

SBA COMMUNICATIONS CORP
Form POSASR
January 17, 2017
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As filed with the Securities and Exchange Commission on January 17, 2017

Registration No. 333-202477

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

POST-EFFECTIVE AMENDMENT NO. 1

TO

FORM S-3

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

SBA COMMUNICATIONS CORPORATION

(Exact Name of Registrant as Specified in Its Charter)

Florida
(State or Other Jurisdiction of

65-0716501
(I.R.S. Employer

Incorporation or Organization)

Identification Number)

8051 Congress Avenue

Boca Raton, Florida 33487

(561) 995-7670

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Thomas P. Hunt, Esq.

Executive Vice President, Chief Administrative Officer and General Counsel

8051 Congress Avenue

Boca Raton, Florida 33487

(561) 995-7670

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copy to:

Kara L. MacCullough, Esq.

Greenberg Traurig, P.A.

401 East Las Olas Boulevard Suite 2000

Fort Lauderdale, FL 33301

(954) 765-0500

Approximate date of commencement of proposed sale to the public: From time to time after this registration statement becomes effective.

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If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

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

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

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Information I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)

Smaller reporting company

CALCULATION OF REGISTRATION FEE

	Amount to be registered
Title of Each Class of	Proposed Maximum Offering Price per Unit
Securities to be Registered (1)	Proposed Maximum Aggregate Offering Price
	Amount of Registration Fee
Class A Common Stock, par value \$0.01 per share	(2)
Preferred Stock, par value \$0.01 per share	
Debt Securities	

Depositary Shares
Warrants

- (1) Any securities registered hereunder may be sold separately or as units with other securities registered hereunder.
- (2) An indeterminate aggregate offering price or number of securities of each identified class is being registered as may from time to time be offered at indeterminate prices. Separate consideration may or may not be received for securities that are issuable on exercise, conversion or exchange of other securities. The registrant is deferring payment of the registration fee pursuant to Rule 456(b) and is omitting this information in reliance on Rule 456(b) and Rule 457(r).

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EXPLANATORY NOTE

On January 13, 2017, in connection with the election by SBA Communications Corporation, a Florida corporation, to be subject to tax as a real estate investment trust (REIT) for federal income tax purposes, SBA Communications Corporation merged with and into its wholly owned subsidiary, SBA Communications REIT Corporation, a Florida corporation, with SBA Communications REIT Corporation as the surviving corporation. We refer to SBA Communications Corporation as the Predecessor Registrant and SBA Communications REIT Corporation as the Registrant. The merger occurred pursuant to an Agreement and Plan of Merger, dated as of November 10, 2016, which we refer to as the merger agreement, and was approved by the requisite vote of shareholders at a special meeting of the shareholders of the Predecessor Registrant held on January 12, 2017. At 11:59 p.m., Eastern Time, on January 13, 2017, the effective time of the merger, the Registrant changed its name from SBA Communications REIT Corporation to SBA Communications Corporation. Immediately after the merger, the Registrant succeeded to and continued the business and assumed the obligations of the Predecessor Registrant immediately prior to the merger. Unless otherwise indicated, references to we, us, our, the Company and SBA Communications Corporation refer to the Registrant, its subsidiaries and its predecessor, the Predecessor Registrant.

At the effective time of the merger, pursuant to the merger agreement, the outstanding shares of the Predecessor Registrant's Class A common stock, par value \$0.01 per share, were converted into the right to receive an equal number of shares of the Registrant's Class A common stock, par value \$0.01 per share, which are subject to the share ownership and transfer restrictions described in the prospectus that forms a part of this Post-Effective Amendment No. 1.

The issuance of the shares of the Registrant's Class A common stock was registered under the Securities Act of 1933, as amended, or Securities Act, pursuant to the Registrant's registration statement on Form S-4, as amended (File No. 333-213949), which was declared effective by the U.S. Securities and Exchange Commission on December 5, 2016. Shares of the Registrant's Class A common stock trade on the same exchange, the NASDAQ Global Select Market, and under the same symbol, SBAC, as the shares of the Predecessor Registrant Class A common stock prior to the merger.

This Post-Effective Amendment No. 1 pertains to the adoption by the Registrant of the Predecessor Registrant's Registration Statement No. 333-202477.

This Post-Effective Amendment No. 1 is being filed by the Registrant pursuant to Rule 414 under the Securities Act, as the successor issuer to the Predecessor Registrant following the merger. In accordance with Rule 414(d), the Registrant, as successor to the Predecessor Registrant, hereby expressly adopts the Registration Statement as its own for all purposes of the Securities Act and the Securities Exchange Act of 1934, as amended, or the Exchange Act.

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Prospectus

SBA Communications Corporation

Class A Common Stock, Preferred Stock, Debt Securities, Depositary Shares and Warrants

We may from time to time offer to sell our Class A common stock, preferred stock or debt securities either separately or represented by warrants, or depositary shares, as well as units that include any of these securities. The debt securities, preferred stock and warrants may be convertible or exercisable or exchangeable for our Class A common stock or preferred stock or other securities of ours.

We may offer and sell these securities to or through one or more underwriters, dealers and agents as designated from time to time, or directly to purchasers, on a continuous or delayed basis. These securities also may be resold by security holders. When we offer securities, we will provide you with a prospectus supplement describing the specific terms of the specific issue of securities, including the offering price of the securities. You should carefully read this prospectus and the prospectus supplement relating to the specific issue of securities, together with the documents we incorporate by reference, before you decide to invest in any of these securities.

Our Class A common stock is listed on the Nasdaq Global Select Market under the symbol **SBAC**. We will make application to list any shares of Class A common stock sold pursuant to a supplement to this prospectus on the Nasdaq Global Select Market. We have not determined whether we will list any of the other securities we may offer on any exchange or over-the-counter market. If we decide to seek the listing of any securities, the prospectus supplement will disclose the exchange or market.

Investing in our securities involves certain risks. See Risk Factors on page 2 of this prospectus. You should carefully review the risks and uncertainties described under the heading Risk Factors contained in the applicable prospectus supplement, and under similar headings in the other documents that are incorporated by reference into this prospectus.

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

The date of this prospectus is January 17, 2017

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About this Prospectus

This prospectus is part of an automatic shelf registration statement on Form S-3 that we filed with the Securities and Exchange Commission, or the Commission, as a well-known seasoned issuer as defined in Rule 405 under the Securities Act. Under this shelf registration process, we or selling shareholders may, in one or more offerings, sell any combination of securities described in this prospectus or other securities that we may subsequently add in a post-effective amendment to this registration statement. This prospectus provides you with a general description of the securities we or our selling shareholders may offer. Each time we or our selling shareholders sell securities, we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and any applicable prospectus supplement together with additional information described below under the heading **Where You Can Find More Information; Incorporation by Reference**.

When used in this prospectus and any prospectus supplement, the terms **SBA**, **we**, **our**, and **us** refer to SBA Communications Corporation and its subsidiaries. As part of its conversion to a real estate investment trust (**REIT**) for federal income tax purposes, effective at 11:59 p.m. Eastern Time, on January 13, 2017, SBA Communications Corporation merged with and into its wholly owned subsidiary, SBA Communications REIT Corporation, with SBA Communications REIT Corporation as the surviving corporation. At the effective time of the merger, SBA Communications REIT Corporation changed its name to **SBA Communications Corporation**. Prior to the effective time of the merger, **SBA Communications Corporation** refers to the predecessor company, and as of the effective time of the merger, **SBA Communications Corporation** refers to the successor entity.

The Company

We are a leading independent owner and operator of wireless communications tower structures, rooftops and other structures that support antennas used for wireless communications, which we collectively refer to as **towers** or **sites**. Our principal operations are in the United States and its territories. In addition, we own and operate towers in Canada, Central America, and South America. Our primary business line is our site leasing business, which contributed 98.5% of our total segment operating profit for the nine months ended September 30, 2016. In our site leasing business, we (1) lease antenna space to wireless service providers on towers that we own or operate and (2) manage rooftop and tower sites for property owners under various contractual arrangements. As of September 30, 2016, we owned 25,878 towers, a substantial portion of which have been built by us or built by other tower owners or operators who, like us, have built such towers to lease space to multiple wireless service providers. We also managed or leased approximately 5,500 actual or potential towers, approximately 500 of which were revenue producing as of September 30, 2016. Our other business line is our site development business, through which we assist wireless service providers in developing and maintaining their own wireless service networks.

In order to effect its conversion to a REIT for federal income tax purposes, effective January 13, 2017, SBA Communications Corporation merged with and into its wholly owned subsidiary, SBA Communications REIT Corporation. SBA Communications REIT Corporation was the surviving corporation, and was renamed SBA Communications Corporation.

Our principal executive offices are located at 8051 Congress Avenue, Boca Raton, FL 33487 and the telephone number is (561) 995-7670. SBA was founded in 1989 and incorporated in Florida in 1997. Our corporate website is www.sbsite.com. The information contained on our website is not part of this prospectus.

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Risk Factors

Investing in our securities involves risks. Potential investors are urged to read and consider the risk factors relating to an investment in SBA described in our Annual Reports on Form 10-K and our Quarterly Reports on Form 10-Q, filed with the Commission and incorporated by reference in this prospectus. The risks and uncertainties described in these risk factors are not the only ones facing our company. Additional risks and uncertainties not presently known to us or that we currently consider immaterial may also affect our business operations. A prospectus supplement applicable to each type or series of securities we offer will also contain a discussion of the risks applicable to the particular type of securities we are offering under that prospectus supplement. Before making an investment decision, you should carefully consider these risks as well as other information we include or incorporate by reference in this prospectus and any prospectus supplement.

Disclosure Regarding Forward-Looking Statements

This prospectus and the documents that are incorporated by reference into this prospectus contain forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act. These statements concern expectations, beliefs, projections, plans and strategies, anticipated events or trends and similar expressions concerning matters that are not historical facts. Specifically, this prospectus and the documents incorporated by reference into this prospectus contain forward-looking statements regarding:

our expectations on the future growth and financial health of the wireless industry and the industry participants, the drivers of such growth, the demand for our towers, and the trends developing in our industry;

our beliefs regarding our ability to capture and capitalize on industry growth and the impact of such growth on our financial and operational results;

our belief that over the long-term, site leasing revenues will continue to grow as wireless service providers increase their use of our towers due to increasing minutes of network use and data transfer, network expansion and network coverage requirements, on an organic basis, in our domestic and international segments;

our expectation that customer activity will primarily be in the form of, in the current environment, amendments to current leases as wireless service providers seek to upgrade their antennas and, in the long-term, new leases as these providers continue to expand and upgrade their networks;

our belief that our site leasing business is characterized by stable and long-term recurring revenues, predictable operating costs, and minimal non-discretionary capital expenditures;

our expectation that, due to the relatively young age and mix of our tower portfolio, future expenditures required to maintain these towers will be minimal;

our expectation that we will grow our cash flows by adding tenants to our towers at minimal incremental costs and executing monetary amendments;

our ability to qualify and to remain qualified as a REIT and the timing of such qualification;

our belief that our business is currently operated in a manner that complies with the REIT rules;

our belief that we will not be required to make an earnings and profits distribution in order to qualify as a REIT;

our plans regarding our distribution policy, and the amount and timing of, and source of funds for, any such distributions;

our expectations regarding the use of net operating losses (NOLs) to reduce REIT taxable income;

our expectations regarding foreign currency exchange rates;

our expectations regarding the churn rate of our non-iDEN tenant leases;

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our expectations regarding the impact of the Oi reorganization;

our expectations regarding our future cash capital expenditures, both discretionary and non-discretionary, including expenditures required to maintain, improve, and modify our towers, ground lease purchases, and general corporate expenditures, and the source of funds for these expenditures;

our intended use of our liquidity;

our expectations regarding our annual debt service in 2016 and thereafter, and our belief that our cash on hand, capacity under our Revolving Credit Facility, our cash flows from operations for the next twelve months, and future financings will be sufficient to service our outstanding debt during the next twelve months;

our belief regarding our credit risk; and

our estimates regarding certain accounting and tax matters.

These forward-looking statements reflect our current views about future events and are subject to risks, uncertainties and assumptions. We wish to caution readers that certain important factors may have affected and could in the future affect our actual results and could cause actual results to differ significantly from those expressed in any forward-looking statement. The most important factors that could prevent us from achieving our goals, and cause the assumptions underlying forward-looking statements and the actual results to differ materially from those expressed in or implied by those forward-looking statements include, but are not limited to, the following:

the impact of consolidation among wireless service providers on our leasing revenue;

our ability to continue to comply with covenants and the terms of our credit instruments and our ability to obtain additional financing to fund our capital expenditures;

our ability to successfully manage the risks associated with international operations, including risks relating to political or economic conditions, tax laws, currency restrictions and exchange rate fluctuations, legal or judicial systems, and land ownership;

our ability to successfully manage the risks associated with our acquisition initiatives, including our ability to effectively integrate acquired towers into our business and to achieve the financial results projected in our valuation models for the acquired towers;

developments in the wireless communications industry in general, and for wireless communications infrastructure providers in particular, that may slow growth or affect the willingness or ability of the wireless service providers to expend capital to fund network expansion or enhancements;

our ability to secure as many site leasing tenants as anticipated, recognize our expected economies of scale with respect to new tenants on our towers, and retain current leases on towers;

our ability to secure and deliver anticipated services business at contemplated margins;

our ability to build new towers, including our ability to identify and acquire land that would be attractive for our customers and to successfully and timely address zoning, permitting, weather, availability of labor and supplies and other issues that arise in connection with the building of new towers;

competition for the acquisition of towers and other factors that may adversely affect our ability to purchase towers that meet our investment criteria and are available at prices which we believe will be accretive to our shareholders and allow us to maintain our long-term target leverage ratios;

our ability to protect our rights to the land under our towers, and our ability to acquire land underneath our towers on terms that are accretive;

our ability to sufficiently increase our revenues and maintain expenses and cash capital expenditures at appropriate levels to permit us to meet our anticipated uses of liquidity for operations, debt service and estimated portfolio growth;

our ability to successfully estimate the impact of regulatory and litigation matters;

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our ability to successfully estimate the impact of certain accounting and tax matters, including the effect on our company of adopting certain accounting pronouncements and the availability of sufficient net operating losses to offset future taxable income;

natural disasters and other unforeseen damage for which our insurance may not provide adequate coverage;

a decrease in demand for our towers;

the willingness and ability of Oi to continue to make payments to us in accordance with the terms of our contracts;

the introduction of new technologies or changes in a tenant's business model that may make our tower leasing business less desirable to potential tenants;

our ability to qualify for treatment as a REIT for U.S. federal income tax purposes and to comply with and conduct our business in accordance with such rules;

our ability to utilize available NOLs to reduce REIT taxable income; and

our ability to successfully estimate the impact of certain accounting and tax matters, including the effect on our company of adopting certain accounting pronouncements and the availability of sufficient NOLs to offset future REIT taxable income.

Each of the forward-looking statements included in this prospectus and incorporated by reference herein speak only as of the date on which that statement is made. We will not update any forward-looking statement to reflect events or circumstances that occur after the date on which the statement is made, except as required by law.

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Selling Shareholders

We may register securities covered by this prospectus to permit selling shareholders to resell their securities. We may register securities for resale by selling shareholders by filing a prospectus supplement with the Commission. The prospectus supplement would set forth information about the selling shareholder, including their name, the amount of their securities that will be registered and sold, their beneficial ownership of the securities and their relationship with us.

Ratio of Earnings to Fixed Charges

For purposes of calculating the ratio of earnings to fixed charges, earnings represent net loss before income taxes, cumulative effect of changes in accounting principles, discontinued operations and dividends on preferred stock. Fixed charges consist of interest expense, the component of rental expense believed by management to be representative of the interest factor thereon, amortization of original issue discount and debt issue costs and preferred dividends. We had a deficiency in earnings to fixed charges of \$167.0 million for the year ended December 31, 2015, \$15.4 million for 2014, \$56.8 million for 2013, \$176.8 million for 2012 and \$124.5 million for 2011. We had a ratio of earnings to fixed charges of 1.2 for the nine months ended September 30, 2016.

There were no preferred shares outstanding, and therefore no preference dividends paid, for the nine months ended September 30, 2016 and for the years ended December 31, 2015, 2014, 2013, 2012 and 2011.

Use of Proceeds

Unless otherwise indicated in a prospectus supplement, we intend to use the net proceeds from the sale of securities sold by us under this prospectus for general corporate purposes. Unless otherwise set forth in a prospectus supplement, we will not receive any proceeds from the sale of our securities sold by any selling shareholder. The prospectus supplement relating to an offering will contain a more detailed description of the use of proceeds of any specific offering of securities.

The Securities

We may from time to time offer under this prospectus, separately or together:

shares of Class A common stock;

shares of preferred stock, which may be represented by depositary shares as described below;

unsecured senior, senior subordinated or subordinated debt securities; and

warrants to purchase shares of (i) Class A common stock; (ii) preferred stock; (iii) depositary shares and (iv) debt securities.

Description of Capital Stock

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Our authorized capital stock consists of 400,000,000 shares of Class A common stock, par value \$0.01 per share and 30,000,000 shares of preferred stock, par value \$0.01 per share. Our board of directors may designate series of preferred stock, remove any series of preferred stock, establish or modify the number of shares to be included in each such series, and fix the designation, powers, preferences, rights, restrictions and limitations of the shares of each such series of preferred stock without any further vote or action by our shareholders. Any issuance of preferred stock could be used to discourage, delay or make more difficult a change in control.

As of January 6, 2017, our outstanding capital stock consisted of 121,298,055 shares of Class A common stock. All outstanding shares of Class A common stock are validly issued, fully paid and non-assessable. No other shares of any class or series were issued and outstanding as of January 6, 2017. In addition, as of January 6, 2017, we had reserved (1) 6,196,412 shares of Class A common stock issuable upon exercise of outstanding stock options or restricted stock units; (2) 8,803,588 shares of Class A common stock that are reserved for issuance upon exercise or vesting of awards that may be granted in the future under our 2010 Equity Participation Plan; (3) 273,174 shares of Class A common stock that are reserved for issuance under our 2008 Employee Stock Purchase Plan; and (4) 1,701,631 shares of Class A common stock issuable under our registration statement on Form S-4 in connection with acquisition transactions or earn-out obligations under prior acquisition transactions. As of January 6, 2017, there were approximately 259 record holders of the Class A common stock.

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Pursuant to our articles of incorporation and by-laws, our board of directors is classified into three classes of directors, denoted as Class I, Class II and Class III. Brian C. Carr, Mary S. Chan and George R. Krouse, Jr. are Class I directors, Kevin L. Beebe, Jack Langer and Jeffrey A. Stoops are Class II directors, and Steven E. Bernstein and Duncan H. Cocroft are Class III directors.

Class A Common Stock

Voting Rights

Each share of Class A common stock is entitled to one vote. Unless otherwise required by Florida law, once a quorum is present, a majority of the votes cast is required to approve action on a matter other than the election of directors. Once a quorum is present, directors are elected by a majority of the votes cast in uncontested elections. In contested elections, directors are elected by a plurality of votes cast. Our articles of incorporation provide that the amendment of certain provisions of our articles of incorporation, including those related to the number of directors and director vacancies, indemnification and amendments to those provisions, require a vote of at least two-thirds of the outstanding shares.

Convertibility

There are no conversion provisions applicable to the Class A common stock.

Dividends

Each share of Class A common stock is entitled to receive dividends if, as and when declared by the board of directors out of funds legally available for that purpose, subject to preferences that may apply to any preferred stock that we may issue in the future.

Liquidation Rights

In the event of our dissolution or liquidation, after satisfaction of all our debts and liabilities and distributions to the holders of any preferred stock that we may issue in the future, if any, of amounts to which they are preferentially entitled, the holders of Class A common stock will be entitled to share ratably in the distribution of assets to the shareholders.

Other Provisions

There are no cumulative, subscription or preemptive rights to subscribe for any additional securities which we may issue, and there are no redemption provisions, conversion provisions or sinking fund provisions applicable to the Class A common stock.

The rights and preferences of holders of Class A common stock are subject to the rights of any series of preferred stock which we may issue in the future.

Preferred Stock

Our board of directors is authorized by our articles of incorporation to provide for the issuance of shares of preferred stock, in one or more series, to establish the number of shares to be included in each series, to fix the designation, rights, preferences, privileges and restrictions of the shares of each series and to increase or decrease the number of

shares of any series of preferred stock, all without any further vote or action by our shareholders.

The prospectus supplement will specify as to each issuance of preferred stock:

the maximum number of shares;

the designation of the shares;

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annual dividend rate, if any, whether the dividend rate is fixed or variable, the date dividends will accrue, the dividend payment dates and whether dividends will be cumulative;

the price and the terms and conditions for redemption, if any, including redemption at our option or at the option of the holders, including the time period for redemption, and any accumulated dividends or premiums;

the liquidation preference, if any, and any accumulated dividends upon the liquidation, dissolution or winding up of our affairs;

any sinking fund or similar provision, and, if so, the terms and provisions relating to the purpose and operation of the fund;

the terms and conditions, if any, for conversion or exchange of shares into or for any other class or classes of our capital stock or any series of any other class or classes, or into or for any other series of the same class, or any other securities or assets, including the price or the rate of conversion or exchange and the method, if any, of adjustment;

any preemption rights;

any restriction on the repurchase or redemption of shares while there is any arrearage in the payment of dividends or sinking fund installments;

the voting rights; and

any or all other preferences and relative, participating, optional or other special rights, privileges or qualifications, limitations or restrictions.

Preferred stock will be fully paid and nonassessable upon issuance. The preferred stock or any series of preferred stock may be represented, in whole or in part, by one or more global certificates, which will represent an aggregate number of shares equal to that of the preferred stock represented by the global certificate.

Each global certificate will:

be registered in the name of a depositary or a nominee of the depositary identified in the prospectus supplement;

be deposited with such depositary or nominee or a custodian for the depositary; and

bear a legend regarding any restrictions on exchanges and registration of transfer and any other matters as may be provided for under the certificate of designations.

Restrictions on Ownership and Transfer

To facilitate our continued qualification as a REIT under the Internal Revenue Code of 1986, as amended (Code), our articles of incorporation contain ownership limitations and transfer restrictions on our capital stock. We refer to these ownership limitations and transfer restrictions as the REIT Ownership and Transfer Restrictions. All certificates representing shares of capital stock, if any, bear legends describing the REIT Ownership and Transfer Restrictions. Further, the REIT Ownership and Transfer Restrictions could delay, defer or prevent a transaction or a change in control that might involve a premium price for the Class A common stock or otherwise be in the best interest of the shareholders.

For us to continue to qualify as a REIT under the Code, our capital stock must be beneficially owned by 100 or more persons during at least 335 days of a taxable year of 12 months or during a proportionate part of a shorter taxable year (other than the first year for which an election to be subject to tax as a REIT has been made). Also, not more than 50% of the value of the outstanding shares of our capital stock may be owned, directly or indirectly, by five or fewer individuals (as defined in the Code to include certain entities such as private foundations) during the last half of a taxable year (other than the first taxable year for which an election to be subject to tax as a REIT has been made). To satisfy these ownership requirements and other requirements for continued qualification as a REIT and to otherwise protect us from the consequences of a concentration of ownership among our shareholders, our articles of incorporation contain the REIT Ownership and Transfer Restrictions.

Relevant sections of our articles of incorporation provide that, subject to the exceptions and the constructive ownership rules described below, no person (as defined in our articles of incorporation) may beneficially or constructively own more than 9.8% in value of the aggregate of our outstanding shares of stock, including our common stock and preferred stock, or more than 9.8% in value or in number of shares (whichever is more restrictive) of the outstanding shares of our Class A common stock. We refer to these restrictions as the ownership limits.

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Applicable constructive ownership rules under the Code are complex and may cause stock owned actually or constructively by a group of related individuals and/or entities to be treated as owned by one individual or entity. As a result, the acquisition of less than 9.8% in value of shares of our outstanding stock or less than 9.8% in value or number of the outstanding shares of our Class A common stock (including through the acquisition of an interest in an entity that owns, actually or constructively, any class or series of our stock) by an individual or entity could nevertheless cause that individual or entity, or another individual or entity, to own, constructively or beneficially, in excess of 9.8% in value of shares of our outstanding stock or in excess of 9.8% in value or number of the outstanding shares of our Class A common stock.

In addition to the ownership limits, our articles of incorporation prohibit any person from actually or constructively owning shares of our stock to the extent that such ownership would cause any of our income that would otherwise qualify as rents from real property for purposes of section 856(d) of the Code to fail to qualify as such.

Our board of directors may, in its sole discretion, exempt a person from the ownership limits and certain other limits on ownership and transfer of our stock described above, and may establish a different limit on ownership for any such person. However, the board of directors may not exempt any person whose ownership of outstanding stock in violation of these limits would result in our failing to qualify as a REIT. In order to be considered by the board of directors for exemption or a different limit on ownership, a person must make such representations and undertakings as are reasonably necessary to ascertain that such person's beneficial or constructive ownership of our stock will not jeopardize our ability to continue to qualify as a REIT under the Code and must agree that any violation or attempted violation of such representations or undertakings (or other action that is contrary to the ownership limits and certain other REIT limits on ownership and transfer of our stock described above) will result in the shares of stock being automatically transferred to a trust as described below. As a condition of its waiver, the board of directors may require an opinion of counsel or IRS ruling satisfactory to the board of directors with respect to our qualification as a REIT and may impose such other conditions as it deems appropriate in connection with the granting of the exemption or a different limit on ownership.

In connection with the waiver of the ownership limits or at any other time, the board of directors may from time to time increase the ownership limits for one or more persons and decrease the ownership limits for all other persons; provided that the new ownership limits may not, after giving effect to such increase and under certain assumptions stated in our articles of incorporation, result in us being closely held within the meaning of section 856(h) of the Code (without regard to whether the ownership interests are held during the last half of a taxable year). Reduced ownership limits will not apply to any person whose percentage ownership of our total shares of stock or of the shares of a class or series of our stock, as applicable, is in excess of such decreased ownership limits until such time as such person's percentage of total shares of stock or of the shares of a class or series of stock, as applicable, equals or falls below the decreased ownership limits, but any further acquisition of shares of our stock or of the shares of a class or series of our stock, as applicable, in excess of such percentage ownership of shares of stock or of a class or series of stock will be in violation of the ownership limits.

Our articles of incorporation further prohibit:

any person from transferring shares of our stock if such transfer would result in shares of our stock being beneficially owned by fewer than 100 persons (determined without reference to any rules of attribution); and

any person from beneficially or constructively owning shares of our stock if such ownership would result in our failing to qualify as a REIT.

The foregoing provisions on transferability and ownership will not apply if the board of directors determines that it is no longer in our best interests to attempt to qualify, or to continue to qualify, as a REIT.

Any person who acquires or attempts or intends to acquire beneficial or constructive ownership of shares of our stock that will or may violate the foregoing REIT Ownership and Transfer Restrictions will be required to give notice to us immediately (or, in the case of a proposed or attempted transaction, at least 15 days prior to such transaction) and provide us with such other information as we may request in order to determine the effect, if any, of such transfer on our qualification as a REIT.

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Pursuant to our articles of incorporation, if there is any purported transfer of our stock or other event or change of circumstances that, if effective or otherwise, would violate any of the REIT Ownership and Transfer Restrictions described above, then the number of shares causing the violation (rounded up to the nearest whole share) will be automatically transferred to a trust for the exclusive benefit of a designated charitable beneficiary, except that any transfer that results in the violation of the restriction relating to our stock being beneficially owned by fewer than 100 persons will be automatically void and of no force or effect. The automatic transfer will be effective as of the close of business on the business day prior to the date of the purported transfer or other event or change of circumstances that requires the transfer to the trust. We refer below to the person that would have owned the shares if they had not been transferred to the trust as the purported transferee. Any ordinary dividend paid to the purported transferee, prior to our discovery that the shares had been automatically transferred to a trust as described above, must be repaid to the trustee upon demand. Our articles of incorporation also provide for adjustments to the entitlement to receive extraordinary dividends and other distributions as between the purported transferee and the trust. If the transfer to the trust as described above is not automatically effective, for any reason, to prevent violation of the applicable restriction contained in our articles of incorporation, then the transfer of the excess shares will be automatically void and of no force or effect. Any shares of our stock transferred to the trustee are deemed to be offered for sale to us or our designee at a price per share equal to the lesser of (i) the price per share in the transaction that resulted in such transfer to the trust or, if the purported transferee did not give value for the shares in connection with the event causing the shares to be held in trust (e.g., in the case of a gift, devise or other such transaction), the market price at the time of such event and (ii) the market price on the date we accept, or our designee accepts, such offer. We have the right to accept such offer until the trustee has sold the shares of our stock held in the trust pursuant to the clauses discussed below. Upon a sale to us, the interest of the charitable beneficiary in the shares sold terminates and the trustee must distribute the net proceeds of the sale to the purported transferee, except that the trustee may reduce the amount payable to the purported transferee by the amount of any ordinary dividends that we paid to the purported transferee prior to our discovery that the shares had been transferred to the trust and that is owed by the purported transferee to the trustee as described above. Any net sales proceeds in excess of the amount payable to the purported transferee shall be immediately paid to the charitable beneficiary, and any ordinary dividends held by the trustee with respect to such stock will be paid to the charitable beneficiary.

If we do not buy the shares, the trustee must, as soon as reasonably practicable (and, if the shares are listed on a national securities exchange, within 20 days) after receiving notice from us of the transfer of shares to the trust, sell the shares to a person or entity who could own the shares without violating the REIT Ownership and Transfer Restrictions described above. Upon such a sale, the trustee must distribute to the purported transferee an amount equal to the lesser of (i) the price paid by the purported transferee for the shares or, if the purported transferee did not give value for the shares in connection with the event causing the shares to be held in trust (e.g., in the case of a gift, devise or other such transaction), the market price of the shares on the day of the event causing the shares to be held in the trust, and (ii) the sales proceeds (net of commissions and other expenses of sale) received by the trustee for the shares. The trustee may reduce the amount payable to the purported transferee by the amount of any ordinary dividends that we paid to the purported transferee before our discovery that the shares had been transferred to the trust and that is owed by the purported transferee to the trustee as described above. Any net sales proceeds in excess of the amount payable to the purported transferee will be immediately paid to the charitable beneficiary, together with any ordinary dividends held by the trustee with respect to such stock. In addition, if prior to discovery by us that shares of our Class A common stock have been transferred to a trust, such shares of stock are sold by a purported transferee, then such shares will be deemed to have been sold on behalf of the trust and, to the extent that the purported transferee received an amount for or in respect of such shares that exceeds the amount that such purported transferee was entitled to receive as described above, such excess amount shall be paid to the trustee upon demand. The purported transferee has no rights in the shares held by the trustee. The trustee will be indemnified by us or from the proceeds of sales of stock in the trust for its costs and expenses reasonably incurred in connection with conducting its duties and satisfying its obligations under our articles of incorporation. The trustee will also be entitled to reasonable compensation for

services provided as determined by agreement between the trustee and the board of directors, which compensation may be funded by us or the trust. If we pay any such indemnification or compensation, we are entitled on a first priority basis (subject to the trustee's indemnification and compensation rights) to be reimbursed from the trust. To the extent the trust funds any such indemnification and compensation, the amounts available for payment to a purported transferee (or the charitable beneficiary) would be reduced. The trustee will be designated by us and must be unaffiliated with us and with any purported transferee. Prior to the sale of any shares by the trust, the trustee will receive, in trust for the beneficiary, all distributions paid by us with respect to the shares, and may also exercise all voting rights with respect to the shares.

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Pursuant to the Florida Business Corporation Act, effective as of the date that the shares have been transferred to the trust, the trustee will have the authority, at the trustee's sole discretion:

to rescind as void any vote cast by a purported transferee prior to our discovery that the shares have been transferred to the trust; and

to recast the vote in accordance with the desires of the trustee acting for the benefit of the charitable beneficiary of the trust.

However, if we have already taken corporate action, then the trustee may not rescind and recast the vote.

In addition, if the board of directors determines that a proposed or purported transfer would violate the REIT Ownership and Transfer Restrictions, the board of directors may take such action as it deems advisable to refuse to give effect to or to prevent such violation, including but not limited to, causing us to repurchase shares of our stock, refusing to give effect to the transfer on our books or instituting proceedings to enjoin the transfer.

Within 30 days after the end of each REIT taxable year, every owner of 5% or more (or such lower percentage as required by the Code or the Treasury regulations thereunder) of the outstanding shares of any class or series of our stock, must, upon request, provide us written notice of the person's name and address, the number of shares of each class and series of our stock that the person beneficially owns and a description of the manner in which the shares are held. Each such owner must also provide us with such additional information as we may request in order to determine the effect, if any, of such owner's beneficial ownership on our qualification as a REIT and to ensure compliance with the ownership limits. In addition, each beneficial owner or constructive owner of our stock, and any person (including the shareholder of record) who is holding shares of our stock for a beneficial owner or constructive owner will, upon demand, be required to provide us with such information as we may request in good faith in order to determine our qualification as a REIT and to comply with the requirements of any taxing authority or governmental authority or to determine such compliance.

Anti-takeover Effects of our Articles of Incorporation and Bylaws

Pursuant to our articles of incorporation, our board of directors is divided into three classes of directors, denoted as Class I, Class II and Class III. Newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the board of directors shall be filled by a majority of the directors then in office. Our classified board of directors will have the result, unless directors are removed, that at least two annual meetings of shareholders will be required for a majority of shareholders to make a change in control of the board of directors.

Our articles of incorporation provide that our board of directors may provide further issuance of Preferred Stock, in one or more series, to establish the number of shares to be included in each series, to fix the designation, rights, preferences, privileges and restrictions of the shares of each series and to increase or decrease the number of shares of any series of Preferred Stock, all without any further vote or action by our shareholders. The existence of authorized but unissued and unreserved Preferred Stock may enable our board of directors to issue shares to persons friendly to current management, which could render more difficult or discourage an attempt to obtain control of our company by means of a proxy contest, tender offer, merger or otherwise, and thereby protect the continuity of our management.

Our articles of incorporation and Bylaws do not provide for cumulative voting. Additionally, our Bylaws establish advance notice procedures with respect to shareholder proposals and nomination of candidates for election as directors

other than nominations made by or at the direction of our board of directors or a committee of our board of directors. A combination of our cumulative voting policy and the advance notice procedures make it more difficult to effect a change in the composition of our board of directors.

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Indemnification

Both our articles of incorporation and Bylaws provide for indemnification of our directors and officers to the fullest extent permitted by the Florida Business Corporation Act. We also maintain and pay premiums on an insurance policy on behalf of our directors and officers covering losses from certain claims. In addition, we have entered into indemnification agreements with our directors and certain officers that provide for the indemnification of our directors and certain officers, to the fullest extent permitted by the Florida Business Corporation Act, our articles of incorporation and our bylaws, against expenses incurred by such persons in connection with their service as (i) our director or officer, (ii) in any capacity with respect to any of our employee benefit plans, or (iii) as a director, partner, trustee, officer, employee or agent of any other entity at our request. In addition, the agreements provide for our obligation to advance expenses, under certain circumstances, and provide for additional procedural protections.

Transfer Agent

The transfer agent and registrar for our Class A common stock is Computershare Trust Company, N.A.

Description of Debt Securities

The debt securities will be our unsecured direct obligations. The debt securities may be senior or subordinated indebtedness. The debt securities will be issued under one or more indentures between us and a trustee. Any indenture will be subject to, and governed by, the Trust Indenture Act of 1939, as amended. The statements made in this prospectus relating to any indenture and the debt securities to be issued under any indenture are summaries of certain anticipated provisions of the indentures, do not purport to be complete and are subject to, and are qualified in their entirety by reference to, all provisions of the indentures and the debt securities.

General

We have filed with the registration statement of which this prospectus forms a part a form of indenture relating to our senior securities and a form of indenture relating to our senior subordinated securities and subordinated securities. Our senior debt securities will rank equally and ratably in right of payment with other indebtedness of ours that is not subordinated, including but not limited to our Senior Notes. While such senior debt securities rank equally and ratably with our other indebtedness that is not subordinated, it is effectively junior to secured debt or debt on the level of our subsidiaries. If we issue subordinated debt securities, they will be subordinated in right of payment to the prior payment in full of senior indebtedness, as defined in the applicable prospectus supplement, and may rank equally and ratably with any other subordinated indebtedness. They may, however, also be subordinated in right of payment to senior subordinated securities. See Subordination. We may issue the debt securities without limit as to aggregate principal amount, in one or more series, in each case as established from time to time in or pursuant to authority granted by a resolution of our board of directors or as established in one or more supplemental indentures. We need not issue all debt securities of one series at the same time. Unless we otherwise provide, we may reopen a series, without the consent of the holders of such series, for issuances of additional securities of that series.

We anticipate that any indenture will provide that we may, but need not, designate more than one trustee under an indenture, each with respect to one or more series of debt securities. Any trustee under any indenture may resign or be removed with respect to one or more series of debt securities, and a successor trustee may be appointed to act with respect to that series. The applicable prospectus supplement will describe the specific terms relating to the series of debt securities we will offer, including, where applicable, the following:

the title and series designation and whether they are senior securities, senior subordinated securities or subordinated securities;

the aggregate principal amount of the securities;

the percentage of the principal amount at which we will issue the debt securities if other than the principal amount of the debt securities;

the rights evidenced by the securities;

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the portion of the principal amount of the debt securities payable upon declaration of acceleration of the maturity of the debt securities, or if convertible, the initial conversion price, the conversion period and any other terms governing such conversion;

the stated maturity date;

any fixed or variable interest rate or rates per annum;

the date from which interest may accrue and any interest payment dates;

any sinking fund requirements;

any retirement provisions;

any provisions for redemption, including the redemption price and any remarketing arrangements;

any provisions with respect to the kind and priority of liens securing the securities;

any provisions restricting the declaration of dividends or requiring the maintenance of any asset ratio or maintenance reserves;

provisions restricting the incurrence of additional debt or the issuance of additional securities;

provisions related to the modification of the terms of the security of the rights of shareholders;

any provisions regarding a trustee;

whether the securities are denominated or payable in United States dollars or a foreign currency or units of two or more foreign currencies;

the events of default and covenants of such securities, to the extent, different from or in addition to those described in this prospectus;

whether we will issue the debt securities in certificated and/or book-entry form;

whether the debt securities will be in registered or bearer form and, if in registered form, the denominations if other than in even multiples of \$1,000 and, if in bearer form, the denominations and terms and conditions relating thereto;

whether we will issue any of the debt securities in permanent global form and, if so, the terms and conditions, if any, upon which interests in the global security may be exchanged, in whole or in part, for the individual debt securities represented by the global security;

the applicability, if any, of the defeasance and covenant defeasance provisions described in this prospectus or any prospectus supplement;

whether we will pay additional amounts on the securities in respect of any tax, assessment or governmental charge and, if so, whether we will have the option to redeem the debt securities instead of making this payment; and

the subordination provisions, if any, relating to the debt securities.

We may issue debt securities at less than the principal amount payable upon maturity (we refer to these securities as original issue discount securities). If material or applicable, we will describe in the applicable prospectus supplement special U.S. federal income tax, accounting and other considerations applicable to original issue discount securities.

Except as described under Merger, Consolidation or Sale of Assets or as may be set forth in any prospectus supplement, an indenture will not contain any other provisions that would limit our ability to incur indebtedness or that would afford holders of the debt securities protection in the event of a highly leveraged or similar transaction involving us or in the event of a change of control. You should review carefully the applicable prospectus supplement for information with respect to events of default and covenants applicable to the securities being offered.

Denominations, Interest, Registration and Transfer

Unless otherwise described in the applicable prospectus supplement, we will issue the debt securities of any series that are registered securities in denominations that are even multiples of \$1,000, other than global securities, which may be of any denomination.

Unless otherwise specified in the applicable prospectus supplement, we will pay the interest on and principal of and premium, if any, on any debt securities at the corporate trust office of the trustee. At our option, however, we may make payment of interest by check mailed to the address of the person entitled to the payment as it appears in the applicable register or by wire transfer of funds to that person at an account maintained within the United States.

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If we do not punctually pay or duly provide for interest on any interest payment date, the defaulted interest will be paid either: