

ICAHN ENTERPRISES L.P.  
Form S-4/A  
June 09, 2010

As filed with the Securities and Exchange Commission on June 9, 2010

**Registration No. 333-166139**

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

**Amendment No. 1  
to  
FORM S-4**

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

**ICAHN ENTERPRISES L.P.**

(Exact Name of Co-Registrant As Specified in Its Charter)

Delaware	6512	13-3398766
(State or Other Jurisdiction of Incorporation or Organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

**ICAHN ENTERPRISES FINANCE CORP.**

(Exact Name of Co-Registrant As Specified in Its Charter)

Delaware	6512	20-1059842
(State or Other Jurisdiction of Incorporation or Organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

# ICAHN ENTERPRISES HOLDINGS L.P.

(Exact Name of Registrant of Guarantee As Specified in Its Charter)

Delaware  
(State or Other Jurisdiction of  
Incorporation or Organization)

6512  
(Primary Standard Industrial  
Classification Code Number)

13-3398767  
(I.R.S. Employer  
Identification Number)

**767 Fifth Avenue Suite 4700  
New York, New York 10153  
(212) 702-4300**

(Address, Including Zip Code, and Telephone Number,  
Including Area Code, of Registrants Principal Executive Offices)

**Keith A. Meister  
Principal Executive Officer and Vice Chairman of the  
Board**

**767 Fifth Avenue Suite 4700  
New York, New York 10153  
Telephone: (212) 702-4300**

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

***Copies to:***

**Julie M. Allen, Esq.**  
**Proskauer Rose LLP**  
**1585 Broadway**  
**New York, New York 10036**  
**Telephone: (212) 969-3000**  
**Facsimile: (212) 969-2900**

**Approximate date of commencement of the proposed sale to the public:** As soon as practicable after the effective date of this Registration Statement.

If the securities being registered on this form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box.

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act of 1933, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act of 1933, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

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**The Registrants hereby amend this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrants shall file a further amendment that specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until this Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), determines.**

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**PROSPECTUS**      **SUBJECT TO COMPLETION DATED JUNE 9, 2010**  
**\$2,000,000,000**

**ICAHN ENTERPRISES L.P.**

**ICAHN ENTERPRISES FINANCE CORP.**

**Offer to Exchange Our 7<sup>3</sup>/<sub>4</sub>% Senior Notes Due 2016,  
Which Have Been  
Registered Under the Securities Act of 1933, as  
Amended, for Any  
and All of Our Outstanding 7<sup>3</sup>/<sub>4</sub>% Senior Notes Due  
2016**

**Offer to Exchange Our 8% Senior Notes Due 2018,  
Which Have Been  
Registered Under the Securities Act of 1933, as  
Amended, for Any  
and All of Our Outstanding 8% Senior Notes Due 2018**

**MATERIAL TERMS OF THE EXCHANGE OFFER**

We are offering to exchange, upon the terms and subject to the conditions set forth in this prospectus and the accompanying letter of transmittal, (i) \$850,000,000 in aggregate principal amount of our 7<sup>3</sup>/<sub>4</sub>% senior exchange notes due 2016 for \$850,000,000 in aggregate principal amount of our issued and outstanding 7<sup>3</sup>/<sub>4</sub>% senior notes due 2016 and (ii) \$1,150,000,000 in aggregate principal amount of our 8% senior exchange notes due 2018 for \$1,150,000,000 in aggregate principal amount of our issued and outstanding 8% senior notes due 2018. In this prospectus, the term "exchange notes" refers collectively to our 7<sup>3</sup>/<sub>4</sub>% senior exchange notes due 2016 and our 8% senior exchange notes due 2018 and the term "existing notes" refers collectively to our existing issued and outstanding 7<sup>3</sup>/<sub>4</sub>% senior notes due 2016 (CUSIP Nos. 451102 AC1, U44927 AA6 and 451102 AE7) and 8% senior notes due 2018 (CUSIP Nos. 451102 AF4, U44927 AB4 and 451102 AG2).

The terms of the exchange notes are substantially identical to the existing notes, except that the transfer restrictions and registration rights relating to the existing notes will not apply to the exchange notes and the exchange notes will not provide for the payment of special interest under circumstances related to the timing and completion of the exchange offer.

The exchange offer expires at 5:00 p.m., New York City time, on \_\_\_\_\_, 2010, unless extended. Subject to the satisfaction or waiver of specified conditions, we will exchange your validly tendered unregistered existing notes that have not been withdrawn prior to the expiration of the exchange offer for an equal principal amount of exchange notes that have been registered under the Securities Act of 1933, as amended, or the Securities Act.

The exchange offer is not subject to any condition other than that the exchange offer not violate applicable law or any applicable interpretation of the staff of the Securities and Exchange Commission, or the SEC, and other customary conditions.

You may withdraw your tender of notes at any time before the exchange offer expires.

The exchange of notes should not be a taxable exchange for U.S. federal income tax purposes.

We will not receive any proceeds from the exchange offer.

Any outstanding existing notes not validly tendered will remain subject to existing transfer restrictions.

The exchange notes will not be traded on any national securities exchange and, therefore, we do not anticipate that an active public market in the exchange notes will develop.

Each broker-dealer that receives exchange notes for its own account pursuant to the exchange offer must acknowledge that it will deliver a prospectus in connection with any resale of such exchange notes. A broker-dealer that is issued exchange notes for its own account in exchange for existing notes that were acquired by such broker-dealer as a result of market-making or other trading activities may use this prospectus, as supplemented or amended, for an offer to resell, resale or other retransfer of the exchange notes issued to it in the exchange offer.

**Please refer to Risk Factors beginning on page 11 of this prospectus for certain important information.**

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of the notes to be issued in the exchange offer or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus \_\_\_\_\_, 2010

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**ICAHN ENTERPRISES L.P.**

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## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we have filed with the SEC. This prospectus does not contain all of the information included in the registration statement. The registration statement filed with the SEC includes exhibits that provide more details about the matters discussed in this prospectus. You should carefully read this prospectus, the related exhibits filed with the SEC and any prospectus supplement, together with the additional information described below under the headings *Where You Can Find More Information* and *Incorporation of Certain Documents by Reference*. This prospectus incorporates important business and financial information about us that is not included in or delivered with this prospectus. We will provide without charge to each person to whom a copy of this prospectus is delivered, upon written or oral request of that person, a copy of any and all of this information. Requests for copies should be directed to Investor Relations Department, Icahn Enterprises L.P., 767 Fifth Avenue, Suite 4700, New York, New York 10153; (212) 702-4300. You should request this information at least five business days in advance of the date on which you expect to make your decision with respect to the exchange offer. **In any event, in order to obtain timely delivery, you must request this information prior to , 2010, which is five business days before the expiration date of the exchange offer.** Our website address is <http://www.ielp.com>. Our website is not a part of this prospectus.

You should rely only on the information contained or incorporated by reference in this prospectus and in any accompanying prospectus supplement. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. You should assume that the information appearing in this prospectus, any prospectus supplement and any other document incorporated by reference is accurate only as of the date on the front cover of those documents. We do not imply that there has been no change in the information contained in this prospectus or in our affairs since that date by delivering this prospectus.

Each broker-dealer that receives exchange notes for its own account pursuant to the exchange offer must acknowledge that it will deliver a prospectus in connection with any resale of such exchange notes. The letter of transmittal relating to the exchange offer states that by so acknowledging and by delivering a prospectus, a broker-dealer will not be deemed to admit that it is an underwriter within the meaning of the Securities Act of 1933, or the Securities Act. This prospectus, as it may be amended or supplemented from time to time, may be used by a broker-dealer in connection with resales of exchange notes received in exchange for outstanding notes where such outstanding notes were acquired by such broker-dealer as a result of market-making activities or other trading activities. We have agreed that, for a period of up to 270 days after the consummation of the exchange offer, we will make this prospectus available to any broker-dealer, at such broker-dealer's request, for use in connection with any such resale. See *Plan of Distribution*.

## NOTICE TO NEW HAMPSHIRE RESIDENTS

NEITHER THE FACT THAT A REGISTRATION STATEMENT OR AN APPLICATION FOR A LICENSE HAS BEEN FILED UNDER RSA 421-B WITH THE STATE OF NEW HAMPSHIRE NOR THE FACT THAT A SECURITY IS EFFECTIVELY REGISTERED OR A PERSON IS LICENSED IN THE STATE OF NEW HAMPSHIRE CONSTITUTES A FINDING BY THE SECRETARY OF STATE OF THE STATE OF NEW HAMPSHIRE THAT ANY DOCUMENT FILED UNDER RSA 421-B IS TRUE, COMPLETE AND NOT MISLEADING. NEITHER ANY SUCH FACT NOR THE FACT THAT AN EXEMPTION OR EXCEPTION IS AVAILABLE FOR A SECURITY OR A TRANSACTION MEANS THAT THE SECRETARY OF STATE OF THE STATE OF NEW HAMPSHIRE HAS PASSED IN ANY WAY UPON THE MERITS OR QUALIFICATIONS OF, OR RECOMMENDED OR GIVEN APPROVAL TO, ANY PERSON, SECURITY OR TRANSACTION. IT IS

UNLAWFUL TO MAKE, OR CAUSE TO BE MADE, TO ANY PROSPECTIVE PURCHASER, CUSTOMER OR CLIENT ANY REPRESENTATION INCONSISTENT WITH THE PROVISIONS OF THIS PARAGRAPH.

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## **INDUSTRY AND MARKET DATA**

We obtained the market and competitive position data used throughout this prospectus from our own research, surveys or studies conducted by third parties and industry or general publications. Industry publications and surveys generally state that they have obtained information from sources believed to be reliable, but do not guarantee the accuracy and completeness of such information. While we believe that each of these studies and publications is reliable, we have not independently verified such data, and neither we nor the initial purchaser make any representation as to the accuracy of such information. Similarly, we believe our internal research is reliable, but it has not been verified by any independent sources.

## **CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS**

Forward-looking statements are those that do not relate solely to historical fact. They include, but are not limited to, any statement that may predict, forecast, indicate or imply future results, performance, achievements or events.

Forward-looking statements can generally be identified by phrases such as believes, expects, potential, continues, may, should, seeks, predicts, anticipates, intends, projects, estimates, plans, could, designed, similar expressions that denote expectations of future or conditional events rather than statements of fact.

Forward-looking statements also may relate to strategies, plans and objectives for, and potential results of, future operations, financial results, financial condition, business prospects, growth strategy and liquidity, and are based upon management's current plans and beliefs or current estimates of future results or trends.

These forward-looking statements reflect our current views with respect to future events and are based on assumptions and subject to risks and uncertainties that may cause actual results to differ materially from trends, plans or expectations set forth in the forward-looking statements. These risks and uncertainties may include these factors and the risks and uncertainties described in Item 1A Risk Factors of our Annual Report on Form 10-K for the fiscal year ended December 31, 2009, as well as those risk factors included under Risk Factors in this prospectus. Among these risks are:

- risks related to economic downturns (including the global recession and volatility and disruption in the global financial markets), substantial competition and rising operating costs;
- risks related to our investment management activities, including the nature of the investments made by the private funds we manage, losses in the private funds and loss of key employees;
- risks related to our automotive activities, including exposure to adverse conditions in the automotive industry, and risks related to operations in foreign countries;
- risks related to our railcar operations, including risks related to the highly cyclical nature of the railcar industry and restricted credit markets;
- risks related to our food packaging operations, including risks related to safety and quality of food products;
- risks related to our scrap metals activities, including potential environmental exposure;
- risks related to our real estate activities, including the extent of any tenant bankruptcies and insolvencies;
- risks related to our home fashion operations, including changes in the availability and price of raw materials, and changes in transportation costs and delivery times;
- our ability to service our indebtedness and pay distributions on our depository units, which in turn depends on our ability to generate cash which may be subject to factors beyond our control;
- our status as a holding company and our dependence on the business of our subsidiaries to satisfy our obligations;

the outcome of litigation to which we or one of our subsidiaries is a party from time to time;  
the cyclical nature of the markets in which some of our segments operate;  
risks associated with international operations, including currency risks; and

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other risks and uncertainties detailed from time to time in our filings with the SEC.

Given these risks and uncertainties, we urge you to read this prospectus completely and with the understanding that actual future results may be materially different from what we plan or expect. All of the forward-looking statements made in this prospectus are qualified by these cautionary statements and we cannot assure you that the actual results or developments anticipated by us will be realized or, even if substantially realized, that they will have the expected consequences to or effects on our business or operations. In addition, these forward-looking statements present our estimates and assumptions only as of the date of this prospectus. We do not intend to update you concerning any future revisions to any forward-looking statements to reflect events or circumstances occurring after the date of this prospectus. However, you should carefully review the risk factors set forth in other reports or documents we file from time to time with the SEC.

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## SUMMARY

*This summary highlights certain information concerning our business. To understand this exchange offer fully, you should carefully review the entire prospectus, including the Risk Factors section of this document beginning on page 11, the financial statements and related notes contained in our Annual Report on Form 10-K for the fiscal year ended December 31, 2009, or fiscal 2009, filed with the SEC on March 3, 2010, our amended and restated financial statements and related notes for fiscal 2009 contained in our Current Report on Form 8-K filed with the SEC on June 9, 2010, our Quarterly Report on Form 10-Q for the quarter ended March 31, 2010, filed with the SEC on May 6, 2010, and our Current Report on Form 8-K/A filed with the SEC on April 13, 2010, each of which are being incorporated by reference herein and any other documents incorporated by reference in this prospectus. Except where the context otherwise requires or indicates, in this prospectus, (i) Icahn Enterprises, the Company, we, us and our refer to Icahn Enterprises L.P. and its subsidiaries and, with respect to acquired businesses, Mr. Icahn and his affiliates prior to our acquisition, and (ii) Holding Company refers to the unconsolidated results and financial position of Icahn Enterprises and Icahn Enterprises Holdings L.P., or Icahn Enterprises Holdings.*

## OUR COMPANY

We are a diversified holding company owning subsidiaries that are engaged in various operating businesses. Our primary business strategy is to continue to grow our core business segments. Our core business segments include Investment Management, Automotive, Railcar, Food Packaging, Metals, Real Estate and Home Fashion. On January 15, 2010, in two separate transactions, we acquired controlling interests in American Railcar Industries Inc., or ARI (which comprises our Railcar segment), and Viskase Companies Inc., or Viskase (which comprises our Food Packaging segment). In addition, we seek to acquire undervalued assets and companies that are distressed or in out-of-favor industries. As of March 31, 2010, we had approximately \$18.8 billion of total assets. For fiscal 2009 and the quarter ended March 31, 2010, our total consolidated revenues were \$8.6 billion and \$1.9 billion, respectively.

Icahn Enterprises is a master limited partnership formed in Delaware on February 17, 1987. We own a 99% limited partner interest in Icahn Enterprises Holdings. Substantially all of our assets and liabilities are owned through Icahn Enterprises Holdings and substantially all of our operations are conducted through Icahn Enterprises Holdings and its subsidiaries. Icahn Enterprises G.P. Inc., or Icahn Enterprises GP, our sole general partner, owns a 1% general partnership interest in both Icahn Enterprises Holdings and us, representing an aggregate 1.99% general partnership interest in Icahn Enterprises Holdings and us. Icahn Enterprises GP is owned and controlled by Mr. Carl C. Icahn.

The following is a summary of our core holdings:

*Investment Management.* Our Investment Management segment provides investment advisory services to a family of funds (collectively referred to as the Private Funds), the interests in which are offered only to certain sophisticated and qualified investors on the basis of exemptions from the registration requirements of the federal securities laws and are not publicly available. This business derives revenues from three sources, namely (1) special profits interest allocations (which approximates an average of 2.25% of fee-paying assets under management, or AUM, per annum as and when profits are earned), (2) incentive allocations (which range from 15% to 25% of net profits generated by fee-paying investors, subject to certain high-water marks) and (3) gains and losses from our investments in the Private Funds. The terms of the Private Funds partnership agreements permit our direct investments in the Private Funds to be redeemed quarterly on 65 days notice. Our financial performance is driven by a combination of the Private Funds AUM and the investment performance of the Private Funds. As of March 31, 2010, total AUM was approximately \$6.3 billion, of which approximately \$2.2 billion were fee-paying assets. In addition, gross returns for fiscal 2009

were 33.3%. For fiscal 2009 and the quarter ended March 31, 2010, our Investment Management segment generated revenues of \$1.6 billion and \$54 million, respectively.

*Automotive.* We conduct our Automotive segment through our majority ownership in Federal-Mogul Corporation, or Federal-Mogul, which is a leading global supplier of technology and innovation in vehicle and industrial products for fuel economy, alternative energies, environment and safety systems. Federal-Mogul serves the world's foremost original equipment manufacturers, or OEMs, of automotive, light commercial, heavy-duty, industrial, agricultural, aerospace, marine, rail and off-road vehicles, as well as the worldwide

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aftermarket. Federal-Mogul's leading technology, innovation and lean manufacturing expertise, as well as marketing and distribution, deliver world-class products, brands and services with quality excellence at a competitive cost.

Federal-Mogul has established a global presence and conducts its operations through various manufacturing, distribution and technical centers that are wholly owned subsidiaries or partially owned joint ventures, organized into four product groups: Powertrain Energy, Powertrain Sealing and Bearings, Vehicle Safety and Protection, and Global Aftermarket. Federal-Mogul believes that its sales are well balanced between OEM and aftermarket (56% and 44%, respectively, for fiscal 2009), as well as domestic and international markets (40% and 60%, respectively, for fiscal 2009). For fiscal 2009 and the quarter ended March 31, 2010, our Automotive segment generated revenues of \$5.4 billion and \$1.5 billion, respectively.

*Railcar.* We conduct our Railcar segment through our majority ownership in ARI. ARI is a leading North American designer and manufacturer of hopper and tank railcars. As of December 31, 2009 and March 31, 2010, ARI had a market capitalization of approximately \$235 million and \$259 million, respectively. ARI operates in two reportable segments: manufacturing operations and railcar services. Manufacturing operations consist of railcar manufacturing and railcar and industrial component manufacturing. Railcar services consist of railcar repair, refurbishment and fleet management services. ARI provides its railcar customers with integrated solutions through a comprehensive set of high-quality products and related services. ARI's primary customers include companies that purchase railcars for lease by third parties, industrial companies that use railcars for freight transport and Class I railroads. For fiscal 2009 and the quarter ended March 31, 2010, ARI generated total revenues from its manufacturing operations and railcar services of \$423 million and \$51 million, respectively.

*Food Packaging.* We conduct our Food Packaging segment through our majority ownership in Viskase, Inc., or Viskase. Viskase is a leading worldwide producer of non-edible cellulosic, fibrous and plastic casings used to prepare and package processed meat and poultry products. Viskase provides product support services to its customers, which include some of the world's largest global consumer products companies. Viskase and its predecessors have been in the processed meat flexible packaging business for over 80 years. Viskase's high-quality product offering and customer service have resulted in strong and long-standing relationships with a customer base that includes Kraft Foods, Smithfield Foods and ConAgra Foods. Viskase operates seven manufacturing facilities, nine distribution centers and two service centers spread across North America, Europe and South America and, as a result, Viskase is able to sell its products globally. For fiscal 2009 and the quarter ended March 31, 2010, Viskase generated net sales of \$299 million and \$80 million, respectively.

*Metals.* We conduct our Metals segment through our indirect wholly owned subsidiary, PSC Metals, Inc., or PSC Metals. PSC Metals collects industrial and obsolete scrap metal, processes it into reusable forms and supplies the recycled metals to its customers, including electric-arc furnace mills, integrated steel mills, foundries, secondary smelters and metals brokers. PSC Metals' ferrous products include shredded, sheared and bundled scrap metal and other purchased scrap metal such as turnings (steel machining fragments), cast furnace iron and broken furnace iron. PSC Metals also processes non-ferrous metals including aluminum, copper, brass, stainless steel and nickel-bearing metals. PSC Metals sold 912,000 gross ferrous tons and 100,916,000 gross non-ferrous pounds for fiscal 2009. PSC Metals also operates a secondary products business that includes the supply of secondary plate and structural grade pipe that is sold into niche markets for counterweights, piling and foundations, construction materials and infrastructure end-markets. For fiscal 2009 and the quarter ended March 31, 2010, our Metals segment generated revenues of \$384 million and \$174 million, respectively.

*Real Estate.* Our Real Estate segment consists of rental real estate, property development and resort activities. As of December 31, 2009, we owned 30 rental real estate properties, which primarily consist of retail, office and industrial properties leased to single-user corporate tenants. In August 2008, our Real Estate operations acquired two triple net leased properties for \$465 million, which have been leased to a single-A-rated public company whose market

capitalization exceeds \$125 billion. These two assets generate annual cash flow of over \$32 million. Our property development operations are run primarily through Bayswater, a real estate investment, management and development subsidiary that focuses primarily on the construction and sale of single-family and multi-family homes, lots in subdivisions and planned communities and raw land for residential development. Our New Seabury development property in Cape Cod, Massachusetts and our Grand Harbor and Oak Harbor development properties in Vero Beach, Florida each include land for future residential

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development of approximately 335 and 870 units of residential housing, respectively. Both developments operate golf and resort operations as well. For fiscal 2009 and the quarter ended March 31, 2010, our Real Estate segment generated revenues of \$96 million and \$21 million, respectively.

*Home Fashion.* We conduct our Home Fashion segment through our majority ownership in WestPoint International, Inc., or WPI, a manufacturer and distributor of home fashion consumer products. WPI manufactures, sources, markets and distributes bed and bath home fashion products, including, among others, sheets, pillowcases, comforters, blankets, bedspreads, pillows, mattress pads, towels and related products. WPI recognizes revenue primarily through the sale of home fashion products to a variety of retail and institutional customers. In addition, WPI receives a small portion of its revenues through the licensing of its trademarks. For fiscal 2009 and the quarter ended March 31, 2010, our Home Fashion segment generated revenues of \$382 million and \$84 million, respectively.

## **Risk Factors**

Investment in our exchange notes involves substantial risks. See **Risk Factors** starting on page 11.

## **Our Corporate Information**

Our principal executive offices are located at 767 Fifth Avenue, Suite 4700, New York, New York 10153 and our telephone number is (212) 702-4300. Our internet address is *www.ielp.com*. We are not including the information contained on or available through our website as a part of, or incorporating such information by reference into, this prospectus.

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## Summary of the Exchange Offer

### The Offering of the Exchange Notes

On January 15, 2010, we issued \$850,000,000 in aggregate principal amount of our 7¾% senior notes due 2016 and \$1,150,000,000 in aggregate principal amount of our 8% senior notes due 2018 in an offering not registered under the Securities Act. At the time that the offering was consummated, we entered into a registration rights agreement in which we agreed to offer to exchange the existing notes for exchange notes that have been registered under the Securities Act. This exchange offer is intended to satisfy that obligation.

### The Exchange Offer

We are offering to exchange the exchange notes that have been registered under the Securities Act for the existing notes. As of this date, there is an aggregate of \$2,000,000,000 of our existing notes outstanding.

### Required Representations

In order to participate in this exchange offer, you will be required to make certain representations to us in a letter of transmittal, including that:

any exchange notes will be acquired by you in the ordinary course of your business;

you have not engaged in and do not intend to engage in, and do not have an arrangement or understanding with any person to participate in a distribution of the exchange notes; and

you are not an affiliate of our company or any of our subsidiaries, as that term is defined in Rule 405 of the Securities Act.

### Resale of Exchange Notes

We believe that, subject to limited exceptions, the exchange notes may be freely traded by you without compliance with the registration and prospectus delivery provisions of the Securities Act, provided that:

you are acquiring exchange notes in the ordinary course of your business;

you are not participating, do not intend to participate and have no arrangement or understanding with any person to participate in the distribution of the exchange notes; and

you are not an affiliate of our company or any of our subsidiaries, as that term is defined in Rule 405 of the Securities Act.

If our belief is inaccurate and you transfer any new note issued to you in the exchange offer without delivering a prospectus meeting the requirements of the Securities Act or without an exemption from registration of your exchange notes from such requirements, you may incur liability under the Securities Act. We do not assume, or indemnify you against, any such liability. The SEC has not considered this exchange offer in the context of a no-action letter, and we cannot be sure that the SEC

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would make the same determination with respect to this exchange offer as it has in other circumstances.

Each broker-dealer that is issued exchange notes for its own account in exchange for existing notes that were acquired by such broker-dealer as a result of market-making or other trading activities also must acknowledge that it has not entered into any arrangement or understanding with us or any of our affiliates to distribute the exchange notes and will deliver a prospectus meeting the requirements of the Securities Act in connection with any resale of the exchange notes issued in the exchange offer.

We have agreed in the registration rights agreement that a broker-dealer may use this prospectus for an offer to resell, resale or other retransfer of the exchange notes issued to it in the exchange offer.

**Expiration Date**

The exchange offer will expire at 5:00 p.m., New York City time, on , 2010, unless extended, in which case the term expiration date shall mean the latest date and time to which we extend the exchange offer.

**Conditions to the Exchange Offer**

The exchange offer is subject to certain customary conditions, which may be waived by us. The exchange offer is not conditioned upon any minimum principal amount of existing notes being tendered.

**Procedures for Tendering Existing Notes**

If you wish to tender outstanding notes, you must (a)(1) complete, sign and date the letter of transmittal, or a facsimile of it, according to its instructions and (2) send the letter of transmittal, together with your outstanding notes to be exchanged and other required documentation, to the Exchange Agent (as defined below) at the address provided in the letter of transmittal; or (b) tender through DTC pursuant to DTC's Automated Tender Offer Program, or ATOP system. The letter of transmittal or a valid agent's message through ATOP must be received by the Exchange Agent by 5:00 p.m., New York City time, on the expiration date. See The Exchange Offer Procedures for Tendering, and Book-Entry Tender. By executing the letter of transmittal, you are representing to us that you are acquiring the exchange notes in the ordinary course of your business, that you are not participating, do not intend to participate and have no arrangement or understanding with any person to participate in the distribution of exchange notes, and that you are not an affiliate of ours. See The Exchange Offer Procedures for Tendering, and Book-Entry Tender.

Do not send letters of transmittal and certificates representing outstanding notes to us. Send these documents only to the Exchange Agent. See The Exchange Offer Procedures for Tendering for more information.

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Special Procedures for Beneficial Owners

If you are the beneficial owner of book-entry interests and your name does not appear on a security position listing of DTC as the holder of the book-entry interests or if you are a beneficial owner whose outstanding notes are registered in the name of a broker, dealer, commercial bank, trust company or other nominee, and you wish to tender your outstanding notes in the exchange offer, you should contact the registered holder promptly and instruct the registered holder to tender on your behalf. If you are a beneficial owner and wish to tender on your own behalf, you must, before completing and executing the letter of transmittal and delivering your outstanding notes, either make appropriate arrangements to register ownership of the outstanding notes in your name or obtain a properly completed bond power from the registered holder. See The Exchange Offer Procedure if the Outstanding Notes Are Not Registered in Your Name, and Beneficial Owner Instructions to Holders of Outstanding Notes. The transfer of registered ownership may take considerable time and may not be possible to complete before the expiration date.

Guaranteed Delivery Procedures

If you wish to tender existing notes and time will not permit the documents required by the letter of transmittal to reach the exchange agent prior to the expiration date, or the procedure for book-entry transfer cannot be completed on a timely basis, you must tender your existing notes according to the guaranteed delivery procedures described under The Exchange Offer Guaranteed Delivery Procedures.

Acceptance of Existing Notes and Delivery of Exchange Notes

Subject to the conditions described under The Exchange Offer Conditions, we will accept for exchange any and all existing notes which are validly tendered in the exchange offer and not withdrawn, prior to 5:00 p.m., New York City time, on the expiration date.

Interest on Existing Notes

Interest will not be paid on existing notes that are tendered and accepted for exchange in the exchange offer.

Withdrawal Rights

You may withdraw your tender of existing notes at any time prior to 5:00 p.m., New York City time, on the expiration date, subject to compliance with the procedures for withdrawal described in this prospectus under the heading The Exchange Offer Withdrawal of Tenders.

Federal Income Tax Consequences

For a discussion of the material federal income tax considerations relating to the exchange of existing notes for the exchange notes as well as the ownership of the exchange notes, see Material U.S. Federal Income Tax Consequences.

Exchange Agent

The Wilmington Trust Company is serving as the exchange agent (the Exchange Agent). The address, telephone number and facsimile number of the exchange

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agent are set forth in this prospectus under the heading "The Exchange Offer - Exchange Agent."  
Consequences of Failure to Exchange the Existing Notes

If you do not exchange existing notes for exchange notes, you will continue to be subject to the restrictions on transfer provided in the existing notes and in the indenture governing the existing notes. In general, the unregistered existing notes may not be offered or sold, unless they are registered under the Securities Act, except pursuant to an exemption from, or in a transaction not subject to, the Securities Act and applicable state securities laws.

In addition, after the consummation of the exchange offer, it is anticipated that the outstanding principal amount of the existing notes available for trading will be significantly reduced. The reduced float will adversely affect the liquidity and market price of the existing notes. A smaller outstanding principal amount at maturity of existing notes available for trading may also tend to make the price more volatile.

Use of Proceeds

We will not receive any proceeds from the issuance of the exchange notes in exchange for the existing notes.

Fees and Expenses

We will pay all fees and expenses related to this exchange offer.

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## The Exchange Notes

*The summary below describes the principal terms of the exchange notes. Certain of the terms described below are subject to important limitations and exceptions. See the section entitled Description of Notes of this prospectus for a more detailed description of the terms of the exchange notes and the indenture governing the exchange notes (referred to as the Indenture). In this subsection, except as otherwise noted, we, us and our refer only to Icahn Enterprises and Icahn Enterprises Finance Corp., or Icahn Enterprises Finance, as co-issuers of the exchange notes, and not to any of our subsidiaries.*

### Issuers

Icahn Enterprises L.P., a Delaware master limited partnership, and Icahn Enterprises Finance Corp., a Delaware corporation.

### Notes Offered

\$850,000,000 aggregate principal amount of 7¾% Senior Notes due 2016 and \$1,150,000,000 aggregate principal amount of 8% Senior Notes due 2018.

The exchange notes will evidence the same debt as the existing notes and will be issued under, and will be entitled to the benefits of, the same indenture. The terms of the exchange notes are the same as the terms of the existing notes in all material respects except that the exchange notes:

have been registered under the Securities Act;

bear different CUSIP numbers from the existing notes;

do not include rights to registration under the Securities Act; and

do not contain transfer restrictions applicable to the existing notes.

### Maturity

7¾% Senior Notes due 2016: January 15, 2016

8% Senior Notes due 2018: January 15, 2018

### Interest Rate

We will pay interest on the 7¾% Senior Notes due 2016 at an annual rate of 7¾%, and will pay interest on the 8% Senior Notes due 2018 at an annual rate of 8%.

### Interest Payment Dates

We will make interest payments on the exchange notes semi-annually in arrears on January 15 and July 15 of each year, beginning July 15, 2010.

### Guarantee

The exchange notes and our obligations under the Indenture will be fully and unconditionally guaranteed by Icahn Enterprises Holdings. Other than Icahn Enterprises Holdings, none of our subsidiaries will guarantee payments on the exchange notes.

### Ranking

The exchange notes and the guarantee will rank equally with all of our and the guarantor's existing and future senior unsecured indebtedness and will rank senior to all of our and the guarantor's existing and future subordinated indebtedness. The exchange notes and the guarantee will be effectively subordinated to all of our and the guarantor's

existing and future secured indebtedness to the extent of the collateral securing such indebtedness.

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The exchange notes and the guarantee also will be effectively subordinated to all indebtedness and other liabilities, including trade payables, of all our subsidiaries other than Icahn Enterprises Holdings. As of March 31, 2010, our subsidiaries (not including Icahn Enterprises Holdings) had approximately \$3.4 billion of debt and approximately \$673 million of accounts payable to which the notes would have been structurally subordinated.

Optional Redemption

On or after January 15, 2013, we may redeem some or all of the 7¾% Senior Notes due 2016 at the redemption prices set forth under Description of Notes Optional Redemption, plus accrued and unpaid interest, if any, to the date of redemption. On or after January 15, 2014, we may redeem some or all of the 8% Senior Notes due 2018 at the redemption prices set forth under Description of Notes Optional Redemption, plus accrued and unpaid interest, if any, to the date of redemption. On or prior to January 15, 2013, we may, at our option, redeem up to 35% of the aggregate principal amount of each series of exchange notes at the premiums set forth under Description of Notes Optional Redemption, plus accrued and unpaid interest, if any, with the net cash proceeds of certain equity offerings.

Redemption Based on Gaming Laws

The exchange notes are subject to mandatory disposition and redemption requirements following certain determinations by applicable gaming authorities. See Description of Notes Mandatory Disposition Pursuant to Gaming Laws.

Change of Control Offer

If we experience certain change-of-control events, the holders of the exchange notes will have the right to require us to purchase their exchange notes at a price in cash equal to 101% of the principal amount thereof, together with accrued and unpaid interest, if any, to the date of purchase. See Description of Notes Repurchase at the Option of Holders Change of Control.

Certain Covenants

We will issue the exchange notes under the Indenture that was established in connection with our existing notes. The Indenture, among other things, restricts our ability to:

incur additional debt;

pay dividends and make distributions;

repurchase equity securities;

create liens;

enter into transactions with affiliates; and

merge or consolidate.

These covenants are subject to a number of important exceptions and qualifications. See Description of Notes Certain Covenants.

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Our subsidiaries other than Icahn Enterprises Holdings are not restricted by the Indenture in their ability to incur debt, create liens or merge or consolidate.

Absence of Established Market for Exchange Notes

The exchange notes will be new securities for which there is currently no market. We cannot assure you that a liquid market for the exchange notes will develop or be maintained.

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## **RISK FACTORS**

*Participating in the exchange offer and investing in the registered notes involves a high degree of risk. You should read and consider carefully each of the following factors, as well as the other information contained in this prospectus, before making a decision on whether to participate in the exchange offer. Any of the following risks could materially adversely affect your investment and our business, financial condition or results of operations. In such case, you may lose all or part of your original investment.*

### **Risks Relating to the Exchange Offer**

#### **Holders who fail to exchange their existing notes will continue to be subject to restrictions on transfer.**

If you do not exchange your existing notes for exchange notes in the exchange offer, you will continue to be subject to the restrictions on transfer of your existing notes described in the legend on your existing notes. The restrictions on transfer of your existing notes arise because we issued the existing notes under exemptions from, or in transactions not subject to, the registration requirements of the Securities Act and applicable state securities laws. In general, you may only offer or sell the existing notes if they are registered under the Securities Act and applicable state securities laws, or are offered and sold under an exemption from these requirements. We do not plan to register the existing notes under the Securities Act. The restrictions on transferability may adversely affect the price that third parties would pay for such notes.

#### **Broker-dealers or holders of notes may become subject to the registration and prospectus delivery requirements of the Securities Act.**

Any broker-dealer that:

exchanges its existing notes in the exchange offer for the purpose of participating in a distribution of the exchange notes or

resells exchange notes that were received by it for its own account in the exchange offer

may be deemed to have received restricted securities and may be required to comply with the registration and prospectus delivery requirements of the Securities Act in connection with any resale transaction by that broker-dealer. Any profit on the resale of the exchange notes and any commission or concessions received by a broker-dealer may be deemed to be underwriting compensation under the Securities Act. In addition to broker-dealers, any holder of notes that exchanges its existing notes in the exchange offer for the purpose of participating in a distribution of the exchange notes may be deemed to have received restricted securities and may be required to comply with the registration and prospectus delivery requirements of the Securities Act in connection with any resale transaction by that holder.

#### **You may suffer adverse consequences if you do not exchange your existing notes.**

The existing notes that are not exchanged for exchange notes have not been registered with the SEC or in any state.

Unless the existing notes are registered, they may only be offered and sold pursuant to an exemption from, or in a transaction that is not subject to, the registration requirements of the Securities Act. Depending upon the percentage of

existing notes exchanged for exchange notes, the liquidity of the existing notes may be adversely affected, which may have an adverse affect on the price of the existing notes.

**Your existing notes will not be accepted for exchange if you fail to follow the exchange offer procedures.**

We will issue the exchange notes pursuant to this exchange offer only after a timely receipt of your existing notes, a properly completed and duly executed letter of transmittal and all other required documents. Therefore, if you want to tender your existing notes, please allow sufficient time to ensure timely delivery. If we do not receive the required documents by the expiration date of the exchange offer, we will not accept your existing notes for exchange. We are under no duty to give notification of defects or irregularities with respect to the tenders of existing notes for exchange. If there are defects or irregularities with respect to your tender of existing notes, we will not accept your existing notes for exchange.

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## **Risks Relating to the Exchange Notes**

**Our failure to comply with the covenants contained under any of our debt instruments, including the Indenture (including our failure as a result of events beyond our control), could result in an event of default which would materially and adversely affect our financial condition.**

Our failure to comply with the covenants under any of our debt instruments may trigger a default or event of default under such instruments. If there were an event of default under one of our debt instruments, the holders of the defaulted debt could cause all amounts outstanding with respect to that debt to be due and payable immediately. In addition, any event of default or declaration of acceleration under one debt instrument could result in an event of default under one or more of our other debt instruments, including the exchange notes. It is possible that, if the defaulted debt is accelerated, our assets and cash flow may not be sufficient to fully repay borrowings under our outstanding debt instruments and we cannot assure you that we would be able to refinance or restructure the payments on those debt securities.

**To service our indebtedness, we will require a significant amount of cash. Our ability to maintain our current cash position or generate cash depends on many factors beyond our control.**

Our ability to make payments on and to refinance our indebtedness, including the exchange notes, and to fund operations will depend on existing cash balances and our ability to generate cash in the future. This, to a certain extent, is subject to general economic, financial, competitive, regulatory and other factors that are beyond our control.

Our current businesses and businesses that we acquire may not generate sufficient cash to service our debt, including the exchange notes. In addition, we may not generate sufficient cash flow from operations or investments and future borrowings may not be available to us in an amount sufficient to enable us to service our indebtedness, including the exchange notes, or to fund our other liquidity needs. We may need to refinance all or a portion of our indebtedness, including the exchange notes, on or before maturity. We cannot assure you that we will be able to refinance any of our indebtedness, including the exchange notes, on commercially reasonable terms or at all.

**We and Icahn Enterprises Holdings are holding companies and depend on the businesses of our subsidiaries to satisfy our obligations.**

We and Icahn Enterprises Holdings are holding companies. In addition to cash and cash equivalents, U.S. government and agency obligations, marketable equity and debt securities and other short-term investments, our assets consist primarily of investments in our subsidiaries. Moreover, if we make significant investments in operating businesses, it is likely that we will reduce our liquid assets and those of Icahn Enterprises Holdings in order to fund those investments and the ongoing operations of our subsidiaries. Consequently, our cash flow and our ability to meet our debt service obligations and make distributions with respect to depositary units likely will depend on the cash flow of our subsidiaries and the payment of funds to us by our subsidiaries in the form of dividends, distributions, loans or otherwise.

The operating results of our subsidiaries may not be sufficient to make distributions to us. In addition, our subsidiaries

are not obligated to make funds available to us and distributions and intercompany transfers from our subsidiaries to us may be restricted by applicable law or covenants contained in debt agreements and other agreements to which these subsidiaries may be subject or enter into in the future. The terms of any borrowings of our subsidiaries or other entities in which we own equity may restrict dividends, distributions or loans to us. For example, we have credit facilities for Federal-Mogul and WPI, our majority owned subsidiaries, and our real estate development properties that also restrict dividends, distributions and other transactions with us. To the degree any distributions and transfers are impaired or prohibited, our ability to make payments on our debt and to make distributions on our depository units will be limited.

**We or our subsidiaries may be able to incur substantially more debt.**

We or our subsidiaries may be able to incur substantial additional indebtedness in the future. Under the Indenture, we and Icahn Enterprises Holdings may incur additional indebtedness if we comply with certain financial tests contained in the Indenture. However, our subsidiaries other than Icahn Enterprises Holdings are

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not subject to any of the covenants contained in the Indenture, including the covenant restricting debt incurrence. If new debt is added to our and our subsidiaries' current debt levels, the related risks that we, and they, now face could intensify. In addition, certain important events, such as leveraged recapitalizations that would increase the level of our indebtedness, would not constitute a Change of Control under the Indenture.

**The exchange notes will be effectively subordinated to any secured indebtedness, and all the indebtedness and liabilities of our subsidiaries other than Icahn Enterprises Holdings.**

The exchange notes will be effectively subordinated to our and Icahn Enterprises Holdings' existing and future secured indebtedness to the extent of the collateral securing such indebtedness. As of March 31, 2010, we did not have any secured indebtedness outstanding and Icahn Enterprises Holdings had \$74 million of secured indebtedness outstanding. We and Icahn Enterprises Holdings may be able to incur substantial additional secured indebtedness in the future. The terms of the Indenture permit us and Icahn Enterprises Holdings to do so, subject to the covenants described under Description of Notes Certain Covenants Incurrence of Indebtedness and Issuance of Preferred Stock and Limitation on Liens. The exchange notes will also be effectively subordinated to all the indebtedness and liabilities, including trade payables, of all of our subsidiaries, other than Icahn Enterprises Holdings. In the event of a bankruptcy, liquidation or reorganization of any of our subsidiaries, other than Icahn Enterprises Holdings, holders of their indebtedness and their trade creditors will generally be entitled to payment of their claims from the assets of those subsidiaries before any assets are made available for distribution to us. As of March 31, 2010, our subsidiaries (not including Icahn Enterprises Holdings) had \$3.4 billion of debt and approximately \$673 million of accounts payable to which the exchange notes would have been structurally subordinated.

**We may not have sufficient funds necessary to finance the change of control offer required by the Indenture.**

Upon the occurrence of certain specific kinds of change of control events, as defined in the Indenture, we will be required to offer to repurchase all outstanding notes at 101% of their principal amount plus accrued and unpaid interest and Special Interest, if any, to the date of repurchase. Mr. Icahn, through affiliates, currently owns 100% of Icahn Enterprises GP and approximately 92.4% of our outstanding depositary units as of the date of this prospectus. If Mr. Icahn were to sell or otherwise transfer some or all of his interests in us to unrelated parties, a change of control could be deemed to have occurred under the terms of the Indenture. However, it is possible that we will not have sufficient funds at the time of the change of control to make the required repurchase of notes.

**Since we are a limited partnership, you may not be able to pursue legal claims against us in U.S. federal courts.**

We are a limited partnership organized under the laws of the state of Delaware. Under the rules of federal civil procedure, you may not be able to sue us in federal court on claims other than those based solely on federal law, because of lack of complete diversity. Case law applying diversity jurisdiction deems us to have the citizenship of each of our limited partners. Because we are a publicly traded limited partnership, it may not be possible for you to sue us in a federal court because we have citizenship in all 50 U.S. states and operations in many states. Accordingly, you will be limited to bringing any claims in state court. Furthermore, Icahn Enterprises Finance, our corporate co-issuer for the exchange notes, has only nominal assets and no operations. While you may be able to sue the corporate co-issuer in federal court, you are not likely to be able to realize on any judgment rendered against it.

**The exchange notes impose significant operating and financial restrictions on us and Icahn Enterprises Holdings.**

Subject to a number of important exceptions, the Indenture may limit our and Icahn Enterprises Holdings ability to, among other things:

incur additional debt;  
pay dividends and make distributions;  
repurchase equity securities;

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create liens;  
enter into transactions with affiliates; and  
merge or consolidate.

The restrictions contained in the Indenture may prevent us from taking actions that we believe would be in the best interest of our business. A breach of any of these covenants could result in a default under the exchange notes, or the Indenture, as applicable. If any such default occurs, the holders of our notes may elect to declare all of their respective outstanding debt, together with accrued interest and other amounts payable thereunder, to be immediately due and payable.

Our subsidiaries, other than Icahn Enterprises Holdings, will not be subject to any of the covenants in the Indenture and only Icahn Enterprises Holdings will guarantee the exchange notes. We may not be able to rely on the cash flow or assets of our subsidiaries to pay our indebtedness.

Our subsidiaries, other than Icahn Enterprises Holdings, will not be subject to the covenants under the Indenture. We may form additional subsidiaries in the future that will not be subject to the covenants under the Indenture. Of our existing and future subsidiaries, only Icahn Enterprises Holdings is required to guarantee the exchange notes. Our existing and future non-guarantor subsidiaries may enter into financing arrangements that limit their ability to make dividends, distributions, loans or other payments to fund payments in respect of the exchange notes. Accordingly, we may not be able to rely on the cash flow or assets of our subsidiaries to pay the exchange notes.

**A court could void the exchange notes or the guarantee under fraudulent conveyance laws.**

Under the U.S. bankruptcy law and comparable provisions of the state fraudulent transfer laws, the exchange notes and the guarantee could be voided, or claims in respect to the exchange notes and the guarantee could be subordinated to all of our existing debt or our guarantor's other debts if, among other things, we, at the time of the issuance of the exchange notes, our guarantor, at the time it incurred the indebtedness evidenced by its guarantee:

intended to hinder, delay or defraud any present or future creditor; or  
received less than reasonably equivalent value and/or fair consideration for the issuance of the exchange notes or the incurrence of the guarantee; and  
were insolvent or rendered insolvent by reason of the issuance of the exchange notes or the incurrence of the guarantee; or  
were engaged in a business or transaction for which our, our guarantor's remaining assets constituted unreasonably small capital; or  
intended to incur, or believed that we or our guarantor would incur, debts beyond our or our guarantor's ability to pay such debts as they mature.

Moreover, any payments made by us on the exchange notes or by our guarantor pursuant to its guarantee could be voided and required to be returned to us or our guarantor, or to a fund for the benefit of our creditors or our guarantor's creditors. To the extent that the exchange notes or the guarantee are voided as a fraudulent conveyance, the claims of holders of the exchange notes would be adversely affected.

In addition, a legal challenge of the exchange notes or the guarantee on fraudulent transfer grounds will focus on, among other things, the benefits, if any, realized by us or our guarantor as a result of the issuance of the exchange notes. The measures of insolvency for purposes of these fraudulent transfer laws will vary depending upon the governing law. Generally, however, a guarantor would be considered insolvent if:

the sum of its debts, including contingent liabilities, were greater than the fair saleable value of all of its assets; be required to pay its probable liability on its existing debts, including contingent liabilities, as they become absolute and mature; or

it could not pay its debts as they become due.

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On the basis of historical financial information, recent operating history and other factors, we believe that the exchange notes are being issued and the guarantee is being incurred for proper purposes, in good faith, and for fair consideration and reasonably equivalent value, and that we, after giving effect to the issuance of the exchange notes, and the guarantor, after giving effect to its guarantee, will not be insolvent, will not have unreasonably small capital for the business in which it is engaged, and will not have incurred debts beyond its ability to pay such debts as they mature. There can be no assurance, however, as to what standard a court would apply in making such determinations, or that a court would agree with our conclusions in this regard.

**Active trading markets may not develop for the exchange notes, which may affect your ability to resell your exchange notes.**

There is no existing public market for the exchange notes. The exchange notes are not listed on any securities exchange or other market, and we do not intend to apply for listing of the exchange notes offered hereby on any securities exchange or other market. The exchange notes will constitute new issues of securities with no established trading market, and there is a risk that:

liquid trading markets for the exchange notes may not develop;  
holders may not be able to sell their exchange notes; or

the price at which the holders would be able to sell their exchange notes may be lower than anticipated and lower than the principal amount or original purchase price.

An active trading market may not exist for either series of the exchange notes, and any trading market that does develop may not be liquid. Even if the registration statement becomes effective, which will generally allow resales of the exchange notes, the exchange notes will constitute new issues of securities with no established trading markets. If a trading market for either series of exchange notes were to develop, the trading price of the exchange notes will depend on many factors, including prevailing interest rates, the market for similar debt and our financial performance. In addition, the market for non-investment grade debt historically has been subject to disruptions that have caused substantial volatility in the prices of securities similar to the exchange notes. The markets for the exchange notes may be subject to similar disruptions that could adversely affect their value and liquidity.

Although the initial purchaser of the existing notes advised us that it intends to make a market in the notes, it is not obligated to do so and it may discontinue any market-making at any time without notice. In addition, any market-making activity will be subject to the limits imposed by the Securities Act and the Securities Exchange Act of 1934, as amended, or the Exchange Act.

In addition, any holder who purchases in the offering for the purpose of participating in a distribution of the exchange notes may be deemed to have received restricted securities, and if so, will be required to comply with the registration and prospectus delivery requirements of the Securities Act in connection with any resale transaction.

**Under the terms of the Indenture, we are permitted to pay dividends, principal or interest on our variable rate notes due 2013, and we may purchase, redeem, defease or otherwise acquire for value our variable rate notes.**

Nothing in the Indenture prohibits us from paying dividends, principal or interest on our variable rate notes due 2013 in accordance with the terms of the indenture governing such notes, or from purchasing, redeeming, defeasing or otherwise acquiring for value any of our variable rate notes, that will otherwise mature in 2013.

**As a noteholder, you may be required to comply with licensing, qualification or other requirements under gaming laws and could be required to dispose of the exchange notes.**

On March 8, 2010, Tropicana Entertainment Inc., or Tropicana, completed the acquisition of certain assets of its predecessor, Tropicana Entertainment, LLC, and certain subsidiaries and affiliates thereof (referred to together as the Predecessors) and Tropicana Resort and Casino Atlantic City. Such transactions (referred to as the restructuring transactions) were effected pursuant to the Joint Plan of Reorganization of Tropicana

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Entertainment, LLC and Certain of its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code, or the Plan. Prior to the restructuring transactions, the Private Funds held positions in certain debt securities and instruments in the Predecessors. In connection with Tropicana's completion of the restructuring transactions, Tropicana entered into a credit agreement, dated as of December 29, 2009, to which certain of the Private Funds were also parties. As a result of the restructuring transactions pursuant to the Plan, the Private Funds received 11,880,021 shares of Tropicana (referred to as the Tropicana Shares) and warrants exercisable for 784,158 additional Tropicana Shares. On March 9, 2010, each of the Private Funds exercised its warrants in their entirety. Pursuant to the restructuring transactions and the exercise of the warrants, the Private Funds beneficially hold, in the aggregate, 12,664,179 Tropicana Shares, representing 49.1% of the outstanding Tropicana Shares.

We could be required to disclose the identities of the holders of the Notes to the New Jersey, Nevada or other gaming authorities upon request. The New Jersey Casino Control Act and the Nevada Gaming Commission impose substantial restrictions on the ownership of certain gaming companies, could require holders of the exchange notes to apply for qualification or suitability to hold the exchange notes and could require you to dispose of your interest in the exchange notes. Application and investigation costs for licensing, qualifications and findings of suitability must generally be paid by the applicant. If any applicable gaming authority determines that a holder or beneficial owners of the exchange notes must be licensed, qualified or found suitable under any applicable gaming law and such holder or beneficial owner either refuses to file such an application or is unable to obtain the requisite license, qualification or finding of suitability, the exchange notes will be subject to mandatory disposition and redemption and certain of your rights under the exchange notes will be eliminated. See Description of Notes Mandatory Disposition Pursuant to Gaming Laws.

## **Risks Relating to Our Structure**

### **Our general partner and its control person could exercise their influence over us to your detriment.**

Mr. Icahn, through affiliates, owns 100% of Icahn Enterprises GP, our general partner, and approximately 92.4% of our outstanding depositary units as of the date of this prospectus, and, as a result, has the ability to influence many aspects of our operations and affairs. Icahn Enterprises GP also is the general partner of Icahn Enterprises Holdings.

In addition, if Mr. Icahn were to sell, or otherwise transfer, some or all of his interests in us to an unrelated party or group, a change of control could be deemed to have occurred under the terms of the Indenture governing our exchange notes which would require us to offer to repurchase all outstanding notes at 101% of their principal amount plus accrued and unpaid interest and liquidated damages, if any, to the date of repurchase. However, it is possible that we will not have sufficient funds at the time of the change of control to make the required repurchase of notes.

### **We have engaged, and in the future may engage, in transactions with our affiliates.**

We have invested and may in the future invest in entities in which Mr. Icahn also invests. We also have purchased and may in the future purchase entities or investments from him or his affiliates. Although Icahn Enterprises GP has never received fees in connection with our investments, our partnership agreement allows for the payment of these fees. Mr. Icahn may pursue other business opportunities in industries in which we compete and there is no requirement that any additional business opportunities be presented to us. We continuously identify, evaluate and engage in discussions concerning potential investments and acquisitions, including potential investments in and acquisitions of affiliates of

Mr. Icahn. There cannot be any assurance that any potential transactions that we consider will be completed.

**To service our indebtedness and pay distributions with respect to our depositary units, we require a significant amount of cash. Our ability to maintain our current cash position or generate cash depends on many factors beyond our control.**

Our ability to make payments on and to refinance our indebtedness, to pay distributions with respect to our depositary units and to fund operations depends on existing cash balances and our ability to generate cash in the future. This, to a certain extent, is subject to general economic, financial, competitive, regulatory and other factors that are beyond our control.

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Our current businesses and businesses that we acquire may not generate sufficient cash to service our debt. In addition, we may not generate sufficient cash flow from operations or investments and future borrowings may not be available to us in an amount sufficient to enable us to service our indebtedness or to fund our other liquidity needs. Approximately \$600 million of indebtedness will come due in the three-year period ending December 31, 2012, which includes our mortgages payable, credit facilities and related interest payments due thereon. We may need to refinance all or a portion of our indebtedness on or before maturity. We cannot assure you that we will be able to refinance any of our indebtedness on commercially reasonable terms or at all.

### **We may be subject to the pension liabilities of our affiliates.**

Mr. Icahn, through certain affiliates, owns 100% of Icahn Enterprises GP and approximately 92.4% of our outstanding depositary units as of the date of this prospectus. Applicable pension and tax laws make each member of a controlled group of entities, generally defined as entities in which there are at least an 80% common ownership interest, jointly and severally liable for certain pension plan obligations of any member of the controlled group. These pension obligations include ongoing contributions to fund the plan, as well as liability for any unfunded liabilities that may exist at the time the plan is terminated. In addition, the failure to pay these pension obligations when due may result in the creation of liens in favor of the pension plan or the Pension Benefit Guaranty Corporation, or the PBGC, against the assets of each member of the controlled group.

As a result of the more than 80% ownership interest in us by Mr. Icahn's affiliates, we and our subsidiaries are subject to the pension liabilities of all entities in which Mr. Icahn has a direct or indirect ownership interest of at least 80%. One such entity, ACF Industries LLC, is the sponsor of several pension plans which, as of December 31, 2009, were not underfunded on an ongoing actuarial basis but would be underfunded by approximately \$117 million if those plans were terminated, as most recently reported by the plans' actuaries. These liabilities could increase or decrease, depending on a number of factors, including future changes in promised benefits, investment return, and the assumptions used to calculate the liability. As members of the controlled group, we would be liable for any failure of ACF to make ongoing pension contributions or to pay the unfunded liabilities upon a termination of the ACF pension plans. In addition, other entities now or in the future within the controlled group that includes us may have pension plan obligations that are, or may become, underfunded and we would be liable for any failure of such entities to make ongoing pension contributions or to pay the unfunded liabilities upon a termination of such plans.

The current underfunded status of the ACF pension plans requires ACF to notify the PBGC of certain reportable events, such as if we cease to be a member of the ACF controlled group, or if we make certain extraordinary dividends or stock redemptions. The obligation to report could cause us to seek to delay or reconsider the occurrence of such reportable events.

Starfire Holding Corporation, or Starfire, which is 100% owned by Mr. Icahn, has undertaken to indemnify us and our subsidiaries from losses resulting from any imposition of certain pension funding or termination liabilities that may be imposed on us and our subsidiaries or our assets as a result of being a member of the Icahn controlled group. The Starfire indemnity (which does not extend to pension liabilities of our subsidiaries that would be imposed on us as a result of our interest in these subsidiaries and not as a result of Mr. Icahn and his affiliates more than 80% ownership interest in us) provides, among other things, that so long as such contingent liabilities exist and could be imposed on us, Starfire will not make any distributions to its stockholders that would reduce its net worth to below \$250 million. Nonetheless, Starfire may not be able to fund its indemnification obligations to us.

**We are subject to the risk of possibly becoming an investment company.**

Because we are a holding company and a significant portion of our assets may, from time to time, consist of investments in companies in which we own less than a 50% interest, we run the risk of inadvertently becoming an investment company that is required to register under the Investment Company Act of 1940, as amended (the Investment Company Act ). Registered investment companies are subject to extensive, restrictive and potentially adverse regulations relating to, among other things, operating methods, management, capital structure, dividends and transactions with affiliates. Registered investment companies are not permitted

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to operate their business in the manner in which we operate our business, nor are registered investment companies permitted to have many of the relationships that we have with our affiliated companies.

In order not to become an investment company required to register under the Investment Company Act, we monitor the value of our investments and structure transactions with an eye toward the Investment Company Act. As a result, we may structure transactions in a less advantageous manner than if we did not have Investment Company Act concerns, or we may avoid otherwise economically desirable transactions due to those concerns. In addition, events beyond our control, including significant appreciation or depreciation in the market value of certain of our publicly traded holdings or adverse developments with respect to our ownership of certain of our subsidiaries, could result in our inadvertently becoming an investment company.

If it were established that we were an investment company, there would be a risk, among other material adverse consequences, that we could become subject to monetary penalties or injunctive relief, or both, in an action brought by the SEC, that we would be unable to enforce contracts with third parties or that third parties could seek to obtain rescission of transactions with us undertaken during the period it was established that we were an unregistered investment company.

### **We may become taxable as a corporation.**

We believe that we have been and are properly treated as a partnership for federal income tax purposes. This allows us to pass through our income and deductions to our partners. However, the Internal Revenue Service, or the IRS, could challenge our partnership status and we could fail to qualify as a partnership for past years as well as future years.

Qualification as a partnership involves the application of highly technical and complex provisions of the Internal Revenue Code of 1986, as amended, or the Code. For example, a publicly traded partnership is generally taxable as a corporation unless 90% or more of its gross income is qualifying income, which includes interest, dividends, oil and gas revenues, real property rents, gains from the sale or other disposition of real property, gain from the sale or other disposition of capital assets held for the production of interest or dividends, and certain other items. We believe that in all prior years of our existence at least 90% of our gross income was qualifying income and we intend to structure our business in a manner such that at least 90% of our gross income will constitute qualifying income this year and in the future. However, there can be no assurance that such structuring will be effective in all events to avoid the receipt of more than 10% of non-qualifying income. If less than 90% of our gross income constitutes qualifying income, we may be subject to corporate tax on our net income, at a federal rate of up to 35% plus possible state taxes. Further, if less than 90% of our gross income constituted qualifying income for past years, we may be subject to corporate level tax plus interest and possibly penalties. In addition, if we register under the Investment Company Act, it is likely that we would be treated as a corporation for U.S. federal income tax purposes. The cost of paying federal and possibly state income tax, either for past years or going forward could be a significant liability and would reduce our funds available to make distributions to holders of units, and to make interest and principal payments on our debt securities. To meet the qualifying income test, we may structure transactions in a manner which is less advantageous than if this were not a consideration, or we may avoid otherwise economically desirable transactions.

Legislation has been introduced into Congress which, if enacted, could have a material and adverse effect on us. These proposals include legislation which would tax publicly traded partnerships engaged in the Investment Management segment, such as us, as corporations. Other proposals, including a proposal in H.R. 4213, the American Jobs and Closing Tax Loopholes Act of 2010, or the Tax Act, that was recently passed by the U.S. House of Representatives, if enacted and applied to us, would treat all or a portion of the income from carried interests, when recognized for tax purposes, as ordinary income and as not qualifying as investment income for purposes of the 90% investment income test that publicly traded partnerships must meet to be classified as partnerships. Under the Tax Act as currently

drafted, this treatment would not apply to a partnership that is publicly traded on the date of enactment for any taxable year of the partnership that begins before the date 10 years after the date of enactment. It is unclear whether such legislation will be enacted. Moreover, it is unclear what specific provisions may be enacted, including what the effective date will be, and accordingly what any such legislation's impact will be on us. It is possible that if such legislation were enacted we would be treated as an association, taxable as a corporation, which would materially increase our taxes. As an alternative, we might be required to restructure our operations, and possibly dispose of certain businesses, in order to avoid or mitigate the impact of any such legislation.

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**If we discover significant deficiencies in our internal controls over financial reporting or at any recently acquired entity, it may adversely affect our ability to provide timely and reliable financial information and satisfy our reporting obligations under federal securities laws, which also could affect the market price of our depositary units or our ability to remain listed on the New York Stock Exchange.**

Effective internal and disclosure controls are necessary for us to provide reliable financial reports and effectively prevent fraud and to operate successfully as a public company. If we cannot provide reliable financial reports or prevent fraud, our reputation and operating results would be harmed. A significant deficiency is a deficiency, or combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit attention of those responsible for oversight of the registrant's financial reporting.

To the extent that any material weakness or significant deficiency exists in our consolidated subsidiaries' internal control over financial reporting, such material weakness or significant deficiency may adversely affect our ability to provide timely and reliable financial information necessary for the conduct of our business and satisfaction of our reporting obligations under federal securities laws, which could affect our ability to remain listed on the New York Stock Exchange, or the NYSE. Ineffective internal and disclosure controls could cause investors to lose confidence in our reported financial information, which could have a negative effect on the trading price of our depositary units or the rating of our debt.

**We may be exposed to certain regulatory and financial risks related to climate change.**

Climate change is receiving ever-increasing worldwide attention. Many scientists, legislators and others attribute global warming to increased levels of greenhouse gases, including carbon dioxide, which has led to significant legislative and regulatory efforts to limit greenhouse gas emissions. Currently, pending legislative and regulatory proposals address greenhouse gas emissions. For example, in June 2009, the U.S. House of Representatives adopted H.R. 2434, the American Clean Energy and Security Act, that would phase in significant reductions in greenhouse gas emissions if enacted into law. The U.S. Senate is currently considering a separate bill. On December 1, 2009, the Environmental Protection Agency, or the EPA, issued an endangerment finding under the Clean Air Act that the current and projected concentrations of certain greenhouse gases in the atmosphere, including carbon dioxide, threaten the public health and welfare of current and future generations. While this finding in itself does not impose any requirements on us or our industry, it authorizes the EPA to regulate directly greenhouse gas emissions through a rule-making process. It is uncertain whether, when and in what form a federal mandatory carbon dioxide emissions reduction program may be adopted. Similarly, certain other countries in which our Automotive segment operates have adopted the Kyoto Protocol that, among other international initiatives under consideration, could affect the international operations of our Automotive segment. Such initiatives could increase costs associated with Federal-Mogul's operations, including compliance costs and costs for raw materials and transportation. Because it is uncertain what legislation, if any, will be enacted in the United States and/or internationally, we cannot predict the potential impact of any such legislation on our segments, including our Automotive segment, and on our future consolidated financial condition, results of operations or cash flows.

**Certain members of our management team may be involved in other business activities that may involve conflicts of interest.**

Certain individual members of our management team may, from time to time, be involved in the management of other businesses, including those owned or controlled by Mr. Icahn and his affiliates. Accordingly, these individuals may focus a portion of their time and attention on managing these other businesses. Conflicts may arise in the future between our interests and the interests of the other entities and business activities in which such individuals are involved.

**We may not realize the potential benefits of our acquisitions.**

We may expand our existing businesses if appropriate opportunities are identified, as well as use our established businesses as a platform for additional acquisitions in the same or related areas. Any such acquisition, if consummated, could involve risks not presently faced by us. In addition, we may not realize the anticipated benefits of any such acquisition.

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## **Risks Relating to Our Business**

### **General**

In addition to the following risk factors specific to each of our businesses, all of our businesses are subject to the effects of the following:

the continued threat of terrorism;  
continued or future economic downturn;  
loss of any of our or our subsidiaries' key personnel;  
the unavailability, as needed, of additional financing; and  
the unavailability of insurance at acceptable rates.

### **Investment Management**

**Our Investment Management segment has been and may continue to be materially and adversely affected by conditions in the global financial markets and the economy generally.**

During most of the fiscal year ended December 31, 2008, or fiscal 2008, and into fiscal 2009, the global securities markets and the economy generally were characterized by extreme volatility and illiquidity and significant overall deterioration. These and other factors had a negative effect on the Private Funds and, therefore, our Investment Management segment. Although the global markets and the economic climate improved in fiscal 2009, there is significant risk that these conditions could again deteriorate and experience volatility and illiquidity and these conditions could continue for a significant period of time. In the event that some or all of these conditions occur, the Private Funds could be materially and adversely affected in many different ways. Furthermore, difficult market conditions may also increase the risk of default with respect to investments held by the Private Funds that have significant debt investments. Many other factors beyond the control of our Investment Management segment may adversely affect the Private Funds, including, without limitation, rising interest rates, inflation, terrorism or political uncertainty.

**The historical financial information for our Investment Management segment is not necessarily indicative of its future performance.**

The financial results of our Investment Management segment are primarily driven by AUM and the performance of the Private Funds. The historical consolidated financial information contained in the Annual Report on Form 10-K for fiscal 2009 filed with the SEC on March 3, 2010, our amended and restated financial statements and related footnotes for fiscal 2009 contained in our Current Report on Form 8-K filed with the SEC on June 9, 2010 and our Quarterly Report on Form 10-Q filed with the SEC on May 6, 2010 are not indicative of the future financial results of our Investment Management segment. In particular, with respect to the historical returns of our Investment Management segment:

Past favorable market conditions and profitable investment opportunities may not occur in the future. Future returns may be affected by the risks described elsewhere in this prospectus, including risks of the industries and businesses in which a particular Private Fund invests.

**Poor performance of the Private Funds could cause a decline in our Investment Management segment revenue and we might not receive incentive allocations or special profits interest allocations for a significant period of time.**

Our revenue from our Investment Management segment is derived principally from three sources: (1) special profits interest allocations; (2) incentive allocations; and (3) gains or losses in our investments in the Private Funds. In the event that one or more of the Private Funds were to perform poorly, our Investment Management segment revenue could decline and we may not receive special profits interest allocations or incentive allocations. The incentive allocations are subject to a high-water mark, whereby the General Partners (as defined below) do not earn incentive allocations during a particular year even though the fund had a positive return in such year until losses in prior periods are recovered. The General Partners in our Investment

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Management segment consist of Icahn Onshore LP and Icahn Partners LP, acting as general partners of Icahn Partners LP (or the Onshore Fund) and the various Offshore Master Funds (Icahn Partners Master Fund LP, Icahn Partners Master Fund II L.P. and Icahn Partners Master Fund III L.P.), as well as general partners of a fund formed as a Cayman Islands exempted limited partnership that invests in the Offshore Master Funds.

In the event that the performance of a Private Fund is negative, our Investment Management segment revenue could decline, we will not receive any special profit allocations in future periods from such Private Fund and the amount of the Private Funds high watermark with respect to the incentive allocations will increase. Moreover, we could experience losses on our direct investments of our own capital as a result of any such poor performance of the Private Funds. Investors and potential investors in the Private Funds regularly assess the Private Funds performance. The ability of the Private Funds to raise capital, and the avoidance of excessive redemption levels, will depend on several factors, including the Private Funds continued performance at a level that is satisfactory to investors and potential investors in the Private Funds.

**We have made significant direct investments in the Private Funds and negative performance of the Private Funds may result in a significant decline in the value of our investments.**

We invested an aggregate of \$1.95 billion of our capital in the Private Funds as of March 31, 2010. The net asset value thereof as of March 31, 2010 was approximately \$2.0 billion. If the Private Funds experience negative performance, the value of these investments will be negatively impacted.

**Successful execution of the Private Funds activist investment activities involves many risks, certain of which are outside of our control.**

The success of the Private Funds investment strategy may require, among other things: (i) that our Investment Management segment properly identify companies whose securities prices can be improved through corporate and/or strategic action or successful restructuring of their operations; (ii) that the Private Funds acquire sufficient securities of such companies at a sufficiently attractive price; (iii) that the Private Funds avoid triggering anti-takeover and regulatory obstacles while aggregating their positions; (iv) that management of portfolio companies and other security holders respond positively to our proposals; and (v) that the market price of portfolio companies securities increases in response to any actions taken by the portfolio companies. We cannot assure you that any of the foregoing will succeed.

**The Private Funds investment strategy involves numerous and significant risks, including the risk that investors in the Private Funds, including us, may lose some or all of their investments in the Private Funds. This risk may be magnified due to concentration of investments and investments in undervalued securities.**

Our Investment Management segment s revenue depends on the investments made by the Private Funds. There are numerous and significant risks associated with these investments, certain of which are described in this risk factor and in other risk factors set forth herein.

Certain investment positions in which each Private Fund may have an interest may be illiquid. The Private Funds may own restricted or non-publicly traded securities and securities traded on foreign exchanges. These investments could prevent a Private Fund from liquidating unfavorable positions promptly and subject the Private Fund to substantial losses.

At any given time, a Private Fund's assets may become highly concentrated within a particular company, industry, asset category, trading style or financial or economic market. In that event, the Private Fund's investment portfolio will be more susceptible to fluctuations in value resulting from adverse economic conditions affecting the performance of that particular company, industry, asset category, trading style or economic market than a less concentrated portfolio would be. As a result, the Private Funds' investment portfolio could become concentrated and its aggregate return may be volatile and may be affected substantially by the performance of only one or a few holdings.

The Private Funds seek to invest in securities that are undervalued. The identification of investment opportunities in undervalued securities is a difficult task, and there are no assurances that such opportunities will be successfully recognized or acquired. While investments in undervalued securities offer the opportunity

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for above-average capital appreciation, these investments involve a high degree of financial risk and can result in substantial losses. Returns generated from the Private Funds' investments may not adequately compensate for the business and financial risks assumed.

From time to time, each Private Fund may invest in bonds or other fixed income securities, such as commercial paper and higher yielding (and, therefore, higher risk) debt securities. It is likely that a major economic recession could severely disrupt the market for such securities and may have a material adverse impact on the value of such securities. In addition, it is likely that any such economic downturn could adversely affect the ability of the issuers of such securities to repay principal and pay interest thereon and increase the incidence of default for such securities.

For reasons not necessarily attributable to any of the risks set forth in this prospectus (for example, supply/demand imbalances or other market forces), the prices of the securities in which the Private Funds invest may decline substantially. In particular, purchasing assets at what may appear to be undervalued levels is no guarantee that these assets will not be trading at even more undervalued levels at a future time of valuation or at the time of sale.

The prices of financial instruments in which the Private Funds may invest can be highly volatile. Price movements of forward and other derivative contracts in which the Private Funds' assets may be invested are influenced by, among other things, interest rates, changing supply and demand relationships, trade, fiscal, monetary and exchange control programs and policies of governments, and national and international political and economic events and policies. The Private Funds are subject to the risk of failure of any of the exchanges on which their positions trade or of their clearinghouses.

**The use of leverage in investments by the Private Funds may pose a significant degree of risk and may enhance the possibility of significant loss in the value of the investments in the Private Funds.**

Each Private Fund may leverage its capital if its general partner believes that the use of leverage may enable the Private Fund to achieve a higher rate of return. Accordingly, a Private Fund may pledge its securities in order to borrow additional funds for investment purposes. Each Private Fund may also leverage its investment return with options, short sales, swaps, forwards and other derivative instruments. The amount of borrowings that each Private Fund may have outstanding at any time may be substantial in relation to its capital. While leverage may present opportunities for increasing a Private Fund's total return, leverage may increase losses as well. Accordingly, any event that adversely affects the value of an investment by a Private Fund would be magnified to the extent such fund is leveraged. The cumulative effect of the use of leverage by each Private Fund in a market that moves adversely to the Private Fund's investments could result in a substantial loss to the Private Fund that would be greater than if the Private Fund was not leveraged. There is no assurance that leverage will be available on acceptable terms, if at all.

In general, the use of short-term margin borrowings results in certain additional risks to the Private Funds. For example, should the securities pledged to brokers to secure any Private Fund's margin accounts decline in value, the Private Fund could be subject to a margin call, pursuant to which it must either deposit additional funds or securities with the broker, or suffer mandatory liquidation of the pledged securities to compensate for the decline in value. In the event of a sudden drop in the value of any of the Private Fund's assets, the Private Fund might not be able to liquidate assets quickly enough to satisfy its margin requirements.

Any of the Private Funds may enter into repurchase and reverse repurchase agreements. When a Private Fund enters into a repurchase agreement, it sells securities issued by the U.S. or a non-U.S. government, or agencies thereof, to a broker-dealer or financial institution, and agrees to repurchase such securities for the price paid by the broker-dealer or

The use of leverage in investments by the Private Funds may pose a significant degree of risk and may enhance the

financial institution, plus interest at a negotiated rate. In a reverse repurchase transaction, the Private Fund buys securities issued by the U.S. or a non-U.S. government, or agencies thereof, from a broker-dealer or financial institution, subject to the obligation of the broker-dealer or financial institution to repurchase such securities at the price paid by the Private Fund, plus interest at a negotiated rate. The use of repurchase and reverse repurchase agreements by any of the Private Funds involves certain risks. For example, if the seller of securities to a Private Fund under a reverse repurchase agreement defaults on its obligation to repurchase the underlying securities, as a result of its bankruptcy or otherwise, the Private Fund will seek to dispose of such securities, which action could involve costs or delays.

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If the seller becomes insolvent and subject to liquidation or reorganization under applicable bankruptcy or other laws, the Private Fund's ability to dispose of the underlying securities may be restricted. Finally, if a seller defaults on its obligation to repurchase securities under a reverse repurchase agreement, the Private Fund may suffer a loss to the extent it is forced to liquidate its position in the market, and proceeds from the sale of the underlying securities are less than the repurchase price agreed to by the defaulting seller.

The financing used by each Private Fund to leverage its portfolio will be extended by securities brokers and dealers in the marketplace in which the Private Fund invests. While the Private Fund will attempt to negotiate the terms of these financing arrangements with such brokers and dealers, its ability to do so will be limited. The Private Fund is therefore subject to changes in the value that the broker-dealer ascribes to a given security or position, the amount of margin required to support such security or position, the borrowing rate to finance such security or position and/or such broker-dealer's willingness to continue to provide any such credit to the Private Fund. Because each Private Fund currently has no alternative credit facility which could be used to finance its portfolio in the absence of financing from broker-dealers, it could be forced to liquidate its portfolio on short notice to meet its financing obligations. The forced liquidation of all or a portion of the Private Fund's portfolios at distressed prices could result in significant losses to the Private Fund.

### **The possibility of increased regulation could result in additional burdens on our Investment Management segment. Changes in tax law could adversely affect us.**

In the wake of the recent global financial crisis, government and regulatory agencies in the United States and numerous foreign jurisdictions have imposed certain temporary and permanent regulations and restrictions. Furthermore, as a result of highly publicized financial scandals, government officials and investors have exhibited significant concerns over the integrity of the financial markets. Accordingly, the regulatory environment in which our Investment Management segment operates is subject to further regulation in addition to the rules already promulgated. In particular, in recent years, there has been ongoing debate by U.S. and foreign governments regarding new rules and regulations for private investment funds. Our Investment Management segment may be adversely affected by the enactment of new or revised regulations, or changes in the interpretation or enforcement of rules and regulations imposed by the SEC, other U.S. or foreign governmental regulatory authorities or self-regulatory organizations that supervise the financial markets. For example, the SEC may require most hedge fund managers to register under the Investment Advisors Act of 1940. Such changes could place limitations on the type of investor that can invest in the Private Funds. Further, such changes may limit the scope of investment activities that may be undertaken by the Private Funds' managers. Any such changes could increase the cost of our Investment Management segment's doing business and/or materially adversely impact our profitability. In addition, the SEC may limit the Private Funds' current exemption from registration as investment companies under the Investment Company Act. Additionally, the securities and futures markets are subject to comprehensive statutes, regulations and margin requirements. The SEC, other regulators and self-regulatory organizations and exchanges have taken and are authorized to take extraordinary actions in the event of market emergencies. The regulation of derivatives transactions and funds that engage in such transactions is an evolving area of law and is subject to modification by government and judicial action. The effect of any future regulatory change on the Private Funds and the Investment Management segment could be substantial and adverse.

In addition, changes in tax law could adversely affect us. Legislation has been introduced in Congress which, if enacted, could have a material adverse effect on us. These proposals include legislation which would tax publicly traded partnerships engaged in the Investment Management segment, such as us, as corporations. Other proposals, including the Tax Act that was recently passed by the House of Representatives, if enacted and applied to us, would

treat all or a portion of the income from carried interests, when recognized for tax purposes, as ordinary income and as not qualifying as investment income for purposes of the 90% investment income test that publicly traded partnerships must meet to be classified as partnerships. Under the Tax Act as currently drafted, this treatment would not apply to a partnership that is publicly traded on the date of enactment for any taxable year of the partnership that begins before the date ten years after the date of enactment. It is unclear whether such legislation will be enacted and, if enacted, what specific provisions will be included in such legislation and what the effective date will be and, accordingly, what any such legislation's impact will be on us. It is possible that if any such legislation were enacted we would be treated as an association, taxable as a corporation, which would materially increase our taxes. As an alternative, we might be required to

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restructure our operations, including by conducting a portion of our business through a corporation, which would materially increase our taxes, or possibly dispose of certain businesses in order to avoid or mitigate the impact of any such legislation.

**The investment management industry is intensely competitive.**

The investment management industry is intensely competitive, with competition based on a variety of factors, including investment performance, the quality and experience of investment professionals and business reputation. The Private Funds compete for fund investors, investment opportunities and talent with other hedge funds, private equity funds, specialized funds, traditional asset managers, commercial banks and other financial institutions.

Several of our competitors have raised, or may raise, significant amounts of capital and many of them have investment objectives similar to the Private Funds, which may create additional competition for investment opportunities for the Private Funds and may reduce the size and duration of pricing inefficiencies that many alternative investment strategies seek to exploit. Our competitors may benefit from a lower cost of capital or have higher risk tolerance or different risk assessments, which may allow them to bid more aggressively than us.

The Private Funds may lose investment opportunities in the future if they do not match investment prices, structures and terms offered by competitors. Alternatively, the Private Funds may experience decreased rates of return and increased risks of loss if they match investment price structures and terms offered by competitors. In addition, changes in the global capital markets could diminish the attractiveness of the Private Funds relative to investments in other investment products. This competitive pressure could materially adversely affect the ability of our Investment Management segment to make successful investments for the Private Funds and reduce the AUM of the Private Funds.

These and other factors could reduce our Investment Management segment revenue and earnings and materially adversely affect our Investment Management segment.

**The failure of Mr. Icahn to participate in the management of the Private Funds could have a material adverse effect on the Private Funds and on us.**

The success of the Private Funds depends upon the ability of our Investment Management segment to develop and implement investment strategies that achieve the Private Funds investment objectives. Subjective decisions made by employees of our Investment Management segment may cause the Private Funds to incur losses or to miss profit opportunities on which the Private Funds would otherwise have capitalized. In the event that Mr. Icahn ceases to participate in the management of the Private Funds, the consequences to the Private Funds and our investment in them could be material and adverse and could lead to the premature termination of the Private Funds. In the event that Mr. Icahn dies, or is unable, by reason of illness or injury, to perform his duties as chief executive officer of the General Partners for 90 consecutive days, or for any reason other than death, illness or injury ceases to perform those duties, the investors in each of the Private Funds will have certain redemption rights. The occurrence of such an event could have a material adverse effect on the revenues and earnings of our Investment Management segment, and the ability of the Private Funds to maintain or grow their AUM. Such redemptions could possibly lead to a liquidation of one or more of the Private Funds and a corresponding elimination of our potential to earn special profits interest allocations and incentive allocations. The loss of Mr. Icahn could, therefore, ultimately result in a loss of substantially all of the earnings of our Investment Management segment.

## **The Private Funds make investments in companies we do not control.**

Investments by the Private Funds include investments in debt or equity securities of publicly traded companies that we do not control. Such investments may be acquired by a Private Fund through open market trading activities or through purchases of securities from the issuer. These investments will be subject to the risk that the company in which the investment is made may make business, financial or management decisions with which our Investment Management segment disagree or that the majority of stakeholders or the management of the company may take risks or otherwise act in a manner that does not serve the best interests of the Private Fund. In addition, a Private Fund may make investments in which it shares control over the investment with co-investors, which may make it more difficult for it to implement its investment approach or exit

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the investment when it otherwise would. If any of the foregoing were to occur, the values of the investments by the Private Funds could decrease and our Investment Management segment revenues could suffer as a result.

**The ability to hedge investments successfully is subject to numerous risks.**

The Private Funds may utilize financial instruments, both for investment purposes and for risk management purposes in order to (i) protect against possible changes in the market value of a Private Fund's investment portfolios resulting from fluctuations in the securities markets and changes in interest rates; (ii) protect a Private Fund's unrealized gains in the value of its investment portfolios; (iii) facilitate the sale of any such investments; (iv) enhance or preserve returns, spreads or gains on any investment in the Private Fund's portfolio; (v) hedge the interest rate or currency exchange rate on any of the Private Fund's liabilities or assets; (vi) protect against any increase in the price of any securities our Investment Management segment anticipate purchasing at a later date; or (vii) for any other reason that our Investment Management segment deem appropriate.

The success of any hedging activities will depend, in part, upon the degree of correlation between the performance of the instruments used in the hedging strategy and the performance of the portfolio investments being hedged. However, hedging techniques may not always be possible or effective in limiting potential risks of loss. Since the characteristics of many securities change as markets change or time passes, the success of our Investment Management segment's hedging strategy will also be subject to the ability of our Investment Management segment to continually recalculate, readjust and execute hedges in an efficient and timely manner. While a Private Fund may enter into hedging transactions to seek to reduce risk, such transactions may result in a poorer overall performance for the Private Fund than if it had not engaged in such hedging transactions. For a variety of reasons, a Private Fund may not seek to establish a perfect correlation between the hedging instruments utilized and the portfolio holdings being hedged. Such an imperfect correlation may prevent the Private Fund from achieving the intended hedge or expose the Private Fund to risk of loss. Each Private Fund does not intend to seek to hedge every position and may determine not to hedge against a particular risk for various reasons, including, but not limited to, because it does not regard the probability of the risk occurring to be sufficiently high as to justify the cost of the hedge. Our Investment Management segment may not foresee the occurrence of the risk and therefore may not hedge against all risks.

**We are subject to third-party litigation risks attributable to our Investment Management segment that could result in significant liabilities, which could adversely affect our results of operations, financial condition and liquidity.**

Some of the tactics that the Private Funds may use involve litigation. The Private Funds could be a party to lawsuits that they initiate or that are initiated by a company in which the Private Funds invest, other shareholders, or state and federal governmental bodies. There can be no assurance that litigation, once begun, would be resolved in favor of the Private Funds.

In addition, we will be exposed to risk of litigation by a Private Fund's investors if our Investment Management segment's management of the Private Funds is alleged to constitute gross negligence, willful misconduct or dishonesty or breach of contract or organizational documents. Further, the Private Funds may be subject to third-party litigation arising from investors' dissatisfaction with the performance of the Private Funds or based on claims that it improperly exercised control or influence over portfolio investments. Our Investment Management segment may also be exposed to the risk of litigation or investigation by investors or regulators relating to transactions which presented conflicts of interest that were not properly addressed. In such actions, we would be obligated to bear legal, settlement and other costs (which may exceed our available insurance coverage). In addition, our rights to indemnification from the applicable Private Funds may be challenged.

Certain of the Private Funds are incorporated or formed under the laws of the Cayman Islands. Cayman Islands laws, particularly with respect to shareholder rights, partner rights and bankruptcy, may differ from the laws of the United States and could possibly change to the detriment of the applicable Private Fund.

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**The Private Funds may invest in companies that are based outside of the United States, which may expose the Private Funds to additional risks not typically associated with investing in companies that are based in the United States.**

Investments in securities of non-U.S. issuers (including non-U.S. governments) and securities denominated or whose prices are quoted in non-U.S. currencies pose, to the extent not successfully hedged, currency exchange risks (including blockage, devaluation and non-exchangeability), as well as a range of other potential risks, which could include expropriation, confiscatory taxation, imposition of withholding or other taxes on dividends, interest, capital gains or other income, political or social instability, illiquidity, price volatility and market manipulation. In addition, less information may be available regarding securities of non-U.S. issuers, and non-U.S. issuers may not be subject to accounting, auditing and financial reporting standards and requirements comparable to, or as uniform as, those of U.S. issuers. Transaction costs of investing in non-U.S. securities markets are generally higher than in the United States. There is generally less government supervision and regulation of exchanges, brokers and issuers than there is in the United States. The Private Funds may have greater difficulty taking appropriate legal action in non-U.S. courts. Non-U.S. markets also have different clearance and settlement procedures which in some markets have at times failed to keep pace with the volume of transactions, thereby creating substantial delays and settlement failures that could adversely affect the Private Funds' performance. Investments in non-U.S. markets may result in imposition of non-U.S. taxes or withholding on income and gains recognized with respect to such securities. There can be no assurance that adverse developments with respect to such risks will not materially adversely affect the Private Funds' investments that are held in certain countries or the returns from these investments.

**The Private Funds invest in distressed securities, as well as bank loans, asset backed securities and mortgage backed securities.**

The Private Funds may invest in securities of U.S. and non-U.S. issuers in weak financial condition, experiencing poor operating results, having substantial capital needs or negative net worth, facing special competitive or product obsolescence problems, or that are involved in bankruptcy or reorganization proceedings. Investments of this type may involve substantial financial, legal and business risks that can result in substantial, or at times even total, losses. The market prices of such securities are subject to abrupt and erratic market movements and above-average price volatility. It may take a number of years for the market price of such securities to reflect their intrinsic value. In liquidation (both in and out of bankruptcy) and other forms of corporate insolvency and reorganization, there exists the risk that the reorganization either will be unsuccessful (due to, for example, failure to obtain requisite approvals), will be delayed (for example, until various liabilities, actual or contingent, have been satisfied) or will result in a distribution of cash, assets or a new security the value of which will be less than the purchase price to the Private Funds of the security in respect to which such distribution was made and the terms of which may render such security illiquid.

**The Private Funds' investments are subject to numerous additional risks, certain of which are described below.**

Generally, there are few limitations set forth in the offering documents of the Private Funds on the execution of their investment activities, which are subject to the sole discretion of our Investment Management segment. A Private Fund may buy or sell (or write) both call options and put options, and when it writes options, it may do so on a covered or an uncovered basis. When the Private Fund sells (or writes) an option, the risk can be substantially greater than when it buys an option. The seller of an uncovered call option bears the risk of an increase in the market

The Private Funds may invest in companies that are based outside of the United States, which may expose the Private Funds to additional risks not typically associated with investing in companies that are based in the United States.

price of the underlying security above the exercise price. The risk is theoretically unlimited unless the option is covered. If it is covered, the Private Fund would forego the opportunity for profit on the underlying security should the market price of the security rise above the exercise price. Swaps and certain options and other custom instruments are subject to the risk of non-performance by the swap counterparty, including risks relating to the creditworthiness of the swap counterparty, market risk, liquidity risk and operations risk.

The ability of the Private Funds to execute a short selling strategy may be materially adversely impacted by temporary and/or new permanent rules, interpretations, prohibitions, and restrictions

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adopted in response to adverse market events. Regulatory authorities may from time-to-time impose restrictions that adversely affect the Private Funds' ability to borrow certain securities in connection with short sale transactions. In addition, traditional lenders of securities might be less likely to lend securities under certain market conditions. As a result, the Private Funds may not be able to effectively pursue a short selling strategy due to a limited supply of securities available for borrowing.

The Private Funds may engage in short-selling, which is subject to a theoretically unlimited risk of loss because there is no limit on how much the price of a security may appreciate before the short position is closed out. The Private Funds may be subject to losses if a security lender demands return of the borrowed securities and an alternative lending source cannot be found or if the Private Funds are otherwise unable to borrow securities that are necessary to hedge its positions. There can be no assurance that the Private Funds will be able to maintain the ability to borrow securities sold short. There also can be no assurance that the securities necessary to cover a short position will be available for purchase at or near prices quoted in the market.

The Private Funds may effect transactions through over-the-counter or interdealer markets. The participants in such markets are typically not subject to credit evaluation and regulatory oversight as are members of exchange-based markets. This exposes the Private Funds to the risk that a counterparty will not settle a transaction in accordance with its terms and conditions because of a dispute over the terms of the contract (whether or not bona fide) or because of a credit or liquidity problem, thus causing the Private Fund to suffer a loss. Such counterparty risk is accentuated for contracts with longer maturities where events may intervene to prevent settlement, or where a Private Fund has concentrated its transactions with a single or small group of its counterparties. The Private Funds are not restricted from dealing with any particular counterparty or from concentrating any or all of the Private Funds transactions with one counterparty.

Credit risk may arise through a default by one of several large institutions that are dependent on one another to meet their liquidity or operational needs, so that a default by one institution causes a series of defaults by other institutions. This systemic risk may materially adversely affect the financial intermediaries (such as prime brokers, clearing agencies, clearing houses, banks, securities firms and exchanges) with which the Private Funds interact on a daily basis.

The efficacy of investment and trading strategies depends largely on the ability to establish and maintain an overall market position in a combination of financial instruments. The Private Funds' trading orders may not be executed in a timely and efficient manner due to various circumstances, including systems failures or human error. In such event, the Private Funds might only be able to acquire some but not all of the components of the position, or if the overall positions were to need adjustment, the Private Funds might not be able to make such adjustment. As a result, the Private Funds may not be able to achieve the market position selected by our Investment Management segment and might incur a loss in liquidating their position.

Each Private Fund's assets may be held in one or more accounts maintained for the Private Fund by its prime broker or at other brokers or custodian banks, which may be located in various jurisdictions. The prime broker, other brokers (including those acting as sub-custodians) and custodian banks are subject to various laws and regulations in the relevant jurisdictions in the event of their insolvency. Accordingly, the practical effect of these laws and their application to the Private Fund's assets may be subject to substantial variations, limitations and uncertainties. The insolvency of any of the prime brokers, local brokers, custodian banks or clearing corporations may result in the loss of all or a substantial portion of the Private Fund's assets or in a significant delay in the Private Fund having access to those assets.

A Private Fund may invest in synthetic instruments that will usually have a contractual relationship only with the counterparty of the synthetic security. In the event of the insolvency of any counterparty, the Private Fund's recourse will be limited to the collateral, if any, posted by the counterparty and, in the absence of collateral, the Private Fund will be treated as a general creditor of the counterparty. While the Private Fund expects that returns on a synthetic financial instrument may reflect



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those of each related reference obligation, as a result of the terms of the synthetic financial instrument and the assumption of the credit risk of the counterparty, a synthetic financial instrument may have a different expected return, a different (and potentially greater) probability of default and different expected loss and recovery characteristics following a default. Upon the occurrence of a credit event, maturity, acceleration or other termination of a synthetic financial instrument, the terms of the synthetic financial instrument may permit or require the counterparty to satisfy its obligations under the synthetic financial instrument by delivering to the Private Fund one or more deliverable obligations (which may not be the reference obligation) or a cash payment (which may be less than the then-current market value of the reference obligation). In addition, a synthetic financial instrument may provide for early termination at a price based upon a marked-to-market valuation, which may be less than the principal or notional amount of the synthetic security. A Private Fund may also invest in credit default swaps. The credit default swap market is rapidly evolving and substantial changes to the terms and conditions under which these financial instruments are traded have recently been revised. Additional revisions and regulatory reform should also be expected in the near future.

## **Automotive**

### **Adverse conditions in the automotive market adversely affect demand for Federal-Mogul's products and expose Federal-Mogul to credit risks of its customers.**

Federal-Mogul's revenues are closely tied to global OE automobile sales, production levels and independent aftermarket parts replacement activity. The OE market is characterized by short-term volatility, with overall expected long-term growth in global vehicle sales and production. Automotive production in the local markets served by Federal-Mogul can be affected by macro-economic factors such as interest rates, fuel prices, consumer confidence, employment trends, regulatory and legislative oversight requirements and trade agreements. A variation in the level of automobile production would affect not only sales to OE customers but, depending on the reasons for the change, could impact demand from aftermarket customers. Federal-Mogul's results of operations and financial condition could be adversely affected if Federal-Mogul fails to respond in a timely and appropriate manner to changes in the demand for its products.

Relative to the global automotive industry, the financial stability of the United States automotive industry has been deteriorating. Several companies have announced significant restructuring activities to eliminate excess capacity, reduce costs and achieve other benefits normally associated with restructuring activities. Continued declines in the automotive production levels of Federal-Mogul's major OE customers, particularly with respect to platforms for which Federal-Mogul is a significant supplier, could materially reduce sales and harm Federal-Mogul's profitability.

Accounts receivable potentially subject Federal-Mogul to concentrations of credit risk. Federal-Mogul's customer base includes virtually every significant global automotive manufacturer, numerous Tier 1 automotive suppliers and a large number of distributors and installers of automotive aftermarket parts.

### **The financial distress of Federal-Mogul's OE customers and within the supply base could significantly affect its operating performance.**

During fiscal 2009, many of Federal-Mogul's OE customers continued to lower production levels due to a reduction in end-customer demand. Several other global automotive manufacturers are also experiencing operating and profitability issues as well as labor concerns. In this environment, it is difficult to forecast future OE customer production schedules, the potential for labor disputes or the success or sustainability of any strategies undertaken by

any of Federal-Mogul's customers in response to the current industry environment. This environment may also put additional pricing pressure on suppliers to reduce the cost of products, which would reduce Federal-Mogul's margins. In addition, cuts in production schedules are also sometimes announced by Federal-Mogul's OE customers with little advance notice, making it difficult for Federal-Mogul to respond with corresponding cost reductions.

Federal-Mogul's supply base has also been adversely affected by industry conditions. Lower production levels for OEMs and increases in certain raw material, commodity and energy costs have resulted in severe financial distress among many companies within the automotive supply base. Several large suppliers and customers have filed for bankruptcy protection or ceased operations. Unfavorable industry conditions have

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also resulted in financial distress within Federal-Mogul's supply base and an increase in commercial disputes and the risk of supply disruption. In addition, the adverse industry environment has required Federal-Mogul to provide financial support to distressed suppliers or take other measures to ensure uninterrupted production. While Federal-Mogul has taken certain actions to mitigate these factors, Federal-Mogul has offset only a portion of their overall impact on its operating results. The continuation or worsening of these industry conditions would adversely affect Federal-Mogul's profitability, operating results and cash flow.

**Federal-Mogul's operations in foreign countries exposes our Automotive segment to risks related to economic and political conditions, currency fluctuations and import/export restrictions:**

Federal-Mogul has manufacturing and distribution facilities in many countries. International operations are subject to certain risks including:

exposure to local economic conditions;  
exposure to local political conditions (including the risk of seizure of assets by foreign governments);  
currency exchange rate fluctuations (including, but not limited to, material exchange rate fluctuations, such as devaluations) and currency controls; and  
export and import restrictions.

The likelihood of such occurrences and their potential effect on our Federal-Mogul are unpredictable and vary from country to country.

Certain of Federal-Mogul's operating entities report their financial condition and results of operations in currencies other than the U.S. dollar (including, but not limited to, Brazilian real, British pound, Chinese yuan renminbi, Czech crown, euro, Indian rupee, Mexican peso, Polish zloty, Russian ruble and Venezuelan bolivar). In reporting its consolidated statements of operations, Federal-Mogul translates the reported results of these entities into U.S. dollars at the applicable exchange rates. As a result, fluctuations in the dollar against foreign currencies will affect the value at which the results of these entities are included within Federal-Mogul's consolidated results.

Federal-Mogul is exposed to a risk of gain or loss from changes in foreign exchange rates whenever Federal-Mogul, or one of its foreign subsidiaries, enters into a purchase or sales agreement in a currency other than its functional currency. While Federal-Mogul reduces such exposure by matching most revenues and costs within the same currency, changes in exchange rates could impact its financial condition or results of operations.

**Federal-Mogul has substantial indebtedness, which could restrict its business activities and could subject Federal-Mogul to significant interest rate risk.**

As of March 31, 2010, Federal-Mogul had approximately \$2.9 billion of outstanding indebtedness. Federal-Mogul is permitted by the terms of its debt instruments to incur substantial additional indebtedness, subject to the restrictions therein. Federal-Mogul's inability to generate sufficient cash flow to satisfy its debt obligations, or to refinance its debt obligations on commercially reasonable terms, would have a material adverse effect on its Federal-Mogul's business, financial condition and results of operations.

Federal-Mogul's indebtedness could:

limit its ability to borrow money for working capital, capital expenditures, debt service requirements or other

corporate purposes;

require Federal-Mogul to dedicate a substantial portion of its cash flow to payments on indebtedness, which would reduce the amount of cash flow available to fund working capital, capital expenditures, product development and other corporate requirements;

increase its vulnerability to general adverse economic and industry conditions; and  
limit its ability to respond to business opportunities.

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A significant portion of Federal-Mogul's indebtedness accrues interest at variable rates. To the extent market interest rates rise, the cost of Federal-Mogul's debt would increase, adversely affecting Federal-Mogul's financial condition, results of operations and cash flows.

**Federal-Mogul is subject to possible insolvency of financial counterparties.**

Federal-Mogul engages in numerous financial transactions and contracts including insurance policies, letters of credit, credit line agreements, financial derivatives (including interest rate swaps), and investment management agreements involving various counterparties. Federal-Mogul is subject to the risk that one or more of these counterparties may become insolvent and therefore be unable to discharge its obligations under such contracts.

**The automotive industry is highly competitive and Federal-Mogul's success depends upon its ability to compete effectively in the market.**

Federal-Mogul operates in an extremely competitive industry, driven by global vehicle production volumes and part replacement trends. Business is typically awarded to the supplier offering the most favorable combination of cost, quality, technology and service. In addition, customers continue to require periodic price reductions that require Federal-Mogul to continually assess, redefine and improve its operations, products and manufacturing capabilities to maintain and improve profitability. Federal-Mogul's management continues to develop and execute initiatives to meet the challenges of the industry and to achieve its strategy; however, there can be no assurance that Federal-Mogul will be able to compete effectively in the automotive market.

**If Federal-Mogul loses any of its executive officers or key employees, Federal-Mogul's operations and ability to manage the day-to-day aspects of its business may be materially adversely affected.**

Federal-Mogul's future performance substantially depends on its ability to retain and motivate executive officers and key employees, both individually and as a group. If Federal-Mogul loses any of its executive officers or key employees, which have many years of experience with Federal-Mogul and within the automotive industry and other manufacturing industries, or are unable to recruit qualified personnel, its ability to manage the day-to-day aspects of its business may be materially adversely affected. The loss of the services of one or more executive officers or key employees, who also have strong personal ties with customers and suppliers, could have a material adverse effect on its business, financial condition, and results of operations.

The employment agreement of José Maria Alapont, Federal-Mogul's President and Chief Executive Officer since March 1, 2005, expired on March 23, 2010. On March 18, 2010, Federal-Mogul entered into three agreements with Mr. Alapont effective March 23, 2010, pursuant to which Mr. Alapont agreed to remain as President and Chief Executive Officer of Federal-Mogul through March 23, 2013.

Federal-Mogul does not currently maintain key person life insurance.

**Federal-Mogul's pension obligations and other post employment benefits could adversely impact its operating margins and cash flows.**

The automotive industry, like other industries, continues to be impacted by the rising cost of providing pension and other post employment benefits. In addition, Federal-Mogul sponsors certain defined benefit plans worldwide that are

underfunded and will require cash payments. If the performance of the assets in the pension plans does not meet our expectations, or other actuarial assumptions are modified, our required contributions may be higher than we expect.

**Federal-Mogul may pursue acquisitions or joint ventures that involve inherent risks, any of which may cause it not to realize anticipated benefits, and Federal-Mogul may have difficulty integrating the operations of any companies that may be acquired, which may adversely affect its results of operations.**

In the past, Federal-Mogul has grown through acquisitions, and may engage in acquisitions in the future as part of its sustainable global profitable growth strategy. The full benefits of these acquisitions, however, require integration of manufacturing, administrative, financial, sales and marketing approaches and personnel. If Federal-Mogul is unable to successfully integrate its acquisitions, it may not realize the benefits of the acquisitions, the financial results may be negatively affected, or additional cash may be required to integrate such operations.

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In the future, Federal-Mogul may not be able to successfully identify suitable acquisition or joint venture opportunities or complete any particular acquisition, combination, joint venture or other transaction on acceptable terms. Federal-Mogul's identification of suitable acquisition candidates and joint venture opportunities and the integration of acquired business operations involve risks inherent in assessing the values, strengths, weaknesses, risks and profitability of these opportunities. This includes the effects on its business, diversion of management's attention and risks associated with unanticipated problems or unforeseen liabilities, and may require significant financial resources that would otherwise be used for the ongoing development of its business.

The difficulties of integration may be increased by the necessity of coordinating geographically dispersed organizations, integrating personnel with disparate business backgrounds and combining different corporate cultures.

These difficulties could be further increased to the extent Federal-Mogul pursues acquisition or joint venture opportunities internationally. Federal-Mogul may not be effective in retaining key employees or customers of the combined businesses. Federal-Mogul may face integration issues pertaining to the internal controls and operations functions of the acquired companies and also may not realize cost efficiencies or synergies that were anticipated when selecting the acquisition candidates. Federal-Mogul may experience managerial or other conflicts with its joint venture partners. Any of these items could adversely affect its results of operations.

Federal-Mogul's failure to identify suitable acquisition or joint venture opportunities may restrict its ability to grow its business. If Federal-Mogul is successful in pursuing future acquisitions or joint ventures, it may be required to expend significant funds, incur additional debt and/or issue additional securities, which may materially adversely affect results of its operations. If Federal-Mogul spends significant funds or incurs additional debt, its ability to obtain financing for working capital or other purposes could decline and Federal-Mogul may be more vulnerable to economic downturns and competitive pressures.

### **Federal-Mogul's restructuring activities may not result in the anticipated synergies and cost savings.**

Federal-Mogul expects to continue to incur restructuring expenses and related costs through the fiscal year ending December 31, 2010, or fiscal 2010, in connection with its sustainable global profitable growth strategy. It is possible that such costs could vary from initially projected amounts or that achieving the expected synergies and cost savings will require additional costs or charges to earnings in future periods. It is also possible that the expected synergies may not be achieved. Any costs or charges could adversely impact its business, results of operations, liquidity and financial condition.

### **Certain disruptions in supply of and changes in the competitive environment for raw materials could adversely affect Federal-Mogul's operating margins and cash flows.**

Federal-Mogul purchases a broad range of materials, components and finished parts. Federal-Mogul also uses a significant amount of energy, both electricity and natural gas, in the production of its products. A significant disruption in the supply of these materials, supplies and energy or the failure of a supplier with whom Federal-Mogul has established a single source supply relationship could decrease production and shipping levels, materially increase operating costs and materially adversely affect profit margins. Shortages of materials or interruptions in transportation systems, labor strikes, work stoppages or other interruptions to or difficulties in the employment of labor or transportation in the markets where Federal-Mogul purchases material, components and supplies for the production of products or where the products are produced, distributed or sold, whether as a result of labor strife, war, further acts of

terrorism or otherwise, in each case may adversely affect profitability.

In recent periods there have been significant fluctuations in the prices of aluminum, copper, lead, nickel, platinum, resins, steel, other base metals and energy which have had and may continue to have an unfavorable impact on Federal-Mogul's business. Any continued fluctuations in the price or availability of energy and materials may have an adverse effect on Federal-Mogul's results of operations or financial condition. To address increased costs associated with these market forces, a number of Federal-Mogul's suppliers have implemented surcharges on existing fixed price contracts. Without the surcharge, some suppliers claim they will be unable to provide adequate supply. Competitive and marketing pressures may limit Federal-Mogul's ability to pass some of the supply and material cost increases onto its customers, particularly with domestic

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vehicle manufacturers, and may prevent Federal-Mogul from doing so in the future. Furthermore, Federal-Mogul's customers are generally not obligated to accept price increases that Federal-Mogul may desire to pass along to them. This inability to pass on price increases to customers when material prices increase rapidly or to significantly higher than historic levels could adversely affect its operating margins and cash flow, possibly resulting in lower operating income and profitability.

**Federal-Mogul's hedging activities to address commodity price fluctuations may not be successful in offsetting future increases in those costs or may reduce or eliminate the benefits of any decreases in those costs.**

In order to mitigate short-term variation in operating results due to the aforementioned commodity price fluctuations, Federal-Mogul hedges a portion of near-term exposure to certain raw materials used in production processes, primarily natural gas, copper, nickel, lead, platinum, high-grade aluminum and aluminum alloy. The results of Federal-Mogul's hedging practice could be positive, neutral or negative in any period depending on price changes in the hedged exposures.

Federal-Mogul's hedging activities are not designed to mitigate long-term commodity price fluctuations and, therefore, will not protect from long-term commodity price increases. Federal-Mogul's future hedging positions may not correlate to actual energy or raw materials costs, which would cause acceleration in the recognition of unrealized gains and losses on hedging positions in operating results.

**Federal-Mogul is subject to a variety of environmental, health and safety laws and regulations and the cost of complying, or Federal-Mogul's failure to comply, with such requirements may have a material adverse effect on its business, financial condition and results of operations.**

Federal-Mogul is subject to a variety of federal, state and local environmental laws and regulations relating to the release or discharge of materials into the environment, the management, use, processing, handling, storage, transport or disposal of hazardous waste materials, or otherwise relating to the protection of public and employee health, safety and the environment. These laws and regulations expose Federal-Mogul to liability for the environmental condition of its current facilities, and also may expose Federal-Mogul to liability for the conduct of others or for Federal-Mogul's actions that were in compliance with all applicable laws at the time these actions were taken. These laws and regulations also may expose Federal-Mogul to liability for claims of personal injury or property damage related to alleged exposure to hazardous or toxic materials in foreign countries where such liability has not been resolved through Federal-Mogul's 524(g) Trust. Despite Federal-Mogul's intention to be in compliance with all such laws and regulations, Federal-Mogul cannot guarantee that it will at all times be in compliance with all such requirements. The cost of complying with these requirements may also increase substantially in future years. If Federal-Mogul violates or fails to comply with these requirements, Federal-Mogul could be fined or otherwise sanctioned by regulators. These requirements are complex, change frequently and may become more stringent over time, which could have a material adverse effect on its business.

Federal-Mogul's failure to maintain and comply with environmental permits that it is required to maintain could result in fines or penalties or other sanctions and have a material adverse effect on its operations or results. Future events, such as new environmental regulations or changes in or modified interpretations of existing laws and regulations or enforcement policies, newly discovered information or further investigation or evaluation of the potential health hazards of products or business activities, may give rise to additional compliance and other costs that could have a

Federal-Mogul's hedging activities to address commodity price fluctuations may not be successful in offsetting future

material adverse effect on its business, financial conditions and results of operations.

**Federal-Mogul is involved from time to time in legal proceedings and commercial or contractual disputes, which could have an adverse impact on its profitability and consolidated financial position.**

Federal-Mogul is involved in legal proceedings and commercial or contractual disputes that, from time to time, are significant. These are typically claims that arise in the normal course of business including, without limitation, commercial or contractual disputes, including disputes with suppliers, intellectual property matters, personal injury claims, environmental issues, tax matters and employment matters. No assurances can be given that such proceedings and claims will not have a material adverse impact on its profitability and consolidated financial position.

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**If Federal-Mogul is unable to protect its intellectual property and prevent its improper use by third parties, its ability to compete in the market may be harmed.**

Various patent, copyright, trade secret and trademark laws afford only limited protection and may not prevent Federal-Mogul's competitors from duplicating its products or gaining access to its proprietary information and technology. These means also may not permit Federal-Mogul to gain or maintain a competitive advantage.

Any of Federal-Mogul's patents may be challenged, invalidated, circumvented or rendered unenforceable. Federal-Mogul cannot guarantee that it will be successful should one or more of its patents be challenged for any reason. If Federal-Mogul's patent claims are rendered invalid or unenforceable, or narrowed in scope, the patent coverage afforded to Federal-Mogul's products could be impaired, which could significantly impede Federal-Mogul's ability to market its products, negatively affect its competitive position and materially adversely affect its business and results of operations.

Federal-Mogul's pending or future patent applications may not result in an issued patent. Additionally, newly issued patents may not provide Federal-Mogul with meaningful protection against competitors or against competitive technologies. The United States federal courts may invalidate Federal-Mogul's patents or find them unenforceable. Competitors may also be able to design around Federal-Mogul's patents. Other parties may develop and obtain patent protection for more effective technologies, designs or methods. If these developments were to occur, it could have an adverse effect on its sales. If Federal-Mogul's intellectual property rights are not adequately protected, it may not be able to commercialize its technologies, products or services and its competitors could commercialize its technologies, which could result in a decrease in Federal-Mogul's sales and market share, and could materially adversely affect its business, financial condition and results of operations.

**Federal-Mogul's products could infringe the intellectual property rights of others, which may lead to litigation that could itself be costly, could result in the payment of substantial damages or royalties, and could prevent Federal-Mogul from using technology that is essential to its products.**

Federal-Mogul cannot guarantee that its products, manufacturing processes or other methods do not infringe the patents or other intellectual property rights of third parties. Infringement and other intellectual property claims and proceedings brought against Federal-Mogul, whether successful or not, could result in substantial costs and harm its reputation. Such claims and proceedings can also distract and divert management and key personnel from other tasks important to the success of its business. In addition, intellectual property litigation or claims could force Federal-Mogul to do one or more of the following:

cease selling or using any of products that incorporate the asserted intellectual property, which would adversely affect Federal-Mogul's revenue;

pay substantial damages for past use of the asserted intellectual property;

obtain a license from the holder of the asserted intellectual property, which license may not be available on reasonable terms, if at all; and

redesign or rename, in the case of trademark claims, products to avoid infringing the intellectual property rights of third parties, which may not be possible and could be costly and time-consuming if it is possible to do.

In the event of an adverse determination in an intellectual property suit or proceeding, or Federal-Mogul's failure to license essential technology, Federal-Mogul's sales could be harmed and its costs could increase, which could

Federal-Mogul is involved from time to time in legal proceedings and commercial or contractual disputes, which could

materially adversely affect its business, financial condition and results of operations.

**Federal-Mogul may be exposed to certain regulatory and financial risks related to climate change.**

Climate change is receiving ever increasing attention worldwide. Many scientists, legislators and others attribute global warming to increased levels of greenhouse gases, including carbon dioxide, which has led to significant legislative and regulatory efforts to limit greenhouse gas emissions. There are a number of pending legislative and regulatory proposals to address greenhouse gas emissions. For example, in June 2009, the

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U.S. House of Representatives passed the American Clean Energy and Security Act that would phase-in significant reductions in greenhouse gas emissions if enacted into law. The U.S. Senate is considering a different bill, and it is uncertain whether, when and in what form a federal mandatory carbon dioxide emissions reduction program may be adopted. Similarly, certain countries in which our Automotive segment operates have adopted the Kyoto Protocol, and this and other international initiatives under consideration could affect its international operations. These actions could increase costs associated with Federal-Mogul's operations, including costs for raw materials and transportation. Because it is uncertain what laws will be enacted, we cannot predict the potential impact of such laws on our Automotive segment and on our future consolidated financial condition, results of operations or cash flows.

## **Railcar**

### **The highly cyclical nature of the railcar industry and restricted credit markets may result in lower revenues during economic downturns.**

The North American railcar market has been, and ARI expects it to continue to be highly cyclical. The recent worldwide financial turmoil and associated economic downturn has adversely affected the overall railcar industry as well as sales of ARI's railcars and other products and has caused it to slow its production rates. For example, over approximately the past two and a half years, ARI has experienced a decrease in demand and an increase in pricing pressures in the railcar markets, and over the past three years its new railcar orders have declined from approximately 2,510 from the fiscal year ended December 31, 2007, or fiscal 2007, to approximately 280 in fiscal 2008 and none in fiscal 2009. We anticipate that the current economic downturn is likely to continue to adversely affect sales of ARI's railcars and other products and ARI expects its shipments and revenues to decrease in fiscal 2010 from fiscal 2009.

We cannot assure you that these conditions will improve soon, if at all. Downturns in part or all of the railcar manufacturing industry may continue to occur in the future, resulting in decreased demand for ARI's products and services.

Most of the end users of ARI's railcars acquire them through leasing arrangements with its leasing company customers. The current economic environment and restricted credit markets have resulted in stricter borrowing conditions and, in some cases, higher interest rates for new borrowings, either of which could increase the cost of, or potentially deter, new leasing arrangements. These factors could cause ARI's leasing company customers to purchase fewer railcars. In addition, the slowdown of the U.S. economy has reduced and may continue to reduce requirements for the transport of products carried by the railcars ARI manufactures. These factors have resulted and may continue to result in decreased demand and increased pricing pressures on the sales of railcars. Sales of other of ARI's industrial products also have been and may continue to be adversely affected by the slowdown in industrial output, as well. All of these factors could have a material adverse effect on our Railcar operations.

**ARI depends upon a small number of customers that represent a large percentage of its revenues. The loss of any single significant customer, a reduction in sales to any such significant customer or any such significant customer's inability to pay ARI in a timely manner could have a material adverse effect on our Railcar operations.**

Railcars are typically sold pursuant to large, periodic orders, and therefore, a limited number of customers typically represent a significant percentage of railcar sales in any given year. ARI's top ten customers accounted for approximately 90.0%, 90.7% and 87.9% of its total manufacturing and services revenues in fiscal 2009, fiscal 2008

and fiscal 2007, respectively. Moreover, ARI's top three customers accounted for approximately 85.2%, 82.0% and 80.1% of its total manufacturing and services revenues in fiscal 2009, fiscal 2008 and fiscal 2007, respectively. ARI's two largest customers (including an affiliate) accounted for 62% of ARI's total manufacturing and services revenues for the quarter ended March 31, 2010. In addition, one of ARI's affiliated customers accounted for 68.3% of its backlog as of December 31, 2009. The loss of any significant portion of its sales to any major customer, the loss of a single major customer or a material adverse change in the financial condition of any one of its major customers could have a material adverse effect on its business, financial condition and financial results. If one of ARI's significant customers was unable to pay due to financial conditions, it could materially adversely affect its business, financial condition and results of operations.

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**ARI operates in a highly competitive industry and may be unable to compete successfully, which would materially adversely affect our Railcar operations.**

ARI faces intense competition in all of its markets. In its railcar manufacturing business, ARI has three primary competitors. Certain of its competitors have recently expanded their capabilities into its focused railcar markets. Any of these competitors may, from time to time, have greater resources than does ARI. Some railcar manufacturers produce railcars primarily for use in their own railcar leasing operations, competing directly with leasing companies, some of which are ARI's largest customers. ARI's current competitors may increase their participation, or new competitors may enter into the railcar markets in which it competes. Strong competition within the industry, which has been exacerbated by the recent economic downturn, has led to pricing pressures and could limit ARI's ability to maintain or increase prices or obtain better margins on its railcars. These pressures may intensify if consolidation among its competitors occurs. If ARI produces any types of railcars other than what it currently produces, ARI will be competing with other manufacturers that may have more experience with that railcar type.

New competitors, or alliances among existing competitors, may emerge in the railcar components industry and rapidly gain market share. ARI competes with numerous companies in its railcar fleet management and railcar repair services businesses, ranging from companies with greater resources than it has to small, local companies.

Technological innovation by any of its existing competitors, or new competitors entering any of the markets in which ARI does business, could put it at a competitive disadvantage and could cause it to lose market share. Increased competition for the sales of its railcars, its fleet management and repair services and its railcar components could result in price reductions, reduced margins and loss of market share, which could materially adversely affect its prospects and our Railcar operations.

**The cost of raw materials and components that ARI uses to manufacture railcars, particularly steel, are subject to escalation and surcharges and could increase. Any increase in these costs or delivery delays of these raw materials may materially adversely affect our Railcar operations.**

The cost of raw materials, including steel, and components, including scrap metal, used in the production of ARI's railcars, represents approximately 80.0% to 85.0% of its manufacturing costs. ARI has provisions in all of its current railcar manufacturing contracts that allow it to pass on to its customers, price fluctuations in and surcharges related to certain raw materials, including steel, as well as certain components. ARI may not be able to pass on price increases to its customers in the future, which could adversely affect its operating margins and cash flows. Any fluctuations in the price or availability of steel, or any other material or component used in the production of its railcars, may have a material adverse effect on our Railcar operations. Such price increases could reduce demand for ARI's railcars. As customers may not accept contracts with price adjustment clauses in the future, ARI may lose railcar orders or enter into contracts with fixed pricing provisions or other less favorable contract terms, any of which could have a material adverse effect on its business, financial condition and results of operations.

If any of ARI's raw material or component suppliers were unable to continue their businesses or were to seek bankruptcy relief, the availability or price of the materials ARI uses could be adversely affected. Deliveries of its raw materials and components may also fluctuate depending on various factors including supply and demand for the raw material or component, or governmental regulation relating to the raw material or component, including regulation relating to importation.

**Fluctuations in the supply of components and raw materials ARI uses in manufacturing railcars, which are often only available from a limited number of suppliers, could cause production delays or reductions in the number of railcars it manufactures, which could materially adversely affect our Railcar operations.**

ARI's railcar manufacturing business depends on the adequate supply of numerous railcar components, such as railcar wheels, axles, brakes, tank railcar heads, sideframes, bearings, yokes, bolsters and other heavy castings. Some of these components are only available from a limited number of domestic suppliers. Strong demand can cause industry-wide shortages of many critical components as reliable suppliers could reach capacity production levels. Supply constraints in its industry are exacerbated because, although multiple suppliers may produce certain components, railcar manufacturing regulations and the physical capabilities of

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manufacturing facilities restrict the types and sizes of components and raw materials that manufacturers may use. In addition, ARI does not carry significant inventories of certain components and procures many of its components on an as needed basis. In the event that its suppliers of railcar components and raw materials were to stop or reduce the production of railcar components and raw materials that it uses, or refuse to do business with ARI for any reason, ARI's business would be disrupted. ARI's inability to obtain components and raw materials in required quantities or of acceptable quality could result in significant delays or reductions in railcar shipments and could materially or adversely affect its operating results.

If any of ARI's significant suppliers of railcar components were to shut down operations, ARI's business and financial results could be affected as it may incur substantial delays and significant expense in finding alternative sources. The quality and reliability of alternative sources may not be the same and these alternative sources may charge significantly higher prices.

**Equipment failures, delays in deliveries or extensive damage to ARI's facilities, particularly its railcar manufacturing complexes in Paragould or Marmaduke, Arkansas, could lead to production or service curtailments or shutdowns.**

An interruption in manufacturing capabilities at ARI's complexes in Paragould or Marmaduke, Arkansas or at any of its component manufacturing facilities, whether as a result of equipment failure or any other reason, could reduce, prevent or delay production of its railcars or railcar and industrial components, which could alter the scheduled delivery dates to its customers and affect its production schedule. This could result in the termination of orders, the loss of future sales and a negative impact to ARI's reputation with its customers and in the railcar industry, all of which could materially adversely affect our Railcar operations.

All of ARI's facilities are subject to the risk of catastrophic loss due to unanticipated events, such as fires, earthquakes, explosions, floods, tornados or weather conditions. ARI may experience plant shutdowns or periods of reduced production as a result of equipment failures, loss of power, delays in equipment deliveries, or extensive damage to any of its facilities, which could have a material adverse effect on our Railcar operations.

**Uncertainty surrounding acceptance of ARI's new railcar offerings by its customers, and costs associated with those new offerings, could materially adversely affect our Railcar operations.**

ARI's strategy depends in part on its continued development and sale of new railcar designs to expand or maintain its market share in its current railcar markets and new railcar markets. Any new or modified railcar design that ARI develops may not gain widespread acceptance in the marketplace and any such products may not be able to compete successfully with existing railcar designs or new railcar designs that may be introduced by its competitors.

Furthermore, ARI may experience significant initial costs of production of new railcar product lines related to training, labor and operating inefficiencies. To the extent that the total costs of production significantly exceed its anticipated costs of production, ARI may incur a loss on its sale of new railcar product lines.

**The variable purchase patterns of ARI's railcar customers and the timing of completion, customer acceptance and shipment of orders may cause its revenues and income from operations to vary substantially each quarter, which could result in significant fluctuations in our Railcar segment quarterly**

**results.**

ARI's results of operations in any particular quarterly period may be significantly affected by the number and type of railcars manufactured and shipped in that period, which is impacted by customer needs that vary greatly year to year, as discussed above. The customer acceptance and title transfer or customer acceptance and shipment of ARI's railcars determines when it records the revenues associated with its railcar sales. Given this, the timing of customer acceptance and title transfer of ARI's railcars could cause fluctuations in our Railcar segment quarterly results. The railroads could potentially go on strike or have other service interruptions, which could ultimately create a bottleneck and potentially cause ARI to slow down or halt its shipment and production schedules, which could have a materially adverse affect on our Railcar operations.

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As a result of these fluctuations, we believe that comparisons of ARI's sales and operating results between quarterly periods within the same year and between quarterly periods within different years may not be meaningful and, as such, these comparisons should not be relied upon as indicators of ARI's future performance.

**Some of ARI's railcar services and component manufacturing employees belong to labor unions and strikes or work stoppages by them or unions formed by some or all of ARI's other employees in the future could adversely affect our Railcar operations.**

As of December 31, 2009, the employees at ARI's sites covered by collective bargaining agreements collectively represent approximately 17.2% of ARI's total workforce. Disputes with regard to the terms of these agreements or ARI's potential inability to negotiate acceptable contracts with these unions in the future could result in, among other things, strikes, work stoppages or other slowdowns by the affected workers. We cannot guarantee that ARI's relations with its railcar services workforce will remain positive nor can we guarantee that union organizers will not be successful in future attempts to organize ARI's railcar manufacturing employees or employees at some of its other facilities. If ARI's workers were to engage in a strike, work stoppage or other slowdown other employees were to become unionized or the terms and conditions in future labor agreements were renegotiated, ARI could experience a significant disruption of its operations and higher ongoing labor costs. In addition, ARI could face higher labor costs in the future as a result of severance or other charges associated with layoffs, shutdowns or reductions in the size and scope of its operations.

**ARI manufacturer's warranties expose it to potentially significant claims.**

ARI may be subject to significant warranty claims in the future relating to workmanship and materials. These types of warranty claims could result in costly product recalls, significant repair costs and damage to ARI's reputation, which could materially adversely affect our Railcar operations. Unresolved warranty claims could result in users of its products bringing legal actions against ARI.

**If ARI is unable to protect its intellectual property and prevent its improper use by third parties, ARI's ability to compete in the market may be harmed.**

Various patent, copyright, trade secret and trademark laws afford only limited protection and may not prevent ARI's competitors from duplicating its products or gaining access to its proprietary information and technology. These means also may not permit ARI to gain or maintain a competitive advantage.

Any of ARI's patents may be challenged, invalidated, circumvented or rendered unenforceable. ARI cannot guarantee that it will be successful should one or more of its patents be challenged for any reason. If ARI's patent claims are rendered invalid or unenforceable, or narrowed in scope, the patent coverage afforded its products could be impaired, which could significantly impede its ability to market its products, negatively affect its competitive position and materially adversely affect our Railcar operations.

ARI's pending or future patent applications held by it may not result in an issued patent and, if patents are issued to ARI, such patents may not provide meaningful protection against competitors or against competitive technologies. The U.S. Federal courts may invalidate ARI's patents or find them unenforceable. Competitors may also be able to design around ARI's patents. Other parties may develop and obtain patent protection for more effective technologies, designs or methods. If these developments were to occur, it could have an adverse effect on ARI's sales. If ARI's

intellectual property rights are not adequately protected, it may not be able to commercialize its technologies, products or services and its competitors could commercialize its technologies, which could result in a decrease in ARI's sales and market share and could materially adversely affect our Railcar operations.

**ARI's products could infringe the intellectual property rights of others, which may lead to litigation that could itself be costly, result in the payment of substantial damages or royalties, and prevent ARI from using technology that is essential to its products.**

ARI cannot guarantee you that its products, manufacturing processes or other methods do not infringe the patents or other intellectual property rights of third parties. Infringement and other intellectual property claims and proceedings brought against ARI, whether successful or not, could result in substantial costs and harm its

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reputation. Such claims and proceedings can also distract and divert ARI's management and key personnel from other tasks important to the success of ARI's business. In addition, intellectual property litigation or claims could force ARI to do one or more of the following:

cease selling or using any of its products that incorporate the asserted intellectual property, which would adversely affect its revenue;

pay substantial damages for past use of the asserted intellectual property;

obtain a license from the holder of the asserted intellectual property, which license may not be available on reasonable terms, if at all; and

redesign or rename, in the case of trademark claims, its products to avoid infringing the intellectual property rights of third parties, which may be costly and time-consuming even if possible.

In the event of an adverse determination in an intellectual property suit or proceeding, or ARI's failure to license essential technology, its sales could be harmed and its costs could increase, which could materially adversely affect our Railcar operations.

## **Food Packaging**

**Viskase faces competitors that are better capitalized than it is, and the continuous-flow nature of the casings manufacturing process forces competitors to compete based on price in order to maintain volume, which could adversely affect our Food Packaging operations.**

Viskase faces competition in the United States and internationally from competitors that may have substantially greater financial resources than it has. The cellulosic casings industry includes several competitors that are larger and better capitalized than Viskase is. Currently, Viskase's primary competitors include Viscofan, S.A., Kalle Nalo GmbH, and VT Holding Group, although new competitors could enter the market or competing products could be introduced. Although small cellulosic prices have experienced annual increases since 2006, and Viskase believes that the current output in its industry is in balance with global demand and that levels of capacity utilization are high, the continuous-flow nature of the casings manufacturing process has historically required competitors in its industry to compete based on price in order to maintain volume, which could result in lower pricing in future years. Viskase attempts to differentiate its products on the basis of product quality and performance, product development, service, sales and distribution, but Viskase and competitors in its industry have used price as a competitive factor in an attempt to obtain greater volumes. If prices decline, Viskase may not be able to achieve profitability, whereas certain of its competitors who are better capitalized may be positioned to absorb such price declines. Any of these factors could result in a material reduction of our Food Packaging operations.

**Viskase receives its raw materials from a limited number of suppliers, and problems with its suppliers could impair its ability to meet its customers product demands.**

Viskase's principal raw materials, paper and pulp, constitute an important aspect and cost factor of its operations. Viskase generally purchases its paper and pulp from a single source or a small number of suppliers. Any inability of its suppliers to timely deliver raw materials or any unanticipated adverse change in its suppliers could be disruptive and costly to Viskase. Viskase's inability to obtain raw materials from its suppliers would require it to seek alternative sources. These alternative sources may not be adequate for all of Viskase's raw material needs, nor may adequate raw

ARI's products could infringe the intellectual property rights of others, which may lead to litigation that could itself be

material substitutes exist in a form that its processes could be modified to use. These risks could materially and adversely affect our Food Packaging operations.

**Viskase's failure to efficiently respond to industry changes in casings technology could jeopardize its ability to retain its customers and maintain its market share.**

Viskase and other participants in its industry have considered alternatives to cellulosic casings for many years. As resin technology improves or other technologies develop, alternative casings or other manufacturing methods may be developed that threaten the long-term sustainability and profitability of Viskase's cellulosic casings, which is its core product, and its fibrous casings. Viskase's failure to anticipate, develop or efficiently and timely integrate new technologies that provide viable alternatives to cellulosic casings, including plastic and film alternatives, may cause it to lose customers and market share to competitors integrating such technologies, which, in turn, would negatively impact our Food Packaging operations.

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**Sales of Viskase s products could be negatively affected by problems or concerns with the safety and quality of food products.**

Viskase could be adversely affected if consumers in the food markets were to lose confidence in the safety and quality of meat or poultry products, particularly with respect to processed meat or poultry products for which casings are used, such as hot dogs, deli meats and sausages. Outbreaks of, or even adverse publicity about the possibility of, diseases such as avian influenza and mad cow disease, food-borne pathogens such as E. coli and listeria and any other food safety problems or concerns relating to meat and poultry products may discourage consumers from buying such products. These risks could also result in additional governmental regulations, or cause production and delivery disruptions or product recalls. Each of these risks could adversely affect the demand for Viskase s products and, consequently, our Food Packaging operations.

**Changing dietary trends and consumer preferences could weaken the demand for Viskase s products.**

Various medical studies detailing the health-related attributes of particular foods, including meat and poultry products, affect the purchase patterns, dietary trends and consumption preferences of consumers. These patterns, trends and preferences are routinely changing. For example, general dietary concerns about meat products, such as the cholesterol, calorie, sodium and fat content of such products, could result in reduced demand for such products, which would, in turn, cause a reduction in the demand for Viskase s products and a decrease in its sales volume and revenue.

**Business interruptions at any of Viskase s production facilities could increase its operating costs, decrease its sales or cause it to lose customers.**

The reliability of Viskase s production facilities is critical to the success of its business. In recent years, Viskase has streamlined its productive capacity to be better aligned with its sales volumes. At current operating levels, Viskase has little or no excess production capacity for certain products. If the operations of any of its manufacturing facilities were interrupted or significantly delayed for any reason, including labor stoppages, Viskase may be unable to shift production to another facility without incurring a significant drop in production. Such a drop in production would negatively affect Viskase s sales and its relationships with its customers.

**Viskase s international sales and operations expose it to political and economic risks in foreign countries, as well as to risks related to currency fluctuations, all of which could impair its ability to do business at the international level.**

Viskase currently has manufacturing or sales and distribution centers in seven foreign countries: Brazil, Canada, France, Germany, Italy, Mexico and Poland. Its international sales and operations may be subject to various political and economic risks including, but not limited to: possible unfavorable exchange rate fluctuations or hyperinflation; changes in a country s or region s political or economic conditions; governmental regulations, including import and export controls; tariffs; limits on the repatriation of funds; and taxes. Viskase s sales to customers located outside the United States generally are subject to taxes on the repatriation of funds. In addition, international operations in certain parts of the world may be subject to international balance of payments difficulties that may raise the possibility of delay or loss in the collection of accounts receivable from sales to customers in those countries. Historically, net sales to customers located outside the United States represent the majority of Viskase s total net sales.

Viskase s failure to efficiently respond to industry changes in casing technology could jeopardize its ability to retain

Should any of these risks occur, it could impair Viskase's ability to export its products or conduct sales to customers located outside of the United States and result in a loss of sales and profits from its international operations.

**Continued consolidation of Viskase's customers and increasing competition for those customers may put pressure on its sales volumes and revenues.**

In recent years, the trend among Viskase's customers has been towards consolidation within the meat processing industry. These consolidations have enhanced the purchasing power of its customers who, not being contractually obligated to purchase its products, tend to exert increased pressure with respect to pricing terms, product quality and new products. As Viskase's customer base continues to consolidate, the already

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high level of competition for the business of fewer customers is expected to intensify. If Viskase does not continue to enhance the value of its product offering in a way that provides greater benefit to its customers, Viskase's sales volumes and revenues could decrease.

**Viskase's intellectual property rights may be inadequate or violated, or it may be subject to claims of infringement, both of which could negatively affect its financial condition.**

Viskase relies on a combination of trademarks, patents, trade secret rights and other rights to protect its intellectual property. Viskase's trademark or patent applications may not be approved and our trademarks or patents may be challenged by third parties. Viskase cannot be certain that the steps it has taken will prevent the misappropriation of its intellectual property, particularly in foreign countries where the laws may not protect its rights as fully as the laws of the United States. From time to time, it has been necessary for Viskase to enforce its intellectual property rights against infringements by third parties, and Viskase expects to continue to do so in the ordinary course of its business. Viskase also may be subjected to claims by others that it has violated their intellectual property rights. Even if Viskase prevails, third party-initiated or company-initiated claims may be time consuming and expensive to resolve, and may result in a diversion of Viskase's time and resources. The occurrence of any of these factors could diminish the value of its trademark, patent and intellectual property portfolio, increase competition within its industry and negatively impact its sales volume and revenues.

**A substantial portion of Viskase's business is conducted through foreign subsidiaries, and its failure to generate sufficient cash flow from these subsidiaries, or otherwise repatriate or receive cash from these subsidiaries, could result in its inability to repay its indebtedness.**

Viskase's sales to customers located outside the United States are conducted primarily through subsidiaries organized under the laws of jurisdictions outside of the United States. Viskase's ability to meet its debt service obligations with cash from foreign subsidiaries will depend upon the results of operations of these subsidiaries and may be subject to contractual or other restrictions and other business considerations. In particular, to the extent Viskase's foreign subsidiaries incur additional indebtedness to expand its operations, the ability of its foreign subsidiaries to provide it cash may be limited. In addition, dividend and interest payments to Viskase from its foreign subsidiaries may be subject to foreign withholding taxes, which would reduce the amount of funds it receives from such foreign subsidiaries. Dividends and other distributions from Viskase's foreign subsidiaries may also be subject to fluctuations in currency exchange rates and restrictions on repatriation, which could further reduce the amount of funds it receives from such foreign subsidiaries.

## **Metals**

**The principal markets served by our scrap metals business are highly competitive. We may have difficulty competing with companies that have a lower cost structure than ours.**

Our scrap metals business operates in a highly competitive environment. We primarily provide services to industrial companies. Many other companies offer the same or similar services and compete with our metals business on a

number of bases including, but not limited to: (i) price; (ii) quality of service; (iii) proximity to the consumer; (iv) proximity to sources of supply; (v) local or regional presence; (vi) technology; (vii) safety performance; and (viii) financial strength. Many of these competitors have greater financial resources than we do either nationally or in the particular locale in which they operate. Some of these competitors are larger and have more diverse businesses than we do. In addition, we also face increased competition from steel mills that are vertically integrated into the scrap metal business. Some of our foreign competitors may be able to pursue business opportunities without regard for the laws and regulations with which we must comply, such as environmental regulations. These companies may have a lower cost structure, more operating flexibility and consequently they may be able to offer better prices and more services than we can. We cannot assure you that we will be able to compete successfully with these companies. In addition to larger companies, we compete with many smaller competitors operating locally in this highly fragmented market. Some of the companies may have lower operating costs and may be able to compete more effectively on price.

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**Prices of commodities are volatile and markets are competitive.**

We are exposed to commodity price risk during the period that we have title to products that are held in inventory for processing and/or resale. Prices of commodities, including scrap metals, can be volatile due to numerous factors beyond our control, including:

general economic conditions;  
labor costs;  
competition;  
financial condition of our major customers;  
access and costs associated with transportation systems;  
the availability of imports;  
the availability and relative pricing of scrap metal substitutes; and  
import duties, ocean freight costs, tariffs and currency exchange rates.

In an increasing price environment for raw materials, competitive conditions may limit our ability to pass on price increases to our consumers. In a decreasing price environment for processed scrap, we may not have the ability to fully recoup the cost of raw scrap metal we process and sell to our customers. New entrants into our markets could result in higher purchase prices for raw materials and lower margins from our scrap metals. Prices in the scrap metal industry are established and adjusted monthly by the major steel producers. The price of ferrous scrap is a significant factor influencing the profitability of the scrap metals industry.

**Increases in steel imports could adversely affect the demand for scrap metals domestically.**

Our scrap metals business may be adversely affected by increases in steel imports into the United States, which will have an adverse impact on domestic steel production and a corresponding adverse impact on the demand for scrap metals domestically. Additionally, our scrap metals business could be negatively affected by strengthening in the U.S. dollar or increased freight costs which could negatively impact export sales and a stronger U.S. dollar could also attract imports of scrap or scrap substitutes, reducing demand for our scrap metals.

**A significant increase in the use of scrap metals alternatives by consumers of processed scrap metals could reduce demand for our products.**

During periods of high demand for scrap metals, tightness can develop in the supply and demand for ferrous scrap. The relative scarcity of ferrous scrap, particularly prime or industrial grades, and its high price during such periods have created opportunities for producers of alternatives to scrap metals, such as pig iron and direct reduced iron pellets and others. Although these alternatives have not been a major factor in the industry to date, we cannot assure you that the use of alternatives to scrap metals may not proliferate in the future if the prices for scrap metals rise, if the supplies of available unprepared ferrous scrap tighten or if costs to import scrap decline precipitously.

**The profitability of our scrap recycling operations depends, in part, on the availability of an adequate source of supply.**

As part of our scrap metals business we procure scrap inventory from numerous sources. These suppliers generally are not bound by long-term contracts and have no obligation to sell scrap metals to us. In periods of low industry prices, suppliers may elect to hold scrap to wait for higher prices or intentionally slow their scrap collection activities. If a

substantial number of scrap suppliers cease selling scrap metals to us, our scrap metals business could be materially and adversely affected. In addition, a slowdown of industrial production in the United States would reduce the supply of industrial grades of scrap metal to the scrap metals recycling industry, resulting in our scrap metals business having less scrap to process and market.

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**Our scrap metals business presents significant risk of injury or death.**

Because of the heavy industrial activities conducted at our facilities, there exists a risk of serious injury or death to our employees or other visitors notwithstanding the safety precautions we take. Our scrap metals business is subject to regulation by federal, state and local agencies responsible for employee health and safety, including the Occupational Safety and Health Administration. While we have in place policies to minimize such risks, we may nevertheless be unable to avoid material liabilities for any death or injury that may occur in the future and these types of incidents may have a material adverse effect on our scrap metals business.

**Our scrap metals business is subject to stringent regulations, particularly under applicable environmental laws.**

We are subject to comprehensive local, state and federal statutory and regulatory environmental requirements relating to, among others:

- the acceptance, storage, handling and disposal of solid, hazardous and Toxic Substances Control Act waste;
- the discharge of materials into the air;
- the management and treatment of wastewater and storm water;
- the remediation of soil and groundwater contamination;
- the restoration of natural resource damages; and
- the protection of our employees health and safety.

We believe that we are currently in material compliance with applicable statutes and regulations governing the protection of human health and the environment, including employee health and safety. We can give you no assurance, however, that we will continue to be in material compliance or avoid material fines, penalties and expenses associated with compliance issues in the future.

Such laws and regulations also require manifests to be completed and delivered in connection with any shipment of prescribed materials so that the movement and disposal of such materials can be traced and the persons responsible for any mishandling of such materials identified. Regulatory requirements may also be imposed as conditions of operating permits or licenses both initially and upon renewal or modification. As part of our scrap metals business, we must properly remove, handle, recycle or dispose of waste materials or incur liability. Transportation, transfer, storage and disposal of waste are difficult and accidents may occur. These laws and regulations are stringent and are likely to become more stringent. Existing and new laws and regulations may require our scrap metals business to modify, supplement, replace or curtail its operating methods or to modify or replace facilities or equipment at costs that may be substantial without any corresponding increase in revenues.

Hazardous substances are present in some of the processing, transfer and storage facilities owned or leased by our scrap metal business and landfill facilities used by our scrap metals business. Remediation may be required at these sites at substantial cost. We cannot assure you that the ultimate cost and expense of corrective action will not substantially exceed any reserves and have a material adverse impact on our scrap metals business. In addition, governments have from time to time required companies to remediate sites where materials were properly disposed because those governments have instituted higher standards.

We are required to obtain, and must comply with, various permits and licenses to conduct our scrap metals business. Failure to obtain or violations of any permit or license, if not remedied, could result in our incurring substantial fines, suspension of our scrap metals business or closure of a site. Further, our scrap metals business is conducted primarily outdoors and as such, depending on the nature of the ground cover, involves the risk of releases of wastes and other

regulated materials to the soil and, possibly, to groundwater. From time to time, as part of our continuous improvement programs, we incur costs to improve environmental control systems.

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**Our scrap metals business may be subject to public opposition and adverse publicity that could delay or limit our scrap metals development and expansion.**

A high level of public concern exists over industrial by-products recovery operations, including the location and operation of transfer, processing, storage and disposal facilities and the collection, processing or handling of industrial by-products and waste materials, particularly hazardous materials. Zoning, permit and licensing applications and proceedings and regulatory enforcement proceedings are all matters open to public scrutiny and comment. As a result, from time to time, our scrap metals business may be subject to citizen opposition and adverse publicity that may have a negative effect on operations and delay or limit the expansion and developing of operating properties, and could have a material adverse effect on our scrap metals operation.

**The economic downturn could substantially reduce the demand for our products.**

Our scrap metals business is substantially dependent upon the overall economic conditions in the United States and other global markets. The economic climate could substantially decrease the demand for our scrap metals products and adversely affect our scrap metals business. Ferrous and non-ferrous scrap has been historically vulnerable to significant declines in consumption and product pricing during prolonged periods of economic downturn. The downturn in the construction, auto, industrial equipment and other industries could adversely affect the sales and profitability of our scrap metals business.

**We may be unable to obtain adequate environmental insurance.**

Our scrap metals business is subject to potential liability for personal injuries and property damage caused by releases of hazardous substances and for remediation of risks posed by hazardous substances. Consistent with industry trends, we may be unable to obtain an adequate amount of environmental impairment insurance for our scrap metals business at a reasonable premium to cover liability to third persons for environmental damage. Accordingly, if our scrap metals business were to incur liability for environmental damage either not provided for under such coverage or in excess of such coverage, our scrap metals business could be materially or adversely affected.

**Equipment failures may lead to production curtailments or shutdowns.**

Our scrap metals business recycling and manufacturing processes depend, in part, upon shredders, which could be out of service temporarily as a result of unanticipated failures. As a result, we may experience interruptions in our scrap metals business processing and production capabilities, which could have a material adverse effect on our results of operations and financial condition.

**Real Estate**

**The economic downturn may continue to have a more adverse effect on the residential real estate market than on other industries and its recovery may lag behind the economy as a whole.**

Our scrap metals business may be subject to public opposition and adverse publicity that could delay or limit our sc

Our residential development sales activity continued at a slow pace in fiscal 2009 and in the first quarter of fiscal 2010, particularly for our Florida properties. Sales of our vacation properties in New Seabury, Massachusetts and Florida rely heavily on favorable credit markets and a robust economy. Sale or leasing, including lease renewals, of the commercial properties in our net lease portfolio also rely heavily on financially healthy buyers and tenants. To the extent current conditions continue, the value of our real estate portfolio may continue to decline. We cannot assure that we will be able to recoup our investments in our residential properties or continue to sell or lease our commercial properties at profitable rates.

### **Our investment in property development may be more costly than anticipated.**

We have invested and expect to continue to invest in unentitled land, undeveloped land and distressed development properties. These properties involve more risk than properties on which development has been completed. Unentitled land may not be approved for development. These investments do not generate any operating revenue, while costs are incurred to obtain government approvals and develop the properties. Construction may not be completed within budget or as scheduled and projected rental levels or sales prices may

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not be achieved and other unpredictable contingencies beyond our control could occur. We will not be able to recoup any of such costs until such time as these properties, or parcels thereof, are either disposed of or developed into income-producing assets.

### **We may face adverse effects from tenant bankruptcies or insolvencies.**

The bankruptcy or insolvency of tenants in our retail, industrial and office properties may adversely affect the income produced by our properties. If a tenant defaults, we may experience delays and incur substantial costs in enforcing our rights as landlord. If a tenant files for bankruptcy, we cannot evict the tenant solely because of such bankruptcy. A court, however, may authorize a tenant to reject or terminate its lease with us. We may also incur additional vacancy and other re-tenancing expense.

### **We may be subject to environmental liability as an owner or operator of development and rental real estate.**

Under various federal, state and local laws, ordinances and regulations, an owner or operator of real property may become liable for the costs of removal or remediation of certain hazardous substances, pollutants and contaminants released on, under, in or from its property. These laws often impose liability without regard to whether the owner or operator knew of, or was responsible for, the release of such substances. To the extent any such substances are found in or on any property invested in by us, we could be exposed to liability and be required to incur substantial remediation costs. The presence of such substances or the failure to undertake proper remediation may adversely affect the ability to finance, refinance or dispose of such property. We generally conduct a Phase I environmental site assessment on properties in which we are considering investing. A Phase I environmental site assessment involves record review, visual site assessment and personnel interviews, but does not typically include invasive testing procedures such as air, soil or groundwater sampling or other tests performed as part of a Phase II environmental site assessment. Accordingly, there can be no assurance that any assessments we conduct will disclose all potential liabilities or that future property uses or conditions or changes in applicable environmental laws and regulations or activities at nearby properties will not result in the creation of environmental liabilities with respect to a property.

## **Home Fashion**

### **There are pending legal proceedings brought by minority shareholders of WPI.**

On March 26, 2010, the United States Court of Appeals for the Second Circuit (the Second Circuit) issued an Opinion in our favor, holding that we are entitled to own a majority of the common stock in, and thus have control of, WestPoint International, Inc. ( WPI ).

We had acquired ownership of a majority of the common stock in WPI through an August 2005 Sale Order entered by the United States Bankruptcy Court for the Southern District of New York. Under that Sale Order, WPI acquired substantially all of the assets of WestPoint Stevens, Inc. The losing bidder at the Bankruptcy Court auction that led to the Sale Order challenged the Sale Order. In November 2005, the United States District Court for the Southern District of New York modified portions of the Sale Order in a manner that could have reduced our ownership of WPI stock below 50%. In its March 26, 2010 decision, the Second Circuit held that we are entitled to own a majority of the common stock of WPI, and thus have control of WPI. The Second Circuit ordered the Bankruptcy Court's Sale Order reinstated, to ensure that our percentage ownership of the common stock of WPI will be at least 50.5%. The Second

Circuit modified the distribution of certain Subscription Rights in WPI. The manner in which those Subscription Rights are distributed, and whether or not they are exercised, could modify our percentage ownership of WPI's common stock, so that our percentage could range from 50.5% to 79%. The Second Circuit ordered the District Court to remand the matter back to the Bankruptcy Court for further proceedings consistent with its ruling.

There is a related proceeding in Delaware Chancery Court, brought by the same losing bidders who are parties to the case decided by the Second Circuit. The Delaware case had been stayed pending a decision from the Second Circuit. In prior proceedings in the Delaware Court, the Court dismissed breach of fiduciary duty claims against WPI, held that WPI had a contractual obligation to proceed with a Registration Statement for its stock and also declined to dismiss a Delaware statutory claim relating to registration. In both their contractual and statutory claims relating to registration, plaintiffs maintained that they held liens on a majority of WPI common stock, and were entitled to have all of that common stock registered to facilitate its sale. In

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light of the Second Circuit's decision which held that plaintiffs are not lienholders, but instead own a minority interest in WPI common stock, WPI believes that plaintiffs would not be able to maintain their existing contractual or statutory claims relating to registration. WPI intends to oppose any application by plaintiffs, if one is made, to seek to amend their claims in light of the Second Circuit's decision. A copy of the Second Circuit's decision has been sent to the Delaware Chancery Court with a request that a status conference be set to discuss further proceedings, if any, in that Court.

**We cannot assure you that WPI will be able to operate profitably.**

WPI operated at a loss during the first three months of fiscal 2010, and we expect that WPI will continue to operate at a loss during the remainder of fiscal 2010. We cannot assure you that it will be able to operate profitably in the future.

**The loss of any of WPI's large customers could have an adverse effect on WPI's business.**

During fiscal 2009, WPI's six largest customers accounted for approximately 59% of its net sales. During the quarter ended March 31, 2010, WPI had seven customers who accounted for approximately 65% of its net sales. Other retailers have indicated that they intend to significantly increase their direct sourcing of home fashion products from foreign sources. The loss of any of WPI's largest accounts, or a material portion of sales to those accounts, would have an adverse effect upon WPI's business, which could be material.

**A portion of WPI's sales are derived from licensed designer brands. The loss of a significant license could have an adverse effect on WPI's business.**

A portion of WPI's sales is derived from licensed designer brands. The license agreements for WPI's designer brands generally are for a term of one to three years. Some of the licenses are automatically renewable for additional periods, provided that sales thresholds set forth in the license agreements are met. The loss of a significant license could have an adverse effect upon WPI's business, which could be material. Under certain circumstances, these licenses can be terminated without WPI's consent due to circumstances beyond WPI's control.

**WPI's international operations expose it to political and economic risks in foreign countries, as well as to risks related to currency fluctuations, all of which could impair its ability to do business at the U.S. and international level.**

WPI currently has manufacturing or sales and distribution centers in two foreign countries: Pakistan and Bahrain. Its international sales and operations may be subject to various political and economic risks including, but not limited to: possible unfavorable exchange rate fluctuations or hyperinflation; changes in a country's or region's political or economic conditions; governmental regulations, including import and export controls; tariffs; limits on the repatriation of funds; and taxes.

Should any of these risks occur, it could impair WPI's ability to export its products to the United States or result in a loss of sales and profits from its U.S. and international operations.

**A shortage of the principal raw materials WPI uses to manufacture its products could force WPI to pay more for those materials and, possibly, cause WPI to increase its prices, which could have an adverse effect on WPI's operations.**

Any shortage in the raw materials WPI uses to manufacture its products could adversely affect its operations. The principal raw materials that WPI uses in the manufacture of its products are cotton of various grades and staple lengths and polyester and nylon in staple and filament form. Since cotton is an agricultural product, its supply and quality are subject to weather patterns, disease and other factors. The price of cotton is also influenced by supply and demand considerations, both domestically and worldwide, and by the cost of polyester. Although WPI has been able to acquire sufficient quantities of cotton for its operations in the past, any shortage in the cotton supply by reason of weather patterns, disease or other factors, or a significant increase in the price of cotton, could adversely affect its operations.

The price of man-made fibers, such as polyester and nylon, is influenced by demand, manufacturing capacity and costs, petroleum prices, cotton prices and the cost of polymers used in producing these fibers. In particular, the effect of increased energy

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prices may have a direct impact upon the cost of dye and chemicals, polyester and other synthetic fibers. Any significant prolonged petrochemical shortages could significantly affect the availability of man-made fibers and could cause a substantial increase in demand for cotton. This could result in decreased availability of cotton and possibly increased prices and could adversely affect WPI's operations.

**The home fashion industry is highly competitive and WPI's success depends on its ability to compete effectively in the market.**

The home fashion industry is highly competitive. WPI's future success will, to a large extent, depend on its ability to remain a low-cost producer and to remain competitive. WPI competes with both foreign and domestic companies on, among other factors, the basis of price, quality and customer service. In the home fashion market, WPI competes with many companies. WPI's future success depends on its ability to remain competitive in the areas of marketing, product development, price, quality, brand names, manufacturing capabilities, distribution and order processing. Any failure to compete effectively could adversely affect WPI's sales and, accordingly, its operations. Additionally, the easing of trade restrictions over time has led to growing competition from low priced products imported from Asia and Latin America. The lifting of import quotas in 2005 has accelerated the loss of WPI's market share. There can be no assurance that the foreign competition will not grow to a level that could have an adverse effect upon WPI's ability to compete effectively.

**WPI has increased the percentage of its products that are made outside of the United States and is subject to additional risks relating to doing business overseas.**

WPI has increased the percentage of its products that are made overseas and faces additional risks associated with these efforts. Adverse factors that WPI may encounter include:

- logistical challenges caused by distance;
- language and cultural differences;
- legal and regulatory restrictions;
- the difficulty of enforcing agreements with overseas suppliers;
- currency exchange rate fluctuations;
- political and economic instability; and
- potential adverse tax consequences.

**WPI continues to restructure its operations but these efforts may not be successful.**

To improve WPI's competitive position, WPI intends to continue to significantly reduce its cost of goods sold by restructuring some of its remaining operations in the plants located in the United States, increasing production within its non-U.S. facilities and joint venture operation and sourcing goods from lower-cost overseas facilities and vendors. There is no assurance that WPI will be successful in its continuing restructuring efforts, the failure of which could adversely impact WPI's profitability and ability to compete effectively.

**There has been consolidation of retailers of WPI's products that may reduce its profitability.**

Retailers of consumer goods have consolidated and become more powerful over time. As buying power has become more concentrated, pricing pressure on vendors has grown. With the ability to buy imported products directly from foreign sources, retailers' pricing leverage has increased and also allowed for growth in private label brands that displace and compete with WPI proprietary brands. Retailers' pricing leverage has resulted in a decline in WPI's unit pricing and margins and resulted in a shift in product mix to more private label programs. If WPI is unable to diminish the decline in its pricing and margins, it may not be able to achieve or maintain profitability.

**The retail industry in the United States is highly competitive and subject to the various economic cycles of consumer demand. WPI is subject to the retailers demand for products as manifest by underlying consumer spending.**

Retailers of consumer goods are dependent upon consumer spending. In turn, consumer spending is broadly a function of the overall economic environment. Given the weaknesses, both in the overall economy

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and of comparable retail store sales, the level of consumer retail spending for home textile products is likely to decline, which would have an adverse impact on WPI's business and financial results.

### **WPI may incur adverse financial consequences if its retail customers experience adverse financial results.**

To the extent that WPI's retailers of consumer goods are faced with financial difficulties due to weakened consumer demand, depending upon the amount of business that WPI does with any such customer, WPI's financial results may be adversely affected. This adverse impact could arise out of the potential recoverability of a receivable from a financially impaired retailer or from this customer doing less business with WPI. WPI believes it maintains adequate receivable reserves for specifically known events and an overall general provision for unknown circumstances.

However, depending upon the magnitude of any future unknown event, these reserves may not be sufficient.

### **WPI is subject to various federal, state and local environmental and health and safety laws and regulations. If it does not comply with these regulations, it may incur significant costs in the future to become compliant.**

WPI is subject to various federal, state and local laws and regulations governing, among other things, the discharge, storage, handling, usage and disposal of a variety of hazardous and non-hazardous substances and wastes used in, or resulting from, its operations, including potential remediation obligations under those laws and regulations. WPI's operations are also governed by federal, state and local laws and regulations relating to employee safety and health which, among other things, establish exposure limitations for cotton dust, formaldehyde, asbestos and noise, and which regulate chemical, physical and ergonomic hazards in the workplace. Consumer product safety laws, regulations and standards at the federal and state level govern the manufacture and sale of products by WPI. Although WPI does not expect that compliance with any of these laws and regulations will adversely affect its operations, we cannot assure you that regulatory requirements will not become more stringent in the future or that WPI will not incur significant costs to comply with those requirements.

## **Holding Company Investments**

### **We may not be able to identify suitable investments, and our investments may not result in favorable returns or may result in losses.**

Our partnership agreement allows us to take advantage of investment opportunities we believe exist outside of our operating businesses. The equity securities in which we may invest may include common stock, preferred stock and securities convertible into common stock, as well as warrants to purchase these securities. The debt securities in which we may invest may include bonds, debentures, notes or non-rated mortgage-related securities, municipal obligations, bank debt and mezzanine loans. Certain of these securities may include lower rated or non-rated securities which may provide the potential for higher yields and therefore may entail higher risk and may include the securities of bankrupt or distressed companies. In addition, we may engage in various investment techniques, including derivatives, options and futures transactions, foreign currency transactions, short sales and leveraging for either hedging or other purposes. We may concentrate our activities by owning significant or controlling interest in certain investments. We may not be successful in finding suitable opportunities to invest our cash and our strategy of investing in undervalued assets may expose us to numerous risks.

We have entered into a covered affiliate agreement, pursuant to which we (and certain of our subsidiaries) have agreed, in general, to be bound by certain restrictions on our investments in any assets that the General Partners deem suitable for the Private Funds, other than government and agency bonds, cash equivalents and investments in non-public companies. We and our subsidiaries will not be restricted from making investments in the securities of certain companies in which Mr. Icahn or companies he controlled had an interest in as of the date of the initial launch of the Private Funds, and companies in which we had an interest as of the date of the acquisition of the partnership interests on August 8, 2007 of our Investment Management operations. We and our subsidiaries, either alone or acting together with a group, will not be restricted from (i) acquiring all or any portion of the assets of any public company in connection with a negotiated transaction or series of related negotiated transactions or (ii) engaging in a negotiated merger transaction with a public company and, pursuant thereto, conducting and completing a tender offer for securities of the company.

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**Our investments may be subject to significant uncertainties.**

Our investments may not be successful for many reasons including, but not limited to:

fluctuations of interest rates;  
lack of control in minority investments;  
worsening of general economic and market conditions;  
lack of diversification;  
fluctuations of U.S. dollar exchange rates; and  
adverse legal and regulatory developments that may affect particular businesses.

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## **USE OF PROCEEDS**

We will not receive any cash proceeds from the issuance of the exchange notes. In consideration for issuing the exchange notes as contemplated in this prospectus, we will receive in exchange existing notes in like principal amount. The existing notes surrendered in exchange for exchange notes will be retired and canceled and cannot be reissued. Issuance of the exchange notes will not result in a change in our amount of outstanding debt.

## **THE EXCHANGE OFFER**

### **Purpose of the Exchange Offer**

In connection with the sale of the existing notes, we entered into a registration rights agreement in which we agreed to:

file a registration statement with the SEC with respect to the exchange of the existing notes for exchange notes, or the exchange offer registration statement, no later than May 15, 2010;  
use all commercially reasonable efforts to have the exchange offer registration statement declared effective by the SEC on or prior to August 13, 2010; and  
commence the offer to exchange the exchange notes for the existing notes and use all commercially reasonable efforts to issue on or prior to 30 business days, or longer if required by the federal securities laws, after the date on which the exchange offer registration statement was declared effective by the SEC, exchange notes in exchange for all existing notes tendered prior to that date in the exchange offer.

We are making the exchange offer to satisfy certain of our obligations under the registration rights agreement. We filed a copy of the registration rights agreement as an exhibit to the exchange offer registration statement that includes this prospectus.

### **Resale of Exchange Notes**

Under existing interpretations of the Securities Act by the staff of the SEC contained in several no-action letters to third parties, we believe that the exchange notes will generally be freely transferable by holders who have validly participated in the exchange offer without further registration under the Securities Act (assuming the truth of certain representations required to be made by each holder of notes, as set forth below). For additional information on the staff's position, we refer you to the following no-action letters: Exxon Capital Holdings Corporation, available April 13, 1988; Morgan Stanley & Co. Incorporated, available June 5, 1991; and Shearman & Sterling, available July 2, 1993. However, any purchaser of existing notes who is one of our affiliates or who intends to participate in the exchange offer for the purpose of distributing the exchange notes or who is a broker-dealer who purchased existing notes from us to resell pursuant to Rule 144A or any other available exemption under the Securities Act:

will not be able to tender its existing notes in the exchange offer;  
will not be able to rely on the interpretations of the staff of the SEC; and  
must comply with the registration and prospectus delivery requirements of the Securities Act in connection with any sale or transfer of the existing notes unless such sale or transfer is made pursuant to an exemption from these requirements.

If you wish to exchange existing notes for exchange notes in the exchange offer, you will be required to make representations in a letter of transmittal which accompanies this prospectus, including that:

you are not our affiliate (as defined in Rule 405 promulgated under the Securities Act);  
any exchange notes to be received by you will be acquired in the ordinary course of your business;  
you have no arrangement or understanding with any person to participate in the distribution of the exchange  
notes in violation of the provisions of the Securities Act;  
if you are not a broker-dealer, you are not engaged in, and do not intend to engage in, a distribution of exchange  
notes; and

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if you are a broker-dealer, you acquired the existing notes for your own account as a result of market-making or other trading activities (and as such, you are a participating broker-dealer ), you have not entered into any arrangement or understanding with us or any of our affiliates to distribute the exchange notes and you will deliver a prospectus meeting the requirements of the Securities Act in connection with any resale of the exchange notes.

Rule 405 promulgated under the Securities Act provides that an affiliate of, or person affiliated with, a specified person, is a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified.

The SEC has taken the position that participating broker-dealers may be deemed to be underwriters within the meaning of the Securities Act, and accordingly may fulfill their prospectus delivery requirements with respect to the exchange notes, other than a resale of an unsold allotment from the original sale of the notes, with the prospectus contained in the exchange offer registration statement. Under the registration rights agreement, we have agreed to use commercially reasonable efforts to allow participating broker-dealers and other persons, if any, subject to similar prospectus delivery requirements, to use this prospectus in connection with the resale of the exchange notes for a period of 270 days from the issuance of the exchange notes.

## **Terms of the Exchange Offer**

This prospectus and the accompanying letter of transmittal contain the terms and conditions of the exchange offer. Upon the terms and subject to the conditions set forth in this prospectus and in the accompanying letter of transmittal, we will accept for exchange all existing notes that are properly tendered and not withdrawn on or prior to 5:00 p.m.,

New York City time, on the expiration date. After authentication of the exchange notes by the trustee or an authentication agent, we will issue and deliver \$1,000 principal amount of exchange notes in exchange for each \$1,000 principal amount of outstanding existing notes accepted in the exchange offer. Holders may tender some or all of their existing notes in the exchange offer in denominations of \$2,000 and integral multiples of \$1,000 thereof.

The form and terms of the exchange notes are identical in all material respects to the form and terms of the existing notes, except that:

- (1) the offering of the exchange notes has been registered under the Securities Act;
- (2) the exchange notes generally will not be subject to transfer restrictions or have registration rights; and
- (3) certain provisions relating to special interest on the existing notes provided for under certain circumstances will be eliminated.

The exchange notes will evidence the same debt as the existing notes. The exchange notes will be issued under and entitled to the benefits of the Indenture.

In connection with the issuance of the existing notes, we made arrangements for the existing notes to be issued and transferable in book-entry form through the facilities of DTC, acting as a depository. The exchange notes will also be issuable and transferable in book-entry form through the DTC.

The exchange offer is not conditioned upon any minimum aggregate principal amount of existing notes being tendered. However, our obligation to accept existing notes for exchange pursuant to the exchange offer is subject to certain customary conditions that we describe under Conditions below.

Holders who tender existing notes in the exchange offer will not be required to pay brokerage commissions or fees or, subject to the instructions in the letter of transmittal, transfer taxes with respect to the exchange of existing notes pursuant to the exchange offer. We will pay all charges and expenses, other than certain applicable taxes, in

connection with the exchange offer. See Solicitation of Tenders; Fees and Expenses for more detailed information regarding the expenses of the exchange offer.

By executing or otherwise becoming bound by the letter of transmittal, you will be making the representations described under Procedures for Tendering below.

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## **Expiration Date; Extensions; Amendments**

The term **expiration date** will mean 5:00 p.m., New York City time, on \_\_\_\_\_, 2010, unless we, in our sole discretion, extend the exchange offer, in which case the term **expiration date** will mean the latest date and time to which we extend the exchange offer.

To extend the exchange offer, we will:

notify the exchange agent of any extension orally or in writing; and notify the registered holders of the existing notes by means of a press release or other public announcement, each before 9:00 a.m., New York City time, on the next business day after the previously scheduled expiration date.

We reserve the right, in our reasonable discretion:

to delay accepting any existing notes;  
to extend the exchange offer; or

if any conditions listed below under **Conditions** are not satisfied, to terminate the exchange offer by giving oral or written notice of the delay, extension or termination to the exchange agent.

We will follow any delay in acceptance, extension or termination as promptly as practicable by oral or written notice to the registered holders. If we amend the exchange offer in a manner we determine constitutes a material change, we will promptly disclose the amendment in a prospectus supplement that we will distribute to the registered holders.

## **Interest on the Exchange Notes**

Interest on the exchange notes will accrue from the last interest payment date on which interest was paid on the existing notes surrendered in exchange for exchange notes or, if no interest has been paid on the existing notes, from the issue date of the existing notes, January 15, 2010. Interest on the exchange notes will be payable semi-annually on January 15 and July 15 of each year, commencing on July 15, 2010.

## **Procedures for Tendering**

Only you may tender your outstanding notes in the exchange offer. Except as stated under **Book-Entry Transfer**, to tender your outstanding notes in the exchange offer, you must:

complete, sign and date the enclosed letter of transmittal, or a copy of it;  
have the signature on the letter of transmittal guaranteed if required by the letter of transmittal or transmit an agent's message in connection with a book-entry transfer; and  
mail, fax or otherwise deliver the letter of transmittal or copy to the exchange agent before the expiration date.

In addition, either:

the exchange agent must receive a timely confirmation of a book-entry transfer of your outstanding notes, if that procedure is available, into the account of the exchange agent at DTC, the book-entry transfer facility, under the procedure for book-entry transfer described below before the expiration date;

the exchange agent must receive certificates for your outstanding notes, the letter of transmittal and other required documents before the expiration date; or

you must comply with the guaranteed delivery procedures described below.

For your outstanding notes to be tendered effectively, the exchange agent must receive a valid agent's message through DTC's Automatic Tender Offer Program, or ATOP, or a letter of transmittal and other required documents before the expiration date. Delivery of the outstanding notes shall be made by book-entry transfer in accordance with the procedures described below. Confirmation of the book-entry transfer must be received by the exchange agent before the expiration date.

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The term *agent's message* means a message, transmitted by a book-entry transfer facility to, and received by, the exchange agent forming a part of a confirmation of a book-entry, which states that the book-entry transfer facility has received an express acknowledgment from the participant in the book-entry transfer facility tendering the outstanding securities that the participant has received and agrees:

to participate in ATOP;

to be bound by the terms of the letter of transmittal; and

that we may enforce the agreement against the participant.

If you do not withdraw your tender before the expiration date, it will constitute an agreement between you and us in compliance with the terms and conditions in this prospectus and in the letter of transmittal.

THE METHOD OF DELIVERY OF YOUR OUTSTANDING NOTES, A LETTER OF TRANSMITTAL AND ALL OTHER REQUIRED DOCUMENTS TO THE EXCHANGE AGENT IS AT YOUR ELECTION AND RISK. INSTEAD OF DELIVERY BY MAIL, WE RECOMMEND THAT YOU USE AN OVERNIGHT OR HAND DELIVERY SERVICE. IN ALL CASES, YOU SHOULD ALLOW SUFFICIENT TIME TO ASSURE DELIVERY TO THE EXCHANGE AGENT BEFORE THE EXPIRATION DATE. DO NOT SEND A LETTER OF TRANSMITTAL OR OUTSTANDING NOTES DIRECTLY TO US. YOU MAY REQUEST YOUR RESPECTIVE BROKERS, DEALERS, COMMERCIAL BANKS, TRUST COMPANIES OR NOMINEES TO MAKE THE EXCHANGE ON YOUR BEHALF.

Each broker-dealer that receives exchange notes for its own account in exchange for outstanding notes, where the outstanding notes were acquired by such broker-dealer as a result of market-making activities or other trading activities, must acknowledge that it will deliver a prospectus in connection with any resale of such exchange notes. See Plan of Distribution.

## **Procedure if the Outstanding Notes Are Not Registered in Your Name**

If you are a beneficial owner whose outstanding notes are registered in the name of a broker, dealer, commercial bank, trust company or other nominee and you want to tender your outstanding notes, you should contact the registered holder promptly and instruct the registered holder to tender on your behalf. If you want to tender on your own behalf, you must, before completing and executing a letter of transmittal and delivering your outstanding notes, either make appropriate arrangements to register ownership of the outstanding notes in your name or obtain a properly completed bond power or other proper endorsement from the registered holder. We urge you to act immediately since the transfer of registered ownership may take considerable time.

## **Book-Entry Transfer**

The Exchange Agent will make requests to establish accounts at the book-entry transfer facility for purposes of the exchange offer within two business days after the date of this prospectus. If you are a financial institution that is a participant in the book-entry transfer facility's systems, you may make book-entry delivery of your outstanding notes being tendered by causing the book-entry transfer facility to transfer your outstanding notes into the exchange agent's account at the book-entry transfer facility in compliance with the appropriate procedures for transfer. However, although you may deliver your outstanding notes through book-entry transfer at the book-entry transfer facility, you must transmit, and the exchange agent must receive, a letter of transmittal or copy of the letter of transmittal, with any required signature guarantees and any other required documents, except as discussed in the following paragraph, on or

before the expiration date or the guaranteed delivery procedures outlined below must be complied with.

DTC's ATOP is the only method of processing the exchange offer through DTC. To accept the exchange offer through ATOP, participants in DTC must send electronic instructions to DTC through DTC's communication system instead of sending a signed, hard copy letter of transmittal. DTC is obligated to communicate those electronic instructions to the exchange agent. To tender your outstanding notes through ATOP, the electronic instructions sent to DTC and transmitted by DTC to the exchange agent must contain the participant's acknowledgment of its receipt of and agreement to be bound by the letter of transmittal for your outstanding notes.

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## **Beneficial Owner Instructions to Holders of Outstanding Notes**

Only a holder whose name appears on a DTC security position listing as a holder of outstanding notes, or the legal representative or attorney-in-fact of this holder, may execute and deliver the letter of transmittal.

Holders of outstanding notes who are not registered holders of, and who seek to tender, outstanding notes should (1) obtain a properly completed letter of transmittal for such outstanding notes from the registered holder with signatures guaranteed by an Eligible Institution and obtain and include with such letter of transmittal outstanding notes properly endorsed for transfer by the registered holder thereof or accompanied by a written instrument or instruments of transfer or exchange from the registered holder with signatures on the endorsement or written instrument or instruments of transfer or exchange guaranteed by an Eligible Institution or (2) effect a record transfer of such outstanding notes and comply with the requirements applicable to registered holders for tendering outstanding notes before 5:00 p.m., New York City time, on the expiration date. Any outstanding notes properly tendered before 5:00 p.m., New York City time, on the expiration date accompanied by a properly completed letter of transmittal will be transferred of record by the registrar either prior to or as of the expiration date at our discretion. We have no obligation to transfer any outstanding notes from the name of the registered holder of the note if we do not accept these outstanding notes for exchange.

Tendering holders should indicate in the applicable box in the letter of transmittal the name and address to which payment of accrued and unpaid interest on the outstanding notes, certificates evidencing exchange notes and/or certificates evidencing outstanding notes for amounts not accepted for tender, each as appropriate, are to be issued or sent, if different from the name and address of the person signing the letter of transmittal. In the case of issuance in a different name, the employer identification or social security number of the person named must also be indicated and a substitute Form W-9 for this recipient must be completed. If these instructions are not given, the payments, including accrued and unpaid interest in cash on the outstanding notes, exchange notes or outstanding notes not accepted for tender, as the case may be, will be made or returned, as the case may be, to the registered holder of the outstanding notes tendered.

Issuance of exchange notes in exchange for outstanding notes will be made only against deposit of the tendered outstanding notes.

We will decide all questions as to the validity, form, eligibility, acceptance and withdrawal of tendered outstanding notes, and our determination will be final and binding on you. We reserve the absolute right to reject any and all outstanding notes not properly tendered or reject any outstanding notes which would be unlawful in the opinion of our counsel. We also reserve the right to waive any defects, irregularities or conditions of tender as to particular outstanding notes. Our interpretation of the terms and conditions of the exchange offer, including the instructions in a letter of transmittal, will be final and binding on all parties. You must cure any defects or irregularities in connection with tenders of outstanding notes as we determine. Although we intend to notify you of defects or irregularities with respect to tenders of your outstanding notes, we, the exchange agent or any other person will not incur any liability for failure to give any notification. Your tender of outstanding notes will not be deemed to have been made until any defects or irregularities have been cured or waived. Any of your outstanding notes received by the exchange agent that are not properly tendered and as to which the defects or irregularities have not been cured or waived will be returned by the exchange agent to you, unless otherwise provided in the letter of transmittal, as soon as practicable following the expiration date.

## **Guaranteed Delivery Procedures**

If you wish to tender your existing notes but your existing notes are not immediately available, or time will not permit your existing notes or other required documents to reach the exchange agent before the expiration date, or the procedure for book-entry transfer cannot be completed on a timely basis, you may affect a tender if:

the tender is made through an Eligible Institution,  
prior to the expiration date, the exchange agent receives from such Eligible Institution a properly completed and duly executed notice of guaranteed delivery, by facsimile transmittal, mail or hand delivery,

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stating the name and address of the holder, the certificate number or numbers of such holder's existing notes and the principal amount of such existing notes tendered;

stating that the tender is being made thereby;

guaranteeing that, within three New York Stock Exchange trading days after the expiration date, the letter of transmittal, or a facsimile thereof, together with the certificate(s) representing the existing notes to be tendered in proper form for transfer, or confirmation of a book-entry transfer into the exchange agent's account at DTC of existing notes delivered electronically, and any other documents required by the letter of transmittal, will be deposited by the Eligible Institution with the exchange agent; and

such properly completed and executed letter of transmittal, or a facsimile thereof, together with the certificate(s) representing all tendered existing notes in proper form for transfer, or confirmation of a book-entry transfer into the exchange agent's account at DTC of existing notes delivered electronically and all other documents required by the letter of transmittal are received by the exchange agent within three New York Stock Exchange trading days after the expiration date.

Upon request, the exchange agent will send to you a notice of guaranteed delivery if you wish to tender your existing notes according to the guaranteed delivery procedures described above.

## **Withdrawal of Tenders**

Except as otherwise provided in this prospectus, you may withdraw tenders of existing notes at any time prior to the expiration date.

For a withdrawal to be effective, the exchange agent must receive a written or facsimile transmission notice of withdrawal at its address set forth in this prospectus prior to the expiration date. Any such notice of withdrawal must:

specify the name of the person who deposited the existing notes to be withdrawn;

identify the existing notes to be withdrawn, including the certificate number or number and principal amount of such existing notes or, in the case of existing notes transferred by book-entry transfer, the name and number of the account at DTC to be credited; and

be signed in the same manner as the original signature on the letter of transmittal by which such existing notes were tendered, including any required signature guarantee.

We will determine in our sole discretion all questions as to the validity, form and eligibility, including time of receipt, of such withdrawal notices, and our determination shall be final and binding on all parties. We will not deem any properly withdrawn existing notes to have been validly tendered for purposes of the exchange offer, and we will not issue exchange notes with respect to those existing notes unless you validly retender the withdrawn existing notes. You may retender properly withdrawn existing notes following one of the procedures described above under "Procedures for Tendering" at any time prior to the expiration date.

## **Conditions**

Notwithstanding any other term of the exchange offer, we will not be required to accept for exchange, or exchange the exchange notes for, any existing notes, and may terminate the exchange offer as provided in this prospectus before the acceptance of the existing notes, if:

the exchange offer violates applicable law, rules or regulations or an applicable interpretation of the staff of the SEC; an action or proceeding has been instituted or threatened in any court or by any governmental agency which might materially impair our ability to proceed with the exchange offer;

there has been proposed, adopted or enacted any law, rule or regulation that, in our reasonable judgment would impair materially our ability to consummate the exchange offer; or all governmental approvals which we deem necessary for the completion of the exchange offer have not been obtained.

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If we determine in our reasonable discretion that any of these conditions are not satisfied, we may:

refuse to accept any existing notes and return all tendered existing notes to you;  
extend the exchange offer and retain all existing notes tendered before the exchange offer expires, subject, however, to your rights to withdraw the existing notes; or  
waive the unsatisfied conditions with respect to the exchange offer and accept all properly tendered existing notes that have not been withdrawn.

If the waiver constitutes a material change to the exchange offer, we will promptly disclose the waiver by means of a prospectus supplement that we will distribute to the registered holders of the existing notes.

## **Exchange Agent**

We have appointed Wilmington Trust Company, the trustee under the Indenture, as exchange agent for the exchange offer. You should send all executed letters of transmittal to the exchange agent at one of the addresses set forth below. In such capacity, the exchange agent has no fiduciary duties and will be acting solely on the basis of directions of our company. You should direct questions, requests for assistance and requests for additional copies of this prospectus or of the letter of transmittal and requests for a notice of guaranteed delivery to the exchange agent addressed as follows:

***By Certified or Registered Mail:***

Wilmington Trust Company  
DC-1626 Processing Unit  
P.O. Box 8861  
Wilmington, DE 19899-8861

***By Overnight Courier or Hand Delivery:***

Wilmington Trust Company  
Corporate Capital Markets  
1100 North Market Street  
Wilmington, DE 19890-1626

***By Facsimile:***

(302) 636-4145

***Confirm By Telephone:***

(302) 636-6470

Delivery to an address or facsimile number other than those listed above will not constitute a valid delivery.

The trustee does not assume any responsibility for and makes no representation as to the validity or adequacy of this prospectus or the notes.

## **Solicitation of Tenders; Fees And Expenses**

We will pay all expenses of soliciting tenders pursuant to the exchange offer. We are making the principal solicitation by mail. Our officers and regular employees may make additional solicitations in person or by telephone or facsimile.

We have not retained any dealer-manager in connection with the exchange offer and will not make any payments to brokers, dealers or other persons soliciting acceptances of the exchange offer. We will, however, pay the exchange agent reasonable and customary fees for its services and will reimburse the exchange agent for its reasonable out-of-pocket costs and expenses in connection therewith.

We also may pay brokerage houses and other custodians, nominees and fiduciaries the reasonable out-of-pocket expenses incurred by them in forwarding copies of this prospectus, letters of transmittal and related documents to the beneficial owners of the existing notes and in handling or forwarding tenders for exchange.

We will pay the expenses to be incurred in connection with the exchange offer, including fees and expenses of the exchange agent and trustee and accounting and legal fees and printing costs.

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We will pay all transfer taxes, if any, applicable to the exchange of existing notes for exchange notes pursuant to the exchange offer. If, however, certificates representing exchange notes or existing notes for principal amounts not tendered or accepted for exchange are to be delivered to, or are to be registered or issued in the name of, any person other than the registered holder of the existing notes tendered, or if tendered existing notes are registered in the name of any person other than the person signing the letter of transmittal, or if a transfer tax is imposed for any reason other than the exchange of existing notes pursuant to the exchange offer, then the amount of any such transfer taxes, whether imposed on the registered holder or any other persons, will be payable by the tendering holder. If satisfactory evidence of payment of such taxes or exemption therefrom is not submitted with the letter of transmittal, the amount of such transfer taxes will be billed by us directly to such tendering holder.

## Consequences of Failure to Exchange

Participation in the exchange offer is voluntary. We urge you to consult your financial and tax advisors in making your decisions on what action to take. Private notes that are not exchanged for exchange notes pursuant to the exchange offer will remain restricted securities. Accordingly, those existing notes may be resold only:

to a person whom the seller reasonably believes is a qualified institutional buyer in a transaction meeting the requirements of Rule 144A promulgated under the Securities Act;

in a transaction meeting the requirements of Rule 144 promulgated under the Securities Act; outside the United States to a foreign person in a transaction meeting the requirements of Rule 903 or 904 of Regulation S promulgated under the Securities Act;

in accordance with another exemption from the registration requirements of the Securities Act and based upon an opinion of counsel if we so request;

to us; or

pursuant to an effective registration statement.

In each case, the existing notes may be resold only in accordance with any applicable securities laws of any state of the United States or any other applicable jurisdiction.

## RATIO OF EARNINGS TO FIXED CHARGES

The following table sets forth our ratio of earnings to fixed charges for the periods indicated:

Three Months Ended March 31, 2010	Year Ended				
	December 31, 2009	December 31, 2008	December 31, 2007	December 31, 2006	December 31, 2005
	4.4		3.8	10.6	4.7

Earnings include income (loss) from continuing operations before income taxes, income (loss) from equity investees and non-controlling interests, plus fixed charges. Fixed charges include (a) interest on indebtedness and preferred units (whether expensed or capitalized), (b) amortization premiums, discounts and capitalized expenses related to indebtedness and (c) the portion of rent expense we believe to be representative of interest. For the three months ended March 31, 2010, fixed charges exceeded earnings by \$43 million. For fiscal 2008, fixed charges exceeded earnings by approximately \$3.1 billion.



TABLE OF CONTENTS**SELECTED CONSOLIDATED FINANCIAL DATA**

The following table contains our selected consolidated statements of operations and other financial data for the three months ended March 31, 2010 and 2009 and for the fiscal years ended December 31, 2009, 2008, 2007, 2006 and 2005 and our selected consolidated balance sheet data at March 31, 2010 and December 31, 2009, 2008, 2007, 2006 and 2005, which have been derived from our consolidated financial statements not included in this prospectus. You should read our selected consolidated financial data in conjunction with our financial statements and the related notes and Management's Discussion and Analysis of Financial Condition and Results of Operations ( MD&A ) contained in our Quarterly Report on Form 10-Q for the three months ended March 31, 2010, our amended and restated financial statements and related notes and adjusted MD&A for fiscal 2009 contained in our Current Report on Form 8-K filed with the SEC on June 9, 2010, and our financial statement and related notes and MD&A contained in our Annual Reports on Form 10-K for the fiscal years ended December 31, 2009 (as subsequently amended and restated as indicated above), 2008, 2007, 2006 and 2005. The historical selected financial data as of December 31, 2009 and 2008 and for the fiscal years ended December 31, 2009, 2008 and 2007 have been derived from our audited consolidated financial statements contained in our Current Report on Form 8-K filed with the SEC on June 9, 2010. The historical selected financial data as of December 31, 2007, 2006 and 2005 and for the fiscal years ended December 31, 2006 and 2005 have been derived from our audited consolidated financial statements at those dates and for those periods, as adjusted retrospectively for our acquisitions of the controlling interests in ARI and Viskase, which are each considered entities under common control.

	Three Months Ended March 31,		Year Ended December 31,				
	2010	2009	2009	2008	2007	2006	2005
	(In millions, except per unit amounts)						
Statement of Operations Data:							
Total revenues	\$1,915	\$1,922	\$8,605	\$6,138	\$3,457	\$3,693	\$2,138
(Loss) income from continuing operations	\$(50 )	\$132	\$1,224	\$(3,142)	\$510	\$1,046	\$288
Income from discontinued operations			1	485	84	850	23
Net (loss) income	(50 )	132	1,225	(2,657)	594	1,896	311
Less: Net (income) loss attributable to non-controlling interests	(15 )	(128 )	(972 )	2,631	(272 )	(768 )	(227 )
Net income (loss) attributable to Icahn Enterprises	\$(65 )	\$4	\$253	\$(26 )	\$322	\$1,128	\$84
Net (loss) income attributable to Icahn Enterprises allowable to:							
Limited partners	\$(64 )	\$1	\$229	\$(57 )	\$103	\$507	\$(21 )
General partner	(1 )	3	24	31	219	621	105
Net income (loss) attributable to Icahn Enterprises	\$(65 )	\$4	\$253	\$(26 )	\$322	\$1,128	\$84
Net (loss) income attributable to Icahn Enterprises from:							
Continuing operations	\$(65 )	\$4	\$252	\$(511 )	\$233	\$331	\$56
Discontinued operations			1	485	89	797	28

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Net (loss) income attributable to Icahn Enterprises	\$(65 )	\$4	\$253	\$(26 )	\$322	\$1,128	\$84
Basic (loss) income per LP unit:							
(Loss) income from continuing operations	\$(0.80 )	\$0.01	\$3.04	\$(7.84 )	\$0.24	\$0.03	\$(0.87 )
Income from discontinued operations			0.01	7.04	1.34	8.19	0.50
Basic (loss) income per LP unit	\$(0.80 )	\$0.01	\$3.05	\$(0.80 )	\$1.58	\$8.22	\$(0.37 )
Basic weighted average LP units outstanding	80	75	75	71	65	62	54
Diluted (loss) income per LP unit:							
(Loss) income from continuing operations	\$(0.80 )	\$0.01	\$2.96	\$(7.84 )	\$0.24	\$0.03	\$(0.87 )
Income from discontinued operations			0.01	7.04	1.34	8.19	0.50
Diluted (loss) income per LP unit	\$(0.80 )	\$0.01	\$2.97	\$(0.80 )	\$1.58	\$8.22	\$(0.37 )
Dilutive weighted average LP units outstanding	80	75	79	71	65	62	54

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	Three Months		Year Ended December 31,				
	Ended March 31, 2010	2009	2009	2008	2007	2006	2005
	(In millions, except per unit amounts)						
Other Financial Data:							
EBITDA <sup>(1)</sup>	\$ 94	\$ 135	\$ 798	\$ 866	\$ 584	\$ 1,432	\$ 394
Adjusted EBITDA <sup>(1)</sup>	147	195	922	478	472	475	243
Cash distributions declared per LP unit	0.25	0.25	1.00	1.00	0.55	0.40	0.20

	March	December 31,				
	31, 2010	2009	2008	2007	2006	2005
	(In millions)					
Balance Sheet Data:						
Cash and cash equivalents	\$2,495	\$2,256	\$2,917	\$2,424	\$1,929	\$396
Investments	5,818	5,405	4,531	6,445	3,462	3,405
Property, plant and equipment, net	3,016	2,958	3,179	801	777	610
Total assets	18,796	18,886	19,730	13,318	9,841	7,526
Debt	5,921	5,186	4,977	2,441	1,063	958
Preferred limited partner units		136	130	124	118	112
Equity attributable to Icahn Enterprises	2,888	2,834	2,564	2,486	2,985	1,845

EBITDA represents earnings before interest expense, income tax (benefit) expense and depreciation, depletion and amortization. We define Adjusted EBITDA as EBITDA excluding the effects of impairment, restructuring costs, expenses associated with U.S. based funded pension plans, purchase accounting inventory adjustments, discontinued operations and gains/losses on extinguishment of debt. We present EBITDA and Adjusted EBITDA on a consolidated basis, net of the effect of non-controlling interests. We conduct substantially all of our operations through subsidiaries. The operating results of our subsidiaries may not be sufficient to make distributions to us. In addition, our subsidiaries are not obligated to make funds available to us for payment of our indebtedness, payment of distributions on our depositary units or otherwise, and distributions and intercompany transfers from our subsidiaries to us may be restricted by applicable law or covenants contained in debt agreements and other agreements to which these subsidiaries currently may be subject or into which they may enter into in the future. The terms of any borrowings of our subsidiaries or other entities in which we own equity may restrict dividends, distributions or loans to us.

We believe that providing EBITDA and Adjusted EBITDA to investors have economic substance as these measures provide important supplemental information of our performance to investors and permits investors and management to evaluate the operating performance of our business without regard to potential distortions introduced by interest, taxes and depreciation and amortization and the effects of impairment, restructuring costs, expenses associated with U.S. based funded pension plans, purchase accounting inventory adjustments, discontinued operations and gains/losses on extinguishment of debt. Additionally, we believe this information is frequently used by securities analysts, investors and other interested parties in the evaluation of companies that have issued debt. Management uses, and believes that investors benefit from referring to these non-GAAP financial measures in assessing our operating results, as well as in planning, forecasting and analyzing future periods. Adjusting earnings for these recurring charges allows investors to evaluate our performance from period to period, as well as our peers, without the effects of certain items that may vary depending on accounting methods and the book value of assets. Additionally, EBITDA and Adjusted EBITDA present

meaningful measures of corporate performance exclusive of our capital structure and the method by which assets were acquired and financed.

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EBITDA and Adjusted EBITDA have limitations as analytical tools, and you should not consider them in isolation, or as substitutes for analysis of our results as reported under generally accepted accounting principles in the United States, or U.S. GAAP. For example, EBITDA and Adjusted EBITDA:

do not reflect our cash expenditures, or future requirements for capital expenditures, or contractual commitments;  
do not reflect changes in, or cash requirements for, our working capital needs; and  
do not reflect the significant interest expense, or the cash requirements necessary to service interest or principal payments on our debt.

Although depreciation, depletion and amortization are non-cash charges, the assets being depreciated, depleted or amortized often will have to be replaced in the future, and EBITDA and Adjusted EBITDA do not reflect any cash requirements for such replacements. Other companies in the industries in which we operate may calculate EBITDA and Adjusted EBITDA differently than we do, limiting their usefulness as comparative measures. In addition, EBITDA and Adjusted EBITDA do not reflect the impact of earnings or charges resulting from matters we consider not to be indicative of our ongoing operations.

EBITDA and Adjusted EBITDA are not measurements of our financial performance under U.S. GAAP and should not be considered as alternatives to net income or any other performance measures derived in accordance with U.S. GAAP or as alternatives to cash flow from operating activities as a measure of our liquidity. Given these limitations, we rely primarily on our U.S. GAAP results and use EBITDA and Adjusted EBITDA only as a supplemental measure of our financial performance. The following table reconciles, on a basis attributable to Icahn Enterprises, net income attributable to Icahn Enterprises to EBITDA and EBITDA to Adjusted EBITDA for the periods indicated. In addition, Adjusted EBITDA for prior periods has been revised to conform to our current calculation. EBITDA results for prior periods have been adjusted in order to properly be reflected on a basis attributable to Icahn Enterprises:

	Three Months Ended March 31,		Year Ended December 31,				
	2010	2009	2009	2008	2007	2006	2005
	(In millions)						
Net (loss) income attributable to Icahn Enterprises	\$(65 )	\$ 4	\$ 253	\$(26 )	\$ 322	\$ 1,128	\$ 84
Interest expense	82	66	268	295	177	137	121
Income tax (benefit) expense	(3 )	(8 )	(40 )	327	36	3	39
Depreciation, depletion and amortization	80	73	317	270	49	164	150
EBITDA attributable to Icahn Enterprises	\$ 94	\$ 135	\$ 798	\$ 866	\$ 584	\$ 1,432	\$ 394
Impairment of assets <sup>(a)</sup>	\$ 3	\$ 13	\$ 34	\$ 337	\$ 20	\$ 7	\$
Restructuring costs <sup>(b)</sup>	3	32	37	117	13	8	2
Purchase accounting inventory adjustment <sup>(c)</sup>				54			
Expenses associated with U.S. based funded pension plans <sup>(d)</sup>	10	13	50	3			
Discontinued operations <sup>(e)</sup>			(1 )	(753)	(145)	(972 )	(153 )
Net loss (gain) on extinguishment of debt <sup>(f)</sup>	40		4	(146)			
Other	(3 )	2					
Adjusted EBITDA attributable to Icahn Enterprises	\$ 147	\$ 195	\$ 922	\$ 478	\$ 472	\$ 475	\$ 243



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- (a) Represents asset impairment charges, primarily relating to our Automotive segment in fiscal 2008, related to goodwill and other indefinite-lived intangible assets.
- (b) Restructuring costs represent expenses incurred by our Automotive and Home Fashion segments, relating to efforts to integrate and rationalize businesses and to relocate manufacturing operations to best-cost countries. In connection with the application of purchase accounting upon the acquisition of Federal-Mogul, we adjusted
- (c) Federal-Mogul's inventory balance as of March 1, 2008 to fair value. This resulted in an additional non-cash charge to cost of goods sold during fiscal 2008 which is reflected net of non-controlling interests.
- (d) Represents expense associated with Federal-Mogul's U.S. based funded pension plans, net of non-controlling interests. Discontinued operations primarily include the operating results of and gains on sales of our former oil and gas
- (e) operations which were sold in November, 2006 and our former gaming segment, American Casino & Entertainment Properties, LLC, which was sold in February 2008. During the fourth quarter of fiscal 2008, we purchased outstanding debt of entities in our consolidated financial statements in the principal amount of \$352 million and recognized an aggregate gain of \$146 million. During the
- (f) three months ended March 31, 2010, we recognized a \$40 million loss on the extinguishment of our 2012 Notes and 2013 Notes.

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## DESCRIPTION OF NOTES

### General

You can find the definitions of certain terms used in this description under the subheading **Certain Definitions**. In this description, the term **Icahn Enterprises** refers only to Icahn Enterprises L.P., the term **Icahn Enterprises Finance** refers only to Icahn Enterprises Finance Corp., the term **Icahn Enterprises Holdings** refers only to Icahn Enterprises Holdings L.P., and the term **Icahn Enterprises GP** refers only to Icahn Enterprises G.P. Inc. and not to any of their respective Subsidiaries. For the avoidance of doubt, Icahn Enterprises Holdings will be deemed to be a Subsidiary of Icahn Enterprises for so long as Icahn Enterprises Holdings remains a Guarantor. The term **Issuers** refers to Icahn Enterprises and Icahn Enterprises Finance, collectively.

The Issuers will issue the 7¾% Senior Notes due 2016 (the **2016 Notes** ) and the 8% Senior Notes due 2018 (the **2018 Notes** and, together with the 2016 Notes, the **Notes** ) under an indenture (the **Indenture** ) among the Issuers, Icahn Enterprises Holdings, as guarantor, and Wilmington Trust Company, as trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended.

The following description is a summary of the material provisions of the Indenture. It does not restate the Indenture in its entirety. We urge you to read the Indenture because it, and not this description, defines your rights as holders of the Notes. Copies of the Indenture are available as set forth below under **Additional Information**. Certain defined terms used in this description but not defined below under **Certain Definitions** have the meanings assigned to them in the Indenture.

For the avoidance of doubt, the inclusion of exceptions to the provisions (including covenants and definitions) set forth herein will not be interpreted to imply that the matters permitted by the exception would be limited by the terms of such provisions but for such exceptions.

The registered holder of a note will be treated as the owner of it for all purposes. Only registered holders will have rights under the Indenture.

## Brief Description of the Notes and the Note Guarantee

### The Notes

The Notes:

- will be the general unsecured obligation of each of the Issuers;
- will be pari passu in right of payment to all existing and future senior Indebtedness of each of the Issuers;
- will be senior in right of payment to any future subordinated Indebtedness of each of the Issuers; and
- will be effectively subordinated to the secured indebtedness of the Issuers to the extent of the value of the collateral securing such Indebtedness. As of December 31, 2009, the Issuers did not have any secured Indebtedness.

## The Note Guarantee

The Guarantee of the Notes:

will be the general unsecured obligation of Icahn Enterprises Holdings;  
will be pari passu in right of payment to all existing and future senior Indebtedness of Icahn Enterprises Holdings;  
will be senior in right of payment to any future subordinated Indebtedness of Icahn Enterprises Holdings; and  
will be effectively subordinated to the secured Indebtedness of Icahn Enterprises Holdings to the extent of the value of the collateral securing such Indebtedness. As of December 31, 2009, Icahn Enterprises Holdings had \$74 million of secured Indebtedness.

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The operations of Icahn Enterprises are conducted through its Subsidiaries (including Icahn Enterprises Holdings) and, therefore, Icahn Enterprises depends on the cash flow of Icahn Enterprises Subsidiaries and Icahn Enterprises Holdings to meet its obligations, including its obligations under the Notes. The Notes will not be guaranteed by any of Icahn Enterprises Subsidiaries other than Icahn Enterprises Holdings. The Notes and the guarantee will be effectively subordinated in right of payment to all Indebtedness and other liabilities and commitments (including trade payables and lease obligations) of Icahn Enterprises Subsidiaries (other than Icahn Enterprises Holdings). Any right of the Issuers or Icahn Enterprises Holdings to receive assets of any of their Subsidiaries (other than Icahn Enterprises Holdings) upon that Subsidiary's liquidation or reorganization (and the consequent right of the holders of the Notes to participate in those assets) will be effectively subordinated to the claims of that Subsidiary's creditors, except to the extent that any of the Issuers or Icahn Enterprises Holdings is itself recognized as a creditor of that Subsidiary, in which case the claims of the Issuers and Icahn Enterprises Holdings would still be subordinate in right of payment to any security in the assets of the Subsidiary and any Indebtedness of the Subsidiary senior to that held by the Issuers or Icahn Enterprises Holdings. The covenants of the Notes do not restrict the ability of Icahn Enterprises Subsidiaries, other than Icahn Enterprises Holdings, from incurring additional Indebtedness or creating liens, nor do the covenants of the Notes restrict the ability of Icahn Enterprises Holdings, Icahn Enterprises or its Subsidiaries from making investments or entering into sale and leaseback transactions. See Risk Factors Risks Related to the Exchange Notes The exchange notes will be effectively subordinated to any secured indebtedness, and all the indebtedness and liabilities of our subsidiaries other than Icahn Enterprises Holdings.

## **Principal, Maturity and Interest**

The Issuers are issuing \$850 million in aggregate principal amount of 2016 Notes and \$1,150 million in aggregate principal amount of 2018 Notes in this offering. The 2016 Notes and the 2018 Notes will each be a separate series of Notes under the Indenture and will not vote together as a single class under the Indenture for any reason. The Issuers may issue additional Notes ( Additional Notes ) of either series from time to time after this offering. Any offering of Additional Notes is subject to the covenant described under the heading Certain Covenants Incurrence of Indebtedness and Issuance of Preferred Stock. In the case of each series, the Notes and any Additional Notes subsequently issued under the Indenture will be treated as a single class for all purposes under the Indenture, including, without limitation, waivers, amendments, redemption and offers to purchase. The Issuers will issue Notes in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof. The 2016 Notes will mature on January 15, 2016 and the 2018 Notes will mature on January 15, 2018. Interest on overdue principal and interest will accrue at a rate that is 1% higher than the then applicable interest rate on the applicable series of Notes. The Issuers will make each interest payment to the holders of record on the immediately preceding January 1 and July 1.

Interest on the Notes will accrue from the date of original issuance or, if interest has already been paid, from the date it was most recently paid. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

## **Methods of Receiving Payments on the Notes**

If a noteholder holds at least \$2.0 million aggregate principal amount of Notes, such holder may give wire transfer instructions to Icahn Enterprises and the Issuers will instruct the trustee to pay all principal, interest and premium, if any, on that holder's Notes in accordance with those instructions. All other payments on the Notes will be made at the office or agency of the paying agent and registrar unless the Issuers elect to make interest payments by check mailed to the noteholders at their address set forth in the register of holders. In addition, all payments will be subject to the applicable rules and procedures of the settlement systems (including, if applicable, those of the Euroclear System ( Euroclear ) and Clearstream Banking, S.A. ( Clearstream )), which may change from time to time.

## **Paying Agent and Registrar for the Notes**

The trustee will initially act as paying agent and registrar. The Issuers may change the paying agent or registrar without prior notice to the holders of the Notes, and the Issuers or any of their Subsidiaries (including Icahn Enterprises Holdings) may act as paying agent or registrar.

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## Transfer and Exchange

A holder may transfer or exchange Notes in accordance with the provisions of the Indenture. The registrar and the trustee may require a holder, among other things, to furnish appropriate endorsements and transfer documents in connection with a transfer of Notes. Holders will be required to pay all taxes due on transfer. The Issuers will not be required to transfer or exchange any note selected for redemption. Also, the Issuers will not be required to transfer or exchange any note for a period of 15 days before a selection of Notes to be redeemed.

## Note Guarantee

The Notes will be guaranteed by Icahn Enterprises Holdings. Icahn Enterprises may, at its option, add subsidiary Guarantors to the Notes. Each Guarantor's obligations under its Note Guarantee will be limited as necessary to prevent the Note Guarantee from constituting a fraudulent conveyance under applicable law. See Risk Factors. A court could void the exchange notes or the guarantee under fraudulent conveyance laws.

Any Guarantor's Note Guarantee will be released:

- (1) upon the substitution of a successor to Icahn Enterprises Holdings or other release as described under the heading Certain Covenants Merger, Consolidation or Sale of Assets ; and
- (2) upon legal defeasance or satisfaction and discharge of the Indenture as provided below under the captions Covenant Defeasance and Satisfaction and Discharge.

## Optional Redemption

### 2016 Notes

At any time prior to January 15, 2013, the Issuers may on one or more occasions redeem up to 35% of the aggregate principal amount of 2016 Notes (including Additional Notes) issued under the Indenture at a redemption price of 107.750% of the principal amount thereof, plus accrued and unpaid interest and Special Interest, if any, to the redemption date, with the net cash proceeds of one or more Equity Offerings; provided, however, that:

- (1) at least 65% of the aggregate principal amount of 2016 Notes issued under the Indenture remains outstanding immediately after the occurrence of such redemption (excluding 2016 Notes held by Icahn Enterprises and its Subsidiaries (including any Guarantor)); and
- (2) the redemption occurs within 60 days of the date of the closing of such Equity Offering.

Except pursuant to the preceding paragraph, the 2016 Notes will not be redeemable at the Issuers' option prior to January 15, 2013.

On or after January 15, 2013, the Issuers may redeem all or a part of the 2016 Notes upon not less than 15 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest and Special Interest, if any, on the Notes redeemed, to the applicable redemption date, if redeemed during the twelve-month period beginning on January 15 of the years indicated below:

Year	Percentage
2013	103.875 %
2014	101.938 %

2015 and thereafter

100.000 %

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**2018 Notes**

At any time prior to January 15, 2013, the Issuers may on one or more occasions redeem up to 35% of the aggregate principal amount of 2018 Notes (including Additional Notes) issued under the Indenture at a redemption price of 108.000% of the principal amount thereof, plus accrued and unpaid interest and Special Interest, if any, to the redemption date, with the net cash proceeds of one or more Equity Offerings; provided, however, that:

- at least 65% of the aggregate principal amount of 2018 Notes issued under the Indenture remains outstanding
  - (1) immediately after the occurrence of such redemption (excluding 2018 Notes held by Icahn Enterprises and its Subsidiaries (including any Guarantor)); and
  - (2) the redemption occurs within 60 days of the date of the closing of such Equity Offering.
- Except pursuant to the preceding paragraph, the 2018 Notes will not be redeemable at the Issuers' option prior to January 15, 2014.

On or after January 15, 2014, the Issuers may redeem all or a part of the 2018 Notes upon not less than 15 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest and Special Interest, if any, on the 2018 Notes redeemed, to the applicable redemption date, if redeemed during the twelve-month period beginning on January 15 of the years indicated below:

Year	Percentage
2014	104.000 %
2015	102.000 %
2016 and thereafter	100.000 %

**Mandatory Disposition Pursuant to Gaming Laws**

If any Gaming Authority requires that a holder or Beneficial Owner of Notes be licensed, qualified or found suitable under any applicable Gaming Law and such holder or Beneficial Owner:

- (1) fails to apply for a license, qualification or a finding of suitability within 30 days (or such shorter period as may be required by the applicable Gaming Authority) after being requested to do so by the Gaming Authority; or
- (2) is denied such license or qualification or not found suitable; Icahn Enterprises shall then have the right, at its option:
  - to require each such holder or Beneficial Owner to dispose of its Notes within 30 days (or such earlier date as may
  - (3) be required by the applicable Gaming Authority) of the occurrence of the event described in clause (1) or (2) above, or
  - (4) to redeem the Notes of each such holder or Beneficial Owner, in accordance with Rule 14e-1 of the Exchange Act, if applicable, at a redemption price equal to the lowest of:
    - the principal amount thereof, together with accrued and unpaid interest and Special Interest, if any, to the earlier of the date of redemption, the date 30 days after such holder or Beneficial Owner is required to apply for a license, qualification or finding of suitability (or such shorter period that may be required by any applicable Gaming Authority) if such holder or Beneficial Owner fails to do so ( Application Date ) or of the date of denial of license or qualification or of the finding of unsuitability by such Gaming Authority;
    - the price at which such holder or Beneficial Owner acquired the Notes, together with accrued and unpaid interest
    - (b) and Special Interest, if any, to the earlier of the date of redemption, the Application Date or the date of the denial of license or qualification or of the finding of unsuitability by such Gaming Authority; and
    - (c) such other lesser amount as may be required by any Gaming Authority.



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Immediately upon a determination by a Gaming Authority that a holder or Beneficial Owner of the Notes will not be licensed, qualified or found suitable and must dispose of the Notes, the holder or Beneficial Owner will, to the extent required by applicable Gaming Laws, have no further right:

- (1) to exercise, directly or indirectly, through any trustee or nominee or any other person or entity, any right conferred by the Notes, the Note Guarantee or the Indenture; or
  - (2) to receive any interest, Special Interest, dividends, economic interests or any other distributions or payments with respect to the Notes and the Note Guarantee or any remuneration in any form with respect to the Notes and the Note Guarantee from the Issuers, any Note Guarantor or the trustee, except the redemption price referred to above.
- Icahn Enterprises shall notify the trustee in writing of any such redemption as soon as practicable. Any holder or Beneficial Owner that is required to apply for a license, qualification or a finding of suitability will be responsible for all fees and costs of applying for and obtaining the license, qualification or finding of suitability and of any investigation by the applicable Gaming Authorities and the Issuers and any Note Guarantor will not reimburse any holder or Beneficial Owner for such expense.

## **Mandatory Redemption**

The Issuers are not required to make mandatory redemption or sinking fund payments with respect to the Notes.

## **Repurchase at the Option of Holders**

### **Change of Control**

If a Change of Control occurs, each holder of Notes will have the right to require the Issuers to repurchase all or any part (equal to \$2,000 or an integral multiple of \$1,000 in excess thereof) of that holder's Notes pursuant to a Change of Control offer on the terms set forth in the Indenture. In the Change of Control offer, the Issuers will offer a Change of Control payment in cash equal to 101% of the aggregate principal amount of Notes repurchased plus accrued and unpaid interest and Special Interest, if any, on the Notes repurchased, to the date of purchase. Within 30 days following any Change of Control, the Issuers will mail a notice to each holder describing the transaction or transactions that constitute the Change of Control and offering to repurchase Notes on the Change of Control payment date specified in the notice, which date will be no earlier than 30 days and no later than 60 days from the date such notice is mailed, pursuant to the procedures required by the Indenture and described in such notice.

On the Change of Control payment date, the Issuers will, to the extent lawful:

- (1) accept for payment all Notes or portions of Notes properly tendered and not withdrawn pursuant to the Change of Control offer;
  - (2) deposit with the paying agent an amount equal to the Change of Control payment in respect of all Notes or portions of Notes properly tendered; and
  - (3) deliver or cause to be delivered to the trustee the Notes properly accepted together with an Officers' Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Issuers.
- The paying agent will promptly mail to each holder of Notes properly tendered the Change of Control payment for such Notes, and the trustee will promptly authenticate and mail (or cause to be transferred by book entry) to each holder a new note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; provided that each new note will be in a principal amount of \$2,000 or an integral multiple of \$1,000. The Issuers will publicly announce the results of the Change of Control offer on or as soon as practicable after the Change of Control payment

date.

The provisions described above that require the issuers to make a Change of Control offer following a Change of Control will be applicable whether or not any other provisions of the Indenture are applicable. Except as described above with respect to a Change of Control, the Indenture does not contain provisions that permit the holders of the Notes to require that the Issuers repurchase or redeem the Notes in the event of a takeover, recapitalization or similar transaction.

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The Issuers will not be required to make a Change of Control offer upon a Change of Control if a third party makes the Change of Control offer in the manner, at the times and otherwise in compliance with the requirements set forth in the Indenture applicable to a Change of Control offer made by the Issuers and purchases all Notes properly tendered and not withdrawn under the Change of Control offer.

The definition of Change of Control includes a phrase relating to the sale, lease, transfer, conveyance or other disposition by Icahn Enterprises or Icahn Enterprises Holdings of all or substantially all of its properties or assets. Although there is a limited body of case law interpreting the phrase substantially all, there is no precise established definition of the phrase under applicable law. Accordingly, the ability of a holder of Notes to require the Issuers to repurchase its Notes as a result of a sale, lease, transfer, conveyance or other disposition of less than all of the assets of Icahn Enterprises or Icahn Enterprises Holdings to another Person or group may be uncertain. In addition, under certain circumstances the definition of Change of Control excludes certain sales, leases, transfers, conveyances or other dispositions even if they constitute all or substantially all of the properties or assets of Icahn Enterprises or Icahn Enterprises Holdings.

## Certain Covenants

### Restricted Payments

Icahn Enterprises will not, and will not permit any of its Subsidiaries (including any Guarantor) to:

- declare or pay any dividend or make any other distribution on account of Icahn Enterprises or any of its Subsidiaries (including any Guarantor's) Equity Interests or to the holders of Icahn Enterprises or any of its Subsidiaries (including Icahn Enterprises Holdings) Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of Icahn Enterprises or to Icahn Enterprises or a Subsidiary of Icahn Enterprises (including Icahn Enterprises Holdings));
- (2) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving Icahn Enterprises) any Equity Interests of Icahn Enterprises; or make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness of Icahn Enterprises or any Guarantor that is contractually subordinated to the Notes or to any Note Guarantee (excluding any intercompany Indebtedness between or among Icahn Enterprises and any of its Subsidiaries (including any Guarantor)), except a payment of interest, Other Liquidated Damages or principal at the Stated Maturity on such subordinated Indebtedness (all such payments and other actions set forth in these clauses (1) through (3) (except as excluded therein) above being collectively referred to as Restricted Payments), unless, at the time of and after giving effect to such Restricted Payment:
- (1) no Default or Event of Default has occurred and is continuing or would occur as a consequence of such Restricted Payment;
- Icahn Enterprises or any Guarantor would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the most recently ended four-quarter
- (2) period for which financial statements are available, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the first paragraph of the covenant described below under the caption Incurrence of Indebtedness and Issuance of Preferred Stock; and
- such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by Icahn Enterprises and its Subsidiaries (including any Guarantor) since the date of the Indenture (excluding Restricted
- (3) Payments permitted by clauses (2), (3), (4), (6), (8), (9) and (10) of the next succeeding paragraph) is less than the sum, without duplication, of:

50% of the difference of (x) the Consolidated Net Income of Icahn Enterprises for the period (taken as one (a) accounting period) from the beginning of the first fiscal quarter commencing after the date of the Indenture to the end of Icahn Enterprises most recently ended fiscal quarter for

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which financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit) minus (y) all dividends and distributions paid pursuant to clause (10) of the next succeeding paragraph; provided, however, that to the extent any payments of Tax Amounts were not deducted in the calculation of Consolidated Net Income during the applicable period, for purposes of this clause (a), such payments of Tax Amounts will be deducted from Consolidated Net Income, plus

100% of the aggregate net cash proceeds received by Icahn Enterprises since the date of the Indenture as a contribution to its equity capital or from the issue or sale of Equity Interests of Icahn Enterprises (excluding Disqualified Stock) or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of Icahn Enterprises that have been converted into or exchanged for such Equity Interests (other than Equity Interests or Disqualified Stock or debt securities sold to a Subsidiary of Icahn Enterprises (including Icahn Enterprises Holdings)).

(b) So long as no Default or Event of Default has occurred and is continuing or would be caused thereby (except with respect to clauses (4), (6) and (8), which payments will be permitted notwithstanding a Default or an Event of Default), the preceding provisions will not prohibit:

- (1) the payment of any dividend or the consummation of any irrevocable redemption or payment within 60 days after the date of declaration of the dividend or giving of the redemption notice or becoming irrevocably obligated to make such payment, as the case may be, if at the date of declaration or notice or becoming irrevocably obligated to make such payment, the dividend or payment would have complied with the provisions of the Indenture; the making of any Restricted Payment in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of Icahn Enterprises (including any Guarantor)) of, Equity Interests
- (2) (other than Disqualified Stock) or from the substantially concurrent contribution of equity capital to Icahn Enterprises; provided, however, that the amount of any such net cash proceeds that are utilized for any such Restricted Payment will be excluded from clause (3)(b) of the preceding paragraph; the repurchase, redemption, defeasance or other acquisition or retirement for value of Indebtedness of Icahn
- (3) Enterprises or any Guarantor that is contractually subordinated to the Notes with the net cash proceeds from a substantially concurrent incurrence of Permitted Refinancing Indebtedness; the declaration or payment of any dividend or distribution by a Subsidiary of Icahn Enterprises (including any Guarantor) to the holders of its Equity Interests; provided, that if any such dividend or distribution is paid to an
- (4) Affiliate of the Principal (other than Icahn Enterprises or any of its Subsidiaries (including any Guarantor)), that any such dividend or distribution is paid on a pro rata basis to all holders (including Icahn Enterprises or any of its Subsidiaries (including any Guarantor)) that hold securities whose terms (either contractually or by law) entitle them to the same distribution upon which such dividend or distribution is paid; the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of Icahn Enterprises held by any member of Icahn Enterprises (or any of its Subsidiaries (including any Guarantor s)) management
- (5) pursuant to any management equity subscription agreement, stock option agreement or similar agreement; provided that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests shall not exceed \$2.0 million (other than with respect to Former Employees); for so long as Icahn Enterprises is a partnership or otherwise a pass-through entity for federal income tax purposes for any period, Icahn Enterprises may make cash distributions to its equity holders or partners in an amount not to
- (6) exceed the Tax Amount for such period; provided that a distribution of the Tax Amount shall be made no earlier than 20 days prior to the due date for such tax (or the date that quarterly estimated taxes are required to be paid) that would be payable by Icahn Enterprises if it were a Delaware corporation;

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- the purchase, redemption or retirement for value of Capital Stock of Icahn Enterprises not owned by the Principal, a Related Party or any Affiliate of the Principal or a Related Party, provided that (a) Icahn Enterprises would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been
- (7) made at the beginning of the most recently ended four-quarter period for which financial statements are available, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the first paragraph of the covenant described below under the caption Incurrence of Indebtedness and Issuance of Preferred Stock and (b) after giving effect to such purchase, redemption or retirement, the Partners Equity is at least \$1.0 billion; the payment of dividends on the Preferred Units in the form of additional Preferred Units or other Capital Stock of Icahn Enterprises (that is not Disqualified Stock) or the payment of cash dividends on the Preferred Units in lieu of
- (8) fractional Preferred Units; provided that the aggregate amount of cash under this clause (8) does not exceed \$100,000 in any calendar year;
- (9) the purchase, redemption or retirement for value of the Preferred Units on or after March 31, 2010 through the issuance of Common Units to the holders of Preferred Units plus cash in lieu of fractional interests; the payment of dividends on the Common Units and any distributions with respect to the Variable Rate Notes required by the Variable Rate Notes Indenture; provided, however, in each case, the dividends or distributions
- (10) may not exceed \$1.00 per Common Unit (as adjusted for any Common Unit split, subdivision, consolidation or reclassification) in any four-quarter period plus, in the case of the Variable Rate Notes, the amount of the dividend or distribution that is payable in accordance with the formula set forth in the Variable Rate Notes Indenture in respect of such Common Unit dividend or distribution; and
- (11) other Restricted Payments in an aggregate amount not to exceed \$50.0 million since the date of the Indenture.
- For purposes of determining compliance with this covenant, in the event that a proposed Restricted Payment meets the criteria of more than one of the categories of Restricted Payments described in clauses (1) through (11) above, or is permitted to be made pursuant to the first paragraph of this covenant, Icahn Enterprises shall, in its sole discretion, classify (or later reclassify, in whole or in part, in its sole discretion) such Restricted Payment in any manner that complies with this covenant.

The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the assets, property or securities proposed to be transferred or issued by Icahn Enterprises or such Subsidiary (including Icahn Enterprises Holdings), as the case may be, pursuant to the Restricted Payment.

## **Incurrence of Indebtedness and Issuance of Preferred Stock**

Neither Icahn Enterprises nor any Guarantor will create, incur, issue, assume, guarantee or otherwise become liable, contingently or otherwise, with respect to (collectively, incur ) any Indebtedness (including Acquired Debt), and neither Icahn Enterprises nor any Guarantor will issue any Disqualified Stock; provided, however, that Icahn Enterprises or any Guarantor may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock, if immediately after giving effect to the incurrence of additional Indebtedness (including Acquired Debt) or issuance of Disqualified Stock (including a pro forma application of the net proceeds therefrom), the ratio of the aggregate principal amount of all outstanding Indebtedness (excluding Indebtedness incurred pursuant to clauses (4), (7) and (8) of the following paragraph) of Icahn Enterprises and any Guarantor, determined on a consolidated basis between Icahn Enterprises and any Guarantor but on a non-consolidated basis with the Subsidiaries of Icahn Enterprises (other than any Guarantor) and otherwise in accordance with GAAP, (including an amount of Indebtedness equal to the principal amount of any Guarantees by Icahn Enterprises or any Guarantor of any Indebtedness of a Person (that is not Icahn Enterprises or a Subsidiary) to the extent such Guarantees were not included in computing Icahn Enterprises or any Guarantor s outstanding Indebtedness) to the Adjusted Controlled Entity Net Worth, would have been less than 1.15 to 1.



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The preceding paragraph of this covenant will not prohibit the incurrence of any of the following items of Indebtedness (collectively, Permitted Debt ):

- (1) the incurrence by Icahn Enterprises or any Guarantor of Indebtedness represented by the Notes to be issued on the date of the Indenture and the exchange Notes to be issued pursuant to the registration rights agreement;
- (2) the incurrence by Icahn Enterprises or any Guarantor of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to refund, refinance or replace Indebtedness (other than intercompany Indebtedness) that was incurred under the first paragraph of this covenant or clauses (1), (2) or (9) of this paragraph or any Existing Indebtedness;
- (3) the incurrence by Icahn Enterprises or any Guarantor of intercompany Indebtedness between or among Icahn Enterprises and any of its Subsidiaries (including Icahn Enterprises Holdings) or the issuance of Disqualified Stock by any Guarantor to Icahn Enterprises;
- (4) the incurrence by Icahn Enterprises or any Guarantor of Hedging Obligations that are incurred in the normal course of business;
- (5) the incurrence by Icahn Enterprises or any Guarantor of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within five Business Days;
- (6) the incurrence by Icahn Enterprises or any Guarantor of the Existing Indebtedness; Indebtedness arising from any agreement entered into by Icahn Enterprises or Icahn Enterprises Holdings
- (7) providing for indemnification, purchase price adjustment or similar obligations, in each case, incurred or assumed in connection with an asset sale;
- (8) Indebtedness of Icahn Enterprises or any Guarantor attributable to Bad Boy Guarantees; and
- (9) the incurrence by Icahn Enterprises or any Guarantor of additional Indebtedness in an aggregate principal amount at any time outstanding, including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (9); not to exceed \$10.0 million at any one time outstanding.

Neither Icahn Enterprises nor any Guarantor will incur any Indebtedness (including Permitted Debt) that is contractually subordinated in right of payment to any other Indebtedness of Icahn Enterprises or any Guarantor unless such Indebtedness is also contractually subordinated in right of payment to the Notes and the Note Guarantee, as applicable, on substantially identical terms; provided, however, that no Indebtedness of Icahn Enterprises or any Guarantor shall be deemed to be contractually subordinated in right of payment to any other Indebtedness of Icahn Enterprises or any Guarantor for purposes of this paragraph solely by virtue of being unsecured or secured to a lesser extent or on a junior Lien basis.

To the extent Icahn Enterprises or any Guarantor incurs any intercompany Indebtedness, (a) if Icahn Enterprises or any Guarantor is the obligor on such Indebtedness, such Indebtedness (other than intercompany Indebtedness of any Guarantor to or from Icahn Enterprises or another Guarantor) must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Notes and (b)(i) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than Icahn Enterprises or a Subsidiary of Icahn Enterprises (including any Guarantor) and (ii) any sale or other transfer of any such Indebtedness to a Person that is not either Icahn Enterprises or a Subsidiary of Icahn Enterprises (including any Guarantor) shall be deemed, in each case, to constitute an incurrence of such Indebtedness by Icahn Enterprises or any Guarantor, that is not intercompany Indebtedness; provided that in the case of clause (a), that no restriction on the payment of principal, interest or other obligations in connection with such intercompany Indebtedness shall be required by such subordinated terms except during the occurrence and continuation of a Default or Event of Default.

For purposes of determining compliance with this covenant, in the event that an item of Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (9) above or is entitled to be incurred pursuant to the first paragraph of this covenant, in each case, as of the date



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of incurrence thereof, Icahn Enterprises shall, in its sole discretion, classify (or later reclassify in whole or in part, in its sole discretion) such item of Indebtedness in any manner that complies with this covenant and such Indebtedness will be treated as having been incurred pursuant to such clauses or the first paragraph hereof, as the case may be, designated by Icahn Enterprises.

The accrual of interest, the accretion or amortization of original issue discount, the payment of interest or Other Liquidated Damages on any Indebtedness in the form of additional Indebtedness with the same terms, the reclassification of preferred stock as Indebtedness due to a change in accounting principles, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock for purposes of this covenant. Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that Icahn Enterprises or any Guarantor may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

The amount of any Indebtedness outstanding as of any date will be:

- (1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount;
- (2) the principal amount of the Indebtedness, in the case of any other Indebtedness; and
- (3) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:
  - (a) the Fair Market Value of such assets at the date of determination; and
  - (b) the amount of the Indebtedness of the other Person.

## **Limitation on Liens**

Neither Icahn Enterprises nor any Guarantor will, (a) issue, assume or guarantee any Indebtedness if such Indebtedness is secured by a Lien upon, or (b) secure any then outstanding Indebtedness by granting a Lien upon, any Principal Property of Icahn Enterprises or any Guarantor, now owned or hereafter acquired by Icahn Enterprises or any Guarantor, without effectively providing that the Notes and the Note Guarantee shall be secured equally and ratably with such Indebtedness, except that the foregoing restrictions shall not apply to:

- (1) Liens on any Principal Property acquired after the Issuance Date to secure or provide for the payment of the purchase price or acquisition cost thereof;
- (2) Liens on Principal Property acquired after the Issuance Date existing at the time such Principal Property is acquired;
- (3) Liens on any Principal Property acquired from a corporation merged with or into Icahn Enterprises or any Guarantor;
  - (4) Liens in favor of Icahn Enterprises or any Guarantor;
  - (5) Liens in existence on any Principal Property on the Issuance Date;
- (6) Liens on any Principal Property constituting unimproved real property constructed or improved after the Issuance Date to secure or provide for the payment or cost of such construction or improvement;
  - (7) Liens in favor of, or required by, governmental authorities;
- (8) pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation and deposits securing liability to insure carriers under insurance arrangements;
- (9) Liens for taxes, assessments or governmental charges or statutory liens of landlords, carriers, warehousemen, mechanics, suppliers, materialmen, repairmen or other similar Liens arising in the ordinary course of business or in the improvement or repair of any Principal Property not yet due or which are being contested in good faith by appropriate proceedings;



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- (10) any judgment attachment or judgment Lien not constituting an Event of Default;  
Liens to secure the performance of statutory obligations, surety or appeal bonds, performance bonds or other
- (11) obligations of a like nature incurred in the ordinary course of business and in the improvement or repair of any Principal Property and which obligations are not expressly prohibited by the Indenture;
- (12) Liens to secure Indebtedness of Icahn Enterprises or any Guarantor attributable to Bad Boy Guarantees;
- (13) Liens in favor of the trustee and required by the covenant Maintenance of Interest Coverage ;
- (14) Liens to secure margin Indebtedness; provided that such Liens are secured solely by the applicable margin securities; or
- (15) any extension, renewal, substitution or replacement (or successive extensions, renewals, substitutions or replacements), in whole or in part, of any Lien referred to in the foregoing clauses (1) through (14), inclusive; provided that in the case of clauses (1), (2) and (3) such Liens shall only extend to the Principal Property so acquired (including through any merger or consolidation) and not to any other Principal Property of Icahn Enterprises or any Guarantor.

## **Maintenance of Interest Coverage**

On each Quarterly Determination Date, the Fixed Charge Coverage Ratio of Icahn Enterprises and the Guarantors will be at least 1.5 to 1.0 for the four consecutive fiscal quarters most recently completed prior to such Quarterly Determination Date; provided that, in the event that the Fixed Charge Coverage Ratio of Icahn Enterprises and the Guarantors is less than 1.5 to 1.0 for such four consecutive fiscal quarters, the Issuers shall be deemed to have satisfied this maintenance test if there is deposited, within 2 Business Days of such Quarterly Determination Date, an amount in cash such that the deposited funds, together with any funds previously deposited pursuant to this covenant (and that have not been paid out or otherwise released) are in an amount equal to the Issuers' obligations to pay interest on the Notes for one year; provided further, that the Issuers shall grant to the trustee, on behalf of the holders of the Notes, a first priority security interest in such deposited funds. At any subsequent Quarterly Determination Date, if the Fixed Charge Coverage Ratio of Icahn Enterprises and the Guarantors is at least 1.5 to 1.0 for the four consecutive fiscal quarters most recently completed prior to such Quarterly Determination Date, such deposited funds will be released from the security interest granted to the trustee and paid to or at the direction of Icahn Enterprises.

## **Maintenance of Total Unencumbered Assets**

On each Quarterly Determination Date, the ratio of Total Unencumbered Assets to the then outstanding principal amount of the Unsecured Indebtedness will be greater than 1.5 to 1.0 as of the last day of the fiscal quarter most recently completed.

## **Compliance with Law**

Each of Icahn Enterprises and any Guarantor will comply in all material respects with all applicable laws, rules and regulations.

## **No Investment Company**

Neither Icahn Enterprises nor any Guarantor will register as an investment company as such term is defined in the Investment Company Act of 1940, as amended, except as required in order to comply with law.

## **Redemption of Preferred Units**

Icahn Enterprises shall redeem all of the Preferred Units in accordance with the terms of the Icahn Enterprises Partnership Agreement, and in any event no later than April 15, 2010, through the issuance of Common Units to the holders of Preferred Units plus cash in lieu of fractional interests.

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## **Merger, Consolidation or Sale of Assets**

Icahn Enterprises will not: (1) consolidate or merge with or into another Person (whether or not Icahn Enterprises, is the surviving entity) or (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of Icahn Enterprises in one or more related transactions, to another Person, unless:

either: (a) Icahn Enterprises is the surviving entity, or (b) the Person formed by or surviving any such consolidation or merger (if other than Icahn Enterprises) or to which such sale, assignment, transfer, conveyance or other disposition has been made is a corporation, limited liability company or limited partnership entity organized or existing under the laws of the United States, any state of the United States or the District of Columbia; the Person formed by or surviving any such consolidation or merger (if other than Icahn Enterprises) or the Person to which such sale, assignment, transfer, conveyance or other disposition has been made assumes all the obligations of Icahn Enterprises under the Notes, the Indenture and the registration rights agreement and upon such assumption such Person will become the successor to, and be substituted for, Icahn Enterprises thereunder and all references to Icahn Enterprises in each thereof shall then become references to such Person and such Person shall thereafter be able to exercise every right and power of Icahn Enterprises thereunder;

(3) immediately after such transaction no Default or Event of Default exists;

Icahn Enterprises or the Person formed by or surviving any such consolidation or merger (if other than Icahn Enterprises), or to which such sale, assignment, transfer, conveyance or other disposition has been made would, on the date of such transaction after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the first paragraph of the covenant described above under the caption Incurrence of Indebtedness and Issuance of Preferred Stock ; and

(4) Icahn Enterprises has delivered to the trustee an Officers Certificate and opinion of counsel, which may be an opinion of in-house counsel of Icahn Enterprises or an Affiliate, each stating that such transaction complies with the terms of the Indenture.

(5) Clauses (1), (2) or (4) above will not apply to or be required to be complied with in connection with any merger or consolidation or the sale, assignment, transfer, conveyance or other disposition of all or substantially all of Icahn Enterprises properties or assets to:

(1) an Affiliate that has no material assets or liabilities where the primary purpose of such transaction is to change Icahn Enterprises into a corporation or other form of business entity or to change the jurisdiction