than portions of such documents that are not deemed filed under the Exchange Act, in accordance with the Exchange Act and applicable SEC rules). The information contained in any such document will be considered part of this prospectus from the date the document is filed with the SEC.

Any statement made in a document incorporated by reference into this prospectus is deemed to be modified or superseded for purposes of this prospectus to the extent that a statement in this prospectus or in any other subsequently filed document, which is also incorporated by reference, modifies or supersedes such statement. Any statement made in this prospectus is deemed to be modified or superseded to the extent a statement in any subsequently filed document, which is incorporated by reference into this prospectus, modifies or supersedes such statement.

You can obtain a copy of any documents which are incorporated by reference in this prospectus or the accompanying prospectus supplement, except for exhibits which are specifically incorporated by reference into those documents, at no cost, by writing or telephoning us at:



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Otter Tail Corporation  
Shareholder Services Department  
215 South Cascade Street, Box 496  
Fergus Falls, Minnesota 56538-0496  
(800) 664-1259 (toll free)  
(218) 739-8479 (locally)

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## **RISK FACTORS**

Our business is subject to various risks and uncertainties. You should carefully consider and evaluate all of the information included and incorporated by reference in this prospectus, including the risk factors incorporated by reference from our most recent annual report on Form 10-K, as updated by our subsequent quarterly reports on Form 10-Q and other filings we make with the SEC. It is possible that our business, financial condition, liquidity or results of operations could be materially adversely affected by any of these risks. The applicable prospectus supplement for any securities we may offer may contain a discussion of additional risks applicable to an investment in us and the particular type of securities we are offering under that prospectus supplement.

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**OTTER TAIL CORPORATION**

Otter Tail Corporation and its subsidiaries conduct business primarily in the United States. We had approximately 2,097 full-time employees at December 31, 2017. Our businesses have been classified into three segments: Electric, Manufacturing and Plastics.

- **Electric** includes the production, transmission, distribution and sale of electric energy in Minnesota, North Dakota and South Dakota by Otter Tail Power Company ( OTP ). In addition, OTP is a participant in the Midcontinent Independent System Operator, Inc. markets. OTP s operations have been the corporation s primary business since 1907.
- **Manufacturing** consists of businesses in the following manufacturing activities: contract machining, metal parts stamping, fabrication and painting, and production of plastic thermoformed horticultural containers, life science and industrial packaging, and material handling components. These businesses have manufacturing facilities in Georgia, Illinois and Minnesota and sell products primarily in the United States.
- **Plastics** consists of businesses producing polyvinyl chloride ( PVC ) pipe at plants in North Dakota and Arizona. The PVC pipe is sold primarily in the upper Midwest and Southwest regions of the United States.

OTP is a wholly owned subsidiary of Otter Tail Corporation. The corporation s manufacturing and plastic pipe businesses are owned by our wholly owned subsidiary, Varistar Corporation.

Otter Tail Corporation was incorporated in June 2009 under the laws of the State of Minnesota in connection with our holding company reorganization on July 1, 2009. As a result of the reorganization, Otter Tail Power Company, which had previously been operated as a division of Otter Tail Corporation, became a wholly owned subsidiary of the new parent holding company named Otter Tail Corporation. Our executive offices are located at 215 South Cascade Street, P.O. Box 496, Fergus Falls, Minnesota 56538-0496 and 4150 19th Ave. South, Suite 101, P.O. Box 9156, Fargo, North Dakota 58106-9156. Our telephone number is (866) 410-8780.

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**USE OF PROCEEDS**

Unless the applicable prospectus supplement states otherwise, we will use the net proceeds we receive from the sale of the securities for general corporate purposes, which may include, among other things, working capital, capital expenditures, debt repayment or refinancing, the financing of possible acquisitions or stock repurchases. The prospectus supplement relating to a particular offering of securities by us will identify the use of proceeds for that offering.

**RATIO OF EARNINGS TO FIXED CHARGES AND  
TO FIXED CHARGES AND PREFERRED DIVIDEND REQUIREMENTS**

Our consolidated ratio of earnings to fixed charges and of earnings to fixed charges and preferred dividend requirements for the periods indicated are as follows:

	2013	2014	Year Ended December 31, 2015	2016	2017
Ratio of Earnings to Fixed Charges	3.36	3.29	3.38	3.39	4.10
Ratio of Earnings to Fixed Charges and Preferred Dividend Requirements	3.29	3.29	3.38	3.39	4.10

For purposes of computing the ratios, earnings consist of consolidated income from continuing operations before income taxes plus fixed charges. Fixed charges consist of interest on long-term debt, amortization of debt expense, premium and discount, and the portion of interest expense on operating leases we believe to be representative of the interest factor. All outstanding cumulative preferred shares were redeemed on March 1, 2013 for \$15.7 million, including \$0.2 million in call premiums charged to equity and included as preferred dividends paid and as part of our preferred dividend requirement for the year ended December 31, 2013.

**DESCRIPTION OF COMMON SHARES**

This section summarizes the general terms of the common shares that we may offer using this prospectus. The following description is only a summary and does not purport to be complete and is qualified by reference to our restated articles of incorporation (the "articles") and restated bylaws (the "bylaws"). Our articles and bylaws have been incorporated by reference as exhibits to the registration statement of which this prospectus is a part. See "Where You Can Find More Information" for information on how to obtain copies.

**General**

Our articles currently authorize the issuance of three classes of shares:

- cumulative preferred shares, without par value (1,500,000 shares authorized),
- cumulative preference shares, without par value (1,000,000 shares authorized), and
- common shares, par value \$5 per share (50,000,000 shares authorized).

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As of December 31, 2017, there were outstanding no cumulative preferred shares, no cumulative preference shares and 39,557,491 common shares.

The board of directors is authorized to provide for the issue from time to time of cumulative preferred shares and cumulative preference shares in series and, as to each series, to fix the designation, annual dividend rate, quarterly dividend payment dates, redemption price or prices, voluntary and involuntary liquidation prices, conversion provisions, if any, and sinking fund provisions, if any, applicable to the shares of such series. As a result, our board of directors could, without shareholder approval, authorize the issuance of cumulative preferred shares or cumulative preference shares with dividend, redemption or conversion provisions that could have an adverse effect on the availability of earnings for distribution to the holders of common shares, or with voting, conversion or other rights that could proportionately reduce, minimize or otherwise adversely affect the voting power and other rights of holders of common shares. See Description of Cumulative Preferred Shares.

The common shares are not entitled to any conversion or redemption rights. Holders of common shares do not have any preemptive right to subscribe for additional securities we may issue. Our outstanding common shares are, and any newly issued common shares will be, fully paid and non-assessable. The transfer agent and registrar for the common shares is EQ Shareowner Services.

**Dividend Rights**

Subject to the prior dividend rights of the holders of the cumulative preferred shares and the cumulative preference shares and the other limitations set forth in the following paragraphs, dividends may be declared by the board of directors and paid from time to time upon the outstanding common shares from any funds legally available therefor.

We and our subsidiaries are parties to agreements pursuant to which we borrow money, and certain covenants in these agreements may limit our ability to pay dividends or other distributions with respect to the common shares or to repurchase common shares. In addition, we and our subsidiaries may become parties to future agreements that contain such restrictions. These covenants will be described in more detail in the prospectus supplement relating to any common shares that we offer using this prospectus.

If, and so long as, any cumulative preferred shares are outstanding, we shall not, without the consent of the holders of a majority of the aggregate voting power of the cumulative preferred shares of all series then outstanding (two-thirds if more than one-fourth vote negatively), declare, pay or set apart for payment any dividend on or purchase, redeem or otherwise acquire any common shares unless, after giving effect thereto, Common Share Equity shall equal at least 25% of Total Capitalization and our earned surplus shall not be less than \$831,398.

Common Share Equity is the sum of

- our stated capital applicable to our common shares and to all other shares ranking junior to the cumulative preferred shares with respect to the payment of dividends or the distribution of assets (collectively Subordinate Shares ), including any shares proposed to be issued substantially contemporaneously,

- capital surplus to the extent of premium on our common shares and on all other Subordinate Shares, including any premium on any shares proposed to be issued substantially contemporaneously,
- contributions in aid of construction, and

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- earned surplus,

all determined in accordance with such system of accounts as may be prescribed by governmental authorities having jurisdiction in the premises or, in the absence thereof, in accordance with generally accepted accounting practice.

Total Capitalization means the sum of

- the Common Share Equity,
- the involuntary liquidation preference of all cumulative preferred shares and all other shares prior to or on a parity with the cumulative preferred shares to be outstanding after the proposed event, and
- the principal amount of all interest bearing debt (including debt to which property theretofore acquired or to be acquired substantially contemporaneously is or will be subject) to be outstanding after the proposed event, excluding, however, all indebtedness maturing by its terms within one year from the time of creation thereof unless we, without the consent of the lender, have the right to extend the maturity of such indebtedness for a period or periods which, with the original period of such indebtedness, aggregates one year or more.

Moreover, no dividend shall be declared, paid or set apart for payment on the common shares (other than a dividend or distribution payable solely in common shares) nor shall any common shares be purchased or acquired by us at any time while there is a default or deficiency with respect to a sinking or purchase fund established for the benefit of any series of the cumulative preferred shares or the cumulative preference shares.

**Voting Rights**

Subject to the rights of the holders of the cumulative preferred shares, as described under **Description of Cumulative Preferred Shares** **Voting Rights**, and the cumulative preference shares, as described below, only the holders of common shares have voting rights and are entitled to one vote for each share held.

In the event that four full quarterly dividend payments on the cumulative preference shares of any series shall be in default, the holders of the cumulative preference shares of all series at the time outstanding, voting as a class, shall thereafter elect two members of an eleven member board of directors. After any such default shall have been cured, the cumulative preference shares, as the case may be, shall be divested of such



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voting rights, subject to being revested in the event of subsequent such defaults.

The consent of the holders of at least two-thirds of the aggregate voting power of the cumulative preference shares of all series then outstanding is required to

- create or authorize any shares of any class (other than the cumulative preferred shares, whether now or hereafter authorized) ranking prior to the cumulative preference shares as to dividends or assets, or
- amend our articles so as to affect adversely any of the preferences or other rights of the cumulative preference shares, provided that if less than all series of cumulative preference shares are so affected, only the consent of the holders of at least two-thirds of the aggregate voting power of the affected series shall be required.

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A majority (two-thirds if more than one-fourth vote negatively) of the aggregate voting power of the cumulative preference shares of all series then outstanding is required to

- increase the number of authorized cumulative preference shares or create or authorize any shares of any class ranking on a parity with the cumulative preference shares as to dividends or assets, or
- consolidate or merge into or with any other corporation or corporations or sell, lease or exchange all or substantially all of our property and assets unless specified conditions are met.

**Liquidation Rights**

Upon any liquidation, dissolution or winding up of the corporation, the holders of common shares shall be entitled to receive pro rata all assets of the corporation distributable to shareholders after the payment of the respective liquidation preferences to the holders of the cumulative preferred shares and the cumulative preference shares.

**Minnesota Anti-Takeover Laws**

We are governed by the provisions of Sections 302A.671, 302A.673 and 302A.675 of the Minnesota Business Corporation Act. These provisions may discourage a negotiated acquisition or unsolicited takeover of us and deprive our shareholders of an opportunity to sell their shares at a premium over the market price.

In general, Section 302A.671 provides that a public Minnesota corporation's shares acquired in a control share acquisition have no voting rights unless voting rights are approved in a prescribed manner. A control share acquisition is a direct or indirect acquisition of beneficial ownership of shares that would, when added to all other shares beneficially owned by the acquiring person, entitle the acquiring person to have voting power of 20% or more in the election of directors.

In general, Section 302A.673 prohibits a public Minnesota corporation from engaging in a business combination with an interested shareholder for a period of four years after the date of the transaction in which the person became an interested shareholder, unless the business combination is approved in a prescribed manner. The term business combination includes mergers, asset sales and other transactions resulting in a financial benefit to the interested shareholder. An interested shareholder is a person who is the beneficial owner, directly or indirectly, of 10% or more of a corporation's voting stock, or who is an affiliate or associate of the corporation, and who, at any time within four years before the date in question, was the beneficial owner, directly or indirectly, of 10% or more of the corporation's voting stock. Section 302A.673 does not apply if a committee of our board of directors consisting of one or more of our disinterested directors (excluding directors who are our current and former officers and employees) approves the proposed transaction or the interested shareholder's acquisition of shares before the share acquisition date, or on the share acquisition date but before the interested shareholder becomes an interested shareholder.

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If a takeover offer is made for our shares, Section 302A.675 of the Minnesota Business Corporation Act precludes the offeror from acquiring additional shares of stock (including in acquisitions pursuant to mergers, consolidations or statutory share exchanges) within two years following the completion of the takeover offer, unless shareholders selling their shares in the later acquisition are given the opportunity to sell their shares on terms that are substantially the same as those contained in the earlier takeover offer. A takeover offer is a tender offer which results in an offeror who owned 10% or less of a class of our

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shares acquiring more than 10% of that class, or which results in the offeror increasing its beneficial ownership of a class of our shares by more than 10% of the class, if the offeror owned 10% or more of the class before the takeover offer. Section 302A.675 does not apply if a committee of our board of directors approves the proposed acquisition before any shares are acquired pursuant to the earlier tender offer. The committee must consist solely of directors who were directors or nominees for our board of directors at the time of the first public announcement of the takeover offer, and who are not our current or former officers and employees, offerors, affiliates or associates of the offeror or nominees for our board of directors by the offeror or an affiliate or associate of the offeror.

**Certain Provisions of Articles and Bylaws**

Except at such times when holders of cumulative preferred shares and/or cumulative preference shares have special voting rights for the election of directors as described in this prospectus, our directors are elected for three-year, staggered terms by the holders of the common shares. Cumulative voting of the common shares in the election of directors is prohibited. In addition, our bylaws provide that a vote of 75% of the common shares is required to remove directors who have been elected by the holders of common shares. The affirmative vote of 75% of the common shares is required to amend provisions of our articles and bylaws relating to the staggered terms and the removal of directors, unless approved by all of the continuing directors as specified therein.

Our articles contain fair price provisions which require the affirmative vote of 75% of the voting power of the common shares to approve business combinations, including mergers, consolidations and sales of a substantial part of our assets, with an interested shareholder or its affiliates or associates, unless specified price criteria and procedural requirements are met or unless the transaction is approved by the majority of the continuing directors. Our articles also contain anti-greenmail provisions which preclude us from making certain purchases of common shares at a price per share in excess of the fair market price from a substantial shareholder unless approved by the affirmative vote of 66 2/3% of the voting power of the common shares held by the disinterested shareholders. The fair price and anti-greenmail provisions of our articles may not be amended without the affirmative vote of the holders of at least 75% of the voting power of the common shares, unless approved by all of the continuing directors as specified therein.

The overall effect of the foregoing provisions of our articl