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FLEETBOSTON FINANCIAL CORP
Form S-8
June 19, 2003

As filed with the Securities and Exchange Commission on June 19, 2003
Registration No. 333-

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

FORM S-8
REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

FLEETBOSTON FINANCIAL CORPORATION
(Exact name of registrant as specified in its charter)

RHODE ISLAND
(State or other jurisdiction of
incorporation or organization)

05-0341324
(I.R.S. Employer
Identification No.)

100 FEDERAL STREET, BOSTON, MASSACHUSETTS
(Address of Principal Executive Offices)

02110
(Zip Code)

FLEETBOSTON FINANCIAL SAVINGS PLAN
(Full title of the plan)

GARY A. SPIESS, ESQ.
Executive Vice President, General Counsel and
Secretary
FLEETBOSTON FINANCIAL CORPORATION
100 FEDERAL STREET
BOSTON, MASSACHUSETTS 02110
617-434-2870

JANICE B. LIVIA, ESQ.
Deputy General Counsel and Assistant
Secretary
FLEETBOSTON FINANCIAL CORPORATION
100 FEDERAL STREET
BOSTON, MASSACHUSETTS 02110
617-434-8630

(Names, addresses and telephone numbers, including area codes, of agents
for service)

CALCULATION OF REGISTRATION FEE

| Title of Securities to be Registered | Amount to be Registered | Proposed Maximum Offering Price Per Share(1) | Proposed Maximum Aggregate Offering Price(1) | Amount of Registration Fee(1) |
|---|-------------------------------|--|--|-------------------------------------|
| Common Stock, par value \$.01 per share(2) | 7,000,000 shares(3) | \$30.35 | \$212,450,000 | \$17,188 |

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Participation Interests (4) (4) (4) (4)

- (1) Computed pursuant to Rule 457(h) solely for the purpose of determining the registration fee, based on the average of the high and low prices of the Registrant's Common Stock as reported by the New York Stock Exchange on June 13, 2003.
- (2) Including preferred share purchase rights.
- (3) This Registration Statement also covers such indeterminate amount of securities as may be offered or sold pursuant to the plan to prevent dilution, pursuant to Rule 416(a).
- (4) Pursuant to Rule 416(c), this Registration Statement also covers an indeterminate amount of interests to be offered or sold pursuant to the plan. Pursuant to Rule 457(h)(2), no additional fee is required.

PURSUANT TO RULE 429, THE PROSPECTUS USED IN CONNECTION WITH THE SECURITIES COVERED BY THIS REGISTRATION STATEMENT ALSO RELATES TO 958,584 SHARES OF COMMON STOCK PREVIOUSLY REGISTERED UNDER REGISTRATION STATEMENT NO. 33-19425, AND THIS CONSTITUTES A POST-EFFECTIVE AMENDMENT TO SUCH REGISTRATION STATEMENT.

PART II INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents heretofore filed by the Registrant with the Securities and Exchange Commission (the "Commission") pursuant to the Securities Exchange Act of 1934 (the "Exchange Act") are incorporated by reference into this Registration Statement:

- (a) The Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2002;
- (b) The Registrant's quarterly report on Form 10-Q for the quarter ended March 31, 2003;
- (c) The Registrant's current reports on Form 8-K filed January 10, 2003, January 16, 2003, February 18, 2003, and April 16, 2003;
- (d) The description of the Registrant's common stock contained in a Registration Statement filed by Industrial National Corporation (predecessor to the Registrant) on Form 8-B dated May 29, 1970, and any amendment or report filed for the purpose of updating such description; and
- (e) The description of the Preferred Share Purchase Rights contained in the Registration Statement on Form 8-A dated November 7, 2000.

The FleetBoston Financial Savings Plan (the "Plan") hereby incorporates by reference into this Registration Statement the Plan's Annual Report on Form 11-K for the fiscal year ended December 31, 2001, as heretofore filed with the Commission.

All documents subsequently filed by the Registrant or the Plan pursuant to Section 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the

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filing of a post-effective amendment to this Registration Statement which indicates that all of the shares of common stock offered have been sold or which deregisters all such shares then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing of such documents. Any statement contained in a document incorporated or deemed incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

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Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

The Registrant's By-laws provide for indemnification to the extent permitted by Section 7-1.1-4.1 of the Rhode Island Business Corporation Law. Such section, as adopted by the By-laws, requires the Registrant to indemnify directors, officers, employees or agents against judgments, fines, reasonable costs, expenses and counsel fees paid or incurred in connection with any proceeding to which such director, officer, employee or agent or his legal representative may be a party (or for testifying when not a party) by reason of his being a director, officer, employee or agent, provided that such director, officer, employee or agent shall have acted in good faith and shall have reasonably believed (a) if he was acting in his official capacity that his conduct was in the Registrant's best interest, (b) in all other cases that his conduct was at least not opposed to its best interests, and (c) in the case of any criminal proceeding, he had no reasonable cause to believe his conduct was unlawful. The Registrant's By-laws provide that such rights to indemnification are contract rights and that the expenses incurred by an indemnified person shall be paid in advance of a final disposition of any proceeding, provided however, that if required under applicable law, such person must deliver a written affirmation that he has met the standards of care required under such provisions to be entitled to indemnification and provides an undertaking by or on behalf of such person to repay all amounts advanced if it is ultimately determined that such person is not entitled to indemnification. With respect to possible indemnification of directors, officers and controlling persons of the Registrant for liabilities arising under the Securities Act of 1933 (the "Act") pursuant to such provisions, the Registrant is aware that the Securities and Exchange Commission has publicly taken the position that such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

A list of the exhibits included as part of this Registration Statement is set forth in the Exhibit Index which immediately precedes such exhibits and is hereby incorporated by reference herein.

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Item 9. Undertakings.

The Corporation hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

i. To include any prospectus required by Section 10(a)(3) of the Act;

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ii. To reflect in the prospectus any facts or events arising after the effective date of this Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this Registration Statement (or the most recent post-effective amendment thereto); and

iii. To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs i. and ii. shall not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

The Registrant hereby undertakes that, for purposes of determining any liability under the Act, each filing of the Corporation's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and each filing of the Plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

Insofar as indemnification for liabilities arising under the Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the provisions described in Item 6, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling

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precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe it meets all the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized in the City of Boston, and the Commonwealth of Massachusetts, on the 19th day of June, 2003.

FLEETBOSTON FINANCIAL CORPORATION

By: /s/ CHARLES K. GIFFORD

Charles K. Gifford
Chairman and Chief Executive Officer

Each person whose signature appears below hereby constitutes and appoints the Chairman, the President, the Chief Financial Officer, the Chief Accounting Officer or the Secretary, or any of them, acting alone, as his true and lawful attorney-in-fact, with full power and authority to execute in the name, place and stead of each such person in any and all capacities and to file, an amendment or amendments to the Registration Statement (and all exhibits thereto) and any documents relating thereto, which amendments may make such changes in the Registration Statement as said officer or officers so acting deem(s) advisable.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated and on the 19th day of June, 2003.

| SIGNATURE ----- | TITLE ----- |
|---|--|
| /s/ CHARLES K. GIFFORD ----- Charles K. Gifford | Chairman of the Board, Chief Executive Officer and Director |
| /s/ ROBERT C. LAMB, JR. ----- Robert C. Lamb, Jr. | Executive Vice President and Chief Financial Officer |
| /s/ ERNEST L. PUSCHAUER ----- Ernest L. Puschaver | Chief Accounting Officer |
| /s/ JOEL B. ALVORD ----- | Director |

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Joel B. Alvord

/s/ WILLIAM BARNET, III

Director

William Barnet, III

/s/ DANIEL P. BURNHAM

Director

Daniel P. Burnham

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SIGNATURE

TITLE

/s/ KIM B. CLARK

Director

Kim B. Clark

/s/ PAUL J. CHOQUETTE, JR.

Director

Paul J. Choquette, Jr.

/s/ JOHN T. COLLINS

Director

John T. Collins

/s/ GARY L. COUNTRYMAN

Director

Gary L. Countryman

/s/ MARIAN L. HEARD

Director

Marian L. Heard

/s/ ROBERT M. KAVNER

Director

Robert M. Kavner

/s/ THOMAS J. MAY

Director

Thomas J. May

/s/ TERRENCE MURRAY

Director

Terrence Murray

/s/ DONALD F. MCHENRY

Director

Donald F. McHenry

/s/ MICHAEL B. PICOTTE

Director

Michael B. Picotte

/s/ FRANCENE S. RODGERS

Director

Francene S. Rodgers

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| | |
|-----------------------|----------|
| /s/ THOMAS M. RYAN | Director |
| ----- | |
| Thomas M. Ryan | |
| /s/ T. JOSEPH SEMROD | Director |
| ----- | |
| T. Joseph Semrod | |
| /s/ PAUL R. TREGURTHA | Director |
| ----- | |
| Paul R. Tregurtha | |

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Pursuant to the requirements of the Securities Act of 1933, the trustees (or other persons who administer the Plan) have duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Boston, and the Commonwealth of Massachusetts, on the 19th day of June, 2003.

FLEETBOSTON FINANCIAL SAVINGS PLAN

By: /s/ PATRICIA CALLAHAN FAY

Patricia Callahan Fay
Director of Benefits Planning

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EXHIBIT INDEX

| Exhibit Number | Exhibit |
|-------------------|--|
| ----- | ----- |
| 5.1 | Opinion of Edwards & Angell LLP |
| 5.2 | IRS Determination Letter regarding the Plan |
| 23.1 | Consent of PricewaterhouseCoopers LLP (the Registrant) |
| 23.2 | Consent of Ernst & Young LLP (the Plan) |
| 23.3 | Consent of Edwards & Angell LLP (included in opinion filed as Exhibit 5.1) |
| 24 | Power of Attorney of certain officers and directors of the Registrant (included on the signature pages hereto) |