

SECURITIES AND EXCHANGE COMMISSION

FORM 8-A12B

Form for the registration/listing of a class of securities on a national securities exchange pursuant to
Section 12(b)

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FILER

LEUCADIA NATIONAL CORP

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SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-A
FOR REGISTRATION OF CERTAIN CLASSES OF SECURITIES
PURSUANT TO SECTION 12(b) OR 12(g) OF THE
SECURITIES EXCHANGE ACT OF 1934

LEUCADIA NATIONAL CORPORATION

(Exact Name of Registrant as Specified in its Charter)

New York

13-2615557

(State of Incorporation
or Organization)

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

315 Park Avenue South, New York, New York

10010

(Address and Telephone Number of
Principal Executive Offices)

(Zip Code)

If this Form relates to the registration of a class of debt securities and is effective upon filing pursuant to General Instruction A(c) (1) please check the following box. []

If this Form relates to the registration of a class of debt securities and is to become effective simultaneously with the effectiveness of a concurrent registration statement under the Securities Act of 1933 pursuant to General Instruction A(c) (2) please check the following box. []

Securities to be registered pursuant to Section 12(b) of the Act:

Title of Each Class

Name of Each Exchange on Which

to be so Registered

Each Class is to be Registered

\$100,000,000 _____%
Senior Subordinated Notes
due _____, 2005

New York Stock Exchange

Securities to be registered pursuant to Section 12(g) of the Act:

None

(Title of Class)

ITEM 1. Description of Registrant's Securities to be Registered.

Reference is made to the information contained under the caption "Description of Notes" on pages 10 through 18 of the Prospectus, dated May 31, 1995, contained in the Registration Statement on Form S-3 (No. 33-59463) filed by Leucadia National Corporation (the "Company") under the Securities Act of 1933 for a description of the _____% Senior Subordinated Notes due 2005 (the "Notes") being registered hereby. Such information is incorporated by reference.

ITEM 2. Exhibits.

1. Form of Note (incorporated herein by reference from Exhibit 4.2 to the Company's Registration Statement on Form S-3, File No. 33-59463).

2. Form of Indenture, dated as of June __, 1995, between the Company and The First National Bank of Boston, as Trustee, in respect of the Notes (incorporated herein by reference from Exhibit 4.1 to the Company's Registration Statement on Form S-3, File No. 33-59463).

3. Pages 10-18 of the Company's Prospectus, dated May 31, 1995.

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SIGNATURE

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereto duly authorized.

LEUCADIA NATIONAL CORPORATION

(Registrant)

Date: June 1, 1995

By: /s/ Joseph A. Orlando

Joseph A. Orlando,
Vice President and
Comptroller

EXHIBIT INDEX

Exhibit No. -----	Exhibit Description -----	Exemption Indication -----
1	Form of ____ % Senior Subordinated Note due 2005 (incorporated herein by reference from Exhibit 4.2 to the Company's Registration Statement on Form S-3, File No. 33-59463).	
2	Form of Indenture, dated as of June __, 1995, between the Company and The First National Bank of Boston, as Trustee, in respect of the ____% Senior Subordinated Notes due 2005 (incorporated herein by reference from Exhibit 4.1 to the Company's Registration Statement on Form S-3, File No. 33-59463).	
3	Pages 10-18 of the Company's Prospectus, dated May 31, 1995.	

DESCRIPTION OF NOTES

The Notes are to be issued under an Indenture to be dated as of _____, 1995, between the Company and The First National Bank of Boston, as Trustee (the "Trustee").

The statements herein relating to the Notes and the Indenture are summaries and make use of defined terms in the Indenture, which are incorporated herein by reference, and are qualified in their entirety by express reference to the Indenture, a copy of which is filed as an exhibit to the Registration Statement of which this Prospectus is a part.

GENERAL

The Notes will bear interest from _____, 1995 at the rate shown on the cover page of this Prospectus, payable on _____ and _____ in each year to the Noteholders of record at the close of business on the _____ and _____ immediately preceding such interest payment date, commencing _____, 1995. The Notes will be due on _____, 2005, will be issued only in denominations of \$1,000 and integral multiples of \$1,000, and will be general unsecured obligations of the Company. The Indenture authorizes an aggregate principal amount of \$100,000,000 of the Notes.

OPTIONAL REDEMPTION

The Notes are not redeemable at the option of the Company prior to maturity.

SINKING FUND

The Notes are not subject to sinking fund payments.

SUBORDINATION OF NOTES

The payment of all Obligations with respect to the Notes will be subordinated in right of payment, as set forth in the Indenture, to the prior payment in full of all Senior Indebtedness (as defined in the Indenture) of the Company whether outstanding on the date of the Indenture or thereafter created,

incurred, assumed or guaranteed. Upon (a) the maturity of Senior Indebtedness by lapse of time, acceleration or otherwise or (b) any distribution of the assets of the Company upon any dissolution, winding up, liquidation or reorganization of the Company, the holders of Senior Indebtedness will be entitled to receive payment in full before the Noteholders are entitled to receive any payment. In addition, the Indenture will provide that no payments in respect of any Obligations with respect to the Notes may be made if (i) any payment default on any Senior Indebtedness shall have occurred or (ii) any other default under any Senior Indebtedness shall have occurred which would permit the holders thereof to accelerate such Indebtedness and the Company shall have received notice of such default, unless, in the case of clauses (i) or (ii), such default shall have been cured or waived; provided, that (a) payments on the Notes may resume in the case of any default described in clause (ii) on the date which is 179 days after the giving of such notice (provided there is not then a default under clause (i)) and (b) in no event shall such payment blockage be applicable for more than 179 days in each 360-day period. If in any of the situations referred to in clause (i) or (ii) above a payment is made to the Trustee or to Noteholders before all Senior Indebtedness has been paid in full or provision has been made for such payment, the payment to the Trustee or Noteholders must be paid over to the holders of the Senior Indebtedness.

The Indenture defines "Senior Indebtedness" to mean all Obligations of the Company with respect to the following, whether outstanding at the date of original execution of the Indenture or thereafter incurred, created or assumed: (a) indebtedness of the Company for money borrowed, including, without limitation, indebtedness of the

Company for money borrowed which is evidenced by notes, debentures, bonds or other securities issued under the provisions of an indenture or other instrument, and also including indebtedness represented by Purchase Money Obligations (as defined), but only to the extent such indebtedness is enforceable by a money judgment; (b) guarantees or assumptions by the Company of indebtedness of others of any of the kinds described in the preceding clause (a); and (c) renewals, extensions and refundings of, and indebtedness of a successor corporation issued in exchange for or in replacement of, indebtedness, guarantees and assumptions of the kinds described in the preceding clauses (a) or (b), unless, in the case of any particular indebtedness, obligation, guarantee, assumption, renewal, extension or refunding, the instrument creating or evidencing the same expressly provides that such indebtedness, obligation, guarantee, assumption, renewal, extension or refunding is not superior in right of payment to the Notes;

provided, that Senior Indebtedness shall not be deemed to include (i) any indebtedness of the Company to any Subsidiary, (ii) any liability for taxes, (iii) any amounts payable or other liabilities to trade creditors arising in the ordinary course of business, (iv) any indebtedness which is subordinate or junior by its terms to any other indebtedness of the Company, (v) the 10-3/8% Notes, (vi) the 5-1/4% Debentures or (vii) the Swiss Franc Bonds. At March 31, 1995, the amount of outstanding Senior Indebtedness of the Company was \$149,081,000, net of debt discount of \$919,000, and the amount of indebtedness of Subsidiaries of the Company, to which the Notes are effectively subordinated, was \$23,068,000, exclusive of \$191,989,000 of Deposits. The Indenture will provide that no indebtedness of the Company shall be senior in right of payment to the Notes unless such indebtedness is pari passu in right of payment with the Company's other Senior Indebtedness.

"Obligations" means any principal, interest, penalties, fees, indemnities and other obligations and liabilities payable under the documentation governing the applicable Indebtedness.

By reason of such subordination, in the event of insolvency, general creditors of the Company may recover less, ratably, than holders of Senior Indebtedness and may recover more, ratably, than Noteholders or holders of other subordinated indebtedness of the Company.

The Notes will rank senior in right of payment to the 5-1/4% Debentures and the Swiss Franc Bonds and pari passu with the 10-3/8% Notes.

CERTAIN COVENANTS

The Indenture will contain the following covenants:

Restriction on Incurrence of Indebtedness by the Company and on Incurrence of Indebtedness and Issuance of Preferred Stock by Its Subsidiaries. The Company shall not, and shall not permit any Subsidiary to, create, incur, assume, or guarantee the payment of any Indebtedness, and shall not permit any of its Subsidiaries to issue any Preferred Stock, if, at the time of such event and after giving effect thereto on a pro forma basis, the Company's ratio of Consolidated Debt to Consolidated Tangible Net Worth, as of the most recent date for which consolidated financial statements are available and adjusted for the incurrence of all Indebtedness and the issuance of all Preferred Stock by Subsidiaries (other than Permitted Indebtedness) since that date, would be greater than 1.75 to 1. This restriction shall not preclude the incurrence of Permitted Indebtedness.

"Consolidated Debt" means, on any date, the sum of (i) total

Indebtedness of the Company and its Subsidiaries, at such date, determined in accordance with generally accepted accounting principles as in effect on December 31, 1994 ("GAAP") on a consolidated basis, and (ii) the aggregate liquidation preference of all Preferred Stock of Subsidiaries of the Company, at such date, other than Preferred Stock to the extent held by the Company and its Subsidiaries; provided, that Consolidated Debt shall not include Permitted Indebtedness.

"Indebtedness" of any Person means (i) any liability of such Person (a) for borrowed money, (b) evidenced by a note, debenture or similar instrument (including a Purchase Money Obligation or deferred payment obligation) given in connection with the acquisition of any property or assets (other than inventory or similar property acquired in the ordinary course of business), including securities, (c) for the payment of a Capitalized Lease Obligation of such Person or (d) with respect to the reimbursement of any letter of credit, banker's acceptance or similar credit transaction (other than trade letters of credit issued in the ordinary course of business; provided, that the failure to make prompt reimbursement of any trade letter of credit shall be deemed to be the incurrence of Indebtedness); and (ii) any guarantee by such Person of any liability of others described in clause (i) above or any obligation of such Person with respect to any liability of others described in clause (i) above. Indebtedness shall not include Deposits.

"Permitted Indebtedness" means (i) any Indebtedness of the Company and its Subsidiaries outstanding on the date of the Indenture, or any refinancing or replacement thereof; provided, that the aggregate amount of such Indebtedness is not increased, (ii) Acquired Indebtedness, (iii) Preferred Stock of Subsidiaries held by the Company or its Subsidiaries (it being understood that the sale of such Preferred Stock by the Company or such Subsidiary to any Person other than the Company or a Subsidiary of the Company or such Subsidiary no longer being a Subsidiary shall be deemed the issuance of Preferred Stock for purposes of the above test) and (iv) intercompany Indebtedness.

"Acquired Indebtedness" means Indebtedness or Preferred Stock of a Person either (i) existing at the time such Person becomes a Subsidiary, (ii) assumed in connection with the acquisition of assets of such Person or (iii) any refinancing or replacement by such Person of such Indebtedness or Preferred Stock; provided, that the aggregate amount of such Indebtedness or Preferred Stock then outstanding is not increased. Acquired Indebtedness shall not include (x) any such Indebtedness created or Preferred Stock issued in anticipation of such Person becoming

a Subsidiary (other than a refinancing or replacement of Indebtedness or Preferred Stock of such Person, which original Indebtedness or Preferred Stock was not incurred or issued in anticipation of such Person becoming a Subsidiary), or (y) any Indebtedness or Preferred Stock that is recourse to the Company or any Subsidiary or any of their respective assets, other than to such Person and its Subsidiaries and their respective assets.

Restriction on Investments by Insurance Subsidiaries. The Indenture will provide that the Company shall not permit any Subsidiary which is an insurance company to make, directly or indirectly, any Investment other than in Investment Grade Securities if, after giving effect thereto at the time of such Investment, less than 80% of the aggregate Investments of such insurance company would consist of Investment Grade Securities, valuing Investments for purposes of this restriction at original cost. The foregoing restriction shall not (i) apply to Investments in the Company or any Subsidiary of the Company, (ii) prevent the Company or its Subsidiaries from acquiring the Capital Stock of, or all or substantially all of the assets of, an insurance company or (iii) apply to securities issued in a restructuring or exchange offer or similar transaction offered generally to all holders of another security then held by such Subsidiary.

"Investment Grade Securities" means (i) securities having any of the following ratings: at least BBB- or the equivalent thereof by S&P or at least Baa3 or the equivalent thereof by Moody's or at least BBB- or the equivalent thereof by Duff & Phelps Inc. ("Duff & Phelps") or (ii) cash or Cash Equivalents.

"Cash Equivalents" shall mean (i) securities issued or directly and fully guaranteed or insured by the United States or any agency or instrumentality thereof, (ii) U.S. dollar denominated time deposits, certificates of deposit, eurodollar time deposits, eurodollar certificates of deposit, and bankers acceptances of any domestic commercial bank of recognized standing having capital and surplus in excess of \$500 million, (iii) commercial paper having a rating from S&P of at least A-2 or the equivalent thereof or from Moody's of at least P-2 or the equivalent thereof or from Duff & Phelps of at least D-2 or the equivalent thereof and maturing within nine months from the date

of acquisition, and (iv) tax-exempt commercial paper of United States municipal, state or local governments rated at least A-2 or the equivalent thereof by S&P or at least P-2 or the equivalent thereof by Moody's or at least D-2 or the equivalent thereof by Duff & Phelps and maturing within nine months from the date of acquisition.

Restricted Payments and Restricted Investments. The Company shall not, and shall not permit any Subsidiary to, make, directly or indirectly, any Restricted Payment or Restricted Investment if, immediately after giving effect to such Restricted Payment or Restricted Investment, as the case may be: (a) a Default or Event of Default under the Indenture shall have occurred and be continuing, (b) the Company's Consolidated Tangible Net Worth would be less than \$250 million, (c) the Company would not be permitted to incur at least \$1.00 of additional Indebtedness (other than Permitted Indebtedness) pursuant to the covenant contained under "Restriction on Incurrence of Indebtedness by the Company and on Incurrence of Indebtedness and Issuance of Preferred Stock by Its Subsidiaries" above or (d) the sum of (x) the aggregate amount expended for all Restricted Payments subsequent to March 31, 1992 and (y) the aggregate amount of Restricted Investments made subsequent to March 31, 1992 and then outstanding reduced by any write down of any such Restricted Investment to the extent that such write down otherwise reduced Consolidated Net Income (the amount so expended for a Restricted Payment or a Restricted Investment, if other than in cash, to be determined by the Board of Directors of the Company, whose determination shall be conclusive and evidenced by a Board Resolution) would exceed the sum of (1) \$35 million, (2) 50% of the aggregate Consolidated Net Income of the Company (or minus 100% of the aggregate Consolidated Net Loss of the Company) accrued on a cumulative basis subsequent to March 31, 1992, and (3) the aggregate net proceeds, including the fair value of property other than cash (as determined by the Board of Directors of the Company, whose determination shall be conclusive and evidenced by a Board Resolution), received by the Company in respect of the issue or sale subsequent to March 31, 1992 of (i) any shares of Capital Stock of the Company, or (ii) any Indebtedness of the Company to the extent converted into or exchanged for Capital Stock of the Company subsequent to March 31, 1992. The foregoing restrictions shall not prevent (x) the payment of any dividend or distribution within 60 days after the date of declaration thereof, if at such date of declaration such payment complied with the foregoing provisions, or (y) the retirement of any shares of the Company's Capital Stock by exchange for, or upon conversion of, or out of the proceeds of the substantially concurrent sale (other than to a Subsidiary) of, other shares of the Capital Stock of the Company, and neither such retirement, exchange or conversion nor the proceeds of any such sale shall be included in any computation made above. On

the first day on which the aggregate Restricted Payments and Restricted Investments exceed by \$100 million (calculated on the date of payment or investment) the amount of Restricted Payments and Restricted Investments that could otherwise be made pursuant

to this paragraph if gains on sales of segments, businesses or major lines of business, net of losses on such sales (whether sold as assets or stock), had been excluded from the definition of "Consolidated Net Income," then each Noteholder shall have the right, at such Noteholder's option, to require the Company to purchase all or any portion (in integral multiples of \$1,000) of such Noteholder's Notes at 101% of the principal amount thereof, plus accrued interest; provided, that the Company will not be obligated to purchase any of such Notes unless Noteholders of at least 10% of the Notes outstanding at the date of such Restricted Payment or Restricted Investment (other than Notes held by the Company and its Affiliates) shall have tendered their Notes for repurchase. The mechanics, timing and other terms of the offer will be substantially the same as those with respect to a "Change of Control," as described below.

"Consolidated Net Income" and "Consolidated Net Loss" mean, for any period, the net income or loss, as the case may be, of the Company and its Subsidiaries for such period determined on a consolidated basis in accordance with GAAP (provided, that, for periods ended prior to January 1, 1995, Consolidated Net Income shall mean the reported income before cumulative effects of changes in accounting principles of the Company and its Subsidiaries); provided, that there shall be excluded therefrom (to the extent otherwise included therein) (i) the net income (or net loss) of any Person that is not the Company or a Subsidiary of the Company, except net income of such Person may be included to the extent of the amount of dividends or other distributions actually paid or made to the Company or any of its Subsidiaries by such other Person during such period, (ii) except to the extent includible pursuant to the foregoing clause (i), the net income (or net loss) of any other Person accrued prior to the date it becomes a Subsidiary of the Company or is merged into or consolidated with the Company or any of its Subsidiaries or such

other Person's assets are acquired by the Company or any of its Subsidiaries, (iii) all extraordinary gains, to the extent they exceed extraordinary losses, in each case, determined in accordance with GAAP and (iv) all gains or losses resulting from the effect of any accounting change.

"Consolidated Tangible Net Worth" with respect to the Company means, as of any date, the total shareholders' equity of the Company determined in accordance with GAAP less (a) (to the extent not otherwise deducted from total shareholders' equity at such date) the amount of Restricted Investments of the Company and its Subsidiaries outstanding on such date and (b) any and all goodwill and other intangible assets reflected on the consolidated balance sheet of the Company as of such date. Deferred policy acquisition costs ("DPAC") and that portion of the value of insurance in force resulting from an acquisition and equivalent to the amount of DPAC of the acquired entity outstanding immediately prior to such acquisition shall not be deemed goodwill or other intangible assets for purposes of determining Consolidated Tangible Net Worth.

"Restricted Investment" means, with respect to the Company or any Subsidiary of the Company, an Investment by such Person in an Affiliate of the Company (other than (x) in the Company or a Subsidiary of the Company or (y) in a Person that is an Affiliate of the Company solely because of (i) the ownership of securities of such Person by the Company or its Subsidiaries, (ii) contractual arrangements between the Company and its Subsidiaries and such Person or (iii) a combination of (i) and (ii)).

"Restricted Payment" means (i) the declaration or making of any dividend or of any other payment or distribution on or with respect to the Company's Capital Stock (other than dividends, payments or distributions payable solely in shares of the Company's Capital Stock), (ii) any payment on account of the

purchase, redemption, retirement or other acquisition for value of the Company's Capital Stock; provided, that so long as there shall not be a Default or Event of Default under the Indenture any payment to the estate of Ian M. Cumming or Joseph S. Steinberg (or any trustee or other legal representative on behalf of the legatees or heirs of such Persons) on account of the repurchase or redemption of Voting Stock owned by such estates (or trustees or legal representatives), solely from the net proceeds of any life insurance maintained by the Company on either of such Persons, shall not be a Restricted Payment and (iii) the declaration or making of any dividend or any other payment or distribution with respect to the Capital Stock of any Subsidiary of the Company and any payment on account of the purchase, redemption, retirement or other acquisition for value of the Capital Stock of any Subsidiary of the Company but, with respect to this clause (iii), only to the extent such dividend, payment or distribution is received by an Affiliate of the Company (other than (x) the Company or a Subsidiary of the Company or (y) a Person that is an Affiliate of the Company solely because of (A) the ownership of securities of such Person by the Company or its Subsidiaries, (B) contractual arrangements between the Company and its Subsidiaries and such Person or (C) a combination of (A) and (B)).

Maintenance of Consolidated Tangible Net Worth. The Company is required to furnish the Trustee with an Officers' Certificate within 55 days after the end of any fiscal quarter (100 days after the end of any fiscal year) notifying the Trustee that the Company's Consolidated Tangible Net Worth has declined below the Minimum Tangible Net Worth at the end of any fiscal quarter in which the Company's Consolidated Tangible Net Worth has so declined. If, on the last day of each of any two consecutive fiscal quarters (the last day of the second fiscal quarter being referred to herein as a "Deficiency Date"), the Company's Consolidated Tangible Net Worth is less than the Minimum Tangible Net Worth, then the Company is required, no later than 65 days after each such Deficiency Date (110 days if such Deficiency Date is the last day of the Company's fiscal year), to make an offer to all Noteholders to purchase (an "Offer") 10% of the aggregate principal amount of the Notes originally issued (the "Offer Amount") at a purchase price of 100% of the principal amount of the Notes, plus accrued interest to the date of purchase. The Offer is required to remain open for a period of 20 business days following its commencement (unless required to remain open for a longer period by applicable law) and the Company is required to purchase the Offer Amount of the Notes on a designated date no later than five business days after the termination of the Offer or, if less than the Offer Amount has been tendered, all Notes then tendered; provided, however, that the Company will not be obligated to purchase any of such Notes unless Noteholders holding at least 10% of the Offer Amount of Notes shall have tendered and

not subsequently withdrawn their Notes for repurchase. If the aggregate principal amount of Notes tendered to the Company exceeds the Offer Amount, the Company is required to purchase the Notes tendered to it pro rata among the Notes tendered (with such adjustments as may be appropriate so that only Notes in denominations of \$1,000 and integral multiples thereof shall be purchased). The Company will comply with all applicable Federal and state securities laws in connection with each Offer. In no event will the failure of the Company's Consolidated Tangible Net Worth to equal or exceed the Minimum Tangible Net Worth at the end of any fiscal quarter be counted toward the making of more

than one Offer. The Company may reduce the principal amount of Notes to be purchased pursuant to the Offer by subtracting 100% of the principal amount of Notes acquired by the Company subsequent to the Deficiency Date through purchase or exchange and surrendered for cancellation. The Company, however, may not credit Notes that have been previously used as a credit against any obligation to repurchase Notes pursuant to this provision, pursuant to a Change of Control offer or pursuant to the repurchase obligation described under "Restricted Payments and Restricted Investments."

"Minimum Tangible Net Worth" means \$250 million.

Limitation on Payment Restrictions Affecting Subsidiaries. The Company shall not, and shall not permit any Subsidiary to, directly or indirectly, create or otherwise cause to exist or become effective any encumbrance or restriction on the ability of any Subsidiary to (a) pay dividends or make any other distributions on its Capital Stock or any other interest or participation in, or measured by, its profits, owned by the Company or any Subsidiary, or pay any Indebtedness owed to the Company or any Subsidiary, (b) make loans or advances to the Company or any Subsidiary or (c) transfer any of its properties or assets to the Company, except for such encumbrances or restrictions existing under or by reasons of (i) applicable law, (ii) the Indenture, (iii) customary provisions restricting subletting or assignment of any lease governing a leasehold interest of the Company or any Subsidiary, (iv) any instrument governing Acquired Indebtedness, which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than such Person and its Subsidiaries, or the

property or assets of such Person and its Subsidiaries, so acquired, (v) Indebtedness existing on the date of the Indenture and any refinancing of such existing Indebtedness so long as the terms and conditions of any such refinancing agreements are no less favorable to the Company than those contained in the agreements governing the Indebtedness being refinanced or (vi) other Indebtedness; provided, that the Board of Directors of the Company shall have concluded, in good faith, that the terms thereof do not have a materially adverse effect on the Company, on a stand-alone basis, or the Company's ability, on a stand-alone basis, to meet its obligations.

Limitation on Issuance of Other Subordinated Debt. The Company shall not issue, assume, guarantee, incur or otherwise become liable, directly or indirectly, for any Indebtedness subordinate or junior in ranking in any respect to any Senior Indebtedness but senior in right of payment to the Notes.

REPURCHASE AT OPTION OF HOLDERS UPON A CHANGE OF CONTROL

In the event of any Change of Control, each Noteholder shall have the right, at such Noteholder's option, to require the Company to purchase all or any portion (in integral multiples of \$1,000) of such Noteholder's Notes on the date (the "Change of Control Payment Date") which is 20 business days after the date the Change of Control Notice (as defined below) is mailed (or such later date as is required by applicable law) at 101% of the principal amount thereof, plus accrued interest to the Change of Control Payment Date; provided that the Company will not be obligated to purchase any of such Notes unless Noteholders holding at least 10% of the Notes outstanding at the Change of Control Payment Date (other than Notes held by the Company and its Affiliates) shall have tendered their Notes for repurchase. In addition, in the event of any Change of Control, the Company will not, and will not permit any of its Subsidiaries to, purchase or redeem any Indebtedness ranking junior to the Notes pursuant to any analogous provisions on or prior to the Change of Control Payment Date.

The Company is obligated to send to all Noteholders, within five business days after the occurrence of each Change of Control, a notice of the occurrence of such Change of Control (the "Change of Control Notice"), specifying a date by which a Noteholder must notify the Company of such Noteholder's intention

to exercise the repurchase right and describing the procedure that such Noteholder must follow to exercise such right. The Company is required to deliver a copy of such notice to the Trustee and to cause a copy of such notice to be published in a daily newspaper of national circulation. To exercise the repurchase right, the Noteholder must deliver, on or before the fifth calendar day prior to the Change of Control Payment Date, written notice (which shall be irrevocable, except as provided below) to the Company (or an agent designated by the Company for such purpose) of the Noteholder's exercise of such right, together with (i) the Note or Notes with respect to which the right is being exercised, duly endorsed for transfer with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Note completed, and (ii) if the Change of Control Payment Date falls between any record date for the payment of interest on the Notes and the next succeeding interest payment date, an amount equal to the interest which the Noteholder is entitled to receive on such interest payment date. The Company will comply with all applicable Federal and state securities laws in connection with each Change of Control Notice.

A "Change of Control" shall be deemed to occur if (i) the Company has any other Indebtedness outstanding (other than Indebtedness under a bank credit agreement or similar bank financing) which provides for a Change of Control (as defined in the instrument governing such Indebtedness) if Ian M. Cumming or Joseph S. Steinberg ceases to beneficially own, in the aggregate, a certain percentage of the outstanding Common Shares, which percentage ownership requirement is in excess of 10%, and a Change of Control (as defined in the instrument governing such Indebtedness) occurs under such Indebtedness or (ii) at any time when the Company does not have any other Indebtedness outstanding of the type referred to in clause (i), Ian M. Cumming or Joseph S. Steinberg, individually or in the aggregate, sells, transfers or otherwise disposes of (a "Disposition"), after the date of the Indenture, Common Shares so that, after giving effect thereto, the sole beneficial ownership of outstanding Common Shares by Mr. Cumming and/or Mr. Steinberg would, in the aggregate, fall below 10% of the then outstanding Common Shares; provided, that no Change of Control shall be deemed to have occurred under clause (ii) if the Notes are rated by Moody's or S&P as Investment Grade both at the time of such Disposition and for a period of 90 days from the date of such Disposition (it being understood that, with respect to the foregoing proviso, a Change of Control shall be deemed to occur on the first date during such 90-day period when the Notes are rated below Investment Grade by both Moody's and S&P). The term "Common Shares" shall include any securities issued as dividends or distributions on the Common Shares. For purposes hereof, "sole beneficial ownership" of Common Shares shall be deemed to include (i) all Common Shares received after June 15, 1992 from Mr. Cumming or Mr. Steinberg by any member of

their respective immediate families or by any trust for the benefit of either of them or any member of their respective immediate families (a "Recipient"), which Common Shares remain held by a Recipient during the lifetime of Mr. Cumming or Mr. Steinberg (unless sold, transferred or disposed of by such Recipient during the lifetime of Mr. Cumming or Mr. Steinberg, as the case may be, in which case such Disposition by such Recipient shall constitute a Disposition by Mr. Cumming or Mr. Steinberg, as the case may be) and (ii) after the death of Mr. Cumming and/or Mr. Steinberg, all Common Shares owned as of the date of death by the decedent, and any Recipient of the decedent, regardless of whether such Recipient continues to own such Common

Shares after the date of death. In determining the number of outstanding Common Shares then held by Messrs. Cumming and Steinberg and the total number of outstanding Common Shares, there shall be excluded Common Shares issued by the Company after December 31, 1991, or the conversion into or exchange for, after December 31, 1991, Common Shares or securities convertible into or exchangeable for Common Shares. As calculated pursuant to this provision, Messrs. Cumming and Steinberg beneficially owned, in the aggregate, approximately 46% of the Common Shares as of March 31, 1995.

As of the date hereof, the Company's most restrictive outstanding Indebtedness that contains a change of control provision requires that Mr. Cumming and/or Mr. Steinberg continue to have sole beneficial ownership of outstanding Common Shares equal to at least 32% of the then outstanding Common Shares; provided that, under such Indebtedness, Messrs. Cumming and/or Steinberg may sell, transfer or otherwise dispose of additional Common Shares if, after giving effect thereto, they would, in the aggregate, then have sole beneficial ownership of Common Shares equal to at least 23% of the then outstanding Common Shares, but only if, after giving effect to any such Disposition, the aggregate market value of the Common Shares then so owned by Mr. Cumming and/or Mr. Steinberg on the date of such Disposition would be at least \$200 million; provided, further, that, under such Indebtedness, upon the death of either Mr. Cumming or Mr. Steinberg, the aggregate market value of the Common Shares then so owned by the survivor on the date of such Disposition would be at least \$100 million. There can be no assurance that the Company will have sufficient funds or the financing to satisfy its obligations to repurchase the Notes and other Indebtedness

that may come due upon a Change of Control. In such case, the Company's failure to purchase tendered Notes would constitute an Event of Default under the Indenture.

The Noteholders holding a majority in principal amount of Notes then outstanding may waive compliance by the Company of its obligation to repurchase Notes upon a Change of Control. The Company may not waive such provisions. See "Modification of the Indenture."

The term "Investment Grade" is defined as BBB- or higher by S&P or Baa3 or higher by Moody's or the equivalent of such ratings by Moody's or S&P.

TRANSACTIONS WITH AFFILIATES

The Company shall not, and shall not permit any Subsidiary to, directly or indirectly, enter into any transaction or series of related transactions with any Affiliate (other than (a) with the Company or a Wholly Owned Subsidiary or (b) the making of a Restricted Payment or Restricted Investment otherwise permitted by the covenant described under "Restricted Payments and Restricted Investments" above), including, without limitation, any loan, advance or investment or any purchase, sale, lease or exchange of property or the rendering of any service, unless such transaction or series of transactions is in good faith and at arm's-length and on terms which are at least as favorable as those available in a comparable transaction from an unrelated Person. Any such transaction that involves in excess of \$10 million shall be approved by a majority of the Independent Directors on the Board of Directors of the Company; or, in the event that at the time of any such transaction or series of related transactions there are no Independent Directors serving on the Board of Directors of the Company, such transaction or series of related transactions shall be approved by a nationally recognized expert with experience in appraising the terms and conditions of the type of transaction for which approval is required.

SUCCESSOR CORPORATION

The Company may not consolidate with, merge into or transfer all or substantially all of its assets (i.e., 90% or more) to another corporation unless (a) the successor corporation shall be existing under the laws of the United States, any state thereof or the District of Columbia, (b) there shall not be any Default

or Event of Default under the Indenture, (c) such successor corporation assumes all of the Obligations of the Company under the Notes and the Indenture, (d) after giving effect to such transaction, such successor corporation shall have a Consolidated

Net Worth equal to or greater than the Company and (e) after giving effect to such transaction, the Company or such successor corporation is permitted to incur at least \$1.00 of additional Indebtedness (other than Permitted Indebtedness) as provided in the Indenture. Thereafter all such obligations of the Company will terminate.

REPORTS TO NOTEHOLDERS

The Company will mail copies of its annual reports and quarterly reports mailed to its shareholders to Noteholders. If the Company is not required to furnish annual or quarterly reports to its shareholders, the Company will, upon request, mail to each Noteholder, at such Noteholder's address as appearing on the Note register, audited annual financial statements and unaudited condensed quarterly financial statements. Such financial statements shall be accompanied by management's discussion and analysis of the results of operations and financial condition of the Company for the period reported upon in substantially the form required under the rules and regulations of the Commission in effect from time to time.

THE TRUSTEE

The First National Bank of Boston will be the Trustee under the Indenture.

The Noteholders holding a majority in principal amount of all outstanding Notes will have the right to direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee. The Indenture will provide that, in case an Event of Default thereunder shall occur and be continuing, the Trustee will be required to use the degree of care of a prudent person in the conduct of his own affairs in the exercise of its power. Subject to such provisions, the Trustee will be under no obligation to exercise any of its rights or powers under the Indenture at the request of any of the Noteholders, unless they shall have offered to the Trustee security and indemnity satisfactory to it.

EVENTS OF DEFAULT AND NOTICE THEREOF

The term "Event of Default" when used in the Indenture shall mean any one of the following: (i) failure to pay (whether or not prohibited by the subordination provisions) interest for 30 days or principal; (ii) failure to perform any covenants not described in clause (i) for 30 days after receipt of notice; (iii) the occurrence of any event of default under an instrument evidencing or securing other indebtedness of the Company or any Material Subsidiary of the Company for borrowed money in excess

of \$15 million resulting in the acceleration of such indebtedness, which acceleration is not rescinded or annulled pursuant to the terms of such instrument; and (iv) certain events of bankruptcy, insolvency or reorganization relating to the Company or any Material Subsidiary of the Company.

The term "Material Subsidiary" means (i) any Subsidiary of the Company which at December 31, 1994 was a "significant subsidiary" under Regulation S-X promulgated by the Commission or any successor to such Subsidiary and (ii) any other Subsidiary of the Company; provided that the Company's investments in and advances to such Subsidiary at the date of determination thereof, without giving effect to any write-downs in such investments or advances taken within the prior 12 months, represent 20% or more of the Company's Consolidated Tangible Net Worth as of such time; provided, however, that this clause (ii) shall not include any Subsidiary if, at the time that it became a Subsidiary, the Company contemplated commencing a voluntary case or proceeding under the Bankruptcy Law with respect to such Subsidiary.

The Indenture will provide that the Trustee shall, within 90 days after the occurrence of a default, provide to the Noteholders notice of all uncured defaults known to it (the term default to include the events specified above without grace or notice); provided, that, except in the case of default in the payment of principal of or interest on any of the Notes, the Trustee shall be protected in withholding such notice if and so long as a committee of its Trust Officers in good faith determines that the withholding of such notice is in the interests of the Noteholders.

In case an Event of Default shall have occurred and be continuing, the Trustee or the Noteholders holding at least 25% in aggregate principal amount of the Notes then outstanding, by notice in writing to the Company and to the Trustee, may declare to be due and payable immediately the outstanding principal amount and accrued interest, premiums, penalties and other amounts in respect of the Notes and the Indenture. Such declaration may be annulled and past defaults (except, unless theretofore cured, a default in payment of principal of or interest on the Notes) may be waived by the holders of a majority in principal amount of the Notes, upon the conditions provided in the Indenture.

The Indenture will include a covenant that the Company will file annually with the Trustee a statement regarding compliance by the Company with the terms thereof and specifying any defaults of which the signers may have knowledge.

MODIFICATION OF THE INDENTURE

Under the Indenture, the rights and obligations of the Company and the rights of Noteholders may be modified by the Company and the Trustee only with the consent of the Noteholders holding a majority in principal amount of the Notes then outstanding; but no extension of the maturity of any Notes, or reduction in the interest rate or extension of the time of payment of principal of or interest on, or any change in the subordination of the Notes that is adverse to the Noteholders, or any other modification in the terms of payment of the principal of or interest on the Notes or reduction of the percentage required for modification will be effective against any Noteholder without its consent. The Noteholders holding a majority in principal amount of Notes then outstanding may waive compliance by the Company with certain covenants, including those described under "Certain Covenants-Maintenance of Consolidated Tangible Net Worth" and "Repurchase at Option of Holders Upon a Change of Control."

SATISFACTION AND DISCHARGE OF INDENTURE

The Indenture will be discharged and cancelled upon payment of all the Notes or upon deposit with the Trustee, within not more than one year prior to the maturity of the Notes, of funds sufficient for such payment.