

HOME DEPOT INC  
Form S-3ASR  
August 21, 2009  
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As filed with the Securities and Exchange Commission on August 21, 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**

**The Home Depot, Inc.**

(Exact Name of Registrant as Specified in Its Charter)

**Delaware**

(State or Other Jurisdiction of Incorporation or Organization)

**95-3261426**

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

**2455 Paces Ferry Road, N.W.**

**Atlanta, Georgia 30339**

**(770) 433-8211**

(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

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Jack A. VanWoerkom, Esq.

Executive Vice President, General Counsel and Corporate Secretary

2455 Paces Ferry Road, N.W.

Atlanta, Georgia 30339

(770) 433-8211

(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

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 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, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Securities Exchange Act of 1934.

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>

(Do not check if a smaller reporting company)

CALCULATION OF REGISTRATION FEE

<b>Title of Each Class of Securities to be Registered</b>	<b>Amount to be Registered / Proposed Maximum Offering Price Per Unit / Proposed Maximum Offering Price / Amount of Registration Fee</b>
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Debt Securities

(1)(2)

- (1) Not applicable pursuant to Instruction II.E. to Form S-3.
- (2) An indeterminate aggregate amount of debt securities is being registered as may from time to time be offered for sale or sold at indeterminate prices. In reliance on Rules 456(b) and 457(r) under the Securities Act of 1933, the Registrant is deferring payment of all of the registration fees relating to the registration of debt securities hereby until such fees become payable in connection with an offering of such debt securities.

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**The Home Depot, Inc.**

**Debt Securities**

The Home Depot, Inc. from time to time may offer to sell debt securities. The debt securities may be offered together or separately and in one or more series, if any, in amounts, at prices and on other terms to be determined at the time of the offering and described for you in a prospectus supplement.

This prospectus provides you with a general description of the debt securities we may offer. Each time we sell debt securities we will provide a supplement to this prospectus that contains specific information about the offering and the terms of those debt securities. The prospectus supplement may update or change information contained in this prospectus. You should carefully read this prospectus and any supplement before you invest in any of our debt securities.

The debt securities may be offered directly to purchasers or to or through underwriters, agents or dealers on a continuous or delayed basis. The names of any underwriters, agents or dealers, if any, will be included in a prospectus supplement accompanying this prospectus.

**We discuss risk factors relating to our company in filings we make with the Securities and Exchange Commission, including under Risk Factors and elsewhere in our most recently filed Annual Report on Form 10-K and in subsequent filings, which are incorporated by reference in this prospectus. The prospectus supplement relating to a particular offering of debt securities may discuss certain risks of investing in those debt securities. You should carefully consider these risk factors and risks before investing in any of our debt securities.**

**Neither the Securities and Exchange Commission nor any other regulatory body 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 21, 2009.**

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We have not authorized anyone to give any information or make any representation about the offering that is different from, or in addition to, that contained in this prospectus, any prospectus supplement, the related registration statement or any of the materials that we have incorporated by reference into this prospectus. Therefore, if anyone does give you information of this type, you should not rely on it. If you are in a jurisdiction where offers to sell, or solicitations of offers to purchase, the debt securities offered by this prospectus are unlawful, or if you are a person to whom it is unlawful to direct these types of activities, then the offer presented in this prospectus does not extend to you. The information contained in this prospectus speaks only as of the date of this prospectus unless the information specifically indicates that another date applies.

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**ABOUT THIS PROSPECTUS**

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, or the SEC, utilizing a shelf registration process. Under this process, we may from time to time sell debt securities as described in this prospectus in one or more offerings.

This prospectus provides you with a general description of the debt securities that we may offer. Each time we sell debt securities, we will provide a supplement to this prospectus that will contain specific information about the terms of those debt securities. Those terms may vary from the terms described in this prospectus. As a result, the summary description of the debt securities in this prospectus is subject, and qualified by reference, to the description of the particular terms of any debt securities contained in the accompanying prospectus supplement. The accompanying prospectus supplement may also add, update or change other information contained in this prospectus. Before purchasing any debt securities, you should carefully read both this prospectus and any accompanying prospectus supplement, together with the additional information described under the heading **Where You Can Find More Information**.

Whenever references are made in this prospectus to information that will be included in a prospectus supplement, to the extent permitted by applicable law, rules or regulations, we may instead include such information or add, update or change the information contained in this prospectus by means of a post-effective amendment to the registration statement of which this prospectus is a part, through filings we make with the SEC that are incorporated by reference into this prospectus or by any other method as may then be permitted under applicable law, rules or regulations.

In this prospectus, unless otherwise specified, the terms **Home Depot**, **we**, **us** or **our** mean The Home Depot, Inc. and its consolidated subsidiaries.

Unless otherwise stated, currency amounts in this prospectus and any prospectus supplement are stated in United States dollars, or \$.

**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 over the Internet at the SEC's website at <http://www.sec.gov> and may also be accessed through our website at <http://ir.homedepot.com>. You may also read and copy any reports, statements or documents we file with the SEC at the SEC's Public Reference Room located at 100 F Street, N.E., Washington, D.C. 20549. You may also obtain copies of the documents at prescribed rates by writing to the Public Reference Room at the address listed above. Please call 1-800-SEC-0330 for further information on the operations of the public reference facilities. Our SEC filings are also available at the offices of the New York Stock Exchange at 20 Broad Street, New York, New York 10005.

This prospectus constitutes part of a registration statement on Form S-3 filed by us under the Securities Act of 1933, as amended, or the Securities Act. As allowed by SEC rules, this prospectus does not contain all the information you can find in the registration statement or the exhibits to the registration statement.

This prospectus incorporates by reference information that we have filed with the SEC under the Securities Exchange Act of 1934, as amended, or the Exchange Act. This means that we are disclosing important information to you by referring you to those documents. Information contained in any document subsequently filed with the SEC, to the extent it modifies information in this prospectus or in any document incorporated by reference in this prospectus, will automatically update and supersede the information originally included in this prospectus or any document incorporated by reference in this prospectus.

We incorporate by reference into this prospectus the following documents or information filed with the SEC:

Our Annual Report on Form 10-K for the fiscal year ended February 1, 2009;

Our Quarterly Report on Form 10-Q for the quarterly period ended May 3, 2009; and

Our Current Report on Form 8-K filed on March 13, 2009.

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We also incorporate by reference each of the following documents that we will file with the SEC after the date of this prospectus and until this shelf offering of debt securities terminates:

Reports filed under Section 13(a) and (c) of the Exchange Act;

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Our definitive proxy or information statements filed under Section 14 of the Exchange Act in connection with any subsequent shareholders meeting; and

Any reports filed under Section 15(d) of the Exchange Act.

Please note that we will not incorporate by reference into this prospectus any information furnished under either Item 2.02 or Item 7.01 of any Current Report on Form 8-K that we furnish to the SEC after the date of this prospectus, unless and only to the extent specified in that report.

You can obtain any of the documents incorporated by reference in this prospectus through our website or from the SEC through the SEC's website or at its facilities described above. Documents incorporated by reference are also available from us upon request and without charge, excluding any exhibits to those documents that are not specifically incorporated by reference in such documents. You can obtain a copy of the documents incorporated by reference in this prospectus and a copy of the indenture and other agreements referred to in this prospectus by requesting them in writing at the following address or by telephone from us at the following telephone number:

The Home Depot, Inc.  
2455 Paces Ferry Road, N.W.  
Atlanta, Georgia 30339  
Attention: Investor Relations  
Telephone: (770) 433-8211

Except as expressly provided above, no other information, including information on our website, is incorporated by reference into this prospectus.

**SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS AND RISK FACTORS**

Certain statements regarding our future performance that are contained or incorporated by reference in this prospectus constitute forward-looking statements as defined in the Private Securities Litigation Reform Act of 1995. Forward-looking statements may relate to, among other things:

the demand for our products and services;

net sales growth;

comparable store sales;

store openings and closures;

state of the economy;

state of the residential construction, housing and home improvement markets;



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state of the credit markets, including mortgages, home equity loans and consumer credit;

commodity price inflation and deflation;

implementation of store initiatives;

continuation of reinvestment plans;

net earnings performance;

earnings per share;

stock-based compensation expense;

capital allocation and expenditures;

liquidity;

the effect of adopting certain accounting standards;

return on invested capital;

management of our purchasing or customer credit policies;

the effect of accounting charges;

our planned recapitalization and timing of the completion of that recapitalization; and

our ability to issue debt securities on terms and at rates acceptable to us.

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Forward-looking statements are based on currently available information and our current assumptions, expectations and projections about future events. You are cautioned not to place undue reliance on our forward-looking statements. These statements are not guarantees of future performance and are subject to future events, risks and uncertainties many of which are beyond our control or are currently unknown to us as well as potentially inaccurate assumptions that could cause actual results to differ materially from our expectations and projections. These risks and uncertainties include, but are not limited to, those described in our filings with the SEC, including those set forth in Item 1A, Risk Factors and elsewhere in each of our Annual Report on Form 10-K for the fiscal year ended February 1, 2009 as filed with the SEC on April 2, 2009, our Quarterly Report on Form 10-Q for the fiscal quarter ended May 3, 2009 as filed with the SEC on June 4, 2009, and our future filings with the SEC, all of which are incorporated by reference in this prospectus. See Where You Can Find More Information. The prospectus supplement relating to a particular offer of debt securities may discuss certain risks of investing in those debt securities. You should carefully consider these risks and risk factors before purchasing any of our debt securities.

Forward-looking statements speak only as of the date they are made, and we do not undertake to update such statements other than as required by law. You are advised, however, to review any further disclosures we make on related subjects in our periodic filings with the SEC.

### **THE HOME DEPOT, INC.**

The Home Depot, Inc. is the world's largest home improvement retailer. As of August 2, 2009, we were operating 2,240 retail stores, which included 1,974 The Home Depot® stores in the United States (including the Commonwealth of Puerto Rico, the territory of the U.S. Virgin Islands and the territory of Guam), 178 stores in Canada, 77 stores in Mexico and 11 stores in China. We employ more than 300,000 associates. The Home Depot stores sell a wide assortment of building materials, home improvement products and lawn and garden products and provide a number of related services.

The Home Depot, Inc. is a Delaware corporation that was incorporated in 1978. Our Store Support Center (corporate office) is located at 2455 Paces Ferry Road, N.W., Atlanta, Georgia 30339. Our telephone number at that location is (770) 433-8211.

We maintain an Internet website at [www.homedepot.com](http://www.homedepot.com). Information on our website is not part of this prospectus or any accompanying prospectus supplement.

### **USE OF PROCEEDS**

Unless stated otherwise in an accompanying prospectus supplement, we will use the net proceeds from the sale of debt securities described in this prospectus for general corporate purposes, which may include, but are not limited to:

refunding, repurchasing, retiring upon maturity or redeeming existing debt;

financing working capital needs;

funding capital expenditures; and

funding acquisitions, including acquisition of inventory.

When a particular series of debt securities is offered, the accompanying prospectus supplement will set forth our intended use for the net proceeds received from the sale of those debt securities. Pending application for specific purposes, the net proceeds may be invested in marketable securities.

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Our consolidated ratios of earnings to fixed charges for each of the periods indicated are as follows:

	Three Months Ended May 3,		Fiscal Year(1)			
	2009	2008	2007	2006	2005	2004
Ratio of Earnings to Fixed Charges	4.2x	4.8x	7.4x	13.2x	25.2x	29.6x

(1) Fiscal years 2008, 2007, 2006, 2005 and 2004 refer to the fiscal years ended February 1, 2009, February 3, 2008, January 28, 2007, January 29, 2006 and January 30, 2005, respectively. Fiscal year 2007 includes 53 weeks; all other fiscal years reported include 52 weeks.

For purposes of computing the ratios of earnings to fixed charges, earnings consist of earnings from continuing operations before income taxes plus fixed charges, excluding capitalized interest. Fixed charges consist of interest incurred on indebtedness including capitalized interest, amortization of debt expenses and the portion of rental expense under operating leases deemed to be the equivalent of interest. The ratios of earnings to fixed charges are calculated as follows:

$$\frac{(\text{earnings from continuing operations before income taxes}) + (\text{fixed charges}) - (\text{capitalized interest})}{(\text{fixed charges})}$$

**DESCRIPTION OF DEBT SECURITIES WE MAY OFFER**

We will issue the debt securities in one or more series under an indenture dated as of May 4, 2005 between us and The Bank of New York Mellon Trust Company, N.A. (formerly known as The Bank of New York Trust Company, N.A.), as Trustee. In this section, the terms we, our, us and Home Depot refer solely to The Home Depot, Inc. and not its subsidiaries.

We have summarized below the material provisions of the indenture and the debt securities, or indicated which material provisions will be described in the accompanying prospectus supplement. For further information, you should read the indenture. The indenture is an exhibit incorporated by reference to this registration statement. The following summary is qualified in its entirety by the provisions of the indenture.

We will describe the particular terms and conditions of any series of debt securities offered in a prospectus supplement. The prospectus supplement, which we will file with the SEC, may or may not modify the general terms found in this prospectus. For a complete description of any series of debt securities, you should read both this prospectus and the prospectus supplement relating to that series of debt securities.

**General**

The debt securities that we may offer under the indenture are not limited in aggregate principal amount. We may issue debt securities at one or more times and in one or more series. Each series of debt securities may have different terms. The terms of any series of debt securities will be described in, or determined by action taken pursuant to, a resolution of our board of directors or a committee appointed by our board of directors or in a supplement to the indenture relating to that series.

We are not obligated to issue all debt securities of one series at the same time and, unless otherwise provided in the prospectus supplement, we may reopen a series, without the consent of the holders of the debt securities of that series, for the issuance of additional debt securities of that series. Additional debt securities of a particular series will have the same terms and conditions as outstanding debt securities of that series, except for the date of original issuance and the offering price, and will be consolidated with, and form a single series with, outstanding debt securities of that series.

The debt securities will be unsecured obligations and will rank equally with all of our other unsecured senior indebtedness.

The prospectus supplement relating to any series of debt securities that we may offer will state the price or prices at which the debt securities will be offered, and will contain the specific terms of that series. These terms may include the following:

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the title of the series;

the purchase price, denomination and any limit upon the aggregate principal amount of the series;

the date or dates on which each of the principal of and premium, if any, on the securities of the series is payable and the method of determination thereof;

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the rate or rates at which the securities of the series will bear interest, if any, or the method of calculating the rate or rates of interest, the date or dates from which interest will accrue or the method by which the interest accrual date or dates will be determined, the interest payment dates on which interest will be payable and the record date, if any;

the place or places where the principal of, premium, if any, and interest, if any, on securities of the series will be payable;

the place or places where the securities may be exchanged or transferred;

the period or periods within which, the price or prices at which, the currency or currencies (including currency unit or units) in which, and the other terms and conditions upon which, securities of the series may be redeemed, in whole or in part, at our option, if we are to have that option with respect to the applicable series;

our obligation, if any, to redeem or purchase securities of the series in whole or in part pursuant to any sinking fund or upon the occurrence of a specified event or at the option of a holder thereof and the period or periods within which, the price or prices at which, and the other terms and conditions upon which securities of the series will be redeemed or purchased, in whole or in part, pursuant to such obligation;

if other than denominations of \$1,000 and any integral multiple thereof, the denominations in which securities of the series are issuable;

if other than U.S. dollars, the currency or currencies (including currency unit or units) in which payments of principal, premium, if any, and interest on the securities of the series will or may be payable, or in which the securities of the series will be denominated, and the particular provisions applicable thereto;

if the payments of principal, premium, if any, or interest on the securities of the series are to be made, at our or a holder's election, in a currency or currencies (including currency unit or units) other than that in which those securities are denominated or designated to be payable, the currency or currencies (including currency unit or units) in which the payments are to be made, the terms and conditions of those payments and the manner in which the exchange rate with respect to those payments will be determined, and the particular provisions applicable thereto;

if the amount of payments of principal, premium, if any, and interest on the securities of the series will be determined with reference to an index, formula or other method (which index, formula or method may be based, without limitation, on a currency or currencies (including currency unit or units) other than that in which the securities of the series are denominated or designated to be payable), the index, formula or other method by which that amount will be determined;

if other than the principal amount thereof, the portion of the principal amount of securities of the series which will be payable upon declaration of acceleration of the maturity thereof pursuant to an event of default or the method by which that portion will be determined;

any modifications of or additions to the events of default or our covenants with respect to securities of the series;

whether the securities of the series will be subject to legal defeasance or covenant defeasance as provided in the indenture;

if other than the Trustee, the identity of the registrar and any paying agent;

if the securities of the series will be issued in whole or in part in global form, (i) the depository for the global securities, (ii) the form of any legend which will be borne by the global security, (iii) whether beneficial owners of interests in any securities of the series in global form may exchange their interests in those securities for certificated securities of that series and of like tenor of any authorized form and denomination and (iv) the circumstances under which any such exchange may occur; and

any other terms of the series.

**Covenants**

Except as described in this sub-section or as otherwise provided in the accompanying prospectus supplement with respect to any series of debt securities, we are not restricted by the indenture from incurring, assuming or becoming liable for any type of debt or other obligations, from paying dividends or making distributions on our capital stock or purchasing or redeeming our capital stock. The indenture does not require the maintenance of any financial ratios or specified levels of net worth or liquidity. In addition, the indenture does not contain any covenants or other provisions that would limit our or any of our subsidiaries' right to incur additional indebtedness, enter into any sale and leaseback transaction or grant liens on our assets. The indenture does not contain any provisions

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that would require us to repurchase or redeem or otherwise modify the terms of any of the debt securities upon a change in control or other events that may adversely affect the creditworthiness of the debt securities, such as a highly leveraged transaction.

Unless otherwise indicated in the accompanying prospectus supplement, covenants contained in the indenture, which are summarized below, will be applicable to the series of debt securities to which the prospectus supplement relates so long as any of the debt securities of that series are outstanding.

The indenture provides that we may not consolidate with or merge into any other person or sell our assets substantially as an entirety, unless:

the person formed by the consolidation or into which we are merged or the person which acquires our assets is a person organized in the United States of America and expressly assumes the due and punctual payment of the principal of and interest on all the debt securities and the performance of every covenant of the indenture on our part;

immediately after giving effect to the transaction, no event of default, and no event which, after notice or lapse of time, or both, would become an event of default, shall have occurred and be continuing; and

we have delivered to the Trustee an officers' certificate and an opinion of counsel each stating that the consolidation, merger or sale and a supplemental indenture, if applicable, comply with the indenture and that all conditions precedent provided in the indenture relating to that transaction have been satisfied.

Upon the consolidation, merger or sale, the successor corporation formed by that consolidation or into which we are merged or to which that sale is made will succeed to, and be substituted for, us under the indenture, and the predecessor corporation will be released from all obligations and covenants under the indenture and the debt securities.

The indenture does not restrict our ability to redeem or require us to redeem or permit holders to cause redemption of, debt securities in the event of:

a consolidation, merger, sale of assets or other similar transaction that may adversely affect our creditworthiness or the successor or combined entity;

a change in control of us; or

a highly leveraged transaction involving us whether or not involving a change in control.

Accordingly, the holders of debt securities would not have protection in the event of a highly leveraged transaction, reorganization, restructuring, merger or similar transaction involving us that may adversely affect the holders. The existing protective covenants applicable to the debt securities would continue to apply to us in the event of a leveraged buyout initiated or supported by us, our management, or any of our affiliates or their management, but may not prevent that transaction from taking place.

**Events of Default, Notice and Waiver**

The indenture provides that if an event of default shall have occurred and be continuing with respect to any series of debt securities, then either the Trustee or the holders of not less than 25% in outstanding principal amount of the debt securities of that series may declare to be due and payable immediately the outstanding principal amount of the debt securities of the affected series, together with interest, if any, accrued thereon. If the event of default, however, is any of certain events of bankruptcy, insolvency or reorganization, all of the debt securities, together with interest, if any, accrued thereon, will become immediately due and payable without further action or notice on the part of the Trustee or the holders.

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Under the indenture, an event of default with respect to the debt securities of any series is any one of the following events:

default for 30 days in payment when due of any interest due with respect to the debt securities of that series;

default in payment when due of principal of or premium, if any, on the debt securities of that series;

default for 90 days after written notice to us by the Trustee or by holders of not less than 25% in principal amount of the debt securities of any series then outstanding in the performance of any covenant or other agreement in the indenture or the debt securities for the benefit of those debt securities;

certain events of bankruptcy, insolvency and reorganization; and



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

The indenture provides that the Trustee will, within 90 days after the occurrence of a default with respect to the debt securities of any series, give to the holders of debt securities of that series notice of the default known to it, unless cured or waived. In the case of default in the payment of principal of, or interest (or premium), if any, on any debt security of that series or in the payment of any sinking fund installment with respect to debt securities of that series, the Trustee will be protected in withholding the notice of default if and so long as the board of directors, the executive committee or a trust committee of directors and/or specified officers of the Trustee in good faith determine that the withholding of the notice is in the interests of the holders of debt securities of that series. The term "default" for the purpose of this provision of the indenture means any event that is, or after notice or lapse of time, or both, would become, an event of default.

The indenture contains a provision entitling the Trustee, subject to the duty of the Trustee during the continuance of an event of default to act with the required standard of care, to be indemnified by the holders before proceeding to exercise any right or power under the indenture at the request of those holders. The indenture provides that the holders of a majority in outstanding principal amount of the debt securities of any series may, subject to certain exceptions, on behalf of the holders of debt securities of that series direct the time, method and place of conducting proceedings for remedies available to the Trustee, or exercising any trust or power conferred on the Trustee.

The indenture includes a covenant that we will file annually with the Trustee a certificate of no default, or specifying any default that exists.

In certain cases, the holders of a majority in outstanding principal amount of the debt securities of any series may on behalf of the holders of debt securities of that series rescind a declaration of acceleration or waive any past default or event of default with respect to the debt securities of that series, except a default not theretofore cured in payment of the principal of, premium, if any, or interest, if any, on any debt security of that series or in respect of a provision which under the indenture cannot be modified or amended without the consent of the holder of each such debt security.

No holder of a debt security of any series will have any right to pursue a remedy with respect to the indenture or the debt securities of any series unless:

the holder has previously given to the Trustee written notice of a continuing event of default;

holders of at least 25% in aggregate principal amount of the outstanding debt securities of such series have also made a written request to the Trustee to pursue that remedy;

the holder has provided indemnity satisfactory to the Trustee against any loss, liability or expense incurred in pursuit of that remedy as trustee;

the Trustee has not received from the holders of a majority in outstanding principal amount of the debt securities of that series a direction inconsistent with the written request to pursue the remedy within 90 calendar days after receipt of the notice of default, the written request and the offer of indemnity; and

the Trustee has failed to comply with the request to pursue the remedy within that 90 calendar day period.

However, these limitations do not apply to a suit instituted by a holder of debt securities for enforcement of payment of the principal of or interest on those debt securities on or after the respective due dates expressed in those debt securities after any applicable grace periods have expired.

## **Modification and Waiver**

The Trustee and we may amend or supplement the indenture or the debt securities of any series without the consent of any holder, in order to:

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cure any ambiguity, defect or inconsistency;

provide for uncertificated debt securities in addition to or in place of certificated debt securities;

provide for the assumption of our obligations to the holders in the case of a merger or consolidation of us as permitted by the indenture;

evidence and provide for the acceptance of appointment by a successor trustee and to add to or change any of the provisions

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of the indenture as are necessary to provide for or facilitate the administration of the trusts by more than one trustee;

make any change that would provide any additional rights or benefits to the holders of all or any series of debt securities and that does not adversely affect any such holder; or

comply with SEC requirements in order to effect or maintain the qualification of the indenture under the Trust Indenture Act of 1939, as amended, which we refer to as the Trust Indenture Act.

In addition, except as described below, modifications and amendments of the indenture or the debt securities of any series may be made by the Trustee and us with the consent of the holders of a majority in outstanding principal amount of the debt securities affected by such modification or amendment. However, no modification or amendment may, without the consent of each holder affected thereby:

reduce the principal amount of, the rate of interest on, or the premium, if any, payable upon the redemption of, any debt security;

change the stated maturity of, or time for payment of interest on, any debt security;

change the place or currency of payment of principal of, or premium, if any, or interest on, any debt security;

impair the right to institute suit for the enforcement of any payment on or with respect to any debt securities on or after the stated maturity or prepayment date thereof; or

reduce the percentage in principal amount of debt securities of any series where holders must consent to an amendment, supplement or waiver.

## **Defeasance**

The indenture provides that we will be discharged from any and all obligations in respect of the debt securities of any series (except for certain obligations to register the transfer or exchange of the debt securities, to replace stolen, lost or mutilated debt securities, to maintain paying agencies and hold monies for payment in trust and to pay the principal of and interest, if any, on such debt securities), upon the irrevocable deposit with the Trustee, in trust, of money and/or U.S. Government securities, which through the payment of interest and principal thereof in accordance with their terms provides money in an amount sufficient to pay the principal of, premium, if any, and interest, if any, in respect of the debt securities of that series on the stated maturity date of the principal and any installment of principal, premium, if any, or interest. Also, the establishment of the trust will be conditioned on the delivery by us to the Trustee of an opinion of counsel reasonably satisfactory to the Trustee to the effect that, based upon applicable U.S. federal income tax law or a ruling published by the United States Internal Revenue Service, the defeasance and discharge will not be deemed, or result in, a taxable event with respect to the holders. For the avoidance of doubt, the opinion would be based on a ruling by the United States Internal Revenue Service or a change in current U.S. income tax law occurring after the date of the indenture.

We may also omit to comply with the restrictive covenants, if any, of any particular series of debt securities, other than our covenant to pay the amounts due and owing with respect to that series of debt securities. Thereafter, any such omission will not be an event of default with respect to the debt securities of that series, upon the deposit with the Trustee, in trust, of money and/or U.S. Government securities which through the payment of interest and principal in respect thereof in accordance with their terms provides money in an amount sufficient to pay any installment of principal, premium, if any, and interest in respect of debt securities of that series on the stated maturity date of the principal or installment of principal, premium, if any, or interest. Our obligations under the indenture and the debt securities of that series other than with respect to those covenants will remain in full force and effect. Also, the establishment of the trust will be conditioned on the delivery by us to the Trustee of an opinion of counsel to the effect that the defeasance and discharge will not be deemed, or result in, a taxable event with respect to the holders.

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In the event we exercise our option to omit compliance with certain covenants as described in the preceding paragraph and the debt securities of the series are declared due and payable because of the occurrence of any event of default, then the amount of monies and/or U.S. Government securities on deposit with the Trustee will be sufficient to pay amounts due on the debt securities of that series at the time of the acceleration resulting from the event of default. We will in any event remain liable for such payments as provided in the debt securities of that series.

### **Satisfaction and Discharge**

At our option, we may satisfy and discharge the indenture with respect to the debt securities of any series (except for specified obligations of the Trustee and ours, including, among others, the obligations to apply money held in trust) when:

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either (a) all debt securities of that series previously authenticated and delivered under the indenture have been delivered to the Trustee for cancellation or (b) all debt securities of that series not theretofore delivered to the Trustee for cancellation have become due and payable, will become due and payable at their stated maturity within one year, or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee, and we have deposited or caused to be deposited with the Trustee, as trust funds in trust for such purpose, an amount sufficient to pay and discharge the entire indebtedness on debt securities of that series;

we have paid or caused to be paid all other sums payable by us under the indenture with respect to the debt securities of that series; and

we have delivered to the Trustee an officers' certificate and an opinion of counsel, each to the effect that all conditions precedent relating to the satisfaction and discharge of the indenture as to that series have been satisfied.

**Regarding the Trustee**

The indenture contains certain limitations on the right of the Trustee, should it become a creditor of ours within three months of, or subsequent to, a default by us to make payment in full of principal of or interest on any series of debt securities issued pursuant to the indenture when and as the same becomes due and payable, to obtain payment of claims, or to realize for its own account on property received in respect of any such claim as security or otherwise, unless and until the default is cured. However, in accordance with Section 311(b) of the Trust Indenture Act, the Trustee's rights as a creditor of ours will not be limited if the creditor relationship arises from, among other things:

the ownership or acquisition of securities issued under any indenture or having a maturity of one year or more at the time of acquisition by the Trustee;

certain advances authorized by a receivership or bankruptcy court of competent jurisdiction or by the indenture;

disbursements made in the ordinary course of business in its capacity as indenture trustee, transfer agent, registrar, custodian or paying agent or in any other similar capacity;

indebtedness created as a result of goods or securities sold in a cash transaction or services rendered or premises rented; or

the acquisition, ownership, acceptance or negotiation of certain drafts, bills of exchange, acceptances or other obligations.

The indenture does not prohibit the Trustee from serving as trustee under any other indenture to which we may be a party from time to time or from engaging in other transactions with us. If the Trustee acquires any conflicting interest within the meaning of the Trust Indenture Act and any debt securities issued pursuant to either indenture are in default, it must eliminate such conflict or resign.

**LEGAL OWNERSHIP AND BOOK-ENTRY ISSUANCE**

Unless otherwise provided in an accompanying prospectus supplement, we will issue the debt securities in the form of one or more fully registered global debt securities, without coupons, each of which we refer to as a global security. Each such global security will be registered in the name of a depository or a nominee of a depository and held through one or more international and domestic clearing systems, principally the book-entry system operated by The Depository Trust Company ( DTC ) in the United States and by Euroclear Bank S.A./ N.V. ( Euroclear Operator ), as an operator of the Euroclear Clearance System ( Euroclear ) and Clearstream Banking S.A., Luxembourg ( Clearstream ) in Europe. Unless otherwise specified in the accompanying prospectus supplement, the debt securities will be represented by one or more global securities that will be deposited with and registered in the name of DTC or a nominee of DTC. Where appropriate with respect to the debt securities of a series being offered and sold by means of this prospectus, DTC, Euroclear and Clearstream will establish electronic securities and payment transfer, processing, depository and custodial links to facilitate the initial issuance of any of those debt securities sold outside of the United

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States and cross-market transfers of those debt securities associated with secondary market trading.

No person who acquires an interest in these global securities will be entitled to receive a certificate or other instrument representing the person's interest in the global securities except as set forth under "Definitive Debt Securities" below or in the accompanying prospectus supplement. Unless and until debt securities in definitive form are issued and those particular debt securities are no longer held in the form of one or more global debt securities, all references to actions by holders of debt securities issued in global form refer to actions taken by DTC, Euroclear or Clearstream, as the case may be, upon instructions from their respective participants, and all references herein to payments and notices to the holders refer to payments and notices to DTC, its nominee, Euroclear or Clearstream, as the case may be, as the registered holder of the offered debt securities.

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Set forth below are descriptions of DTC, Euroclear and Clearstream and their respective book-entry systems and procedures for facilitating transfers of global debt securities among their respective participants. Although DTC, Euroclear and Clearstream have agreed to the procedures described below, they are under no obligation to perform or continue to perform these procedures, and these procedures may be modified or discontinued at any time. Neither we, nor any trustee, nor any registrar and transfer agent with respect to debt securities offered hereby will have any responsibility for the performance by DTC, Euroclear or Clearstream or any of their respective direct or indirect participants of their respective obligations under such procedures. Further, while the descriptions of DTC, Euroclear and Clearstream and their respective book-entry systems and procedures below have been obtained from sources that we believe to be reliable, we take no responsibility for the accuracy of that information.

### **DTC**

DTC has advised us as follows: DTC is a limited-purpose trust company organized under, and 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. DTC holds and provides asset servicing for U.S. and non-U.S. equity issues, corporate and municipal debt issues and money market instruments that its participating organizations, or direct DTC participants, deposit with it. DTC also facilitates the clearance and post-trade settlement of sales and other securities transactions in deposited securities between direct DTC participants' accounts through electronic book-entry transfers and pledges, thereby eliminating the need for physical movement of securities certificates. Direct DTC participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation, which is owned, in part, by a number of direct DTC participants. Indirect access to the DTC system is also available to others, which we refer to as indirect DTC participants and together with direct DTC participants, DTC participants, such as U.S. and non-U.S. brokers and dealers, banks, trust companies and clearing corporations that clear through or maintain a custodial relationship with a direct DTC participant, either directly or indirectly. DTC rules applicable to DTC participants are on file with the SEC.

Beneficial interests in a global security will be shown on, and transfers of beneficial interests in the global security will be made only through, records maintained by DTC and DTC participants. Purchases of debt securities through the DTC system must be made by or through a direct DTC participant, which will receive credit for the debt securities in its account on DTC's records. The actual purchasers of the debt securities will become their beneficial owners, and their beneficial ownership interests will be recorded only on the records of the DTC participants. DTC will have no knowledge of individual ownership of the debt securities. DTC's records will show only the identity of the direct DTC participants and the amount of the debt securities held by or through them. Purchasers of debt securities through the DTC system will not receive a written confirmation of the purchase or sale or any periodic account statement directly from DTC but will instead receive confirmations and account statements from the DTC participant through which the debt securities were purchased by the beneficial owners. The DTC participants are responsible for keeping accurate account of the holdings of their customers.

Under the rules and procedures creating and affecting DTC and its operations, DTC is required to make book-entry transfers between direct DTC participants on whose behalf it acts with respect to the debt securities and is required to receive and transmit distributions of principal of and premium, if any, and interest on the debt securities. DTC participants with which investors have accounts with respect to the debt securities similarly are required to make book-entry transfers and receive and transmit payments on behalf of their respective investors.

Because DTC or its nominee will be the owner of each global security, the Trustee will wire payments on the debt securities to the DTC nominee that is the registered holder of the debt securities. It is DTC's current practice, upon receipt of any payment due on a global security, to proportionately credit direct DTC participants' accounts on the payment date based on their holdings of the relevant securities. Payments to beneficial owners with respect to their beneficial interest in any debt securities in turn will be the responsibility of the DTC participants, and neither the Trustee, any paying agent nor we will have any direct responsibility or liability to pay amounts due on a global security to the beneficial owners of that global security. Any redemption notices likewise will be sent by the Trustee directly to DTC, which in turn will inform the DTC participants, which will then contact the beneficial holders. Similarly, it is DTC's current practice to pass through any voting or consenting rights to the direct DTC participants by using an omnibus proxy. Those direct DTC participants should in turn solicit votes and consents from the beneficial owners of the debt securities, based on their customary practices.

Because DTC can only act on behalf of direct DTC participants, who in turn act on behalf of indirect DTC participants and certain banks, the ability of a person having a beneficial interest in a security held in DTC to transfer or pledge that interest to persons or entities that do not participate in the DTC system, or otherwise take actions in respect of that interest, may be affected by the lack of a definitive certificate representing that interest. The laws of some states of the United States require that certain persons take physical delivery of securities in definitive form in order to transfer or perfect a security interest in those securities. Consequently, the ability to transfer beneficial interests in a security held in DTC to those persons may be limited.





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DTC has advised us that it will take any action permitted to be taken by a holder of debt securities (including, without limitation, the presentation of debt securities for exchange) only at the direction of one or more of the direct DTC participants to whose accounts with DTC interests in the relevant debt securities are credited and only in respect of the portion of the aggregate principal amount of the debt securities as to which that direct DTC participant has or those direct DTC participants have given the direction. However, in certain circumstances described under "Definitive Debt Securities" below, DTC will exchange the global securities held by it for definitive debt securities, which it will distribute to the direct DTC participants.

### **Euroclear**

Euroclear was created in 1968 to hold securities for participants of Euroclear and to clear and settle transactions between Euroclear participants through simultaneous electronic book-entry delivery against payment, thus eliminating the need for physical movement of certificates and risk from lack of simultaneous transfers of securities and cash. Transactions may now be settled through Euroclear in many currencies, including United States dollars and Japanese yen. Euroclear provides various other services, including securities lending and borrowing, and interfaces with domestic markets in several countries generally similar to the arrangements for cross-market transfers with DTC.

Euroclear is operated by the Euroclear Operator, under a contract with Euroclear Clearance System plc, a U.K. corporation which we refer to as the Euroclear Clearance System. The Euroclear Operator conducts all operations, and all Euroclear securities clearance accounts and Euroclear cash accounts are accounts with the Euroclear Operator, not the Euroclear Clearance System. The Euroclear Clearance System establishes policy for Euroclear on behalf of Euroclear participants. Euroclear participants include banks (including central banks), securities brokers and dealers and other professional financial intermediaries and may include the underwriters of the debt securities offered by this prospectus or one or more of their affiliates. Indirect access to Euroclear is also available to other firms that clear through or maintain a custodial relationship with a Euroclear participant, either directly or indirectly. Euroclear is an indirect DTC participant.

The Euroclear Operator is a Belgian bank. The Belgian Banking Commission and the National Bank of Belgium regulate and examine the Euroclear Operator.

The Terms and Conditions Governing Use of Euroclear, the related Operating Procedures of Euroclear and applicable Belgian law govern securities clearance accounts and cash accounts with the Euroclear Operator. Specifically, these terms and conditions govern:

transfers of securities and cash within Euroclear;

withdrawal of securities and cash from Euroclear; and

receipts of payments with respect to securities in Euroclear.

All securities in Euroclear are held on a fungible basis without attribution of specific certificates to specific securities clearance accounts. The Euroclear Operator acts under the terms and conditions only on behalf of Euroclear participants and has no record of or relationship with persons holding securities through Euroclear participants.

Distributions with respect to debt securities held beneficially through Euroclear will be credited to the cash accounts of Euroclear participants in accordance with Euroclear's terms and conditions, to the extent received by the Euroclear Operator and by Euroclear.

Euroclear will record the ownership interests of its participants in much the same way as does DTC. If DTC is the depository for the debt securities of a series, it will record the total ownership of any of the debt securities of the U.S. agent of Euroclear as a participant in DTC. When debt securities are to be transferred from the account of a direct DTC participant to the account of a Euroclear participant, the purchaser must send instructions to Euroclear through a Euroclear participant at least one day prior to settlement. Euroclear will instruct its U.S. agent to receive debt securities against payment. After settlement, Euroclear will credit its participant's account with the interest in the debt securities purchased. Credit for the debt securities will appear on the next day (European time).

In instances in which the debt securities of a series are held by DTC or its nominee, settlement will take place during New York business hours. Direct DTC participants will be able to employ their usual procedures for sending debt securities to the relevant U.S. agent acting for the benefit of Euroclear participants. The sale proceeds will be available to the DTC seller on the settlement date. As a result, to the direct DTC participant,

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a cross-market transaction will settle no differently than a trade between two direct DTC participants.

When a Euroclear participant wishes to transfer debt securities to a direct DTC participant, the seller will be required to send instructions to Euroclear through a Euroclear participant at least one business day prior to settlement. In these cases, Euroclear will

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instruct its U.S. agent to transfer these debt securities against payment for them. The payment will then be reflected in the account of the Euroclear participant the following day, with the proceeds back-valued to the value date, which would be the preceding day, when settlement occurs in New York. If settlement is not completed on the intended value date, that is, the trade fails, proceeds credited to the Euroclear participant's account will instead be valued as of the actual settlement date.

Deliveries, payments and other communications involving the debt securities will be made or received through Euroclear only on the days when Euroclear is open for business. Euroclear may not be open for business on days when banks, brokers and other institutions are open for business in the United States. In addition, because of time zone differences, problems may occur when completing transactions involving Euroclear on the same business day as in the United States.

## **Clearstream**

Clearstream was incorporated as a limited liability company under Luxembourg law. Clearstream is owned by Deutsche Börse AG. The shareholders of Deutsche Börse AG are primarily banks, securities dealers and financial institutions. Clearstream holds securities for its customers and facilitates the clearance and settlement of securities transactions between Clearstream customers through electronic book-entry changes in accounts of Clearstream customers, thus eliminating the need for physical movement of certificates. Clearstream provides to its customers, among other things, services for safekeeping, administration, clearance and settlement of internationally traded securities, securities lending and borrowing and collateral management. Clearstream interfaces with domestic markets in a number of countries. Clearstream has established an electronic bridge with the Euroclear Operator to facilitate settlement of trades between Clearstream and Euroclear.

As a registered bank in Luxembourg, Clearstream is subject to regulation by the Luxembourg Commission for the Supervision of the Financial Sector. Clearstream participants are recognized financial institutions around the world, including underwriters, securities brokers and dealers, banks, trust companies and clearing corporations. In the United States, Clearstream participants are limited to securities brokers and dealers and banks, and may include the underwriters of the debt securities offered by means of this prospectus or one or more of their affiliates. Other institutions that maintain a custodial relationship with a Clearstream participant may obtain indirect access to Clearstream. Clearstream is an indirect DTC participant.

Distributions with respect to the debt securities held beneficially through Clearstream will be credited to cash accounts of Clearstream participants in accordance with its rules and procedures, to the extent received by Clearstream.

Clearstream will record the ownership interests of its participants in much the same way as does DTC. If DTC is the depository for the debt securities of a series, it will record the total ownership of any of the debt securities of the U.S. agent of Clearstream as a participant in DTC. When debt securities are to be transferred from the account of a direct DTC participant to the account of a Clearstream participant, the purchaser must send instructions to Clearstream through a Clearstream participant at least one day prior to settlement. Clearstream will instruct its U.S. agent to receive debt securities against payment. After settlement, Clearstream will credit its participant's account with the interest in the debt securities. Credit for the debt securities will appear on the next day (European time).

In instances in which the debt securities of a series are held by DTC or its nominee, settlement will take place during New York business hours. Direct DTC participants will be able to employ their usual procedures for sending debt securities to the relevant U.S. agent acting for the benefit of Clearstream participants. The sale proceeds will be available to the DTC seller on the settlement date. As a result, to the direct DTC participant, a cross-market transaction will settle no differently than a trade between two direct DTC participants.

When a Clearstream participant wishes to transfer debt securities to a direct DTC participant, the seller will be required to send instructions to Clearstream through a Clearstream participant at least one business day prior to settlement. In these cases, Clearstream will instruct its U.S. agent to transfer these debt securities against payment for them. The payment will then be reflected in the account of the Clearstream participant the following day, with the proceeds back-valued to the value date, which would be the preceding day, when settlement occurs in New York. If settlement is not completed on the intended value date, that is, the trade fails, proceeds credited to the Clearstream participant's account will instead be valued as of the actual settlement date.

Deliveries, payments and other communications involving the debt securities will be made or received through Clearstream only on the days when Clearstream is open for business. Clearstream may not be open for business on days when banks, brokers and other institutions are open for business in the United States. In addition, because of time zone differences, problems may occur when completing transactions involving Clearstream on the same business day as in the United States.

## **Definitive Debt Securities**

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Debt securities represented by one or more global securities will be exchangeable for definitive (certificated) debt securities with the same terms in authorized denominations only if:

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DTC, Euroclear or Clearstream, as the case may be, is unwilling or unable to continue as depository or ceases to be a clearing agency registered under applicable law and a successor is not appointed by us within 90 days;

we decide to discontinue the book-entry system; or

an event of default has occurred and is continuing with respect to the debt securities.

If a global security is exchanged for definitive debt securities, the Trustee will keep the registration books for the debt securities at its corporate office and will follow customary practices and procedures regarding those definitive debt securities.

**PLAN OF DISTRIBUTION**

We will describe the terms of a particular offering of debt securities in the accompanying prospectus supplement, including the following:

the names of any underwriters, agents or dealers;

their compensation, including any underwriting discounts, dealer concessions or commissions;

the net proceeds to us;

the purchase price of the debt securities;

the initial public offering price of the debt securities; and

any exchange on which the debt securities may be listed.

We may sell the debt securities using any of the following methods:

to or through underwriters, agents or dealers;

directly to one or more purchasers without using underwriters, agents or dealers; or

through a combination of any of these methods of sale.

We may effect the distribution of the debt securities from time to time in one or more transactions at fixed prices or at prices that may be changed, at market prices prevailing at the time of sale or at prices related to prevailing market prices, or at negotiated prices. Any initial public offering price and any discounts or concessions allowed or reallocated or paid to dealers may be changed from time to time.

We may designate agents to solicit purchases for the period of their appointment and to sell debt securities on a continuing basis, including pursuant to at the market offerings.

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We may offer these debt securities to the public through underwriting syndicates represented by managing underwriters or through underwriters without a syndicate. If we use an underwriter or underwriters in the sale of the debt securities, we will execute an underwriting agreement with those underwriters at the time of sale of those debt securities. Underwriters will acquire the debt securities for their own account. The underwriters may then resell the debt securities in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. Unless otherwise indicated in the accompanying prospectus supplement, the obligations of the underwriters to purchase the debt securities in a particular offering will be subject to certain conditions, and the underwriters will be obligated to purchase all of the debt securities in a particular offering if any of the debt securities are purchased.

Underwriters and agents may from time to time purchase and sell the debt securities described in this prospectus and the accompanying prospectus supplement in the secondary market but are not obligated to do so. No assurance can be given that there will be a secondary market for the debt securities or liquidity in the secondary market if one develops. From time to time, underwriters and agents may make a market in the debt securities.

In order to facilitate the offering of the debt securities, the underwriters may engage in transactions that stabilize, maintain or otherwise affect the price of these debt securities or any other debt securities the prices of which may be used to determine payments on these debt securities. Specifically, the underwriters may over-allot in connection with the offering, creating a short position in the

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debt securities for their own accounts. In addition, to cover over-allotments or to stabilize the price of the debt securities or of any other debt securities, the underwriters may bid for, and purchase, the debt securities or any other debt securities in the open market. Finally, in any offering of the debt securities through a syndicate of underwriters, the underwriting syndicate may reclaim selling concessions allowed to an underwriter or a dealer for distributing the debt securities in the offering if the syndicate repurchases previously distributed debt securities in transactions to cover syndicate short positions, in stabilization transactions or otherwise. Any of these activities may stabilize or maintain the market price of the debt securities above independent market levels. The underwriters are not required to engage in these activities and may end any of these activities at any time.

We may solicit, or we may authorize underwriters, dealers or agents to solicit, offers to purchase debt securities of one or more series directly from one or more institutional investors using delayed delivery contracts. These contracts will provide for payment and delivery on one or more specified dates in the future. The accompanying prospectus supplement will describe the commission payable for solicitation and the terms and conditions of these contracts.

One or more firms, referred to as remarketing firms, may also offer or sell the debt securities, if the prospectus supplement so indicates, in connection with a remarketing arrangement upon their purchase. Remarketing firms may act as principals for their own accounts or as agents for us. These remarketing firms will offer or sell the debt securities in accordance with a redemption or repayment pursuant to the terms of the debt securities. The prospectus supplement will identify any remarketing firm and the terms of its agreement, if any, with us and will describe the remarketing firm's compensation.

Underwriters named in a prospectus supplement are, and dealers, agents or remarketing firms named in a prospectus supplement may be, deemed to be underwriters under the Securities Act, and any discounts or commissions they receive from us and any profit on their resale of the debt securities may be deemed to be underwriting discounts and commissions under the Securities Act. We may agree to indemnify the underwriters, agents, dealers and remarketing firms against certain civil liabilities, including liabilities under the Securities Act, or to contribute to payments they may be required to make in respect of these liabilities. Underwriters, agents, dealers and remarketing firms may engage in transactions with or perform services for The Home Depot or our subsidiaries and affiliates in the ordinary course of business.

The accompanying prospectus supplement may set forth restrictions or limitations, or refer to applicable laws or regulations, relating to offers, sales or deliveries of the debt securities or the distribution of this prospectus and the accompanying prospectus supplement in specified jurisdictions outside the United States, if and as appropriate.

**VALIDITY OF THE SECURITIES**

In connection with particular offerings of debt securities in the future, and if stated in the accompanying prospectus supplement, the validity of the debt securities may be passed upon for us by Jack A. VanWoerkom, our Executive Vice President, General Counsel and Corporate Secretary, and for any underwriters or agents by counsel named in the accompanying prospectus supplement. Mr. VanWoerkom is a full-time employee of ours and owns shares of our common stock through various employee stock-based benefit plans.

**INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

The consolidated financial statements of The Home Depot, Inc. as of February 1, 2009 and February 3, 2008, and for each of the years in the three-year period ended February 1, 2009, and management's assessment of the effectiveness of internal control over financial reporting (which is included in Management's Report on Internal Control over Financial Reporting) as of February 1, 2009 have been incorporated by reference herein in reliance upon the reports of KPMG LLP, independent registered public accounting firm, incorporated by reference herein, and upon the authority of said firm as experts in accounting and auditing.

KPMG LLP's report with respect to the consolidated financial statements refers to Home Depot's adoption of Financial Accounting Standards Board Interpretation No. 48, Accounting for Uncertainty in Income Taxes, as of January 29, 2007, the beginning of the fiscal year ended February 3, 2008.

With respect to the unaudited interim financial information for the periods ended May 3, 2009 and May 4, 2008, incorporated by reference herein, KPMG LLP has reported that they applied limited procedures in accordance with professional standards for a review of such information. However, their separate report included in Home Depot's quarterly report on Form 10-Q for the quarter ended May 3, 2009, and incorporated by reference herein, states that they did not audit and they do not express an opinion on that interim financial information. Accordingly, the degree of reliance on their report on such information should be restricted in light of the limited nature of the review procedures applied. The accountants are not subject to the liability provisions of Section 11 of the Securities Act for their report on the unaudited interim financial information because that report is not a report or a part of the registration statement prepared or certified by the accountants

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within the meaning of Sections 7 and 11 of the 1933 Act.



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The following table sets forth the estimated expenses, other than underwriting discounts and commissions, to be incurred by The Home Depot, Inc. in connection with the issuance and distribution of the securities, being registered under this registration statement.

	Amount to be paid(1)
SEC registration fee(2)	\$
Legal fees and expenses	150,000
Accounting fees and expenses	100,000
Printing fees	75,000
Trustee's fees and expenses	15,000
Miscellaneous fees and expenses	5,000
<b>Total</b>	<b>\$ 345,000</b>

- (1) Because this registration statement relates to an indeterminate aggregate amount of debt securities to be sold at indeterminate prices, the amounts shown are estimates of expenses payable by us in connection with the filing of this registration statement and one offering of debt securities hereunder.
- (2) Deferred pursuant to Rules 456(b) and 457(r) under the Securities Act.

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

The following summary is qualified in its entirety by reference to the Registrant's Amended and Restated Certificate of Incorporation (as amended effective June 2, 2009), the Registrant's By-Laws (as amended and restated effective November 20, 2008) and the section of the Delaware General Corporation Law referred to below.

Article Ninth of the Registrant's Amended and Restated Certificate of Incorporation provides that no director of the Registrant shall be liable to the Registrant or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Registrant or its shareholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit.

Article V (Section 1) of the Registrant's By-Laws provides that the Registrant shall indemnify and hold harmless, to the fullest extent permitted by the Delaware General Corporation Law then in effect, 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, whether civil, criminal, administrative or investigative, by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director, officer, employee or agent of the Registrant or is or was serving at the request of the Registrant as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.

Section 145 of the Delaware General Corporation Law generally provides that all directors and officers (as well as other employees and individuals) may be indemnified against expenses (including attorneys' fees), judgments, fines and amounts actually and reasonably incurred by such individuals in defense or settlement of certain specified actions, suits or proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation, or a derivative action), if they acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe their conduct was unlawful. A similar standard of care is applicable in the case of derivative actions, except that indemnification extends to the defense or settlement of an action, and the Delaware General Corporation Law requires court approval before there can be any indemnification where the person seeking indemnification has been found liable to the corporation. Section 145 of the Delaware General

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Corporation Law permits a corporation to advance expenses to or on behalf of a person entitled to be indemnified upon receipt of an undertaking to repay the amounts advanced if it is determined that the person is not entitled to be indemnified and provides that the right to indemnification and advancement conferred thereby is not exclusive of any other right to which any person may be entitled under any bylaw, agreement, vote of shareholders or disinterested directors or otherwise.

In addition, the Registrant maintains officers and directors liability insurance for the benefit of its officers and directors.

**Table of Contents****Item 16. Exhibits**

<b>Exhibit No.</b>	<b>Description</b>	<b>Incorporated by Reference to Filings Indicated</b>
1.1	Form of Underwriting Agreement	*
4.1	Indenture, dated as of May 4, 2005, between The Home Depot, Inc. and The Bank of New York Mellon Trust Company, N.A. (formerly known as The Bank of New York Trust Company, N.A.), as Trustee	Incorporated by reference to Exhibit 4.1 to The Home Depot, Inc. s Registration Statement on Form S-3 filed on May 6, 2005 (File No. 333-124699)
4.2	Form of Note	Incorporated by reference to Exhibit 4.2 of The Home Depot, Inc. s Registration Statement on Form S-3 dated May 6, 2005 (File No. 333-124699)
5.1	Opinion of Alston & Bird LLP	**
12.1	Statement re Computation of Ratio of Earnings to Fixed Charges	Incorporated by reference to Exhibit 12.1 of The Home Depot, Inc. s Quarterly Report on Form 10-Q filed on June 4, 2009 (File No. 001-08207)
15.1	Letter of Independent Registered Public Accounting Firm Re Unaudited Interim Financial Information	**
23.1	Consent of Independent Registered Public Accounting Firm	**
23.2	Consent of Alston & Bird LLP (included in Exhibit 5.1)	
24.1	Power of Attorney (included on signature page)	
25.1	Form T-1 Statement of Eligibility under the Trust Indenture Act of 1939 of The Bank of New York Mellon Trust Company, N.A.	**

\* To be filed as an exhibit to a Current Report on Form 8-K and incorporated herein by reference.

\*\* Filed herewith.

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**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;

(ii) To reflect in the prospectus any facts or events arising after the effective date of this 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 this 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) 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 paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act 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, 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;

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

(A) 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

(B) 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 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.

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*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; and

- (5) That, for the purpose of determining liability of the Registrant under the Securities Act to any purchaser in the initial distribution of the securities, in a primary offering of securities of the 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 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 Registrant relating to the offering required to be filed pursuant to Rule 424;

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- (ii) Any free writing prospectus relating to the offering prepared by or on behalf of the Registrant or used or referred to by the Registrant;
- (iii) The portion of any other free writing prospectus relating to the offering containing material information about the Registrant or its securities provided by or on behalf of an Registrant; and
- (iv) Any other communication that is an offer in the offering made by the 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 Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) 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) Insofar as indemnification for liabilities arising under the Securities Act 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 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 and will be governed by the final adjudication of such issue.

(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 in accordance with the rules and regulations prescribed by the Commission under Section 305(b)(2) of the Trust Indenture Act.

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Pursuant to the requirements of the Securities Act of 1933, the Registrant 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 Atlanta, State of Georgia, on the 20th day of August, 2009.

THE HOME DEPOT, INC.

By: /s/ Jack A. VanWoerkom  
 Name: Jack A. VanWoerkom  
 Title: Executive Vice President, General Counsel and  
 Corporate Secretary

**POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS that the individuals whose signatures appear below constitute and appoint Frank S. Blake and Jack A. VanWoerkom, and each of them, his or her true and lawful attorney-in-fact and agents, with full and several power of substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, and any additional registration statement filed pursuant to Rule 462(b) under the Securities Act of 1933, as amended, for any offering contemplated by this Registration Statement, and to file the same, with all exhibits thereto and all 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 and authority to do and perform each and every act and thing requisite and necessary or advisable to be done in connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agents or any of them, or their substitutes, may lawfully do or cause to be done.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed below by the following persons in the capacities and on the dates indicated:

<b>Signature</b>	<b>Title</b>	<b>Date</b>
/s/ Francis S. Blake Francis S. Blake	Chairman & Chief Executive Officer (Principal Executive Officer)	August 20, 2009
/s/ Carol B. Tomé Carol B. Tomé	Executive Vice President Corporate Services and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	August 20, 2009
/s/ F. Duane Ackerman F. Duane Ackerman	Director	August 20, 2009
/s/ David H. Batchelder David H. Batchelder	Director	August 20, 2009
/s/ Ari Bousbib Ari Bousbib	Director	August 20, 2009
/s/ Gregory D. Brenneman Gregory D. Brenneman	Director	August 20, 2009

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<i>/s/ Albert P. Carey</i>	Director	August 20, 2009
Albert P. Carey		
<i>/s/ Armando Codina</i>	Director	August 20, 2009
Armando Codina		
<i>/s/ Bonnie G. Hill</i>	Director	August 20, 2009
Bonnie G. Hill		
<i>/s/ Karen L. Katen</i>	Director	August 20, 2009
Karen L. Katen		