

PRIMUS GUARANTY LTD

Form 10-Q/A

July 17, 2009

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

**FORM 10-Q/A**

**(Mark One)**

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the quarterly period ended March 31, 2009**

**or**

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the transition period from \_\_\_\_\_ to \_\_\_\_\_.**

**Commission File Number: 001-32307**

**Primus Guaranty, Ltd.**

(Exact name of registrant as specified in its charter)

**Bermuda**

(State or other jurisdiction of incorporation or organization)

**98-0402357**

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

**Clarendon House  
2 Church Street**

**Hamilton HM 11, Bermuda**

(Address of principal executive offices, including zip code)

**441-296-0519**

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

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 Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

As of May 1, 2009, the number of shares outstanding of the issuer's common shares, \$0.08 par value, was 40,388,038.



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**EXPLANATORY NOTE**

This Form 10-Q/A is being filed to amend our Quarterly Report on Form 10-Q for the three months ended March 31, 2009, as originally filed on May 11, 2009, to restate the financial statements included in the Form 10-Q to reflect the application of Statement of Financial Accounting Standards ( SFAS ) No. 160, *Noncontrolling Interests in Consolidated Financial Statements, an amendment of ARB No. 51* ( SFAS No. 160 ).

Based on the applicable accounting guidance, the preferred stock of Primus Financial Products, LLC, our subsidiary, meets the definition of a noncontrolling interest under SFAS No. 160. SFAS No. 160, issued by the Financial Accounting Standards Board in December 2007, was effective for the first annual reporting period beginning on or after December 15, 2008, and therefore, applicable to us on January 1, 2009. Accordingly, SFAS No. 160 requires us to report noncontrolling interests in subsidiaries as a separate component of equity in the condensed consolidated statements of financial condition. It also requires that the amount of consolidated net income attributable to the parent and to the noncontrolling interest be clearly identified and presented on the face of the condensed consolidated statements of operations. The presentation and disclosure requirements under SFAS No. 160 are to be applied retrospectively to all periods presented. See note 13 of notes to condensed consolidated financial statements for the effect of the changes in the presentation of noncontrolling interests (preferred securities of subsidiary) as noted above. Each item of the Quarterly Report on Form 10-Q for the three months ended March 31, 2009 as originally filed on May 11, 2009 that was affected by the reclassification has been amended and restated. No attempt has been made in this Form 10-Q/A to modify or update other disclosures as presented in the original Form 10-Q except as required to reflect the effects of the reclassification.

**Primus Guaranty, Ltd.**  
**Form 10-Q/A**  
For the three months ended March 31, 2009  
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## Item 1. Financial Statements

**Primus Guaranty, Ltd.**  
**Condensed Consolidated Statements of Financial Condition (Restated)**  
*(in thousands except share amounts)*

	<b>March 31, 2009</b>	<b>December 31, 2008</b>
	<i>(unaudited)</i>	
<b>Assets</b>		
Cash and cash equivalents	\$ 519,461	\$ 280,912
Available-for-sale investments	227,956	482,930
Trading account assets	3,830	3,940
Accrued interest receivable	1,418	3,704
Accrued premiums and receivables on credit swaps	3,118	2,764
Fixed assets and software costs, net	3,050	3,308
Debt issuance costs, net	5,737	6,153
Other assets	8,472	10,520
<b>Total assets</b>	<b>\$ 773,042</b>	<b>\$ 794,231</b>
<b>Liabilities and Equity</b>		
Accounts payable and accrued expenses	\$ 2,911	\$ 1,737
Accrued compensation	450	1,768
Interest payable	389	535
Unrealized loss on credit swaps, at fair value	2,050,571	2,173,461
Payable for credit events	12,716	3,186
Long-term debt	305,972	317,535
Other liabilities	563	444
<b>Total liabilities</b>	<b>2,373,572</b>	<b>2,498,666</b>
Commitments and contingencies		
<b>Equity (deficit)</b>		
Common shares, \$0.08 par value, 62,500,000 shares authorized, 40,655,613 and 40,781,538 shares issued and outstanding at March 31, 2009 and December 31, 2008	3,252	3,263
Additional paid-in capital	281,176	281,596
Accumulated other comprehensive income (loss)	(1,564)	908
Retained earnings (deficit)	(1,981,915)	(2,088,723)
<b>Total shareholders' equity (deficit) of Primus Guaranty, Ltd.</b>	<b>(1,699,051)</b>	<b>(1,802,956)</b>
Preferred securities of subsidiary	98,521	98,521
<b>Total equity (deficit)</b>	<b>(1,600,530)</b>	<b>(1,704,435)</b>
<b>Total liabilities and equity (deficit)</b>	<b>\$ 773,042</b>	<b>\$ 794,231</b>

*See accompanying notes.*

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**Primus Guaranty, Ltd.**  
**Condensed Consolidated Statements of Operations (Restated)**  
*(in thousands except per share amounts)*

	<b>Three Months Ended</b>	
	<b>March 31,</b>	
	<b>2009</b>	<b>2008</b>
	<i>(unaudited)</i>	
<b>Revenues</b>		
Net credit swap revenue (loss)	\$ 110,881	\$ (663,615)
Asset management and advisory fees	419	1,090
Interest income	2,373	9,194
Gain on retirement of long-term debt	5,759	
Impairment loss on available-for-sale investments	(609)	
Other	(76)	(25)
<b>Total net revenues (losses)</b>	<b>118,747</b>	<b>(653,356)</b>
<b>Expenses</b>		
Compensation and employee benefits	4,715	6,191
Professional and legal fees	1,421	1,023
Depreciation and amortization	258	329
Technology and data	818	1,111
Interest expense	2,758	4,891
Other	883	1,323
<b>Total expenses</b>	<b>10,853</b>	<b>14,868</b>
Income (loss) before provision for income taxes	107,894	(668,224)
Provision for income taxes	142	49
Net income (loss)	107,752	(668,273)
Distributions on preferred securities of subsidiary	944	1,805
<b>Net income (loss) available to common shares</b>	<b>\$ 106,808</b>	<b>\$ (670,078)</b>
Income (loss) per common share:		
Basic	\$ 2.61	\$ (14.85)
Diluted	\$ 2.61	\$ (14.85)
Average common shares outstanding:		
Basic	40,861	45,108
Diluted	40,888	45,108
<i>See accompanying notes.</i>		



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**Primus Guaranty, Ltd.**  
**Condensed Consolidated Statements of Cash Flows (Restated)**  
*(in thousands)*

	<b>Three Months Ended</b>	
	<b>March 31,</b>	
	<b>2009</b>	<b>2008</b>
	<i>(unaudited)</i>	
<b>Cash flows from operating activities</b>		
Net income (loss) available to common shares	\$ 106,808	\$ (670,078)
Distributions on preferred securities of subsidiary	944	1,805
Net income (loss)	107,752	(668,273)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:		
Non-cash items included in net loss:		
Depreciation and amortization	258	329
Share compensation	821	1,310
Net unrealized (gains) losses on credit and other swaps	(122,890)	686,677
Net amortization of premium and discount on securities	(322)	(765)
Gain on retirement of long-term debt	(5,759)	
Impairment loss on available-for-sale investments	609	
Amortization of debt issuance costs	72	78
Increase (decrease) in cash resulting from changes in:		
Accrued interest receivable	2,286	(16)
Accrued premiums and interest receivable on credit and other swaps	(354)	154
Other assets	939	1,027
Trading account assets	110	
Accounts payable and accrued expenses	1,174	(255)
Accrued compensation	(1,318)	(3,457)
Payable for credit events	9,530	
Interest payable	(146)	(308)
Accrued premiums and payables on credit and other swaps		(1,313)
Restructuring liabilities		(1,709)
Other liabilities	119	20
Net cash provided by (used in) operating activities	(7,119)	13,499
<b>Cash flows from investing activities</b>		
Fixed asset purchases and capitalized software costs		(253)
Payments received from CLO investments	94	871
Purchases of available-for-sale investments		(568,884)
Maturities and sales of available-for-sale investments	252,196	767,940
Net cash provided by investing activities	252,290	199,674
<b>Cash flows from financing activities</b>		

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Retirement of long-term debt	(4,351)	
Purchase and retirement of common shares	(1,252)	(165)
Net preferred distributions of subsidiary	(944)	(1,805)
Net cash used in financing activities	(6,547)	(1,970)
Net effect of exchange rate changes on cash	(75)	(46)
Net increase in cash	238,549	211,157
Cash and cash equivalents at beginning of period	280,912	242,665
Cash and cash equivalents at end of period	\$ 519,461	\$ 453,822

**Supplemental disclosures**

Cash paid for interest	\$ 2,833	\$ 5,122
Cash paid for taxes	\$ 8	\$ 13

*See accompanying notes.*

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**1. Organization and Basis of Presentation**

Primus Guaranty, Ltd., together with its consolidated subsidiaries ( Primus Guaranty or the Company ), is a Bermuda holding company that conducts business currently through its two principal operating subsidiaries, Primus Financial Products, LLC ( Primus Financial ) and Primus Asset Management, Inc. ( Primus Asset Management ).

Primus Financial is a Delaware limited liability company that, as a credit derivative product company ( CDPC ), was established to sell credit swaps primarily to global financial institutions and major credit swap dealers, referred to as counterparties, against primarily investment grade credit obligations of corporate and sovereign issuers. In exchange for a fixed quarterly premium, Primus Financial has agreed, upon the occurrence of a defined credit event (e.g., bankruptcy, failure to pay or restructuring) affecting a designated issuer, referred to as a Reference Entity, to pay to its counterparty an agreed upon notional amount against delivery to Primus Financial of the Reference Entity's debt obligation in the same notional amount. Primus Financial may then elect to sell or hold the security presented by the counterparty. Alternatively, Primus Financial has the ability to cash settle counterparty claims through industry sponsored cash settlement protocols. Credit swaps sold by Primus Financial on a single specified Reference Entity are referred to as single name credit swaps.

Primus Financial also sold credit swaps referencing portfolios containing obligations of multiple Reference Entities, which are referred to as tranches. Additionally, Primus Financial has sold credit swaps on asset-backed securities, which are referred to as CDS on ABS. These asset-backed securities are referenced to residential mortgage-backed securities. Defined credit events related to CDS on ABS may include any or all of the following: failure to pay principal, write-down in the reference obligation and ratings downgrades to CCC/Caa2 (Standard & Poor's Ratings Services, or S&P / Moody's Investors Service Inc., or Moody's ) or below of the reference obligation.

As recently announced, one of the Company's 2009 business priorities and initiatives will be to amortize Primus Financial's credit swap portfolio. Under the amortization model, Primus Financial's existing credit swap contracts will expire at maturity (unless terminated early) and it is not expected that new credit swaps will be added to the portfolio.

Primus Asset Management, a Delaware corporation, acts as an investment manager to affiliated companies and third-party entities. It currently manages the credit swap and cash investment portfolios of its affiliate, Primus Financial. Primus Asset Management also manages two collateralized loan obligations ( CLOs ). CLOs issue securities backed by a diversified pool of primarily below investment grade rated senior secured loans of corporations.

Additionally, Primus Asset Management manages three investment grade collateralized swap obligations ( CSOs ) on behalf of third parties. CSOs issue securities backed by one or more credit swaps sold against a diversified pool of investment grade corporate or sovereign Reference Entities. Primus Asset Management receives fees for its investment management services to the five investment vehicles. In general, such management fees are calculated based on percentage of assets under management, subject to applicable contractual terms. As of March 31, 2009, Primus Asset Management managed Primus Financial's credit swap portfolio of \$21.5 billion in notional amount and CLO and CSO assets of approximately \$1.5 billion. Primus Asset Management has entered into a Services Agreement with its affiliates, whereby it provides services to its affiliates including management, consulting and information technology.

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Primus Re, Ltd. ( Primus Re ), a subsidiary, is a Bermuda company that operates as a financial guaranty insurance company and is registered as a Class 3 insurer under the Bermuda Insurance Act 1978, as amended, and related regulations, or the Bermuda Insurance Act. Primus Re's business is to act as a conduit, or transformer, between parties interested in buying or selling protection in insurance form and other parties interested in assuming the opposite risk position in the form of credit swaps. Primus Re has been inactive since 2007.

Primus Guaranty (UK) Ltd. ( PGUK ), a subsidiary, was incorporated in England to expand the Company's presence and further develop its business and relationships across Europe. PGUK is authorized by the United Kingdom's Financial Services Authority.

The accompanying unaudited condensed consolidated financial statements of Primus Guaranty, Ltd. have been prepared in accordance with U.S. generally accepted accounting principles ( GAAP ) for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. The results of operations for any interim period are not necessarily indicative of the results for a full year. The condensed consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All significant intercompany balances have been eliminated.

The condensed consolidated financial statements represent a single reportable segment, as defined in Statement of Financial Accounting Standards ( SFAS ) No. 131, *Disclosures about Segments of an Enterprise and Related Information*.

The condensed consolidated financial statements are presented in U.S. dollar equivalents. During the periods presented, the Company's credit swap activities were conducted in U.S. dollars and euros.

Certain prior year amounts have been reclassified to conform to current year presentation. There was no effect on net income (loss) available to common shares as a result of these reclassifications. Foreign currency revaluation loss of \$25 thousand in the condensed consolidated statements of operations during the three months ended March 31, 2008 has been reclassified to Other Revenues.

### **2. Recent Accounting Pronouncements**

In December 2007, the Financial Accounting Standards Board ( FASB ) issued SFAS No. 141(R), *Business Combinations* ( SFAS No. 141(R) ). SFAS No. 141(R) requires the acquiring entity in a business combination to recognize the full fair value of assets acquired and liabilities assumed in the transaction (whether a full or partial acquisition); establishes the acquisition-date fair value as the measurement objective for all assets acquired and liabilities assumed; requires expensing of most transaction and restructuring costs; and requires the acquirer to disclose to investors and other users all of the information needed to evaluate and understand the nature and financial effect of the business combination. The Company will apply the provisions of SFAS No. 141(R) for any business combinations that close on or after January 1, 2009.

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In March 2008, the FASB issued SFAS No. 161, *Disclosures about Derivative Instruments and Hedging Activities, an Amendment of FASB Statement No. 133* ( SFAS No. 161 ). SFAS No. 161 is intended to improve transparency in financial reporting by requiring enhanced disclosures of an entity's derivative instruments and hedging activities and their effects on the entity's financial position, financial performance, and cash flows. SFAS No. 161 applies to all derivative instruments within the scope of SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities* ( SFAS No. 133 ). It also applies to non-derivative hedging instruments and all hedged items designated and qualifying as hedges under SFAS No. 133. Effective January 1, 2009, the Company adopted the provisions of SFAS No. 161. However, since SFAS No. 161 requires only additional disclosures concerning derivatives and hedging activities, the adoption of SFAS No. 161 did not affect the Company's financial condition, results of operations or cash flows.

In September 2008, the FASB issued FASB Staff Position ( FSP ) FAS No. 133-1 and FIN 45-4, *Disclosures about Credit Derivatives and Certain Guarantees: An Amendment of FASB Statement No. 133 and FASB Interpretation No. 45*. FSP FAS No. 133-1 and FIN 45-4 requires enhanced disclosures about credit derivatives and guarantees and amends FIN 45. The FSP was effective for financial statements issued for reporting periods ending after November 15, 2008. Since FSP FAS No. 133-1 and FIN 45-4 only requires additional disclosures concerning credit derivatives and guarantees, the adoption of FSP FAS No. 133-1 and FIN 45-4 did not affect the Company's financial condition, results of operations or cash flows.

In October 2008, the FASB issued FSP No. FAS 157-3, *Determining the Fair Value of a Financial Asset When the Market for That Asset Is Not Active*. FSP No. FAS 157-3 clarifies the application of SFAS No. 157 in an inactive market, without changing its existing principles. The FSP was effective immediately upon issuance. The adoption of FSP No. FAS 157-3 did not have a material effect on the Company's financial condition, results of operations or cash flows.

In December 2008, the FASB issued FSP No. FAS 140-4 and FIN 46(R)-8, *Disclosures by Public Entities (Enterprises) about Transfers of Financial Assets and Interests in Variable Interest Entities*. FSP No. FAS 140-4 and FIN 46(R)-8 requires enhanced disclosures about transfers of financial assets and interests in variable interest entities. The FSP was effective for interim and annual periods ending after December 15, 2008. Since the FSP requires only additional disclosures concerning transfers of financial assets and interests in variable interest entities, the adoption of the FSP did not affect the Company's financial condition, results of operations or cash flows.

In January 2009, the FASB issued FSP EITF 99-20-1, *Amendments to the Impairment Guidance of EITF No. 99-20*. The FSP amends EITF No. 99-20, by eliminating the requirement that a holder's best estimate of cash flows be based upon those that a market participant would use. Instead, the FSP requires that an other-than-temporary impairment be recognized as a realized loss through earnings when it is probable there has been an adverse change in the holder's estimated cash flows from the cash flows previously projected, which is consistent with the impairment models in FASB Statement No. 115, *Accounting for Certain Investments in Debt and Equity Securities*. The FSP was effective for interim and annual reporting periods ending after December 15, 2008, and has been applied prospectively. The adoption of the FSP did not affect the Company's financial condition, results of operations or cash flows.

In April 2009, the FASB issued FSP No. FAS 115-2 and FAS 124-2, *Recognition and Presentation of Other-Than-Temporary Impairments*. This FSP amends the other-than-temporary impairment guidance for debt securities and improves the presentation and disclosure of other-than-temporary impairments on debt and equity securities in the financial statements. The FSP is effective for interim and annual periods ending after June 15, 2009, with early adoption permitted for periods ending after March 15, 2009. The Company is currently evaluating the disclosure requirements that adoption of the FSP will have on its condensed consolidated financial statements, however; the adoption will not affect the Company's financial condition, results of operations or cash flows. The Company plans to adopt this FSP for the interim period ending June 30, 2009.

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In April 2009, the FASB issued FSP No. FAS 157-4, *Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That are Not Orderly*. This FSP provides additional guidance for estimating fair value in accordance with SFAS No. 157 and includes guidance on identifying circumstances that indicate a transaction is not orderly. The FSP is effective for interim and annual periods ending after June 15, 2009, and shall be applied prospectively. The Company is currently evaluating the impact of this FSP; however, it believes the adoption will not have a material effect on its condensed consolidated financial statements.

**3. Available-for-Sale Investments**

Available-for-sale investments include U.S. government agency obligations (including government-sponsored enterprises) rated AAA and Aaa by the respective ratings agencies, commercial paper rated A-1 and P-1 by the respective ratings agencies, corporate debt securities and the Company's CLO investments. The Company accounts for its CLO investments as debt securities and fixed maturity securities in accordance with SFAS No. 115 and EITF No. 99-20-1. Accordingly, the CLO investments are classified as available-for-sale investments. Available-for-sale investments are carried at fair value with the unrealized gains or losses reported in accumulated other comprehensive income (loss) as a separate component of shareholders' equity (deficit). Available-for-sale investments have maturities at time of purchase greater than 90 days.

The following tables summarize the composition of the Company's available-for-sale investments at March 31, 2009 and December 31, 2008 (in thousands):

	<b>March 31, 2009</b>			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Estimated Fair Value
U.S. government agency obligations	\$ 222,623	\$ 684	\$	\$ 223,307
Collateralized loan obligations	182	174		356
Corporate debt securities	6,396		(2,112)	4,284
ABS	12		(3)	9
<b>Total</b>	<b>\$ 229,213</b>	<b>\$ 858</b>	<b>\$ (2,115)</b>	<b>\$ 227,956</b>

	<b>December 31, 2008</b>			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Estimated Fair Value
U.S. government agency obligations	\$ 458,909	\$ 2,016	\$ (39)	\$ 460,886
Collateralized loan obligations	791			791
Corporate debt securities	22,076	84	(912)	21,248
ABS	5			5
<b>Total</b>	<b>\$ 481,781</b>	<b>\$ 2,100</b>	<b>\$ (951)</b>	<b>\$ 482,930</b>

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The following tables summarize the fair value of investments that have been in a continuous unrealized loss position for less than 12 months and for 12 months or more at March 31, 2009 and December 31, 2008 (in thousands):

	<b>March 31, 2009</b>					
	Securities with Unrealized Losses				Total	
	Less than 12 Months		12 Months or More		Fair Value	Gross Unrealized Losses
Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses			
U.S. government agency obligations	\$	\$	\$	\$	\$	\$
Corporate debt securities	4,284	(2,112)			4,284	(2,112)
ABS	9	(3)			9	(3)
<b>Total</b>	<b>\$ 4,293</b>	<b>\$ (2,115)</b>	<b>\$</b>	<b>\$</b>	<b>\$ 4,293</b>	<b>\$ (2,115)</b>

	<b>December 31, 2008</b>					
	Securities with Unrealized Losses				Total	
	Less than 12 Months		12 Months or More		Fair Value	Gross Unrealized Losses
Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses			
U.S. government agency obligations	\$ 24,968	\$ (39)	\$	\$	\$ 24,968	\$ (39)
Corporate debt securities	17,364	(912)			17,364	(912)
<b>Total</b>	<b>\$ 42,332</b>	<b>\$ (951)</b>	<b>\$</b>	<b>\$</b>	<b>\$ 42,332</b>	<b>\$ (951)</b>

The Company makes an assessment to determine whether unrealized losses reflect declines in value of securities that are other-than-temporarily impaired. The Company considers many factors, including the length of time and significance of the decline in fair value; the Company's intent and ability to hold the investment for a sufficient period of time for a recovery in fair value; recent events specific to the issuer or industry; credit ratings and asset quality of collateral structure; and any significant changes in estimated cash flows. If the Company, based on its evaluation of the above factors, determines that the impairment is other-than-temporary, the carrying value of the security is written down to fair value and the unrealized loss is recognized through a charge to earnings in the condensed consolidated statements of operations. During the first quarter of 2009, the markets for sub-investment grade loans continued to deteriorate and there was a higher level of perceived risk relating to structured credit vehicles. As a result of a default and downgrades in the credit ratings of the underlying collateral loans, the level of subordination in the investment, and reduced estimated future cash flows, the Company determined that there was a permanent decline in the fair value of the subordinated notes representing the Company's CLO investments. Based on the Company's evaluation during the end of the first quarter of 2009, the Company considered one of its CLO investments to be impaired at March 31, 2009. As a result, during the three months ended March 31, 2009, the Company recorded an additional impairment loss on one of its CLO investments of \$0.6 million in the condensed consolidated statements of operations.

As of March 31, 2009, approximately 98% of the Company's available-for-sale investments will mature within one year. The U.S. government agency obligations will mature before the end of November 2009. The two CLO investments are scheduled to mature in 2019 and 2021, respectively, although the actual maturity of each may be sooner.





**Table of Contents****4. Net Credit Swap Revenue (Loss) and Portfolio*****Overview***

Net credit swap revenue (loss) as presented in the condensed consolidated statements of operations comprises changes in the fair value of credit swaps, realized gains or losses on the termination of credit swaps sold before their stated maturity, realized losses on credit events and premium income or expense. The realization of gains or losses on the termination of credit swaps or credit events will generally result in a reduction in unrealized gains or losses and accrued premium at the point in time realization occurs.

Credit swaps are derivative transactions that obligate one party to the transaction (the Seller) to pay an amount to the other party to the transaction (the Buyer) should an unrelated third party (the Reference Entity), specified in the contract be subject to a defined credit event. The amount to be paid by the Seller will either be (a) the notional amount of the transaction, in exchange for which the Seller must be delivered a defined obligation of the Reference Entity (called physical settlement), or (b) the difference between the current market value of a defined obligation of the Reference Entity and the notional amount of the transaction (called cash settlement). In exchange for taking the risk of the contract, the Seller will receive a fixed premium for the term of the contract (or until the occurrence of a defined credit event). The fixed premium is generally paid quarterly in arrears over the term of the transaction. Premium income is recognized ratably over the life of the transaction as a component of net credit swap revenue (loss). When the Company purchases credit swaps from its counterparties, the Company pays fixed premiums over the term of the contract. Premium expense is recognized ratably over the life of the transaction as a component of net credit swap revenue (loss).

All credit swap transactions entered into between the Buyer and the Seller are subject to an International Swaps and Derivatives Association, Inc. Master Agreement (ISDA Master Agreement) executed by both parties. The ISDA Master Agreement allows for the aggregation of the market exposures and termination of all transactions between the Buyer and Seller in the event a default (as defined in the ISDA Master Agreement) occurs in respect of either party. The primary risks inherent in the Company's activities are (a) where the Company is a Seller, that Reference Entities specified in its credit swap transactions will experience credit events that will require the Company to make payments to the Buyers of the transactions. Defined credit events may include any or all of the following: bankruptcy, failure to pay, repudiation or moratorium, and modified or original restructuring, (b) where the Company is a Buyer of a credit swap and a defined credit event occurs, the Seller fails to make payment to the Company, and (c) that Buyers of the transactions from the Company will default on their required premium payments. Defined credit events related to the Company's CDS on ABS may include any or all of the following: failure to pay principal, write-down in the reference obligation and ratings downgrades to CCC/Caa2 (S&P/Moody's) or below of the reference obligation. See note 6 of notes to condensed consolidated financial statements for further discussion of credit events.

The Company may elect to terminate a credit swap before its stated maturity in one of two ways. The Company may negotiate an agreed termination with the original counterparty (an unwind). Alternatively, the Company may negotiate an assignment and novation of its rights and obligations under the credit swap to a third-party (an assignment). In the event of an unwind or assignment, the Company pays or receives a cash settlement negotiated with the counterparty or assignee, based on the fair value of the credit swap contract and the accrued premium on the swap contract at the time of negotiation. The amounts the Company pays or receives are recorded as a realization of fair value and as a realization of accrued premiums in the period in which the termination occurs.

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In accordance with GAAP, the Company carries its credit swaps on its condensed consolidated statements of financial condition at their fair value. Changes in the fair value of the Company's credit swap portfolio are recorded as unrealized gains or losses as a component of net credit swap revenue (loss) in the Company's condensed consolidated statements of operations. If a credit swap has an increase or decline in fair value during a period, the increase will add to the Company's net credit swap revenue and the decline will subtract from the Company's net credit swap revenue for that period, respectively. Changes in the fair value of the Company's credit swap portfolio are predominantly a function of the notional amount and composition of the portfolio and prevailing market credit swap premiums for comparable credit swaps and nonperformance risk adjustment. The Company has generally held the credit swaps it has sold to maturity, at which point, assuming no defined credit event has occurred, the cumulative unrealized gains and losses on each credit swap would equal zero.

Primus Financial enters into ISDA Master Agreements with its counterparties and aggregates its respective transactions on a counterparty basis for presentation on the Company's condensed consolidated statements of financial condition. If the aggregate total of fair values with a counterparty is a net gain, the total is recorded as a component of unrealized gains on credit swaps, at fair value in the condensed consolidated statements of financial condition. If the aggregate total of fair values with a counterparty is a net loss, the total is recorded as a component of unrealized losses on credit and other swaps, at fair value in the condensed consolidated statements of financial condition.

Primus Financial's counterparties are generally financial institutions with whom it has entered into ISDA Master Agreements. For the three months ended March 31, 2009, two individual counterparties generated greater than 10% of the Company's consolidated net premium revenue. Primus Financial's top counterparty and top five counterparties represented approximately 13% and 42%, respectively, of its credit swap portfolio in notional amounts outstanding at March 31, 2009.

***Consolidated Net Credit Swap Revenue (Loss) and Credit Swap Portfolio Information***

The table below presents the components of consolidated net credit swap revenue (loss) for the three months ended March 31, 2009 and 2008 (in thousands).

	<b>Three Months Ended</b>	
	<b>March 31,</b>	
	<b>2009</b>	<b>2008</b>
Net premium income	\$ 22,469	\$ 27,312
Realized gains		1,032
Realized losses	(34,478)	(5,186)
Net change in unrealized gains (losses)	122,890	(686,773)
Net credit swap revenue (loss)	\$ 110,881	\$ (663,615)

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The table below represents the consolidated gross notional amount, fair value and average fair value of open credit swap transactions entered into with third parties at March 31, 2009 and December 31, 2008 (in thousands):

	<b>March 31, 2009</b>	<b>December 31, 2008</b>
<b>Gross Notional Amounts:</b>		
Credit swaps sold-single name	\$ 16,459,613	\$ 17,477,946
Credit swaps sold-tranche	5,000,000	5,000,000
CDS on ABS	43,000	67,654
Credit swaps purchased-single name	(11,740)	(11,740)
<b>Fair Value:</b>		
Liability	2,050,571	2,173,461
<b>Average Fair Value:</b>		
Asset		495
Liability	1,995,403	1,321,799

Liability in the table above represents unrealized losses on credit swaps. The Liability at March 31, 2009 and December 31, 2008 includes a favorable nonperformance risk adjustment of approximately \$1.2 billion and \$1.3 billion, respectively, as further discussed in note 5 of notes to condensed consolidated financial statements. All credit swaps are subject to netting arrangements that have been contractually established independently by Primus Financial with each of its counterparties under an ISDA Master Agreement. In the table above, the notional amounts of the credit swap contracts are presented on a gross basis and the fair values of such contracts are netted by counterparty.

The tables that follow summarize in thousands, by credit rating of Reference Entities and of counterparties, the notional amounts and unrealized gain or (loss) for fair values of credit swap transactions outstanding as of March 31, 2009 and December 31, 2008. Transactions with Lehman Brothers Special Financing Inc. ( LBSF ) are included in the following tables and are noted as a non rated counterparty. See note 7 of notes to condensed consolidated financial statements for further discussion.

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<b>Moody's Rating Category By Single Name Reference Entity/Tranche</b>	<b>March 31, 2009</b>		<b>December 31, 2008</b>	
	<b>Notional Amount</b>	<b>Fair Value</b>	<b>Notional Amount</b>	<b>Fair Value</b>
<b>Credit Swaps Sold-Single Name:</b>				
Aaa	\$ 376,125	\$ (11,250)	\$ 525,812	\$ (19,442)
Aa	2,225,875	(86,408)	2,815,912	(83,984)
A	5,928,825	(199,273)	5,825,968	(162,262)
Baa	6,135,600	(232,690)	6,629,514	(321,765)
Ba	1,171,450	(103,424)	1,168,506	(128,516)
B	353,738	(85,466)	253,422	(30,355)
Caa	107,000	(19,642)	112,812	(47,423)
Ca	105,000	(47,457)	105,000	(48,506)
C	45,000	(6,519)	35,000	(3,189)
D	11,000	(3,935)	6,000	(782)
<b>Total</b>	<b>\$ 16,459,613</b>	<b>\$ (796,064)</b>	<b>\$ 17,477,946</b>	<b>\$ (846,224)</b>
<b>Credit Swaps Sold-Tranche:</b>				
Aaa	\$ 1,200,000	\$ (94,341)	\$ 2,700,000	\$ (495,997)
Aa	2,400,000	(598,301)	1,350,000	(386,705)
A	550,000	(170,502)	200,000	(73,091)
Baa	300,000	(103,484)	600,000	(231,999)
Ba	400,000	(170,006)		
B			150,000	(88,725)
Caa	150,000	(95,175)		
<b>Total</b>	<b>\$ 5,000,000</b>	<b>\$ (1,231,809)</b>	<b>\$ 5,000,000</b>	<b>\$ (1,276,517)</b>
<b>CDS on ABS:</b>				
A	\$	\$	\$ 5,000	\$ (2,530)
Baa	5,000	(2,608)	15,000	(11,089)
Ba			5,000	(3,607)
C	38,000	(23,075)	42,654	(36,193)
<b>Total</b>	<b>\$ 43,000</b>	<b>\$ (25,683)</b>	<b>\$ 67,654</b>	<b>\$ (53,419)</b>
<b>Credit Swaps Purchased-Single Name:</b>				
A	\$ (4,120)	\$ 507	\$ (4,120)	\$ 536
Baa	(3,580)	855	(3,580)	474
Ba	(4,040)	1,623	(4,040)	1,689
<b>Total</b>	<b>\$ (11,740)</b>	<b>\$ 2,985</b>	<b>\$ (11,740)</b>	<b>\$ 2,699</b>



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<b>Moody's Rating Category By Counterparty Buyer / (Seller)</b>	<b>March 31, 2009</b>		<b>December 31, 2008</b>	
	<b>Notional Amount</b>	<b>Fair Value</b>	<b>Notional Amount</b>	<b>Fair Value</b>
<b>Credit Swaps Sold-Single Name:</b>				
Aaa	\$ 10,000	\$ (190)	\$ 2,411,228	\$ (94,793)
Aa	12,473,363	(601,894)	11,930,958	(573,250)
A	2,626,875	(123,107)	1,746,917	(100,189)
Non rated	1,349,375	(70,873)	1,388,843	(77,992)
<b>Total</b>	<b>\$ 16,459,613</b>	<b>\$ (796,064)</b>	<b>\$ 17,477,946</b>	<b>\$ (846,224)</b>
<b>Credit Swaps Sold-Tranche:</b>				
Aa	\$ 4,550,000	\$ (1,097,424)	\$ 4,550,000	\$ (1,132,176)
A	450,000	(134,385)	450,000	(144,341)
<b>Total</b>	<b>\$ 5,000,000</b>	<b>\$ (1,231,809)</b>	<b>\$ 5,000,000</b>	<b>\$ (1,276,517)</b>
<b>CDS on ABS:</b>				
Aa	\$ 8,000	\$ (5,250)	\$ 43,494	\$ (32,519)
A	30,000	(17,105)	19,160	(17,093)
Non rated	5,000	(3,328)	5,000	(3,807)
<b>Total</b>	<b>\$ 43,000</b>	<b>\$ (25,683)</b>	<b>\$ 67,654</b>	<b>\$ (53,419)</b>
<b>Credit Swaps Purchased-Single Name:</b>				
Aa	\$ (11,740)	\$ 2,985	\$ (11,740)	\$ 2,699
<b>Total</b>	<b>\$ (11,740)</b>	<b>\$ 2,985</b>	<b>\$ (11,740)</b>	<b>\$ 2,699</b>

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S&P Rating Category By Single Name Reference Entity/Tranche	March 31, 2009		December 31, 2008	
	Notional Amount	Fair Value	Notional Amount	Fair Value
Credit Swaps Sold-Single Name:				
AAA	\$ 376,125	\$ (11,250)	\$ 555,812	\$ (19,594)
AA	2,016,375	(84,699)	2,276,042	(78,128)
A	6,617,250	(213,773)	6,984,696	(200,543)
BBB	6,032,300	(256,504)	6,427,687	(336,933)
BB	982,950	(132,068)	722,933	(71,601)
B	143,313	(13,548)	289,246	(71,219)
CCC	255,300	(76,621)	180,530	(64,235)
CC	10,000	(2,721)		
C	15,000	(945)	35,000	(3,189)
D	11,000	(3,935)	6,000	(782)
Total	\$ 16,459,613	\$ (796,064)	\$ 17,477,946	\$ (846,224)
Credit Swaps Sold-Tranche:				
AAA	\$ 2,900,000	\$ (512,155)	\$ 3,600,000	\$ (738,361)
AA	700,000	(180,487)	450,000	(144,341)
A	550,000	(170,502)	100,000	(37,107)
BBB	500,000	(188,997)	500,000	(187,384)
BB	200,000	(84,493)	200,000	(80,599)
B			100,000	(60,460)
CCC	150,000	(95,175)	50,000	(28,265)
Total	\$ 5,000,000	\$ (1,231,809)	\$ 5,000,000	\$ (1,276,517)
CDS on ABS:				
BBB	\$ 15,000	\$ (8,409)	\$ 15,000	\$ (10,828)
BB			10,000	(6,727)
B	10,000	(6,057)	10,000	(6,597)
CCC	8,000	(5,025)	10,000	(7,747)
CC	10,000	(6,192)	22,654	(21,520)
Total	\$ 43,000	\$ (25,683)	\$ 67,654	\$ (53,419)
Credit Swaps Purchased-Single Name:				
A	\$ (4,120)	\$ 507	\$ (4,120)	\$ 536
BBB	(7,620)	2,478	(7,620)	2,163
Total	\$ (11,740)	\$ 2,985	\$ (11,740)	\$ 2,699





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S&P Rating Category	March 31, 2009		December 31, 2008	
	Notional Amount	Fair Value	Notional Amount	Fair Value
<b>By Counterparty Buyer / (Seller)</b>				
Credit Swaps Sold-Single Name:				
AA	\$ 5,850,913	\$ (288,491)	\$ 7,620,037	\$ (350,248)
A	9,259,325	(436,700)	8,469,066	(417,984)
Non rated	1,349,375	(70,873)	1,388,843	(77,992)
Total	\$ 16,459,613	\$ (796,064)	\$ 17,477,946	\$ (846,224)
Credit Swaps Sold-Tranche:				
AA	\$ 2,850,000	\$ (611,671)	\$ 2,850,000	\$ (640,545)
A	2,150,000	(620,138)	2,150,000	(635,972)
Total	\$ 5,000,000	\$ (1,231,809)	\$ 5,000,000	\$ (1,276,517)
CDS on ABS:				
A	\$ 38,000	\$ (22,355)	\$ 62,654	\$ (49,612)
Non rated	5,000	(3,328)	5,000	(3,807)
Total	\$ 43,000	\$ (25,683)	\$ 67,654	\$ (53,419)
Credit Swaps Purchased-Single Name:				
A	\$ (11,740)	\$ 2,985	\$ (11,740)	\$ 2,699
Total	\$ (11,740)	\$ 2,985	\$ (11,740)	\$ 2,699

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The table below shows the geographical distribution of the credit swap portfolio by domicile of the Reference Entity and domicile of the counterparty (including transactions with LBSF, as discussed in note 7), as of March 31, 2009 and December 31, 2008 (in thousands):

<b>Country of Domicile</b>	<b>March 31, 2009</b>		<b>December 31, 2008</b>	
	<b>Notional Amount</b>	<b>Fair Value</b>	<b>Notional Amount</b>	<b>Fair Value</b>
<b>Credit Swaps Sold-Single Name</b>				
By Reference Entity:				
North America	\$ 8,783,250	\$ (505,688)	\$ 9,135,739	\$ (481,009)
Europe	6,805,363	(247,475)	7,456,207	(314,651)
Asia-Pacific	692,000	(35,218)	707,000	(38,839)
Others	179,000	(7,683)	179,000	(11,725)
Total	\$ 16,459,613	\$ (796,064)	\$ 17,477,946	\$ (846,224)
By Counterparty:				
North America	\$ 8,482,963	\$ (416,738)	\$ 8,872,732	\$ (439,704)
Europe	7,839,650	(374,915)	8,463,214	(401,245)
Asia-Pacific	132,000	(4,369)	132,000	(5,203)
Others	5,000	(42)	10,000	(72)
Total	\$ 16,459,613	\$ (796,064)	\$ 17,477,946	\$ (846,224)
<b>Credit Swaps Sold -Tranche</b>				
By Counterparty:				
North America	\$ 600,000	\$ (144,961)	\$ 600,000	\$ (143,205)
Europe	4,400,000	(1,086,848)	4,400,000	(1,133,312)
Total	\$ 5,000,000	\$ (1,231,809)	\$ 5,000,000	\$ (1,276,517)
<b>CDS on ABS</b>				
By Reference Entity:				
North America	\$ 43,000	\$ (25,683)	\$ 67,654	\$ (53,419)
Total	\$ 43,000	\$ (25,683)	\$ 67,654	\$ (53,419)
By Counterparty:				
North America	\$ 30,000	\$ (18,184)	\$ 38,494	\$ (27,695)
Europe	13,000	(7,499)	29,160	(25,724)
Total	\$ 43,000	\$ (25,683)	\$ 67,654	\$ (53,419)

**Consolidation, Merger or Sale**

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We may agree not to consolidate with or merge into any other person or convey or transfer substantially all of our properties and assets to any person, unless:

the successor is a U.S. corporation; and

the successor corporation expressly assumes by a supplemental indenture the due and punctual payment of the principal of and any premium or any interest on all the debt securities and the performance of every covenant in such indenture that we would otherwise have to perform.

### **Modification of the Indentures**

Under each indenture, our rights and obligations and the rights of the holders may be modified if the holders of a majority in aggregate principal amount of the outstanding debt securities of all series voting as a single class affected by the modification consent. However, no modification of the principal or interest payment terms, and no modification reducing the percentage required for modifications, is effective against any holder without its consent.

### **Events of Default, Notice and Waiver**

When we use the term "Event of Default" in the indentures, here are some examples of what we mean.

Unless otherwise specified in a prospectus supplement, an Event of Default with respect to a series of debt securities occurs if:

we fail to pay the principal of, or any premium on, any debt security when due;

we fail to pay interest when due on any debt security for 30 days;

we fail to perform any other covenant in such indenture and this failure continues for 60 days after we receive written notice of it from the trustee or from the holders of 25% in principal amount of the outstanding debt securities of the series;

we default under any other loans or similar indebtedness in an amount in excess of \$50,000,000 and that default results in the acceleration of the loan and the situation continues for a period of 20 days after we receive written notice from the trustee or from holders of 25% of the principal amount of the outstanding securities of such series; or

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we or a court take certain actions relating to the bankruptcy, insolvency or reorganization of Hess Corporation for the benefit of our creditors.

A supplemental indenture may include, or pursuant to a resolution from our board of directors there may be added, additional Events of Default or changes to the Events of Default described above with respect to a particular series of debt securities. For the Events of Default applicable to a particular series of debt securities, see the prospectus supplement relating to the series.

Under each indenture, there will not be an Event of Default if a change in generally accepted accounting principles causes a change in our financial statements or causes us to change our accounting practices and such change results in us not being in compliance with one or more of our covenants.

The trustee may withhold notice to the holders of debt securities of any default (except in the payment of principal or interest) if it considers withholding of notice to be in the best interests of the holders. No notice of a covenant default may be given until 30 days after the default occurs. By default we mean any event which is an Event of Default described above or would become an Event of Default with the giving of notice or the passage of time.

If a payment Event of Default for any series of debt securities occurs and continues, the trustee or the holders of at least 25% in aggregate principal amount of the debt securities of the series may require us to repay immediately:

the entire principal of the debt securities of the series or, if the debt securities are original issue discount securities, the portion of the principal described in the applicable prospectus supplement; and

all the accrued interest.

If the default results from a failure to perform a covenant or the acceleration of other indebtedness, the trustee or the holders of 25% in aggregate principal amount of all debt securities may require the immediate payment of principal and interest. If the default is in connection with an event of bankruptcy or similar event, the principal and interest will become immediately due and payable.

The holders of a majority of the principal amount of the debt securities of the affected series can rescind this accelerated payment requirement or waive any past default or Event of Default or allow us to not comply with any provision in such indenture. However, rescission is not permitted if there is a default in payment of principal of, or premium or interest on, any of the debt securities of the series apart from the acceleration itself.

Other than its duties during a default, the trustee is not obligated to exercise any of its rights or powers under such indenture at the request, order or direction of any holders, unless the holders offer the trustee reasonable indemnity. If they provide this indemnity, the holders of 25% of the principal amount of any series of debt securities may, subject to limitations, direct the time, method and place of conducting any proceeding or any remedy available to the trustee, or exercising any power conferred on the trustee, for any series of debt securities.

### **Defeasance of the Indentures and Debt Securities**

Each indenture permits us to be discharged from our obligations under such indenture and the debt securities if we comply with the following procedures. This discharge from our obligations is referred to in this prospectus as defeasance.

Unless the applicable prospectus supplement states otherwise, if we deposit with the trustee sufficient cash or U.S. government securities to pay and discharge the principal and premium, if any, and interest, if any, to the date of maturity on such series of debt securities then following such deposit:

we will be deemed to have paid and discharged the entire indebtedness on the debt securities of any series; and

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our obligations under such indenture with respect to the debt securities of such series will cease to be in effect. Following such defeasance, holders of the applicable debt securities would be able to look only to the trust fund for payment of principal and premium, if any, and interest, if any, on their debt securities.

We must deliver to the trustee a ruling by the United States Internal Revenue Service or an opinion of counsel to the effect that the deposit and related defeasance would not cause the holders of the debt securities to recognize income, gain or loss for federal income tax purposes.

### **Concerning the Trustee**

The Bank of New York Mellon is the trustee under the indentures. The Bank of New York Mellon also serves as the trustee under other indentures pursuant to which certain of our debt securities are outstanding. We have had and may continue to have commercial banking and other service relationships with the trustee and the Bank of New York, an affiliate of the trustee, in the ordinary course of business.

Except during the continuance of an event of default, the trustee, or if there is more than one trustee under the indentures, each such trustee, will perform only those duties that are specifically set forth in such trustees' respective indenture. During the continuance of any event of default under either of the indentures, the trustee thereunder will exercise its rights and powers under the indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use his rights under the circumstances in the conduct of his own affairs.

### **Payment and Transfer**

We will normally issue the debt securities only in book-entry form, which means that they will be represented by one or more permanent global certificates registered in the name of The Depository Trust Company, New York, New York ( "DTC" ), or its nominee. We will refer to this form here and in the prospectus supplement as "book-entry only."

Alternatively, we may issue the debt securities in certificated form registered in the name of the holder. Under these circumstances, holders may receive certificates representing the debt securities. Debt securities in certificated form will be issued only in increments of \$1,000 and will be exchangeable without charge except for reimbursement of taxes or other governmental charges, if any. We will refer to this form in the prospectus supplement as "certificated."

If we issue original issue discount debt securities, we will describe the special United States federal income tax and other considerations of a purchase of original issue discount debt securities in the prospectus supplement. By "original issue discount debt securities," we mean securities that are issued at a substantial discount below their principal amount because they pay no interest or pay interest that is below market rates at the time of issuance.

The following discussion pertains to debt securities that are issued in book-entry only form. We have obtained the information regarding DTC from sources that we believe to be reliable.

One or more global securities would be issued to DTC or its nominee. DTC would keep a computerized record of its participants (for example, your broker) whose clients have purchased the debt securities. The participant would then keep a record of its clients who purchased the debt securities. Since the global certificate is registered in the name of DTC or its nominee, DTC or its nominee is said to have legal or record ownership of the global certificate. Persons who buy interests in the global security by purchasing securities are said to own a beneficial interest in the global security. The rights of these beneficial owners will be governed solely by the applicable procedures of DTC and its participants. A global security generally may not be transferred, except that DTC, its nominees and their successors may transfer an entire global security to one another.

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Under book-entry only, we will not issue certificates to individual holders of the debt securities. Beneficial interests in global securities will be shown on, and transfers of global securities will be made only through, records maintained by DTC and its participants.

DTC is:

a limited-purpose trust company organized under the New York Banking Law;

a banking organization within the meaning of the New York Banking Law;

a member of the United States Federal Reserve System;

a clearing corporation within the meaning of the New York Uniform Commercial Code; and

a clearing agency registered under Section 17A of the Securities Exchange Act of 1934.

DTC holds securities that its participants deposit with DTC. DTC also facilitates settlement among participants of securities transactions, such as transfers and pledges, in deposited securities through computerized book-entry changes in DTC participants' accounts. This eliminates the need for physical movement of certificates. Participants include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. Indirect access to the DTC system is also available to others such as securities brokers and dealers, banks and trust companies that clear through or maintain a custodial relationship with a participant, either directly or indirectly. The rules that apply to DTC and its participants are on file with the SEC. DTC is a wholly-owned subsidiary of The Depository Trust and Clearing Corporation (DTCC) which is owned by the users of its regulated subsidiaries.

We will make payments on a global security in accordance with the applicable policies of DTC as in effect from time to time. Under those policies, we will pay directly to DTC or its nominee, and not to any owners of beneficial interests in the global security. We and the trustee will treat DTC's nominee as the owner of the global securities for all purposes. Accordingly, we and the trustee will have no direct responsibility or liability to pay amounts due on the securities to owners of beneficial interests in the global securities.

It is DTC's current practice, upon receipt of any payment of principal or interest, to credit participants' accounts on the payment date according to their respective holdings of beneficial interests in the global securities as shown on DTC's records as of the record date for such payment. In addition, it is DTC's current practice to assign any consenting or voting rights to participants whose accounts are credited with securities on a record date, by using an omnibus proxy. Payments by participants to owners of beneficial interests in the global securities, and voting by participants, will be governed by standing instructions and customary practices between the participants and owners of beneficial interests, as is the case with debt securities held for the account of customers registered in street name. However, these payments will be the responsibility of the participants and not of DTC, the trustee or us.

Debt securities represented by a global security would be exchangeable for debt securities represented by certificates with the same terms in authorized denominations only if:

DTC notifies us that it is unwilling or unable to continue as depository or if DTC ceases to be a clearing agency registered under applicable law; or

we instruct the trustee that the global security is now exchangeable; or

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an event of default has occurred and is continuing.

If a global security is terminated, only DTC, and not the trustee or us, is responsible for deciding the names of the institutions in whose names the debt securities represented by the global security will be registered and, therefore, who will be the holders of those debt securities.

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If there are any changes from the above summary, they will appear in a prospectus supplement. However, DTC's policies, which may change from time to time, will govern payments, transfers, exchanges, and other matters relating to an investor's interest in a global security. We and the trustee have no responsibility for any aspect of DTC's actions or for its records of ownership interests in a global security. We and the trustee also do not supervise DTC in any way. Financial institutions that participate in DTC's book-entry system, through which an investor holds its interest in a global security, may also have their own policies affecting payments, notices and other matters relating to the debt securities. There may be more than one financial intermediary in the chain of ownership for an investor. We do not monitor and are not responsible for the actions of any of those intermediaries.

### **Governing Law**

The debt securities and the indentures under which they will be issued are governed by the laws of the State of New York.

### **Provisions Applicable Solely to Subordinated Debt Securities**

#### *General*

We may issue subordinated debt securities under the subordinated debt indenture. Holders of subordinated debt securities should recognize that contractual provisions in that indenture may prohibit us from making payments on these securities. The subordinated debt securities may rank on an equal basis with certain other subordinated debt of ours that may be outstanding from time to time and will rank junior to all senior indebtedness (as defined below or may be defined in the indenture) of ours (including any senior debt securities issued under the senior debt indenture) that may be outstanding from time to time.

If we issue subordinated debt securities, the aggregate principal amount of senior indebtedness outstanding as of a recent date will be set forth in the applicable prospectus supplement. The indenture does not restrict the amount of senior indebtedness that we may incur.

#### *Subordination*

The payment of the principal of, and premium, if any, and interest on the subordinated debt securities is expressly subordinated, to the extent and in the manner set forth in the subordinated debt indenture, in right of payment to the prior payment in full of all of our senior indebtedness.

The term senior indebtedness is defined in the indenture as indebtedness we incur for money borrowed, all deferrals, renewals or extensions of any such indebtedness and all evidences of indebtedness issued in exchange for any such indebtedness unless such indebtedness provides that it is not senior indebtedness. Senior indebtedness also includes our guarantees of the foregoing items of indebtedness for money borrowed by persons other than us, unless, in any such case, such indebtedness or guarantee provides by its terms that it will not constitute senior indebtedness.

The subordinated debt indenture provides that, unless all principal of and any premium or interest on, the senior indebtedness has been paid in full, or provision has been made to make these payments in full, no payment or other distribution may be made with respect to the subordinated indebtedness in the following circumstances:

any acceleration of the principal amount due on the subordinated debt securities;

the dissolution or winding-up or total or partial liquidation or reorganization of Hess Corporation, whether voluntary or involuntary or in bankruptcy, insolvency, receivership or other proceedings;

a default in the payment of principal, premium, if any, sinking fund or interest with respect to any senior indebtedness; or



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an event of default (other than a default in the payment of principal, premium, if any, sinking funds or interest) with respect to any senior indebtedness, as defined in the instrument under which the same is outstanding, permitting the holders of senior indebtedness to accelerate its maturity, and such event of default has not been cured or waived.

A merger, consolidation or conveyance of all or substantially all of our assets on the terms and conditions provided in the indenture will not be deemed a dissolution, winding-up, liquidation or reorganization for the purposes of these subordination provisions.

If the holders of subordinated debt securities receive any payment or distribution of our assets not permitted by the subordination provisions, the holders of subordinated debt securities will have to repay such amount to the holders of the senior debt securities or to the trustee.

### *Subrogation*

After the payment in full of all senior indebtedness, the holders of the subordinated debt securities will be subrogated to the rights of the holders of senior indebtedness to receive payments or distributions of our assets or securities applicable to the senior indebtedness until the subordinated debt securities are paid in full. Under these subrogation provisions, no payments or distributions to the holders of senior indebtedness which otherwise would have been payable or distributable to holders of the subordinated debt securities will be deemed to be a payment by us to or on the account of the senior indebtedness. These provisions of the indenture are intended solely for the purpose of defining the relative rights of the holders of the subordinated debt securities and the holders of the senior debt securities. Nothing contained in the indenture is intended to impair our absolute obligation to pay the principal of and interest on the subordinated debt securities in accordance with their terms or to affect the relative rights of the holders of the subordinated debt securities and our creditors other than the holders of the senior indebtedness. These subrogation provisions of the indenture will not prevent the holder of any subordinated debt security from exercising all remedies otherwise permitted by applicable law upon default of such security, subject to the rights of subordination described above.

## **Provisions Applicable Solely to Convertible Debt Securities**

### *General*

The following provisions may apply to senior debt or subordinated debt securities that will be convertible into our common stock or preferred stock, unless otherwise provided in the prospectus supplement relating to the specific issue of debt securities. In the case of subordinated debt securities, these provisions are in addition to any provisions that apply because the debt securities are subordinated. The holder of any convertible debt securities will have the right, exercisable at any time during the time period specified in the applicable prospectus supplement, unless previously redeemed, to convert the convertible debt securities into shares of our common stock or preferred stock at the conversion rate and upon the terms specified in the applicable prospectus supplement. The holder of convertible debt securities may convert any portion thereof which is \$1,000 or any integral multiple of \$1,000. In the case of convertible debt securities called for redemption, conversion rights will expire at the close of business on the date fixed for the redemption, except that, in the case of redemption at the option of the holder, if applicable, the conversion right will terminate upon receipt of written notice of the exercise of the option.

### *Adjustment*

For each series of convertible debt securities, the conversion price or rate will be subject to adjustment as contemplated in the indenture. Unless otherwise provided in the applicable prospectus supplement, these adjustments may occur as a result of:

our issuance of shares of common stock as a dividend;

subdivisions and combinations of our common stock;

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the issuance to all holders of our common stock of rights or warrants entitling holders to subscribe for or purchase our shares at a price per share less than the market price at the time of issuance; and

the distribution to all holders of our common stock of:

shares of our capital stock other than our common stock;

evidences of indebtedness or assets other than cash dividends paid from retained earnings and dividends payable in common stock referred to above; or

subscription rights or warrants other than those referred to above.

In any case no adjustment of the conversion price or rate will be required unless an adjustment would require a cumulative increase or decrease of at least 1% in such price or rate. We will not issue any fractional shares of our common stock upon conversion, but, instead, we will pay a cash adjustment. If indicated in the applicable prospectus supplement, convertible debt securities convertible into our common stock which are surrendered for conversion between the record date for an interest payment, if any, and the interest payment date, other than convertible debt securities called for redemption on a redemption date during that period, must be accompanied by payment of an amount equal to interest which the registered holder is entitled to receive. We may, from time to time, reduce the conversion price by any amount for a period of not less than 20 days, provided that the reduced price is not less than the par value of a share of common stock.

We will determine the adjustment provisions for convertible debt securities at the time of issuance of each series of convertible debt securities. These adjustment provisions will be described in the applicable prospectus supplement.

### *Other Purchasers*

Except as set forth in the applicable prospectus supplement, any convertible debt securities called for redemption, unless surrendered for conversion on or before the close of business on the redemption date, are subject to being purchased from the holder of the convertible debt securities by one or more investment banking firms or other purchasers who may agree with us to purchase our convertible debt securities and convert them into common stock or preferred stock, as the case may be.

### *Subordination*

Our obligation to make payment on account of the principal of, and premium, if any, and interest on subordinated debt securities that are converted into convertible debt securities may be subordinated and junior in right of payment to our senior obligations, as described above under the heading *Provisions Applicable Solely to Subordinated Debt Securities* and in the prospectus supplement.

## **GLOSSARY**

We have used the following definitions in describing the restrictive covenants that we have agreed to in the indentures. You can also find the precise legal definitions of certain of these terms in Section 1.01 of each indenture.

*Attributable Debt* means, when used in connection with a sale and lease-back transaction referred to in the indenture, on the date upon which the amount is to be determined, the product of

the net proceeds from the sale and lease-back transaction multiplied by

a fraction, the numerator of which is the number of full years of the term of the lease relating to the property involved in that sale and lease-back transaction (without regard to any options to renew or extend such term) remaining on that date and the denominator of

which is the number of full years on the term of that lease measured from the first day of the term.

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*Consolidated Net Tangible Assets* means our total assets and those of our consolidated subsidiaries, less current liabilities and intangible assets.

*Principal Property* means any oil or gas producing property, onshore or offshore, or any refining or manufacturing plant owned or leased under a capital lease by us or any of our Restricted Subsidiaries, but does not include any property that has been determined by a resolution of our board of directors not to be of material importance to the business conducted by us and our subsidiaries taken as a whole.

*Restricted Subsidiary* means any Subsidiary that owns or leases under a capital lease any Principal Property.

*Secured Indebtedness* means indebtedness of ours or any Restricted Subsidiary for borrowed money secured by any lien on (or in respect of any conditional sale or other title retention agreement covering) any Principal Property or the stock or indebtedness of a Restricted Subsidiary, but excluding from such definition, all indebtedness:

secured by liens (or arising from conditional sale or other title retention agreements) existing on the date of the indenture;

owing to us or any other Restricted Subsidiary;

secured by liens on Principal Property or the stock or indebtedness of Restricted Subsidiaries and existing at the time of acquisition thereof;

in connection with industrial development bond, pollution control revenue bond or similar financings;

secured by purchase money security interests;

secured by liens existing at the time a corporation becomes a Restricted Subsidiary;

statutory liens, liens made in connection with bids and other standard exempted liens;

in connection with liens on oil or gas properties or other mineral interests arising as a security in connection with conducting certain business;

in connection with royalties and other payments to be paid out of production from oil or gas properties or other mineral interests from the proceeds from their sale; and

in connection with any replacement, extension or renewal of any such indebtedness to the extent such indebtedness is not increased.

*Subsidiary* means, with respect to any person, any corporation, association or other business entity of which more than 50% of the outstanding voting equity is owned, directly or indirectly, by such person and one or more other subsidiaries of such person.

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**DESCRIPTION OF THE WARRANTS**

**General**

The following is a summary of material provisions of the warrants that we may issue pursuant to one or more separate warrant agreements, either independently or together with other securities. This summary does not include all of the provisions of the warrants. Each series of warrants will be issued under a separate warrant agreement to be entered into between us and a warrant agent. The warrant agent will act solely as our agent in connection with the warrants of such series and will not assume any obligation or relationship of agency or trust for or with any holders or beneficial owners of warrants. We urge you to read the form of warrant agreement filed in connection with the applicable prospectus supplement. The terms of the warrants to subscribe for our debt securities include those stated in the forms of warrant agreements. Provisions of the forms of warrant agreements or terms defined in the forms of warrant agreements summarized below are incorporated into this prospectus by reference.

We may issue warrants for the purchase of:

debt securities,

preferred stock, or

common stock.

The warrants may be issued in one or more series. Please refer to the prospectus supplement relating to particular series of warrants for specific terms of the warrants, including the following terms:

the type and number of warrants;

the name, amount and terms of the securities for which the warrants may be exercised;

if applicable, the name and terms of the securities with which the warrants are issued and the number of warrants issued with each such security;

the expiration date of the warrants;

the period during which warrants may be exercised;

the exercise price of the warrants;

the minimum or maximum amount of the warrants that may be exercised at any one time;

any mandatory or optional call provisions;

the identity of the warrant agent;

a discussion of certain U.S. Federal income tax considerations; and

any other terms of the warrants offered thereunder.

The warrants will be represented by warrant certificates. We will pay all stamp taxes and any other duties to which the original issuance of the warrant certificates may be subject.

**Transfer and Exchange**

Warrants may be transferred or exchanged pursuant to procedures outlined in the applicable warrant agreement. No service charge will be made for registration of transfer or exchange upon surrender of any warrant certificate at the office of the applicable warrant agent maintained for that purpose. We may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of warrant certificates.

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No warrant or warrant certificate will entitle the holder thereof to any of the rights of a holder of the security for which the warrant may be exercised, including the right to receive payments of principal or interest on debt securities or to enforce any of the covenants in any indenture relating to debt securities or the right to receive dividends on common or preferred stock or vote with common or preferred stock.

### **Exercise of Warrants**

In order to exercise warrants, the holder of the warrants will be required to surrender to the warrant agent the related warrant certificate and pay in full the exercise price for the securities to be subscribed for upon such exercise. The exercise price must be paid in cash or by certified or official bank check or by wire transfer to an account we designate for such purpose. The warrant agent then will deliver the applicable securities to the holder, and will issue a new warrant certificate for any warrants not exercised.

### **Amendment of Warrant Agreement**

From time to time, we and the warrant agent under the relevant warrant agreement, may amend or supplement the warrant agreement for certain purposes without the consent of the holders of the warrants issued thereunder, including to cure defects or inconsistencies or make any change that does not materially and adversely affect the rights of any holder. Any amendment or supplement to a warrant agreement that has a material adverse effect on the interests of the holders of the warrants issued thereunder will require the written consent of the holders of a majority of the outstanding warrants issued thereunder.

The written consent of each holder of the warrants affected shall be required for any amendment that:

increases the exercise price;

shortens the period during which warrants may be exercised; or

if the warrants may be redeemed at our option, reduces the price at which the warrants may be redeemed.

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### **DESCRIPTION OF THE COMMON STOCK**

We outline below a summary of material information relating to our common stock, including summaries of certain provisions of our restated certificate of incorporation, as amended, and our by-laws, as amended. This summary does not include all of the provisions of our restated certificate of incorporation or by-laws. These statements do not purport to be complete, or to give full effect to the provisions of statutory or common laws, and are subject to, and are qualified in their entirety by reference to, the terms and detailed provisions of the restated certificate of incorporation and of the by-laws. We urge you to read our full certificate of incorporation and by-laws.

We are incorporated in the State of Delaware, United States and operate in accordance with the Delaware General Corporation Law (DGCL). The rights of our stockholders are determined by the DGCL, the securities laws and regulations and other legislation of the United States, our restated certificate of incorporation and our by-laws. Under our restated certificate of incorporation, we are authorized to issue up to 600,000,000 shares of common stock, par value \$1.00 per share. Our shares of common stock are traded on the New York Stock Exchange. Our shares are issued in registered form. Every holder of our shares is entitled to a share certificate. Holders of our shares are entitled, subject to the prior rights, if any, of holders of shares of any series of preferred stock that the board of directors may establish, to such dividends as may be declared by our board of directors if there are sufficient funds to legally pay a dividend.

#### **Annual Meeting**

Annual meetings of our stockholders are held on the date designated in accordance with our by-laws. Written notice must be mailed to each stockholder entitled to vote not less than ten nor more than 50 days before the date of the meeting. The presence in person or by proxy of the holders of record of a majority of our issued and outstanding shares entitled to vote at such meeting constitutes a quorum for the transaction of business at meetings of the stockholders. Special meetings of the stockholders may be called for any purpose by the chairman of the board or the president and shall be called by the secretary at the request of the board of directors pursuant to a resolution approved by a majority of the entire board.

#### **Voting Rights**

The holders of our shares of common stock are entitled to one vote for each share held of record and may vote by proxy. Except as may be otherwise provided by applicable law, our restated certificate of incorporation or our by-laws, all matters other than the election of directors shall be decided by a majority of the shares present in person or represented by proxy and entitled to vote thereon at a duly held meeting of stockholders at which a quorum is present.

#### **Liquidation, Dissolution or Winding-Up**

In the event of our liquidation, dissolution or winding-up, the holders of our shares of common stock are entitled to share ratably according to the number of shares held by them in all remaining assets available for distribution to the holders of our shares after discharge of outstanding liabilities and payment of such liquidation preference, if any, of any series of preferred stock that our board of directors may establish.

#### **Takeover Provisions**

Certain provisions of our restated certificate of incorporation and by-laws may have the effect of delaying, deferring or preventing a change of control in connection with certain extraordinary corporate transactions.

Our restated certificate of incorporation and by-laws formerly provided for a board of directors divided as nearly equally as possible into three classes. Each class was elected to a term expiring at the annual meeting of stockholders held in the third year following the year of such election. At the annual meeting of stockholders held in 2013, our stockholders approved amendments to our restated certificate of incorporation and our by-laws



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to declassify the board. As such, directors elected at each annual meeting of stockholders, commencing with the 2014 annual meeting of stockholders, are elected annually and serve one-year terms. In addition, the restated certificate of incorporation and the by-laws require (i) approval of holders of 80% of our voting stock to remove directors or to amend, alter or repeal the provisions as to director election and removal and other related provisions, (ii) advance notice of, and a specified procedure for, shareholder nominations for director, (iii) the taking of stockholder action only at annual or special meetings (to be called only by the chairman of the board or the president and shall be called by the secretary at the request of the board of directors pursuant to a resolution approved by a majority of the entire board) and prohibiting stockholder action by written consent, and (iv) the filling of vacancies on the board by remaining directors, though less than a quorum. Such provisions of the restated certificate of incorporation and the by-laws may make it more difficult for a person or entity to acquire and exercise control of the company and remove incumbent directors and officers.

We are also subject to the anti-takeover provisions of Section 203 of the DGCL.

**Other Rights**

Holders of our shares of common stock have no preemption, redemption, conversion or other subscription rights.

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**DESCRIPTION OF THE PREFERRED STOCK**

**General**

The following description sets forth certain general terms of the preferred stock and any related depositary shares that we may issue. The terms of any series of the preferred stock and any related depositary shares will be described in the applicable prospectus supplement relating to the preferred stock and any related depositary shares being offered. The description set forth below and in any prospectus supplement is not complete, and is subject to, and qualified in its entirety by reference to, our restated certificate of incorporation, as amended, and the certificate of designations relating to each particular series of the preferred stock and any related depositary shares, which was or will be filed with the SEC at or before the issuance of the series of preferred stock.

**Terms of the Preferred Stock**

Under our restated certificate of incorporation, we are authorized to issue up to 20,000,000 shares of preferred stock, par value \$1.00 per share. Our board of directors has the authority, without approval of the stockholders, to issue all of the shares of preferred stock which are currently authorized in one or more series and to fix the number of shares and the rights, preferences, privileges, qualifications, restrictions and limitations of each series.

The applicable prospectus supplement will describe the terms of each series of preferred stock, including, where applicable, the following:

the designation, stated value, liquidation preference and number of shares offered;

the offering price or prices;

the dividend rate or rates, or method of calculation, the dividend periods, the dates on which dividends shall be payable and whether dividends are cumulative or non-cumulative and, if cumulative, the dates from which dividends begin to cumulate;

any redemption or sinking fund provisions;

any conversion or exchange provisions;

any voting rights;

whether the preferred stock will be issued in certificated or book-entry form;

whether the preferred stock will be listed on a national securities exchange;

information with respect to any book-entry procedures; and

any additional rights, preferences, privileges, limitations and restrictions of the preferred stock which are not inconsistent with the provisions of the restated certificate of incorporation.

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The preferred stock will be, when issued against payment, fully paid and non-assessable. Holders will have no preemptive rights to subscribe for any additional securities which we may issue. Unless otherwise specified in the applicable prospectus supplement, the shares of each series of preferred stock will rank equally with all other outstanding series of preferred stock issued by us as to payment of dividends, other than with respect to cumulation of dividends, and as to the distribution of our assets upon liquidation, dissolution, or winding up. Each series of preferred stock will rank senior to the common stock, and any other stock of ours that is expressly made junior to that series of preferred stock.

Unless otherwise specified in the applicable prospectus supplement, The Bank of New York will be the transfer agent, dividend disbursing agent and registrar for the shares of the preferred stock.

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### **Dividends and Distributions**

Holders of shares of the preferred stock will be entitled to receive, as, if and when declared by our board of directors, or a duly authorized committee of our board of directors, out of funds legally available for the payment of dividends, cash dividends at the rate set forth in, or calculated in accordance with the formula set forth in, the prospectus supplement relating to the preferred stock being offered.

Dividends on the preferred stock may be cumulative or non-cumulative as provided in the applicable prospectus supplement. Dividends on the cumulative preferred stock will accumulate from the date of original issue and will be payable in arrears on the dates specified in the applicable prospectus supplement. If any date so specified as a dividend payment date is not a business day, declared dividends on the preferred stock will be paid on the immediately succeeding business day, without interest. The applicable prospectus supplement will set forth the applicable dividend period with respect to a dividend payment date. If our board of directors, or a duly authorized committee of our board of directors, fails to declare a dividend on any series of non-cumulative preferred stock for any dividend period, we will have no obligation to pay a dividend for that period, whether or not dividends on that series of non-cumulative preferred stock are declared for any future dividend period. Unless otherwise specified in the applicable prospectus supplement, dividends on the preferred stock will be payable to record holders as they appear on our stock books on each record date, not more than 60 nor less than 10 days preceding the applicable payment date, as shall be fixed by our board of directors or a duly authorized committee of our board of directors.

### **Liquidation Preference**

Any preference or priority of the preferred stock over our common stock and any other class of our stock ranking junior to the preferred stock upon liquidation, dissolution or winding up, for payments out of or distributions of our assets or proceeds from any liquidation, will be described in the applicable prospectus supplement.

### **Redemption**

If specified in the prospectus supplement relating to a series of preferred stock being offered, we may, at our option, at any time or from time to time on not less than 30 nor more than 60 days' notice, redeem that series of preferred stock in whole or in part at the redemption prices and on the dates set forth in the applicable prospectus supplement.

If less than all outstanding shares of a series of preferred stock are to be redeemed, the selection of the shares to be redeemed shall be determined by lot or pro rata as may be determined by our board of directors, or a duly authorized committee of our board of directors, to be equitable. From and after the redemption date, unless we are in default in providing for the payment of the redemption price, dividends shall cease to accrue on the shares of that series of preferred stock called for redemption and all rights of the holders shall cease, other than the right to receive the redemption price.

Any restriction on the repurchase or redemption by us of our preferred stock while we are in arrears in the payment of dividends or sinking fund installments will be described in the applicable prospectus supplement.

### **Voting Rights**

Unless otherwise described in the applicable prospectus supplement, holders of the preferred stock will have no voting rights except as required by law.

### **Conversion or Exchange Rights**

The prospectus supplement relating to a series of preferred stock that is convertible or exchangeable will state the terms on which shares of that series are convertible or exchangeable into common stock, another series of preferred stock or debt securities.

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### **DESCRIPTION OF THE DEPOSITARY SHARES**

#### **General**

We may choose to offer fractional shares or some multiple of shares of our preferred stock, rather than whole individual shares. If we decide to do so, we will issue the preferred stock in the form of depositary shares. Each depositary share would represent a fraction or multiple of a share of the preferred stock and would be evidenced by a depositary receipt. We will issue depositary shares under a deposit agreement between a depositary, which we will appoint at our discretion, and us.

#### **Deposit Agreement**

We will deposit the shares of preferred stock to be represented by depositary shares under a deposit agreement. The parties to the deposit agreement will be:

Hess Corporation;

a bank or other financial institution selected by us and named in the applicable prospectus supplement, as preferred stock depositary;  
and

the holders from time to time of depositary receipts issued under that depositary agreement.

Each holder of a depositary share will be entitled to all the rights and preferences of the underlying preferred stock, including, where applicable, dividend, voting, redemption, conversion and liquidation rights, in proportion to the applicable fraction or multiple of a share of preferred stock represented by the depositary share. The depositary shares will be evidenced by depositary receipts issued under the deposit agreement. The depositary receipts will be distributed to those persons purchasing the fractional or multiple shares of preferred stock. A depositary receipt may evidence any number of whole depositary shares.

We will file the deposit agreement, including the form of depositary receipt, with the SEC, either as an exhibit to an amendment to the registration statements of which this prospectus forms a part or as an exhibit to a current report on Form 8-K. See [Where You Can Find More Information](#) above for information on how to obtain a copy of the form of deposit agreement.

#### **Dividends and Other Distributions**

The preferred stock depositary will distribute any cash dividends or other cash distributions received in respect of the deposited preferred stock to the record holders of depositary shares relating to the underlying preferred stock in proportion to the number of depositary shares owned by the holders. The preferred stock depositary will distribute any property received by it other than cash to the record holders of depositary shares entitled to those distributions, unless it determines that the distribution cannot be made proportionally among those holders or that it is not feasible to make a distribution. In that event, the preferred stock depositary may, with our approval, sell the property and distribute the net proceeds from the sale to the holders of the depositary shares in proportion to the number of depositary shares they own.

The amounts distributed to holders of depositary shares will be reduced by any amounts required to be withheld by the preferred stock depositary or by us on account of taxes or other governmental charges.

#### **Redemption of Preferred Stock**

If we redeem preferred stock represented by depositary shares, the preferred stock depositary will redeem the depositary shares from the proceeds it receives from the redemption, in whole or in part, of the preferred stock. The preferred stock depositary will redeem the depositary shares at a price per share equal to the applicable fraction or multiple of the redemption price per share of preferred stock. Whenever we redeem shares



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of preferred stock held by the preferred stock depositary, the preferred stock depositary will redeem as of the same date the number of depositary shares representing the redeemed shares of preferred stock. If fewer than all the depositary shares are to be redeemed, the preferred stock depositary will select the depositary shares to be redeemed by lot or ratably or by any other equitable method it chooses.

After the date fixed for redemption, the depositary shares called for redemption will no longer be deemed to be outstanding, and all rights of the holders of those shares will cease, except the right to receive the amount payable and any other property to which the holders were entitled upon the redemption. To receive this amount or other property, the holders must surrender the depositary receipts evidencing their depositary shares to the preferred stock depositary. Any funds that we deposit with the preferred stock depositary for any depositary shares that the holders fail to redeem will be returned to us after a period of two years from the date we deposit the funds.

## **Withdrawal of Preferred Stock**

Unless the related depositary shares have previously been called for redemption, any holder of depositary shares may receive the number of whole shares of the related series of preferred stock and any money or other property represented by those depositary receipts after surrendering the depositary receipts at the corporate trust office of the preferred stock depositary, paying any taxes, charges and fees provided for in the deposit agreement and complying with any other requirement of the deposit agreement. Holders of depositary shares making these withdrawals will be entitled to receive whole shares of preferred stock, but holders of whole shares of preferred stock will not be entitled to deposit that preferred stock under the deposit agreement or to receive depositary receipts for that preferred stock after withdrawal. If the depositary shares surrendered by the holder in connection with withdrawal exceed the number of depositary shares that represent the number of whole shares of preferred stock to be withdrawn, the preferred stock depositary will deliver to that holder at the same time a new depositary receipt evidencing the excess number of depositary shares.

## **Voting Deposited Preferred Stock**

When the preferred stock depositary receives notice of any meeting at which the holders of any series of deposited preferred stock are entitled to vote, the preferred stock depositary will mail the information contained in the notice to the record holders of the depositary shares relating to the applicable series of preferred stock. Each record holder of the depositary shares on the record date, which will be the same date as the record date for the preferred stock, may instruct the preferred stock depositary to vote the amount of the preferred stock represented by the holder's depositary shares. To the extent possible, the preferred stock depositary will vote the amount of the series of preferred stock represented by depositary shares in accordance with the instructions it receives. We will agree to take all reasonable actions that the preferred stock depositary determines are necessary to enable the preferred stock depositary to vote as instructed. If the preferred stock depositary does not receive specific instructions from the holders of any depositary shares representing a series of preferred stock, it will vote all shares of that series held by it proportionately with instructions received.

## **Conversion of Preferred Stock**

If the prospectus supplement relating to the depositary shares says that the deposited preferred stock is convertible into or exercisable or exchangeable for common stock, preferred stock of another series or other securities of Hess Corporation, the following will apply. The depositary shares, as such, will not be convertible into or exercisable or exchangeable for any securities of Hess Corporation. Rather, any holder of the depositary shares may surrender the related depositary receipts to the preferred stock depositary with written instructions to instruct us to cause conversion, exercise or exchange of the preferred stock represented by the depositary shares into or for whole shares of common stock, shares of another series of preferred stock or other securities of Hess Corporation. Upon receipt of those instructions and any amounts payable by the holder in connection with the conversion, exercise or exchange, we will cause the conversion, exercise or exchange using the same procedures

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as those provided for conversion, exercise or exchange of the deposited preferred stock. If only some of the depositary shares are to be converted, exercised or exchanged, a new depositary receipt or receipts will be issued for any depositary shares not to be converted, exercised or exchanged.

### **Amendment and Termination of the Deposit Agreement**

We may amend the form of depositary receipt evidencing the depositary shares and any provision of the deposit agreement at any time and from time to time by agreement with the preferred stock depositary. However, any amendment that imposes additional charges or materially and adversely alters any substantial existing right of the holders of depositary shares will not be effective unless the holders of at least a majority of the affected depositary shares then outstanding approve the amendment. We will make no amendment that impairs the right of any holder of depositary shares, as described above under **Withdrawal of Preferred Stock**, to receive shares of the related series of preferred stock and any money or other property represented by those depositary shares, except in order to comply with mandatory provisions of applicable law. Holders who retain or acquire their depositary receipts after an amendment becomes effective will be deemed to have agreed to the amendment and will be bound by the amended deposit agreement.

The deposit agreement will automatically terminate if:

all outstanding depositary shares have been redeemed or converted or exchanged for any other securities into which they or the underlying preferred stock are convertible or exchangeable; or

a final distribution in respect of the preferred stock has been made to the holders of depositary shares in connection with any liquidation, dissolution or winding up of Hess Corporation.

We may terminate the deposit agreement at any time, and the preferred stock depositary will give notice of that termination to the recordholders of all outstanding depositary receipts not less than 30 days before the termination date. In that event, the preferred stock depositary will deliver or make available for delivery to holders of depositary shares, upon surrender of the depositary receipts evidencing the depositary shares, the number of whole or fractional shares of the related series of preferred stock as are represented by those depositary shares.

### **Charges of Preferred Stock Depositary; Taxes and Other Governmental Charges**

We will pay the fees, charges and expenses of the preferred stock depositary provided in the deposit agreement to be payable by us. Holders of depositary receipts will pay any taxes and governmental charges and any charges provided in the deposit agreement to be payable by them, including a fee for the withdrawal of shares of preferred stock upon surrender of depositary receipts. If the preferred stock depositary incurs fees, charges or expenses for which it is not otherwise liable at the election of a holder of a depositary receipt or other person, that holder or other person will be liable for those fees, charges and expenses.

### **Resignation and Removal of Depositary**

The preferred stock depositary may resign at any time by giving us notice, and we may remove or replace the preferred stock depositary at any time.

### **Reports to Holders**

We will deliver all required reports and communications to holders of the preferred stock to the preferred stock depositary. It will forward those reports and communications to the holders of depositary shares.

### **Limitation on Liability of the Preferred Stock Depositary**

The preferred stock depositary will not be liable if it is prevented or delayed by law or any circumstances beyond its control in performing its obligations under the deposit agreement. The obligations of the preferred





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stock depositary under the deposit agreement will be limited to performance in good faith of its duties under the agreement, and it will not be obligated to prosecute or defend any legal proceeding in respect of any depositary shares, depositary receipts or shares of preferred stock unless satisfactory and reasonable protection from expenses and liability is furnished. This is called an indemnity. The preferred stock depositary may rely upon written advice of counsel or accountants, upon information provided by holders of depositary receipts or other persons believed to be competent and upon documents believed to be genuine.

**Form of Preferred Stock and Depositary Shares**

We may issue preferred stock in book-entry form. Preferred stock in book-entry form will be represented by a global security registered in the name of a depositary, which will be the holder of all the shares of preferred stock represented by the global security. Those who own beneficial interests in shares of preferred stock will do so through participants in the depositary's system, and the rights of these indirect owners will be governed solely by the applicable procedures of the depositary and its participants. However, beneficial owners of any preferred stock in book-entry form will have the right to obtain their shares in non-global form.

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**DESCRIPTION OF THE PURCHASE CONTRACTS**

**General**

We may issue purchase contracts for the purchase or sale of, or whose cash value is determined by reference or linked to the performance, level or value of, our common or preferred stock, debt securities, depositary shares or other securities described in this prospectus.

We refer to each property described above as a purchase contract property. Each purchase contract will obligate:

the holder to purchase or sell, and obligate us to sell or purchase, on specified dates, one or more purchase contract properties at a specified price or prices; or

the holder or us to settle the purchase contract by reference to the value, performance or level of one or more purchase contract properties, on specified dates and at a specified price or prices.

Some purchase contracts may include multiple obligations to purchase or sell different purchase contract properties, and both we and the holder may be sellers or buyers under the same purchase contract. No holder of a purchase contract will have any rights of a holder of the purchase contract property purchasable under the contract, including any right to receive payments on that property.

**Terms of the Purchase Contracts**

Your prospectus supplement may contain, where applicable, the following information about your purchase contract:

whether the purchase contract obligates the holder to purchase or sell, or both purchase and sell, one or more purchase contract properties and the nature and amount of each of those properties, or the method of determining those amounts;

whether the purchase contract is to be prepaid or not and the governing document for the contract;

whether the purchase contract is to be settled by delivery, or by reference or linkage to the value, performance or level of, the purchase contract properties;

any acceleration, cancellation, termination or other provisions relating to the settlement of the purchase contract;

whether the purchase contract will be issued as part of a unit and, if so, the other securities comprising the unit and whether any unit securities will be subject to a security interest in our favor as described below;

whether the purchase contract will be issued in fully registered or bearer form and in global or non-global form; and

any other terms of the purchase contract offered thereunder.

If we issue a purchase contract as part of a unit, the accompanying prospectus supplement will state whether the contract will be separable from the other securities in the unit before the contract settlement date.



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### **DESCRIPTION OF THE UNITS**

#### **General**

We may issue units comprised of one or more debt securities, warrants, purchase contracts, shares of preferred stock and depositary shares in any combination. Each unit will be issued so that the holder of the unit is also the holder of each security included in the unit. Thus, the holder of a unit will have the rights and obligations of a holder of each included security. The unit agreement under which a unit is issued may provide that the securities included in the unit may not be held or transferred separately, at any time or at any time before a specified date.

The applicable prospectus supplement may describe:

the designation and terms of the units and of the securities comprising the units, including whether and under what circumstances those securities may be held or transferred separately;

any provisions of the governing unit agreement that differ from those described here;

any provisions for the issuance, payment, settlement, transfer or exchange of the units or of the securities comprising the units; and

any other terms of the units offered thereunder.

#### **General Provisions of a Unit Agreement**

##### *Enforcement of Rights*

The unit agent under a unit agreement will act solely as our agent in connection with the units issued under that agreement. The unit agent will not assume any obligation or relationship of agency or trust for or with any holders of those units or of the securities comprising those units. The unit agent will not be obligated to take any action on behalf of those holders to enforce or protect their rights under the units or the included securities.

Generally, except as described in the next paragraph, a holder of a unit may, without the consent of the unit agent or any other holder, enforce its rights as holder under any security included in the unit, in accordance with the terms of that security and the indenture, warrant agreement, unit agreement or trust agreement under which that security is issued. Those specific terms will be described elsewhere in the applicable prospectus supplement under the sections relating to debt securities, warrants, purchase contracts and capital securities. Notwithstanding the foregoing, a unit agreement may limit or otherwise affect the ability of a holder of units issued under that agreement to enforce its rights, including any right to bring a legal action, with respect to those units or any securities, other than debt securities, prepaid purchase contracts, warrants issued under the warrant indenture and capital securities, that are included in those units. Limitations of this kind will be described in the applicable prospectus supplement.

##### *Modification Without Consent of Holders*

We and the applicable unit agent may amend any unit or unit agreement without the consent of any holder (i) to cure any ambiguity, (ii) to correct or supplement any defective or inconsistent provision or (iii) to make any other change that we believe is necessary or desirable and will not adversely affect the interests of the affected holders in any material respect.

We will not need any approval to make changes that affect only units to be issued after the changes take effect. We may also make changes that do not adversely affect a particular unit in any material respect, even if they adversely affect other units in a material respect. In those cases, we do not need to obtain the approval of the holder of the unaffected unit; we need only obtain any required approvals from the holders of the affected units.



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*Modification With Consent of Holders*

We generally may not amend any particular unit or a unit agreement with respect to any particular unit unless we obtain the consent of the holder of that unit, if the amendment would (i) impair any right of the holder to exercise or enforce any right under a security included in the unit if the terms of that security require the consent of the holder to any changes that would impair the exercise or enforcement of that right, (ii) impair the right of the holder to purchase or sell, as the case may be, the purchase contract property under any non-prepaid purchase contract issued under the unit agreement, or to require delivery of or payment for that property when due or (iii) reduce the percentage of outstanding units of any series or class the consent of whose holders is required to amend that series or class, or the applicable unit agreement with respect to that series or class.

Any other change to a particular unit agreement and the units issued under that agreement would require the following approval:

If the change affects only the units of a particular series issued under that agreement, the change must be approved by the holders of a majority of the outstanding units of that series.

If the change affects the units of more than one series issued under that agreement, it must be approved by the holders of a majority of all outstanding units of all series affected by the change, with the units of all the affected series voting together as one class for this purpose.

These provisions regarding changes with majority approval also apply to changes affecting any securities issued under a unit agreement, as the governing document.

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**HEDGING IN CONNECTION WITH DISTRIBUTIONS**

We may enter into derivative transactions with third parties or sell securities not covered by this prospectus to third parties in privately-negotiated transactions. If the applicable prospectus supplement so indicates, in connection with those derivatives, the third parties may sell securities covered by this prospectus and the applicable prospectus supplement, including in short sale transactions. If so, the third party may use securities pledged by us or borrowed from us or others to settle those sales or to close out any related open borrowings of stock, and may use securities received from us in settlement of those derivatives to close out any related open borrowings of stock. The third party in such sale transactions will be an underwriter and will be identified in the applicable prospectus supplement or a post-effective amendment.

**PLAN OF DISTRIBUTION**

We may sell the securities through agents, underwriters or dealers, or directly to one or more purchasers without using underwriters or agents.

We may designate agents who agree to use their reasonable efforts to solicit purchases for the period of their appointment or to sell securities on a continuing basis.

If we use underwriters for a sale of securities, the underwriters will acquire the securities for their own accounts. The underwriters may resell the 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. The obligations of the underwriters to purchase the securities will be subject to the conditions set forth in the applicable underwriting agreement. The underwriters will be obligated to purchase all the securities offered if any of those securities are purchased. Any initial public offering price and any discounts or concessions allowed or re-allowed or paid to dealers will be described in the applicable prospectus supplement and may be changed from time to time.

Underwriters, dealers and agents that participate in the distribution of the securities may be underwriters as defined in the Securities Act and any discounts or commissions they receive from us and any profit on their resale of the securities may be treated as underwriting discounts and commissions under the Securities Act. The applicable prospectus supplement will identify any underwriters, dealers or agents and will describe their compensation. We may have agreements with the underwriters, dealers and agents to indemnify them against certain civil liabilities, including liabilities under the Securities Act. Underwriters, dealers and agents may engage in transactions with or perform services for us or our subsidiaries in the ordinary course of their businesses.

Unless otherwise specified in the applicable prospectus supplement, each class or series of securities will be a new issue with no established trading market, other than the common stock, which is listed on the New York Stock Exchange. We may elect to list any other class or series of securities on any exchange, but we are not obligated to do so. It is possible that one or more underwriters may make a market in a class or series of securities, but the underwriters will not be obligated to do so and may discontinue any market making at any time without notice. We cannot give any assurance as to the liquidity of the trading market for any of the securities.

**VALIDITY OF THE SECURITIES**

In connection with particular offerings of the securities in the future, and if stated in the applicable prospectus supplements, the validity of those securities may be passed upon for the Company by White & Case LLP and for any underwriters or agents by counsel named in the applicable prospectus supplement.



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**EXPERTS**

Ernst & Young LLP, independent registered public accounting firm, has audited our consolidated financial statements and schedule included in our Annual Report on Form 10-K for the year ended December 31, 2014, and the effectiveness of our internal control over financial reporting as of December 31, 2014, as set forth in their reports, which are incorporated by reference in this prospectus and elsewhere in the registration statement. Our financial statements and schedule are incorporated by reference in reliance on Ernst & Young LLP's reports, given on their authority as experts in accounting and auditing.

Certain oil and gas reserves estimates incorporated herein by reference have been audited by DeGolyer and MacNaughton, an independent petroleum engineering consulting firm, as stated in its letter report included as an exhibit to Hess Corporation's Annual Report on Form 10-K for the year ended December 31, 2014, which is incorporated herein by reference in reliance on the authority of said firm as an expert in petroleum engineering.

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\$

**Hess Corporation**

\$ % Notes Due

\$ % Notes Due

*Joint Book-Running Managers*

**Goldman, Sachs & Co.**

**J.P. Morgan**

**Morgan Stanley**

**Mizuho Securities**

**MUFG**