

FEDERAL REALTY INVESTMENT TRUST

Form 424B5

November 30, 2005

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Filed Pursuant to Rule 424(b)(5)

Registration No. 333-100819

PROSPECTUS SUPPLEMENT

(To Prospectus Dated May 9, 2003)

\$125,000,000

5.65% Notes due 2016

The notes will bear interest at the rate of 5.65% per year. Interest on the notes is payable on June 1 and December 1 of each year, beginning on June 1, 2006. The notes will mature on June 1, 2016. We may redeem some or all of the notes at any time before maturity. The redemption prices are discussed under the caption Description of Notes Optional Redemption.

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

Investing in the notes involves risks. See Risk Factors beginning on page S-5 of this prospectus supplement and in our Current Report on Form 8-K filed with the SEC on March 2, 2005.

	<u>Per Note</u>	<u>Total</u>
Public Offering Price	100.00%	\$ 125,000,000
Underwriting Discount	0.65%	\$ 812,500
Proceeds to Federal Realty (before expenses)	99.35%	\$ 124,187,500

Interest on the notes will accrue from December 2, 2005.

The underwriters expect to deliver the notes to purchasers in book-entry only form through the facilities of The Depository Trust Company on or about December 2, 2005.

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

Joint Book-Running Managers

Wachovia Securities

Citigroup

Bear, Stearns & Co. Inc.

Merrill Lynch & Co.

Commerzbank Corporates and Markets

JPMorgan

PNC Capital Markets, Inc.

The date of this prospectus supplement is November 29, 2005.

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You should rely only on the information contained in or incorporated by reference in this prospectus supplement and the accompanying prospectus. We have not, and the underwriters have not, authorized anyone to provide you with different information. We are not making an offer of these securities in any state where the offer is not permitted. You should assume that the information contained in this prospectus supplement, the accompanying prospectus and the documents incorporated by reference is accurate only as of their respective dates. Our business, financial condition, results of operations and prospects may have changed since those dates.

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CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS

This prospectus supplement, the accompanying prospectus and documents that we incorporate by reference into this prospectus supplement and the accompanying prospectus contain statements that are not based on historical facts, including statements or information with words such as may, will, could, should, plans, intends, expects, believes, estimates, anticipates, continues, and similar words. These statements are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, Section 21E of the Securities Exchange Act of 1934 and the Private Securities Litigation Reform Act of 1995. In particular, the risk factors included or incorporated by reference in this prospectus supplement and the accompanying prospectus describe forward-looking information. The risk factors, including those contained in our Current Report on Form 8-K filed with the Securities and Exchange Commission, or the SEC, on March 2, 2005, describe risks that may affect these statements but are not all-inclusive, particularly with respect to possible future events. Many things can happen that can cause actual results to be different from those we describe. These factors include, but are not limited to:

risks that our tenants will not pay rent or that we may be unable to renew leases or re-let space at favorable rents as leases expire;

risks that we may not be able to proceed with or obtain necessary approvals for any redevelopment or renovation project, and that any redevelopment or renovation project that we do pursue may not perform as anticipated;

risks that the number of properties we acquire for our own account, and therefore the amount of capital we invest in acquisitions, may be impacted by our real estate partnership;

risks normally associated with the real estate industry, including risks that:

- Ø occupancy levels at our properties and the amount of rent that we receive from our properties may be lower than expected,
- Ø completion of anticipated or ongoing property redevelopments or renovations may cost more, take more time to complete, or fail to perform as expected,
- Ø new acquisitions may fail to perform as expected,
- Ø competition for acquisitions could result in increased prices for acquisitions,
- Ø environmental issues may develop at our properties and result in unanticipated costs, and
- Ø because real estate is illiquid, we may not be able to sell properties when appropriate;

risks that our growth will be limited if we cannot obtain additional capital;

risks of financing, such as our ability to consummate additional financings or obtain replacement financing on terms which are acceptable to us, our ability to meet existing financial covenants and the limitations imposed on our operations by those covenants, and the possibility of increases in interest rates that would result in increased interest expense; and

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risks related to our status as a real estate investment trust, commonly referred to as a REIT, for federal income tax purposes, such as the existence of complex tax regulations relating to our status as a REIT, the effect of future changes in REIT requirements as a result of new legislation, and the adverse consequences of the failure to qualify as a REIT.

Given these uncertainties, readers are cautioned not to place undue reliance on these forward-looking statements or those incorporated by reference into this prospectus supplement and the accompanying prospectus. Except as may be required by law, we make no promise to update any of the forward-looking statements whether as a result of new information, future events or otherwise.

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PROSPECTUS SUPPLEMENT SUMMARY

The following is only a summary. It should be read together with the more detailed information included elsewhere in this prospectus supplement and the accompanying prospectus. In addition, important information is incorporated by reference into this prospectus supplement and the accompanying prospectus.

The Trust

Federal Realty Investment Trust is an equity real estate investment trust specializing in the ownership, management, development and redevelopment of high quality retail assets. As of September 30, 2005, we owned or had an interest in 102 community and neighborhood shopping centers, and retail mixed-use properties containing approximately 17.3 million square feet, and one apartment complex, located primarily in densely populated and affluent communities throughout the Northeast and Mid-Atlantic United States as well as California. A joint venture in which we own a 30% interest owned four neighborhood shopping centers totaling approximately 0.5 million square feet as of September 30, 2005.

We operate in a manner intended to qualify as a real estate investment trust for tax purposes pursuant to provisions of the Internal Revenue Code. Our offices are located at 1626 East Jefferson Street, Rockville, Maryland 20852. Our telephone number is (301) 998-8100 or (800) 658-8980. Our website address is www.federalrealty.com. The information contained on our website is not a part of this prospectus supplement.

The Offering

All capitalized terms not defined herein have the meanings specified in *Description of Notes* in this prospectus supplement or in *Description of Debt Securities* in the accompanying prospectus. For a more complete description of the terms of the notes specified in the following summary, see *Description of Notes*.

Securities Offered	\$125,000,000 aggregate principal amount of 5.65% Notes due 2016.
Maturity	Unless redeemed prior to maturity as described below, the notes will mature on June 1, 2016.
Interest Payment Dates	Interest on the notes will be payable semi-annually in arrears on June 1 and December 1, commencing June 1, 2006, and at maturity.
Ranking	The notes will rank <i>pari passu</i> , or equally, with all of our other unsecured and unsubordinated indebtedness, and the notes will be effectively subordinated to the prior claims of each secured mortgage lender to any specific property which secures such lender's mortgage and to all of the unsecured indebtedness issued by our subsidiaries. After giving effect to this offering and to the use of proceeds from this offering, we will have outstanding approximately \$249 million of secured indebtedness collateralized by all or parts of 12 properties, approximately \$11 million of

unsecured indebtedness issued by our subsidiaries and approximately \$817 million of other unsecured indebtedness ranking equally with the notes.

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Use of Proceeds

Our net proceeds from this offering are estimated to be \$123.9 million after deducting the underwriting discount and other estimated expenses of this offering. We expect to use these net proceeds to reduce amounts outstanding under our revolving credit facility, including amounts drawn to repay our \$40 million of 6.625% Notes due December 2005, to fund our redevelopment pipeline, and for general corporate purposes. See Use of Proceeds on page S-7 for more information.

Limitations on Incurrence of Debt

The notes contain various covenants, including the following:

(1) we will not, and will not permit any subsidiary to, incur any Debt if, immediately after giving effect to the incurrence of such Debt and the application of the proceeds thereof, the aggregate principal amount of all of our outstanding Debt and our subsidiaries on a consolidated basis determined in accordance with generally accepted accounting principles is greater than 60% of the sum of (without duplication) (a) Total Assets as of the end of the calendar quarter covered in our Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, most recently filed with the SEC (or, if such filing is not permitted under the Exchange Act, with the Trustee) prior to the incurrence of such additional Debt and (b) the purchase price of any real estate assets or mortgages receivable acquired, and the amount of any securities offering proceeds received (to the extent such proceeds were not used to acquire real estate assets or mortgages receivable or used to reduce Debt), by us or any subsidiary since the end of such calendar quarter, including those proceeds obtained in connection with the incurrence of such additional Debt;

(2) we will not, and will not permit any subsidiary to, incur any Debt secured by any mortgage, lien, charge, pledge, encumbrance or security interest of any kind upon any of our or any of our subsidiaries' property if, immediately after giving effect to the incurrence of such Debt and the application of the proceeds thereof, the aggregate principal amount of all of our and our subsidiaries' outstanding Debt on a consolidated basis which is secured by any mortgage, lien, charge, pledge, encumbrance or security interest on our or our subsidiaries' property is greater than 40% of the sum of (without duplication) (a) Total Assets as of the end of the calendar quarter covered in our Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as

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the case may be, most recently filed with the SEC (or, if such filing is not permitted under the Exchange Act, with the Trustee) prior to the incurrence of such additional Debt and (b) the purchase price of any real estate assets or mortgages receivable acquired, and the amount of any securities offering proceeds received (to the extent such proceeds were not used to acquire real estate assets or mortgages receivable or used to reduce Debt), by us or any subsidiary since the end of such calendar quarter, including those proceeds obtained in connection with the incurrence of such additional Debt; provided that for purposes of this limitation, the amount of obligations under capital leases shown as a liability on our consolidated balance sheet shall be deducted from Debt and from Total Assets;

(3) we will not, and will not permit any subsidiary to, incur any Debt if the ratio of Consolidated Income Available for Debt Service to the Annual Debt Service Charge for the four consecutive fiscal quarters most recently ended prior to the date on which such additional Debt is to be incurred shall have been less than 1.5 to 1, on an unaudited pro forma basis after giving effect thereto and to the application of the proceeds therefrom and calculated on the assumption that (a) such Debt and any other Debt incurred by us and our subsidiaries since the first day of such four-quarter period and the application of the proceeds therefrom, including to refinance other Debt, had occurred at the beginning of such period; (b) the repayment or retirement of any other Debt by us and our subsidiaries since the first day of such four-quarter period had been repaid or retired at the beginning of such period (except that, in making such computation, the amount of Debt under any revolving credit facility shall be computed based upon the average daily balance of such Debt during such period); (c) in the case of Acquired Debt or Debt incurred in connection with any acquisition since the first day of such four-quarter period, the related acquisition had occurred as of the first day of such period, with the appropriate adjustments with respect to such acquisition being included in such unaudited pro forma calculation; and (d) in the case of any acquisition or disposition by us or our subsidiaries of any asset or group of assets since the first day of such four-quarter period, whether by merger, stock

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purchase or sale, or asset purchase or sale, such acquisition or disposition or any related repayment of Debt had occurred as of the first day of such period, with the appropriate adjustments with respect to such acquisition or disposition being included in such unaudited pro forma calculation; and

(4) we, together with our subsidiaries, will maintain an Unencumbered Total Asset Value in an amount not less than 150% of the aggregate outstanding principal amount of all of our and our subsidiaries' unsecured Debt.

Optional Redemption

The notes are redeemable at any time at our option, in whole or in part, at a redemption price equal to the greater of (1) 100% of the principal amount of the notes being redeemed, or (2) the sum of the present values of the remaining scheduled payments of principal and interest thereon, discounted to the redemption date on a semi-annual basis at the Adjusted Treasury Rate plus 20 basis points, plus, in each case, accrued interest thereon to the redemption date. A detailed description is in Description of Notes - Optional Redemption.

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RISK FACTORS

An investment in the notes involves a significant degree of risk. You should carefully consider the following risk factors, together with all of the other information included or incorporated by reference in this prospectus supplement, including the additional risk factors included in our Current Report on Form 8-K filed with the SEC on March 2, 2005, before you decide to purchase the notes. The risks and uncertainties described below and in the referenced Form 8-K are not the only ones we may confront. Additional risks and uncertainties not currently known to us or that we currently deem immaterial also may impair our business operations. If any of those risks actually occur, our financial condition, operating results and prospects could be materially adversely affected. This section contains forward-looking statements.

We are dependent on intercompany cash flows to satisfy our obligations under the notes.

We derive a significant portion of our operating income from our subsidiaries. As a holder of notes, you will have no direct claim against our subsidiaries for payment under the notes. We generate net cash flow from the operations of the assets that we own directly but also rely on distributions and other payments from our subsidiaries to produce the funds necessary to meet our obligations, including the payment of principal of and interest on the notes. If the cash flow from our directly owned assets, together with the distributions and other payments we receive from subsidiaries, are insufficient to meet all of our obligations, we will be required to seek other sources of funds. These sources of funds could include proceeds derived from borrowings under our existing debt facilities, select property sales and net proceeds of public or private equity or debt offerings. There can be no assurance that we would be able to obtain the necessary funds from these sources on acceptable terms or at all.

The notes are structurally subordinated to the claims of our subsidiaries creditors and the subsidiaries preferred equity holders.

Because the notes are not guaranteed by our subsidiaries, the notes effectively will be subordinated in right of payment to all of their existing and future liabilities. As a result, in the event of a bankruptcy, liquidation, dissolution, reorganization or similar proceeding with respect to any of the subsidiaries, the holders of any indebtedness of that subsidiary will be entitled to obtain payment of that indebtedness from the assets of that subsidiary before the holders of any of our general unsecured obligations, including the notes. At September 30, 2005, after giving effect to this offering and the application of the net proceeds, our subsidiaries had approximately \$73 million of debt outstanding, all of which was effectively senior to the notes. If any of our subsidiaries issues preferred equity in the future, the preferred equity will be effectively senior to the notes. At this time, none of our subsidiaries has any outstanding preferred equity or plans to issue any preferred equity.

The notes are unsecured and are effectively subordinated to our secured indebtedness.

Because the notes will be unsecured, they will be effectively subordinated to any of our secured indebtedness to the extent of the value of the assets securing the indebtedness. The indenture permits us and our subsidiaries to incur additional secured indebtedness, provided that certain conditions are satisfied. Consequently, in the event of a bankruptcy, liquidation, dissolution, reorganization or similar proceeding with respect to our company, the holders of any secured indebtedness will be entitled to proceed against the collateral that secures the secured indebtedness prior to that collateral being available for satisfaction of any amounts owed under the notes. At September 30, 2005, after giving effect to this offering and the application of the net proceeds, we had approximately \$249 million of secured debt outstanding, all of which was effectively senior to the notes to the extent of the value of the securing assets.

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An active public trading market for the notes may not develop.

The notes will be a new issue of securities for which there is currently no market. We do not intend to list the notes on any securities exchange. The underwriters have advised us that they intend to make a market in the notes after this offering is completed. They are not obligated to do this, however, and may discontinue market-making at any time without notice.

The liquidity of any market for the notes will depend upon various factors, including:

the number of holders of the notes;

the interest of securities dealers in making a market for the notes;

the overall market for debt securities;

our financial performance and prospects; and

the prospects for companies in our industry generally.

Accordingly, we cannot assure you that an active trading market will develop for the notes. If the notes are traded after their initial issuance, they may trade at a discount from their initial offering price, depending upon prevailing interest rates and other factors, including those listed above.

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The net proceeds to us from the sale of the notes offered by this prospectus supplement are estimated to be \$123.9 million, after deducting the underwriting discount and other estimated expenses of this offering payable by us. We intend to use these net proceeds to reduce borrowings under our revolving credit facility, including amounts drawn down to repay our \$40 million of 6.625% Notes due December 2005, to fund our redevelopment pipeline, and for general corporate purposes. As of November 21, 2005, we had approximately \$120 million of debt outstanding on our revolving credit facility bearing interest at a weighted average annual rate of 4.46%. Our revolving credit facility matures in October 2006 subject to a one-year extension at our option. The borrowings under our credit facility were used for general corporate purposes, including working capital, property acquisitions and redevelopments. Affiliates of Wachovia Capital Markets, LLC, Citigroup Global Markets Inc., Commerzbank Capital Markets Corp., J.P. Morgan Securities Inc. and PNC Capital Markets, Inc. are lenders under our revolving credit facility and will receive a pro rata portion of any proceeds used to reduce amounts outstanding under the credit facility.

RATIOS OF EARNINGS TO FIXED CHARGES

The following table sets forth our consolidated ratios of earnings to fixed charges for the periods shown:

	Year Ended December 31,					Nine Months Ended September 30,	
	2000	2001	2002	2003	2004	2004	2005
Ratio of earnings to fixed charges	1.4x	1.4x	1.2x	1.6x	1.7x	1.7x	1.8x

The ratios of earnings to fixed charges were computed by dividing earnings by fixed charges. In computing the ratio of earnings to fixed charges: (a) earnings have been based on income from continuing operations before fixed charges (exclusive of interest capitalized); and (b) fixed charges consist of interest and amortization of debt discount and expense (including amounts capitalized) and the estimated interest portion of rents.

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DESCRIPTION OF NOTES

The following description of the particular terms of the notes offered hereby supplements the description of the general terms and provisions of debt securities set forth in the accompanying prospectus under the caption Description of Debt Securities. Certain terms used in this prospectus supplement are defined in that section of the accompanying prospectus.

General

We are offering \$125,000,000 of our 5.65% notes maturing on June 1, 2016, which may be redeemed prior to that date in accordance with their terms. The notes are to be issued as a separate series of debt securities under the senior indenture, which is more fully described in the accompanying prospectus.

We will pay interest on the notes semi-annually in arrears on June 1 and December 1 of each year, commencing June 1, 2006, to the registered holders of the notes on the preceding May 15 and November 15.

The defeasance and covenant defeasance provisions of the senior indenture apply to the notes. The notes will not be entitled to the benefit of any sinking fund.

We may, without the consent of the holders of the notes, create and issue additional notes in the future having the same terms other than the date of original issuance, the issue price and the date on which interest begins to accrue so as to form a single series with the notes. We also may issue from time to time other series of debt securities under the senior indenture consisting of notes or other unsecured evidences of indebtedness.

Ranking

The notes will rank *pari passu*, or equally, with all of our other unsecured and unsubordinated indebtedness, and the notes will be effectively subordinated to the prior claims of each secured mortgage lender to any specific property which secures such lender's mortgage and to all of the unsecured indebtedness issued by our subsidiaries. After giving effect to this offering and to the use of proceeds from this offering, we will have outstanding approximately \$249 million of secured indebtedness collateralized by all or parts of 12 properties, approximately \$11 million of unsecured indebtedness issued by our subsidiaries and approximately \$817 million of other unsecured indebtedness ranking equally with the notes.

Optional Redemption

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We may redeem the notes at any time in whole or from time to time in part at a redemption price equal to the greater of (1) 100% of the principal amount of the notes being redeemed, or (2) as determined by the Quotation Agent (as defined below), the sum of the present values of the remaining scheduled payments of principal and interest thereon (not including any portion of such payments of interest accrued as of the redemption date) discounted to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Adjusted Treasury Rate (as defined below) plus 20 basis points plus, in each case, accrued interest thereon to the redemption date.

As used herein:

Adjusted Treasury Rate means, with respect to any redemption date, the rate per year equal to the semi-annual equivalent yield to maturity of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such redemption date.

Comparable Treasury Issue means the United States Treasury security selected by the Quotation Agent as having a maturity comparable to the remaining term of the notes to be redeemed that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of such notes.

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Comparable Treasury Price means, with respect to any redemption date, (1) the average of the Reference Treasury Dealer Quotations for such redemption date, after excluding the highest and lowest such Reference Treasury Dealer Quotations, or (2) if the Trustee obtains fewer than three such Reference Treasury Dealer Quotations, the average of all such Quotations.

Quotation Agent means the Reference Treasury Dealer appointed by us.

Reference Treasury Dealer means (1) each of Citigroup Global Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated and one other primary U.S. Government securities dealer in New York City selected by Wachovia Capital Markets, LLC, and their respective successors; *provided, however*, that if any of the foregoing cease to be a primary U.S. Government securities dealer (a Primary Treasury Dealer), we will substitute therefor another Primary Treasury Dealer; and (2) any other Primary Treasury Dealer selected by us.

Reference Treasury Dealer Quotations means, with respect to each Reference Treasury Dealer and any redemption date, the average, as determined by us, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Trustee by such Reference Treasury Dealer at 5:00 p.m., New York City time, on the third Business Day preceding such redemption date.

Notice of any redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each holder of the notes to be redeemed. Unless we default in payment of the redemption price, on and after the redemption date, interest will cease to accrue on the notes or portions thereof called for redemption.

Covenants

Limitations on Incurrence of Debt. The notes will provide that we will not, and will not permit any subsidiary to, incur any Debt if, immediately after giving effect to the incurrence of such Debt and the application of the proceeds thereof, the aggregate principal amount of all of our outstanding Debt and our subsidiaries on a consolidated basis determined in accordance with generally accepted accounting principles is greater than 60% of the sum of (without duplication) (1) Total Assets as of the end of the calendar quarter covered in our Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, most recently filed with the SEC (or, if such filing is not permitted under the Exchange Act, with the Trustee) prior to the incurrence of such additional Debt and (2) the purchase price of any real estate assets or mortgages receivable acquired, and the amount of any securities offering proceeds received (to the extent such proceeds were not used to acquire real estate assets or mortgages receivable or used to reduce Debt), by us or any subsidiary since the end of such calendar quarter, including those proceeds obtained in connection with the incurrence of such additional Debt.

In addition to the foregoing limitation on the incurrence of Debt, the notes will provide that we will not, and will not permit any subsidiary to, incur any Debt secured by any mortgage, lien, charge, pledge, encumbrance or security interest of any kind upon any of our or any of our subsidiary's property if, immediately after giving effect to the incurrence of such Debt and the application of the proceeds thereof, the aggregate principal amount of all of our and our subsidiaries' outstanding Debt on a consolidated basis which is secured by any mortgage, lien, charge, pledge, encumbrance or security interest on our or our subsidiaries' property is greater than 40% of the sum of (without duplication) (1) Total Assets as of the end of the calendar quarter covered in our Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, most recently filed with the SEC (or, if such filing is not permitted under the Exchange Act, with the Trustee) prior to the incurrence of such additional Debt and (2) the purchase price of any real estate assets or mortgages receivable acquired, and the amount of any securities offering proceeds received (to the extent such proceeds were not used to acquire real estate assets or mortgages receivable or used to reduce Debt), by us or

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any subsidiary since the end of such calendar quarter, including those proceeds obtained in connection with the incurrence of such additional Debt; *provided that* for purposes of this limitation, the amount of obligations under capital leases shown as a liability on our consolidated balance sheet shall be deducted from Debt and from Total Assets.

Furthermore, the notes also will provide that we will not, and will not permit any subsidiary to, incur any Debt if the ratio of Consolidated Income Available for Debt Service to the Annual Debt Service Charge for the four consecutive fiscal quarters most recently ended prior to the date on which such additional Debt is to be incurred shall have been less than 1.5 to 1, on an unaudited pro forma basis after giving effect thereto and to the application of the proceeds therefrom, and calculated on the assumption that (1) such Debt and any other Debt incurred by us and our subsidiaries since the first day of such four-quarter period and the application of the proceeds therefrom, including to refinance other Debt, had occurred at the beginning of such period; (2) the repayment or retirement of any other Debt by us and our subsidiaries since the first day of such four quarter period had been repaid or retired at the beginning of such period (except that, in making such computation, the amount of Debt under any revolving credit facility shall be computed based upon the average daily balance of such Debt during such period); (3) in the case of Acquired Debt or Debt incurred in connection with any acquisition since the first day of such four-quarter period, the related acquisition had occurred as of the first day of such period with the appropriate adjustments with respect to such acquisition being included in such unaudited pro forma calculation; and (4) in the case of any acquisition or disposition by us or our subsidiaries of any asset or group of assets since the first day of such four-quarter period, whether by merger, stock purchase or sale, or asset purchase or sale, such acquisition or disposition or any related repayment of Debt had occurred as of the first day of such period with the appropriate adjustments with respect to such acquisition or disposition being included in such unaudited pro forma calculation.

Maintenance of Unencumbered Total Asset Value. The notes will provide that we, together with our subsidiaries, will at all times maintain an Unencumbered Total Asset Value in an amount not less than 150% of the aggregate outstanding principal amount of all our and our subsidiaries unsecured Debt.

As used herein:

Acquired Debt means Debt of a Person (1) existing at the time such Person becomes a subsidiary or (2) assumed in connection with the acquisition of assets from such Person, in each case, other than Debt incurred in connection with, or in contemplation of, such Person becoming a subsidiary or such acquisition. Acquired Debt shall be deemed to be incurred on the date of the related acquisition of assets from any Person or the date the acquired Person becomes a subsidiary.

Annual Debt Service Charge as of any date means the maximum amount which is payable in any period for interest on, and original issue discount of, our and our subsidiaries Debt and the amount of dividends which are payable in respect of any Disqualified Stock.

Capital Stock means, with respect to any Person, any capital stock (including preferred stock), shares, interests, participations or other ownership interests (however designated) of such Person and any rights (other than debt securities convertible into or exchangeable for corporate stock), warrants or options to purchase any thereof.

Consolidated Income Available for Debt Service for any period means our and our subsidiaries Funds from Operations plus amounts which have been deducted for interest on our and our subsidiaries Debt.

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Debt means any of our or any of our subsidiaries' indebtedness, whether or not contingent, in respect of (without duplication) (1) borrowed money evidenced by bonds, notes, debentures or similar instruments,

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(2) indebtedness secured by any mortgage, pledge, lien, charge, encumbrance or any security interest existing on property owned by us or any subsidiary, (3) the reimbursement obligations, contingent or otherwise, in connection with any letters of credit actually issued or amounts representing the balance deferred and unpaid of the purchase price of any property or services, except any such balance that constitutes an accrued expense or trade payable, or all conditional sale obligations or obligations under any title retention agreement, (4) the principal amount of all of our or any of our subsidiaries' obligations with respect to redemption, repayment or other repurchase of any Disqualified Stock or (5) any lease of property by us or any subsidiary as lessee which is reflected on our consolidated balance sheet as a capitalized lease in accordance with generally accepted accounting principles to the extent, in the case of items of indebtedness under (1) through (3) above, that any such items (other than letters of credit) would appear as a liability on our consolidated balance sheet in accordance with generally accepted accounting principles, and also includes, to the extent not otherwise included, any obligation of us or any subsidiary to be liable for, or to pay, as obligor, guarantor or otherwise (other than for purposes of collection in the ordinary course of business or for the purposes of guaranteeing the payment of all amounts due and owing pursuant to leases to which we are a party and have assigned our interest, *provided that* such assignee of ours is not in default of any amounts due and owing under such leases), Debt of another Person (other than us or any subsidiary) (it being understood that Debt shall be deemed to be incurred by us or any subsidiary whenever we or such subsidiary shall create, assume, guarantee or otherwise become liable in respect thereof).

Disqualified Stock means, with respect to any Person, any Capital Stock of such Person which by the terms of such Capital Stock (or by the terms of any security into which it is convertible or for which it is exchangeable or exercisable), upon the happening of any event or otherwise (1) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, (2) is convertible into or exchangeable or exercisable for Debt or Disqualified Stock or (3) is redeemable at the option of the holder thereof, in whole or in part, in each case on or prior to the Stated Maturity of the notes.

Funds from Operations for any period means income available to common shareholders before depreciation and amortization of real estate assets and before extraordinary items less gain on sale of real estate.

Total Assets as of any date means the sum of (1) our and all of our subsidiaries' Undepreciated Real Estate Assets and (2) all of our other assets determined in accordance with generally accepted accounting principles (but excluding goodwill).

Undepreciated Real Estate Assets as of any date means the cost (original cost plus capital improvements) of our and our subsidiaries' real estate assets on such date, before depreciation and amortization determined on a consolidated basis in accordance with generally accepted accounting principles.

Unencumbered Total Asset Value as of any date means the sum of (a) those Undepreciated Real Estate Assets not encumbered by any mortgage, lien, charge, pledge or security interest and (b) all of our and our subsidiaries' other assets on a consolidated basis determined in accordance with generally accepted accounting principles (but excluding intangibles and accounts receivable), in each case which are unencumbered by any mortgage, lien, charge, pledge or security interest.

See Description of Debt Securities Certain Covenants in the accompanying prospectus for a description of additional covenants applicable to us.

Book-Entry Form

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We have established a depositary arrangement with The Depository Trust Company (the Depository) with respect to the notes, the terms of which are summarized below. Upon issuance, the notes will be represented by a single Global Security and will be deposited with, or on behalf of, the Depository and will be

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registered in the name of the Depository or a nominee of the Depository. No Global Security may be transferred except as a whole by a nominee of the Depository to the Depository or to another nominee of the Depository, or by the Depository or such nominee to a successor of the Depository or a nominee of such successor.

As long as the Depository or its nominee is the registered owner of a Global Security, the Depository or its nominee, as the case may be, will be the sole Holder of the notes for all purposes under the senior indenture. Except as otherwise provided in this section, the Beneficial Owners of the Global Security representing the notes will not be entitled to receive physical delivery of Certificated notes and will not be considered the Holders thereof for any purpose under the senior indenture, and no Global Security representing the notes shall be exchangeable or transferable. Accordingly, each Beneficial Owner must rely on the procedures of the Depository and, if such Beneficial Owner is not a Participant (as defined below), on the procedures of the Participant through which such Beneficial Owner owns its interest in order to exercise any rights of a Holder under such Global Security or the senior indenture. The laws of some jurisdictions require that certain purchasers of securities take physical delivery of such securities in certificated form. Such laws may impair the ability to transfer beneficial interests in a Global Security representing the notes.

The Global Security representing the notes will be exchangeable for Certificated notes of like tenor and terms and of differing authorized denominations aggregating a like principal amount, only if (1) the Depository notifies us that it is unwilling or unable to continue as Depository for the Global Security or the Depository ceases to be a clearing agency registered under the Exchange Act (if so required by applicable law or regulation) and, in each case, a successor Depository is not appointed by us within 90 days after we receive such notice or become aware of such unwillingness, inability or ineligibility, (2) we, in our discretion, determine that the Global Security shall be exchangeable for Certificated notes or (3) there shall have occurred and be continuing an Event of Default under the senior indenture with respect to the notes and Beneficial Owners representing a majority in aggregate principal amount of the notes represented by the Global Security advise the Depository to cease acting as depository. Upon any such exchange, the Certificated notes shall be registered in the names of the Beneficial Owners of the Global Security representing the notes, which names shall be provided by the Depository's relevant Participants (as identified by the Depository) to the Securities Registrar.

The information below concerning the Depository and the Depository's system has been furnished by the Depository, and we take no responsibility for the accuracy thereof. The Depository will act as securities depository for the notes. The notes will be issued as fully registered securities registered in the name of Cede & Co. (the Depository's partnership nominee). One fully registered Global Security will be issued for the notes, in the aggregate principal amount of such issue, and will be deposited with the Depository.

The Depository 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 Federal Reserve System, a clearing corporation within the meaning of the New York Uniform Commercial Code, and a clearing agency registered pursuant to the provisions of Section 17A of the Exchange Act. The Depository holds securities that its participants (Participants) deposit with the Depository. The Depository also facilitates the settlement among Participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in Participants accounts, thereby eliminating the need for physical movement of securities certificates. Direct Participants of the Depository (Direct Participants) include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. The Depository is owned by a number of its Direct Participants and by the New York Stock Exchange, Inc., the American Stock Exchange, Inc. and the National Association of Securities Dealers, Inc. Access to the Depository's 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 Direct Participant, either directly or indirectly (Indirect Participants). The rules applicable to the Depository and its Participants are on file with the SEC.

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Purchases of notes under the Depository's system must be made by or through Direct Participants, which will receive a credit for such notes on the Depository's records. The ownership interest of each actual purchaser of each note represented by a Global Security (Beneficial Owner) is in turn to be recorded on the Direct Participants' and Indirect Participants' records. Beneficial Owners will not receive written confirmation from the Depository of their purchase, but Beneficial Owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct Participants or Indirect Participants through which such Beneficial Owner entered into the transaction. Transfers of ownership interests in a Global Security representing the notes are to be accomplished by entries made on the books of Participants acting on behalf of Beneficial Owners. Beneficial Owners of a Global Security representing the notes will not receive Certificated notes representing their ownership interests therein, except in the event that use of the book-entry system for such notes is discontinued.

To facilitate subsequent transfers, the Global Security representing the notes which are deposited with, or on behalf of, the Depository are registered in the name of the Depository's partnership nominee, Cede & Co. The deposit of the Global Security with, or on behalf of, the Depository and its registration in the name of Cede & Co. effects no change in beneficial ownership. The Depository has no knowledge of the actual Beneficial Owners of the Global Security representing the notes; the Depository's records reflect only the identity of the Direct Participants to whose accounts such notes are credited, which may or may not be the Beneficial Owners. The Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by the Depository to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Neither the Depository nor Cede & Co. will consent or vote with respect to the Global Security representing the notes. Under its usual procedures, the Depository mails an Omnibus Proxy to us as soon as possible after the applicable record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the notes are credited on the applicable record date (identified in a listing attached to the Omnibus Proxy).

Principal, premium, if any, and/or interest payments on the Global Security representing the notes will be made to the Depository. The Depository's practice is to credit Direct Participants' accounts on the applicable payment date in accordance with their respective holdings shown on the Depository's records unless the Depository has reason to believe that it will not receive payment on such date. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in street name, and will be the responsibility of such Participant and not of the Depository, the Trustee or us, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, premium, if any, and/or interest to the Depository is the responsibility of us or the Paying Agent, disbursement of such payments to Direct Participants shall be the responsibility of the Depository, and disbursement of such payments to the Beneficial Owners shall be the responsibility of Direct Participants and Indirect Participants.

If applicable, redemption notices shall be sent to Cede & Co. If less than all of the notes are being redeemed, the Depository's practice is to determine by lot the amount of the interest of each Direct Participant to be redeemed.

The Depository may discontinue providing its services as securities depository with respect to the notes at any time by giving reasonable notice to us or the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, Certificated notes are required to be printed and delivered. We may decide to discontinue use of the system of book-entry transfers through the Depository (or a successor securities depository). In that event, Certificated notes will be printed and delivered.

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CERTAIN FEDERAL INCOME TAX CONSIDERATIONS

Subject to the preliminary considerations set forth in the prospectus, the following is a general discussion of the material U.S. federal income tax considerations applicable to initial holders of the notes. This discussion is based on the Internal Revenue Code of 1986, as amended (the Code), income tax regulations promulgated thereunder, judicial decisions, published positions of the Internal Revenue Service (IRS) and other applicable authorities, all as in effect as of the date hereof and all of which are subject to change, possibly with retroactive effect. This discussion does not address all the tax consequences that may be relevant to a particular holder or to holders subject to special treatment under the Code, such as financial institutions, broker dealers, insurance companies, U.S. expatriates, tax-exempt organizations, persons that are, or that hold their notes through, partnerships or other pass-through entities, or persons that hold notes as part of a straddle, hedge, conversion, synthetic security or constructive sale transaction for U.S. federal income tax purposes. Except as specifically provided below with respect to Non-U.S. Holders (as defined below), the discussion is limited to holders of notes that are U.S. Holders and that hold their notes as capital assets within the meaning of the Code. **Holders should consult their own tax advisors as to the particular U.S. federal income tax consequences to them of acquiring, owning and disposing of the notes, as well as the effects of state, local and non-U.S. tax laws.**

For purposes of this discussion, a U.S. Holder means a beneficial owner of a note that, for U.S. federal income tax purposes, is (i) a citizen or individual resident of the United States, (ii) a corporation (including an entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia, (iii) an estate the income of which is includible in gross income for U.S. federal income tax purposes regardless of its source, or (iv) a trust if (A) a court in the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust, or (B) it has a valid election in place to be treated as a United States person. A Non-U.S. Holder means a beneficial owner of a note that is not a U.S. Holder or an entity or arrangement treated as a partnership for U.S. federal income tax purposes.

If an entity or arrangement treated as a partnership for U.S. federal income tax purposes is a holder of a note, the U.S. federal income tax treatment of a partner will generally depend on the status of the partner and the activities of the partnership. Partners of partnerships should consult their tax advisors as to the particular U.S. federal income tax consequences applicable to them.

U.S. Holders

Interest on the Notes. A U.S. Holder generally will be required to include interest earned on the notes as ordinary income when received or accrued in accordance with the U.S. Holder's regular method of tax accounting. In general, if the terms of a debt instrument entitle a holder to receive payments other than fixed periodic interest that exceed the issue price of the instrument, the holder may be required to recognize additional interest as original issue discount over the term of the instrument. The notes are not expected to be issued with original issue discount for U.S. federal income tax purposes.

Disposition of the Notes. Upon the sale, exchange, redemption or other taxable disposition of a note, a U.S. Holder will generally recognize capital gain or loss equal to the difference (if any) between the amount realized (other than amounts attributable to accrued but unpaid stated interest, which will be taxable as ordinary income) and such U.S. Holder's tax basis in the note. The U.S. Holder's tax basis in a note generally will be the purchase price for the note. Such gain or loss shall be treated as long-term capital gain or loss if the note was held for more than one year. Subject to limited exceptions, capital losses cannot be used to offset a U.S. Holder's ordinary income.

Non-U.S. Holders

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The rules governing the United States federal income taxation of Non-U.S. Holders are complex and no attempt will be made herein to provide more than a summary of such rules. Prospective Non-U.S.

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Holders should consult with their own tax advisors to determine the impact of federal, state and local laws with regard to the notes.

Interest on the Notes. Subject to the discussion on backup withholding below, a Non-U.S. Holder generally will not be subject to U.S. federal income or withholding tax on payments of interest on a note, provided that:

the Non-U.S. Holder is not (A) a direct or indirect owner of 10% or more of our voting stock, (B) a controlled foreign corporation related to us through stock ownership, or (C) a bank whose receipt of interest on a note is pursuant to a loan agreement entered into in the ordinary course of business;

such interest payments are not effectively connected with the conduct by the Non-U.S. Holder of a trade or business within the United States or, if a tax treaty applies, attributable to a U.S. permanent establishment of the Non-U.S. Holder; and

we or our paying agent receives certain information from the Non-U.S. Holder (or a financial institution that holds the notes on behalf of the Non-U.S. Holder in the ordinary course of its trade or business) certifying that such holder is a Non-U.S. Holder.

Except to the extent provided by an applicable tax treaty, interest on a note that is effectively connected with the conduct by a Non-U.S. Holder of a trade or business in the United States generally will be subject to U.S. federal income tax on a net basis at the rates applicable to U.S. persons. A Non-U.S. Holder that is treated as a corporation for U.S. federal income tax purposes may also be subject to a 30% branch profits tax (subject to reduction under an applicable tax treaty) on any effectively connected interest on the notes. If interest is subject to U.S. federal income tax on a net basis in accordance with the rules described in the preceding sentence, payments of such interest will not be subject to U.S. withholding tax so long as the Non-U.S. Holder provides us or the paying agent with an IRS Form W-8ECI.

Disposition of the Notes. Subject to the discussion on backup withholding below, a Non-U.S. Holder generally will not be subject to U.S. federal income or withholding tax on gain from the sale, exchange, redemption or other taxable disposition of a note unless:

such gain is effectively connected with the conduct by the Non-U.S. Holder or a trade or business within the United States (and, if required by an applicable tax treaty, is attributable to a permanent establishment maintained in the United States by the Non-U.S. Holder); or

such Non-U.S. Holder is an individual who is present in the United States for 183 days or more in the taxable year of disposition and meets certain other requirements.

Except to the extent provided by an applicable tax treaty, gain from the sale or disposition of a note that is effectively connected with the conduct by the Non-U.S. Holder of a trade or business in the United States generally will be subject to U.S. federal income tax on a net basis at the rates applicable to U.S. persons. A Non-U.S. Holder that is treated as a corporation for U.S. federal income tax purposes may also be subject to a 30% branch profits tax (subject to reduction under an applicable tax treaty) on any effectively connected gain on the notes. If such gains are realized by a Non-U.S. Holder who is an individual present in the United States for 183 days or more in the taxable year, then such individual generally will be subject to U.S. federal income tax at a rate of 30% (subject to reduction under an applicable tax treaty) on the amount by which capital gains from U.S. sources (including gains from the sale or other disposition of the notes) exceed capital losses allocable to U.S. sources.

Information Reporting and Backup Withholding

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Payments to a U.S. Holder of the principal of , interest on and any premium with respect to, or the proceeds of a sale or other disposition of, a note may be subject to information reporting, and U.S. federal backup withholding at the applicable statutory rate may apply if the U.S. Holder fails to provide an accurate

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taxpayer identification number or otherwise fails to comply with applicable U.S. information reporting or certification requirements. Any amount withheld from a payment to a U.S. Holder under the backup withholding rules generally is allowable as a credit against the U.S. Holder's U.S. federal income tax liability, provided that the required information is timely furnished to the IRS.

Payments to a Non-U.S. Holder of interest on a note generally will be reported to the IRS and to the Non-U.S. Holder. Copies of applicable IRS information returns may be made available, under the provisions of a specific tax treaty or agreement, to the tax authorities of the country in which the Non-U.S. Holder resides.

Payments to a Non-U.S. Holder of the principal of, interest on and any premium with respect to, or the proceeds of a sale or other disposition of, a note generally will not be subject to backup withholding or additional information reporting, provided that (i) the Non-U.S. Holder certifies under penalties of perjury on IRS Form W-8BEN that it is not a United States person and certain other conditions are satisfied, or (ii) the Non-U.S. Holder otherwise establishes an exemption; provided that, in either case, neither we nor any withholding agent knows or has reason to know that the holder is a United States person or that the conditions of any other exemptions are in fact not satisfied. Any amounts so withheld may be refunded or credited against the Non-U.S. Holder's U.S. federal income tax liability, if any, provided that the required information is timely furnished to the IRS.

Other Developments

Current Tax Rates. The maximum tax rate on the long-term capital gains of domestic non-corporate taxpayers is 15% for taxable years beginning on or before December 31, 2008. The tax rate on qualified dividend income is the same as the maximum capital gains rate, and is substantially lower than the maximum rate on ordinary income. Because, as a REIT, we are not generally subject to tax on the portion of our REIT taxable income or capital gains distributed to our shareholders, our distributions are not generally eligible for the tax rate on qualified dividend income. As a result, our ordinary REIT distributions are taxed at the higher tax rates applicable to ordinary income. However, the 15% rate does generally apply to:

- a U.S. shareholder's long-term capital gain, if any, recognized on the disposition of our shares;

- distributions we designate as long-term capital gain dividends (except to the extent attributable to Section 1250 property, in which case the 25% tax rate applies);

- distributions attributable to dividends we receive from non-REIT corporations; and

- distributions to the extent attributable to income upon which we have paid corporate tax (for example, the tax we would pay if we distributed less than all of our taxable REIT income).

Without legislation, the maximum tax rate on long-term capital gains will increase to 20% in 2009, and qualified dividend income will no longer be taxed at a preferential rate compared to ordinary income.

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2004 Legislation. On October 22, 2004, the President signed into law the American Jobs Creation Act, which amended certain rules relating to REITs. The American Jobs Creation Act revised the following REIT rules:

If we fail to satisfy the gross income tests, as described under **Federal Income Tax Consequences** **Taxation of the Company Requirements for REIT Qualification** **Income Tests** in the accompanying prospectus, the Act changes eligibility for relief for the failure by providing that relief generally will be available if our failure to meet such tests is due to reasonable cause and not due to willful neglect, and we file a schedule describing each item of our gross income in accordance with regulations to be prescribed by the Treasury. Even if the relief provisions apply, we will be subject to a 100% tax on the greater of (a) the excess of 95% (rather than 90%) of our

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gross income over our qualifying income under the 95% gross income test or (b) the excess of 75% of our gross income over our qualifying income under the 75% gross income test, in either case multiplied by a fraction to reflect our profitability.

For purposes of the 10% value test (the 10% asset test requirement that we not own more than 10% of the value of the securities of any issuer other than a taxable REIT subsidiary or another REIT), as described under Federal Income Tax Consequences Taxation of the Company Requirements for REIT Qualification Asset Tests in the accompanying prospectus, the exception for certain straight debt securities includes debt subject to the following contingencies:

a contingency relating to the time of payment of interest or principal, as long as either (i) there is no change to the effective yield of the debt obligation, other than a change to the annual yield that does not exceed the greater of (x) 0.25% or (y) 5% of the annual yield, or (ii) neither the aggregate issue price nor the aggregate face amount of the issuer's debt obligations held by us exceeds \$1 million and no more than 12 months of unaccrued interest on the debt obligations can be required to be prepaid; and

a contingency relating to the time or amount of payment upon a default or prepayment of a debt obligation, as long as the contingency is consistent with customary commercial practice.

In addition to straight debt, loans to individuals and estates, securities issued by REITs, and accrued obligations to pay rent will not be considered securities for purposes of the 10% value test. Moreover, debt instruments issued by a partnership will not be considered securities for purposes of the 10% value test if the partnership meets the 75% gross income test with respect to its own gross income.

For purposes of the 10% value test, holding a de minimis amount of an issuer's securities that do not qualify for the straight debt safe harbor (either directly or through a taxable REIT subsidiary) will not prevent straight debt of a partnership or corporation from qualifying for the safe harbor. Specifically, we or a controlled taxable REIT subsidiary (one in which we own more than 50% of the voting power or value of the stock) could hold such non-straight debt securities with a value of up to 1% of a partnership's or corporation's outstanding securities. There is no limitation on the amount of an issuer's securities that a non-controlled taxable REIT subsidiary can own.

In the event that, at the end of a calendar quarter, more than 5% of our assets are represented by the securities of one issuer, or we own more than 10% of the voting power or value of the securities of any issuer, we will not lose our REIT status if (i) the failure is de minimis (up to the lesser of 1% of our assets or \$10 million) and (ii) we dispose of assets or otherwise comply with the asset tests within six months after the last day of the quarter in which we identify such failure. In the event of a more than de minimis failure of any of the asset tests, as long as the failure was due to reasonable cause and not to willful neglect, we will not lose our REIT status if we (i) dispose of assets or otherwise comply with the asset tests within six months after the last day of the quarter in which we identify such failure, (ii) file a schedule with a description of each asset causing the failure in accordance with regulations prescribed by the Treasury, and (iii) pay a tax equal to the greater of \$50,000 or 35% of the net income from the nonqualifying assets during the period in which we failed to satisfy the asset tests. We may not qualify for the relief provisions in all circumstances.

In the event that we fail to satisfy a REIT requirement, other than the gross income or asset tests, we will not lose our REIT status but will incur a penalty of \$50,000 for each reasonable cause failure to satisfy such a requirement. We may not qualify for this relief provision in all circumstances.

Hedging transaction means any transaction entered into in the normal course of our trade or business primarily to manage the risk of interest rate, price changes, or currency fluctuations with respect to borrowings made or to be made, or ordinary obligations incurred or to be incurred, to acquire or carry real estate assets. We are required to clearly identify any such hedging transaction before the close of the day on which it is acquired, originated, or entered into. Income and gain from hedging transactions will be excluded from gross income for purposes of the 95% gross income test

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(but not the 75% gross income test). Income and gain from hedging transactions will continue to be nonqualifying income for purposes of the 75% gross income test.

For non-U.S. shareholders of our publicly traded shares, including our common shares, capital gain distributions that are attributable to our sale of real property will be treated as ordinary dividends rather than as gain from the sale of a United States real property interest, as long as the non-U.S. shareholder does not own more than 5% of that class of our stock at any time during the taxable year.

The provisions described above relating to the expansion of the straight debt safe harbor and the addition of securities that would be exempt from the 10% value test apply retroactively to taxable years beginning after December 31, 2000. All other provisions apply beginning with our taxable year beginning January 1, 2005.

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Wachovia Capital Markets, LLC and Citigroup Global Markets Inc. are acting as joint book-running managers of the offering and as representatives of the underwriters named below.

Subject to the terms and conditions stated in the underwriting agreement and a related pricing agreement, each dated the date of this prospectus supplement, each underwriter named below has agreed to purchase, and we have agreed to sell to that underwriter, the principal amount of notes set forth opposite the underwriter's name.

<u>Underwriter</u>	<u>Principal Amount of notes</u>
Wachovia Capital Markets, LLC	\$ 43,750,000
Citigroup Global Markets Inc.	37,500,000
Bear, Stearns & Co. Inc.	12,500,000
Merrill Lynch, Pierce, Fenner & Smith Incorporated	12,500,000
Commerzbank Capital Markets Corp.	6,250,000
J.P. Morgan Securities Inc.	6,250,000
PNC Capital Markets, Inc.	6,250,000
Total	\$ 125,000,000

The underwriting agreement provides that the obligations of the underwriters to purchase the notes included in this offering are subject to approval of legal matters by counsel and to other conditions. The underwriters are obligated to purchase all the notes if they purchase any of the notes.

The underwriters propose to offer some of the notes directly to the public at the public offering price set forth on the cover page of this prospectus supplement and some of the notes to dealers at the public offering price less a concession not to exceed 0.40% of the principal amount of the notes. The underwriters may allow, and dealers may reallow, a concession not to exceed 0.20% of the principal amount of the notes on sales to other dealers. After the initial offering of the notes to the public, the representatives may change the public offering price and concessions.

The following table shows the underwriting discount that we are to pay to the underwriters in connection with this offering (expressed as a percentage of the principal amount of the notes).

	<u>Paid by Federal Realty</u>
Per note	0.65%

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In connection with the offering, Wachovia Capital Markets, LLC and Citigroup Global Markets Inc., on behalf of the underwriters, may purchase and sell notes in the open market. These transactions may include over-allotment, syndicate covering transactions and stabilizing transactions. Over-allotment involves syndicate sales of notes in excess of the principal amount of notes to be purchased by the underwriters in the offering, which creates a syndicate short position. Syndicate covering transactions involve purchases of the notes in the open market after the distribution has been completed in order to cover syndicate short positions. Stabilizing transactions consist of certain bids or purchases of notes made for the purpose of preventing or retarding a decline in the market price of the notes while the offering is in progress.

The underwriters also may impose a penalty bid. Penalty bids permit the underwriters to reclaim a selling concession from a syndicate member when Wachovia Capital Markets, LLC and Citigroup Global Markets Inc., in covering syndicate short positions or making stabilizing purchases, repurchase notes originally sold by that syndicate member.

Any of these activities may have the effect of preventing or retarding a decline in the market price of the notes. They may also cause the price of the notes to be higher than the price that otherwise would exist in the

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open market in the absence of these transactions. The underwriters may conduct these transactions in the over-the-counter market or otherwise. If the underwriters commence any of these transactions, they may discontinue them at any time.

We estimate that our total expenses for this offering (excluding the underwriting discount) will be \$300,000.

We expect to deliver the notes against payment for the notes on or about the date specified in the next to last paragraph of the cover page of this prospectus supplement, which will be the third business day following the date of the pricing of the notes.

The underwriters have performed investment banking, advisory and fiduciary services for us from time to time for which they have received customary fees and expenses. The underwriters may, from time to time, engage in transactions with and perform services for us in the ordinary course of their business. In particular, affiliates of Wachovia Capital Markets, LLC, Citigroup Global Markets Inc., Commerzbank Capital Markets Corp., J.P. Morgan Securities Inc. and PNC Capital Markets, Inc. are lenders under our existing revolving credit facility, and affiliates of Wachovia Capital Markets, LLC, Commerzbank Capital Markets Corp. and J.P. Morgan Securities Inc. are an administrative agent, syndication agent and co-documentation agent, respectively, under our existing revolving credit facility and an affiliate of Wachovia Capital Markets, LLC is the trustee under one of the indentures to which we are a party.

A prospectus in electronic format may be made available on the websites maintained by one or more of the underwriters.

We have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act of 1933, or to contribute to payments the underwriters may be required to make because of any of those liabilities.

EXPERTS

The consolidated balance sheets as of December 31, 2004 and 2003 and the consolidated statements of operations, common shareholders' equity and cash flows for the three years ended December 31, 2004, 2003 and 2002 appearing in our Annual Report on Form 10-K for the fiscal year ended December 31, 2004 and incorporated by reference into this prospectus supplement and elsewhere in the registration statement have been audited by Grant Thornton LLP, independent registered public accounting firm as indicated in their report with respect thereto, and are incorporated by reference herein and therein in reliance upon the authority of said firm as experts in giving said report.

LEGAL MATTERS

The legality of the notes offered by this prospectus supplement will be passed upon for us by Pillsbury Winthrop Shaw Pittman LLP, Washington, DC. In addition, the description of federal income tax consequences contained in the accompanying prospectus under "Federal Income Tax Consequences" and in this prospectus supplement under "Certain Federal Income Tax Considerations" is, to the extent that it constitutes matters of law, summaries of legal matters or legal conclusions, based upon the opinion of Pillsbury Winthrop Shaw Pittman LLP. Sidley Austin Brown & Wood LLP, New York, New York, will act as counsel to the underwriters.

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WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the Securities and Exchange Commission, or SEC. Our SEC filings are available to the public at the SEC's website at www.sec.gov. You may also read and copy any document we file at the SEC's Public Reference Room at:

Public Reference Section

Securities and Exchange Commission

100 F Street, N.E.

Washington, D.C. 20549

Please call the SEC at (800) SEC-0330 for further information on the operating rules and procedures for the public reference room. Reports, proxy statements and other information concerning Federal Realty Investment Trust may also be inspected at the offices of the New York Stock Exchange, which are located at 20 Broad Street, New York, NY 10005.

The SEC allows us to incorporate by reference the information we file with the SEC and the New York Stock Exchange, which means we can disclose important information to you by referring you to those documents. The information we incorporate by reference is an important part of this prospectus supplement and the accompanying prospectus, and all information that we will later file with the SEC will automatically update and supersede that information. We incorporate by reference the documents listed below as well as any future filings made with the SEC under Sections 13(a), 13(c), 14, or 15(d) of the Securities Exchange Act of 1934, or the Exchange Act (Exchange Act File No. 1-07533), from the date of this prospectus supplement until we terminate the offering hereunder.

Annual Report on Form 10-K for the fiscal year ended December 31, 2004, as filed on March 7, 2005

Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2005, as filed on May 5, 2005

Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2005, as filed on July 28, 2005

Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 2005, as filed on October 31, 2005

Current Reports on Form 8-K filed on February 18, 2005, March 2, 2005, July 1, 2005 and August 1, 2005

Copies of these filings are available at no cost on our website, www.federalrealty.com. Amendments to these filings will be posted to our website as soon as reasonably practical after filing with the SEC. In addition, you may obtain a copy of these filings and any amendments to the filings at no cost, by writing or telephoning us. Those copies will not include exhibits to the filings unless the exhibits are specifically incorporated by reference in the documents or unless you specifically request them. You also may obtain copies of any exhibits to the

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registration statement. Please direct your request to:

Andrew P. Blocher

Vice President, Capital Markets and Investor Relations

Federal Realty Investment Trust

1626 E. Jefferson Street

Rockville, Maryland 20852

(301) 998-8100 or (800) 658-8980

This prospectus supplement and the accompanying prospectus do not contain all of the information included in the registration statement. We have omitted certain parts of the registration statement in accordance with the rules and regulations of the SEC. For further information, we refer you to the registration statement, including its exhibits and schedules. Statements contained in this prospectus supplement and the accompanying prospectus about the provisions or contents of any contract, agreement or any other document referred to are not necessarily complete. Please refer to the actual exhibit for a more complete description of the matters involved. You may obtain copies of the exhibits by contacting the person named above.

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Filed pursuant to rule 424(b)(5)

PROSPECTUS

\$500,000,000

Debt Securities, Common Shares, Preferred Shares, Depositary Shares and Warrants

We may from time to time offer, in one or more series, separately or together, the following:

our debt securities, which may be either senior debt securities or subordinated debt securities;

our common shares of beneficial interest (and rights to acquire common shares that are attached to, or trade with, our common shares);

our preferred shares of beneficial interest;

our preferred shares of beneficial interest represented by depositary receipts; and

warrants to purchase our common and preferred shares.

The aggregate initial public offering price of the securities that we may offer through this prospectus will be up to \$500,000,000.

We will offer our securities in amounts, at prices and on terms to be determined at the time we offer such securities. When we sell a particular series of securities, we prepare a prospectus supplement describing the offering and the terms of that series of securities.

Please read this prospectus and the applicable supplement carefully before you invest.

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

The date of this prospectus is May 9, 2003.

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ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission using a shelf registration process. Under this shelf process, we may sell any combination of the securities described in this prospectus in one or more offerings up to a total dollar amount of \$500,000,000. Our prospectus provides you with a general description of these securities. Each time we sell securities, we will provide a prospectus supplement that will contain specific information about all of the terms of that offering. Our prospectus supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and the applicable prospectus supplement, together with additional information described under the heading **Where You Can Find More Information**.

References to **we**, **us** or **our** refer to Federal Realty Investment Trust and its directly or indirectly owned subsidiaries, unless the context otherwise requires. The term **you** refers to a prospective investor.

FORWARD-LOOKING INFORMATION

Before investing in our securities, you should be aware that there are various risks. Investors should carefully consider, among other factors, the factors discussed in this prospectus and in any prospectus supplement. This prospectus contains, and any accompanying prospectus supplement will contain, forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, Section 21E of the Securities Exchange Act of 1934, as amended and the Private Securities Litigation Reform Act of 1995. Also, documents that we incorporate by reference into this prospectus, including documents that we subsequently file with the SEC, will contain forward-looking statements. When we refer to forward-looking statements or information, sometimes we use words such as **may**, **will**, **could**, **should**, **plans**, **intends**, **expects**, **estimates**, **anticipates** and **continues**. The risk factors in this prospectus describe risks that may affect these statements but are not all-inclusive, particularly with respect to possible future events. Many things can happen that can cause actual results to be different from those we describe. Given these uncertainties, readers are cautioned not to place undue reliance on these forward-looking statements. We also make no promise to update any of the forward-looking statements, or to publicly release the results if we revise any of them.

THE COMPANY

Federal Realty Investment Trust is an equity real estate investment trust specializing in the ownership, management, development and redevelopment of high-quality retail and mixed-use properties. As of March 31, 2003, we owned or had an interest in 60 community and neighborhood shopping centers comprising approximately 13 million square feet, 55 urban retail and mixed use properties comprising more than 2.5 million square feet, and one apartment complex, all in strategic metropolitan markets across the United States.

We operate in a manner intended to qualify as a real estate investment trust pursuant to provisions of the Internal Revenue Code. Our offices are located at 1626 East Jefferson Street, Rockville, Maryland 20852. Our telephone number is (301) 998-8100 or (800) 658-8980. Our website address is www.federalrealty.com. The information contained in our website is not a part of this prospectus.

Table of Contents**USE OF PROCEEDS**

Unless otherwise specified in the applicable prospectus supplement, we will use the net proceeds from the sale of securities for one or more of the following:

repayment of debt;

acquisition of additional properties;

development of new properties;

redevelopment of existing properties;

redemption of preferred shares; and

working capital and general corporate purposes.

RATIO OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED SHARE DIVIDENDS

The following table sets forth our historical ratio of earnings to fixed charges and preferred share dividends for the periods indicated:

	For the Three Months						
	Ended March 31,		For the Years Ended December 31,				
	2003	2002 (1)	2002 (2)	2001	2000	1999	1998
Ratio of earnings to fixed charges	1.5x	1.2x	1.3x	1.5x	1.5x	1.7x	1.7x
Ratio of earnings to combined fixed charges and preferred share dividends	1.2x	1.0x	1.0x	1.3x	1.4x	1.5x	1.5x

- (1) Excluding a one-time \$8.5 million restructuring charge incurred in the first quarter of 2002, for the three months ended March 31, 2002, the ratio of earnings to fixed charges would have been 1.6x, and the ratio of earnings to combined fixed charges and preferred share dividends would have been 1.3x.
- (2) Excluding a one-time \$8.5 million restructuring charge incurred in the first quarter of 2002 and a \$13.8 million restructuring charge incurred during the fourth quarter of 2002, for the year ended December 31, 2002, the ratio of earnings to fixed charges would have been 1.5x, and the ratio of earnings to combined fixed charges and preferred share dividends would have been 1.2x.

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The ratios of earnings to fixed charges were computed by dividing earnings by fixed charges. For this purpose, earnings consist of income before gain (loss) on sale of real estate plus fixed charges. Fixed charges consist of interest on borrowed funds (including capitalized interest), amortization of debt discount and expense and the portion of rent expense representing an interest factor. The ratios of earnings to combined fixed charges and preferred share dividends were computed by dividing earnings by the sum of fixed charges and preferred share dividend requirements. Preferred share dividends consist of dividends paid on our outstanding Series A preferred shares and Series B preferred shares.

DESCRIPTION OF DEBT SECURITIES

We will prepare and distribute a prospectus supplement that describes the specific terms of the debt securities. In this section of the prospectus, we describe the general terms we expect all debt securities to have. We also identify some of the specific terms that will be described in a prospectus supplement. Although we expect that any debt securities we offer with this prospectus will have the general terms we describe in this section, our debt securities may have terms that are different from or inconsistent with the general terms we describe here. Therefore, you should read the prospectus supplement carefully.

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General Terms of Debt Securities

Unless we say otherwise in a prospectus supplement, debt securities we offer through this prospectus:

will be our general, direct and unsecured obligations; and

may be either senior debt securities or subordinated debt securities.

Senior debt securities will rank equally with all of our other unsecured and unsubordinated obligations. Subordinated debt securities will be subordinate and junior in right of payment to all of our present and future senior debt in the manner we describe in a prospectus supplement.

We may incur additional debt, subject to limitations in the agreements governing our credit and other debt facilities and other notes we may have issued.

Unless we say otherwise in a prospectus supplement:

debt securities we offer through this prospectus will not limit the amount of other debt that we may incur;

you will not have any protection if we engage in a highly leveraged transaction, a restructuring, a transaction involving a change in control, or a merger or similar transaction that may adversely affect holders of the debt securities; and

we will not list the debt securities on any securities exchange.

The Indentures

Any debt securities we offer through this prospectus will be issued under an indenture between us and Wachovia Bank National Association, as successor to First Union National Bank, Trustee. We have filed with the SEC two indentures that are exhibits to the registration statement that includes this prospectus. The senior indenture describes the general terms of senior debt securities we may issue. In addition to describing the general terms of subordinated debt securities that we may issue, the subordinated indenture includes additional terms describing the subordination provisions of these securities. Each of the indentures is subject to the Trust Indenture Act of 1939, as amended.

The indentures do not include all the terms of debt securities we may issue through this prospectus. If we issue debt securities through this prospectus, our Board of Trustees will establish the additional terms for each series of debt securities. The additional terms will be either established pursuant to, and set forth in, a supplemental indenture, or established pursuant to a resolution of our Board of Trustees and set forth in an officer's certificate. Each indenture describes the additional terms that may be established and we summarize the additional terms that may be established under Additional Terms of Debt Securities, below.

We have summarized the provisions of the senior indenture and the subordinated indenture below. The summary is not complete. You should read the indentures for provisions that may be important to you. The extent, if any, to which the provisions of the base indentures apply to particular debt securities will be described in the prospectus supplement relating to those securities. You should read the prospectus supplement for more information regarding any particular issuance of debt securities.

Additional Terms of Debt Securities

As described above, the terms of a particular series of debt securities we offer through this prospectus will be established by our Board of Trustees when we issue the series. We will describe the terms of the series in a prospectus supplement. Each indenture provides that the terms that may be established include the following:

Title. The title of the debt securities offered.

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Amount. Any limit upon the total principal amount of the series of debt securities offered.

Maturity. The date or dates on which the principal of and premium, if any, on the offered debt securities will mature or the method of determining such date or dates.

Interest Rate. The rate or rates (which may be fixed or variable) at which the offered debt securities will bear interest, if any, or the method of calculating such rate or rates.

Interest Accrual. The date or dates from which interest will accrue or the method by which such date or dates will be determined.

Interest Payment Dates. The date or dates on which interest will be payable and the record date or dates to determine the persons who will receive payment.

Place of Payment. The place or places where principal of, premium, if any, and interest, on the offered debt securities will be payable or at which the offered debt securities may be surrendered for registration of transfer or exchange.

Optional Redemption. The period or periods within which, the price or prices at which, the currency or currencies (if other than in U.S. dollars), including currency unit or units, in which, and the other terms and conditions upon which, the offered debt securities may be redeemed, in whole or in part, at our option, if we have that option.

Mandatory Redemption. The obligation, if any, we have to redeem or repurchase the offered debt securities pursuant to any sinking fund or similar provisions or upon the happening of a specified event or at the option of a holder; and the period or periods within which, the price or prices at which, the currency or currencies (if other than in U.S. dollars), including currency unit or units, in which, and the other terms and conditions upon which, such offered debt securities shall be redeemed or purchased, in whole or in part.

Denominations. The denominations in which the offered debt securities are authorized to be issued.

Currency. The currency or currency unit in which the offered debt securities may be denominated and/or the currency or currencies, including currency unit or units, in which principal of, premium, if any, and interest, if any, on the offered debt securities will be payable and whether we or the holders of the offered debt securities may elect to receive payments in respect of the offered debt securities in a currency or currency unit other than that in which the offered debt securities are stated to be payable.

Indexed Principal. If the amount of principal of, or premium, if any, or interest on, the offered debt securities may be determined with reference to an index or pursuant to a formula or other method, the manner in which such amounts will be determined.

Payment on Acceleration. If other than the principal amount, the amount which will be payable upon declaration of the acceleration of the maturity or the method by which such portion shall be determined.

Special Rights. Provisions, if any, granting special rights to the holders of the offered debt securities if certain specified events occur.

Modifications to Indentures. Any addition to, or modification or deletion of, any event of default or any of the covenants specified in the indenture with respect to the offered debt securities.

Tax Gross-Up. The circumstances, if any, under which we will pay additional amounts on the offered debt securities held by non-U.S. persons for taxes, assessments or similar charges.

Registered or Bearer Form. Whether the offered debt securities will be issued in registered or bearer form or both.

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Dates of Certificates. The date as of which any offered debt securities in bearer form and any temporary global security representing outstanding securities are dated, if other than the original issuance date of the offered debt securities.

Forms. The forms of the securities and interest coupons, if any, of the series.

Registrar and Paying Agent. If other than the trustee under the applicable indenture, the identity of the registrar and any paying agent for the offered debt securities.

Defeasance. Any means of defeasance or covenant defeasance that may be specified for the offered debt securities.

Global Securities. Whether the offered debt securities are to be issued in whole or in part in the form of one or more temporary or permanent global securities and, if so, the identity of the depository or its nominee, if any, for the global security or securities and the circumstances under which beneficial owners of interests in the global security may exchange those interests for certificated debt securities to be registered in the names of or to be held by the beneficial owners or their nominees.

Documentation. If the offered debt securities may be issued or delivered, or any installation of principal or interest may be paid, only upon receipt of certain certificates or other documents or satisfaction of other conditions in addition to those specified in the applicable indenture, the form of those certificates, documents or conditions.

Payees. If other than as provided in the applicable indenture, the person to whom any interest on any registered security of the series will be payable and the manner in which, or the person to whom, any interest on any bearer securities of the series will be payable.

Definitions. Any definitions for the offered debt securities of that series that are different from or in addition to the definitions included in the applicable indenture, including, without limitation, the definition of *unrestricted subsidiary* to be used for such series.

Subordination. In the case of the subordinated indenture, the relative degree to which the offered debt securities shall be senior to or junior to other debt securities, whether currently outstanding or to be offered in the future, and to other debt, in right of payment.

Guarantees. Whether the offered debt securities are guaranteed and, if so, the identity of the guarantors and the terms of the offered guarantees (including whether and the extent to which the guarantees are subordinated to other debt of the guarantors).

Conversion. The terms, if any, upon which the offered debt securities may be converted or exchanged into or for our common shares, preferred shares or other securities or property.

Restrictions. Any restrictions on the registration, transfer or exchange of the offered debt securities.

Other Terms. Any other terms not inconsistent with the terms of the applicable indenture pertaining to the offered debt securities or which may be required or advisable under U. S. laws or regulations or advisable, as we determine, in connection with marketing of securities of the series.

Form of Securities and Related Matters

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Registered or Bearer Form. Debt securities may be offered in either registered or bearer form.

If the debt securities are in registered form, we may treat the person named in the register as the owner of the debt securities for all purposes, including payment, exchange and transfer.

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If we issue debt securities in bearer form, we will issue those debt securities only to non-U.S. persons and may treat the bearer of the securities as the owner for all purposes, including payment, exchange and transfer. If we issue debt securities in bearer form, we will describe special offering restrictions and material U.S. federal income tax consequences relating to the offered debt securities in a prospectus supplement.

Denominations. Unless we say otherwise in a prospectus supplement, we will issue debt securities in denominations of:

U.S. \$1,000 (or multiples of \$1,000) if we issue the debt securities in registered form; and

U.S. \$5,000 (or multiples of \$5,000) if we issue debt securities in bearer form.

Payment Currencies and Indexed Securities. We may offer debt securities for which:

the purchase price is payable in a currency other than U.S. dollars;

the securities are denominated in a currency other than U.S. dollars; or

the principal or interest of, or any other amount due on, the offered debt securities in a currency other than U.S. dollars.

The other currency may be a currency unit composed of various currencies, such as the European Currency Unit or ECU. Payments on debt securities may also be based on an index.

Payment, Transfer and Exchange. Unless we say otherwise in a prospectus supplement, the office for paying principal, interest and other amounts on the debt securities is Wachovia Bank National Association, 401 S. Tryon Street, 12th Floor, Charlotte, North Carolina 28288. We will notify you of any change in the office's location. At our option, however, we may make any interest payments on debt securities issued in registered form by:

mailing checks to you at the address you specify; or

wire transfer of immediately available funds to an account you specify.

Unless we say otherwise in a prospectus supplement, we will pay interest to the person whose name is in the register at the close of business on the regular record date for such interest.

We will describe in a prospectus supplement how we will pay amounts owing on bearer securities. We will only pay amounts owing on bearer securities at an office outside the United States.

Unless we say otherwise in a prospectus supplement, you may transfer or exchange debt securities issued in registered form at an agency that we designate. You may transfer or exchange debt securities without service charge, although we may require you to pay any related tax or other governmental charge.

Global Securities

We may issue debt securities of a series in the form of one or more fully registered global securities. Each registered global security will:

be registered in the name of a depositary or a nominee for the depositary;

be deposited with the depositary or nominee or a custodian therefor; and

bear a legend regarding the restrictions on exchanges and registration of transfer and any such other appropriate matters.

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Registered global securities may be issued in either registered or bearer form and in either temporary or permanent form. The specific terms and procedures, including the specific terms of the depositary arrangement, with respect to any portion of a series of debt securities will be described in a prospectus supplement.

Certain Covenants

Each indenture contains the following covenants. Any additional material covenants applicable to any series of debt securities will be set forth in a prospectus supplement.

Existence. Except as permitted under Consolidation, Merger or Sale of Assets, we will do or cause to be done all things necessary to preserve and keep in full force and effect our corporate existence, rights (charter and statutory) and franchises; provided, however, we are not required to preserve any right or franchise if we determine that the preservation of the right or franchise is no longer desirable in the conduct of our business.

Maintenance of Properties. We will cause all of our material properties used or useful in the conduct of our business to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and will cause to be made all necessary repairs, renewals, replacements, betterments and improvements of our material properties to be made, all as in our judgment may be necessary so that the business carried on at, or in connection with, our material properties may be properly and advantageously conducted at all times.

Insurance. We will keep all of our insurable properties insured against loss or damage at least equal to their then full insurable value with insurers of recognized responsibility and having a rating of at least A-:XII in Best's Key Rating Guide.

Payment of Taxes and Other Claims. We will pay or discharge or cause to be paid or discharged, before they shall become delinquent:

all taxes, assessments and governmental charges levied or imposed upon us or upon our income, profits or property, and

all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien upon our property;

provided, however, that we shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith.

Provision of Financial Information. Whether or not we are subject to Section 13 or 15(d) of the Exchange Act, we will, within 15 days of each of the respective dates by which we would have been required to file annual reports, quarterly reports and other documents with the SEC if we were so subject:

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transmit by mail to all holders of debt securities, as their names and addresses appear in the register, without cost to such holders, copies of the annual reports, quarterly reports and other documents that we would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if we were subject to Section 13 or 15(d);

file with the trustee copies of the annual reports, quarterly reports and other documents that we would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if we were subject to Section 13 or 15(d); and

promptly, upon written request and payment of the reasonable cost of duplication and delivery, supply copies of those documents to any prospective holder.

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Consolidation, Merger or Sale of Assets

We may consolidate with, or sell, lease or convey all or substantially all of our assets, or merge with or into any other entity, provided that we satisfy all of the following conditions:

either

we must be the continuing company, or

the surviving entity must be an entity duly organized and validly existing under U.S. laws, any state or the District of Columbia, and the surviving entity must assume, by a supplemental indenture in a form reasonably satisfactory to the trustee, all obligations under the applicable debt securities and the related indenture;

immediately before and immediately after giving effect to such transactions, no default or event of default under the debt securities shall have occurred and be continuing; and

we or the surviving entity has delivered, or caused to be delivered, to the trustee, in form and substance reasonably satisfactory to the trustee, an officers' certificate and an opinion of counsel, each to the effect that each consolidation, merger, transfer, sale, assignment, lease or other transaction and the supplemental indenture relating to such transaction comply with the provisions of the applicable indenture and that all conditions precedent provided for in the indenture relating to the transaction have been met.

Subordination

Generally. Unless we say otherwise in a prospectus supplement, the payment of principal, premium, if any, and interest on subordinated debt securities will be subordinated, or junior, to the prior payment in full of all or any of our present and future senior debt. This means that we must pay all present and future senior debt before we pay amounts due to holders of subordinated debt securities if we liquidate, dissolve, reorganize or go through a similar process. After making these payments, we may not have sufficient assets remaining to pay the amounts due to holders of subordinated debt securities or equity securities.

Senior debt is defined in the subordinated indenture as the principal of and interest on, or substantially similar payments to be made by us in respect of, the following, whether outstanding at the date of execution of the subordinated indenture or thereafter incurred, created or assumed:

indebtedness for money borrowed or represented by purchase-money obligations;

indebtedness evidenced by notes, debentures, or bonds, or other securities issued under the provisions of an indenture, fiscal agency agreement or other instrument;

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our obligations as lessee under leases of property whether made as part of any sale and leaseback transaction to which we are a party or otherwise;

indebtedness of partnerships and joint ventures which is included in our consolidated financial statements;

indebtedness, obligations and liabilities of others in respect of which we are liable, contingently or otherwise, for payment or advances of money or property, or as guarantor, endorser or otherwise, or which we have agreed to purchase or otherwise acquire; and

any binding commitment to fund any real estate investment or to fund any investment in any entity making a real estate investment, in each case other than

any such indebtedness, obligation or liability of a type described or referred to in the bullets above as to which, in the instrument creating or evidencing the same or pursuant to which the same is outstanding, it is provided that such indebtedness, obligation or liability is not superior in right of payment to the subordinated debt securities or ranks pari passu with the subordinated debt securities;

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any such indebtedness, obligation or liability which is subordinated to our indebtedness to substantially the same extent as or to a greater extent than the subordinated debt securities are subordinated to our indebtedness; and

the subordinated debt securities.

There are no restrictions in the subordinated indenture upon the creation of additional senior debt.

Payment Blockage for Payment Defaults. Unless we say otherwise in a prospectus supplement, if we have defaulted in the payment of any senior debt, we may not:

pay any principal, premium, if any, or interest on subordinated debt securities; or

purchase, redeem, defease, or otherwise acquire any subordinated debt securities.

This prohibition will not affect any payment we have already made to defease debt securities, as described under **Defeasance or Covenant Defeasance of Indentures**, below.

We must resume payment on our subordinated debt securities, and make any payments we have missed, when one of the following has occurred:

the senior debt has been discharged or paid in full;

the holders of senior debt have waived payment; or

the payment default has otherwise been cured or ceased to exist.

Payment Blockage for Non-Payment Defaults. Unless we say otherwise in a prospectus supplement, we will also be prohibited from paying any amounts or distributing any assets if:

we have defaulted on senior debt in a way that does not involve a failure to pay amounts but accelerates payment; and

we and the trustee for the subordinated debt securities have received written notice of this default.

Unless we say otherwise in a prospectus supplement, we will be required to suspend payments and distributions on our subordinated debt securities starting when we receive notice of the applicable default. We must resume payments on our subordinated debt securities, and make any payments we have missed, upon the earliest of:

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the date that is 179 days after receipt of notice (unless we have previously been required to pay all amounts owing on the applicable senior debt);

the date the default and all other similar defaults as to which notice has been given shall have been cured, waived or shall have ceased to exist;

the date the applicable senior debt (and all other senior debt as to which notice has been given) shall have been discharged or paid in full; and

the date on which we or the trustee receives written notice from the representative of holders of senior debt or the holders of at least a majority of the senior debt terminating the blockage period.

Any number of notices of non-payment defaults may be given, but during any 365-day consecutive period only one blockage period may commence, and the period may not exceed 179 days. No non-payment default with respect to senior debt that existed or was continuing on the date a blockage period for our subordinated debt securities commenced may be made the basis of another blockage period for those securities whether or not wi