VIASAT INC
Form S-3/A
July 07, 2004

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As filed with the Securities and Exchange Commission on July 7, 2004

Registration No. 333-116468

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Amendment No. 2
to
Form S-3

REGISTRATION STATEMENT UNDER
THE SECURITIES ACT OF 1933

ViaSat, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**3663**	**33-0174996**
(State or other jurisdiction of incorporation or organization)	*(Primary Standard Industrial Classification Code Number)*	*(I.R.S. Employer Identification Number)*

6155 El Camino Real

Carlsbad, California 92009
(760) 476-2200
(Address, including zip code, and telephone number, including area code, of registrant s principal executive offices)

Agent for Service:
Gregory D. Monahan
Vice President, General Counsel and Secretary
ViaSat, Inc.
6155 El Camino Real
Carlsbad, California 92009
(760) 476-2200

Copies to:
Thomas A. Edwards, Esq.
Craig M. Garner, Esq.
Latham & Watkins LLP
600 West Broadway, Suite 1800
San Diego, California 92101
(619) 236-1234

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

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

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. þ

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. o

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. o

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. o

Pursuant to Rule 429 under the Securities Act, the prospectus included in this registration statement is a combined prospectus and relates to registration statement no. 333-69664 previously filed on Form S-3 and declared effective on November 27, 2001. This registration statement, which is a new registration statement, also constitutes a post-effective amendment to registration statement no. 333-69664, and such post-effective amendment shall hereafter become effective concurrently with the effectiveness of this registration statement in accordance with Section 8(c) of the Securities Act.

ViaSat hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until ViaSat 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 or until this registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to Section 8(a), may determine.

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The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

(SUBJECT TO COMPLETION, DATED JULY 7, 2004)

PROSPECTUS

VIASAT

$200,000,000

Debt Securities

Preferred Stock
Depositary Shares
Common Stock
Warrants

We may offer and sell from time to time in one or more classes or series and in amounts, at prices and on the terms that we will determine at the time of offering, with an aggregate initial offering price of up to $200,000,000:

- debt securities, which may consist of debentures, notes or other types of debt;
- shares of preferred stock;
- shares of preferred stock represented by depositary shares;
- shares of common stock; and
- warrants to purchase debt securities, preferred stock or common stock.

We will provide the specific terms of these securities in supplements to this prospectus. You should read this prospectus and any supplement carefully before you invest.

Our common stock is listed on the Nasdaq National Market under the symbol VSAT.

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.

We will sell these securities directly to our stockholders or to purchasers or through agents on our behalf or through underwriters or dealers as designated from time to time. If any agents or underwriters are involved in the sale of any of these securities, the applicable prospectus supplement will provide the names of the agents or underwriters and any applicable fees, commissions or discounts.

The date of this prospectus is , 2004

You should rely only on the information contained or incorporated by reference in this prospectus. 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. We are not making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus is accurate as of the date on the front cover of this prospectus only. Our business, financial condition, results of operations and prospects may have subsequently changed.

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Whenever we refer to ViaSat, we, our or us in this prospectus, we mean ViaSat, Inc. and its consolidated subsidiaries, unless the context suggests otherwise. When we refer to you or yours, we mean the holders of the applicable series of securities.

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ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission (SEC) using a shelf registration process. Under this shelf registration process, we may sell any combination of the securities described in this prospectus in one or more offerings up to a total dollar amount of $200,000,000. This prospectus provides you with a general description of the securities we may offer. Each time we offer to 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. To the extent that any statement that we make in a prospectus supplement is inconsistent with statements made in this prospectus, the statements made in this prospectus will be deemed modified or superseded by those made in a prospectus supplement. You should read both this prospectus and any prospectus supplement together with additional information described under the next heading, Where You Can Find More Information.

WHERE YOU CAN FIND MORE INFORMATION

ViaSat is subject to the informational requirements of the Securities Exchange Act of 1934, as amended (the Exchange Act), and files annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy any reports, proxy statements and other information we file at the SEC s public reference room at 450 Fifth Street, N.W., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. You may also access filed documents at the SEC s web site at www.sec.gov.

We are incorporating by reference some information about us that we file with the SEC. We are disclosing important information to you by referencing those filed documents. Any information that we reference this way is considered part of this prospectus. The information in this prospectus supersedes information incorporated by reference that we have filed with the SEC prior to the date of this prospectus, while information that we file with the SEC after the date of this prospectus that is incorporated by reference will automatically update and supersede this information.

We incorporate by reference the following documents we have filed, or may file, with the SEC:

Our Annual Report on Form 10-K for the fiscal year ended April 2, 2004, filed with the SEC on June 16, 2004;

Our Annual Report on Form 10-K/A (Amendment No. 1) for the fiscal year ended April 2, 2004, filed with the SEC on June 28, 2004;

Our Annual Report on Form 10-K/A (Amendment No. 2) for the fiscal year ended April 2, 2004, filed with the SEC on July 7, 2004;

Our Current Report on Form 8-K/A dated June 25, 2004, filed with the SEC on June 28, 2004;

The description of our common stock contained in our Registration Statement on Form 8-A filed with the SEC on November 20, 1996; and

All documents filed by us with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus and before termination of this offering.

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You may request a free copy of any of the documents incorporated by reference in this prospectus by writing or telephoning us at the following address:

ViaSat, Inc.

6155 El Camino Real
Carlsbad, California 92009
(760) 476-2200

FORWARD-LOOKING STATEMENTS

This prospectus contains and incorporates by reference forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the Securities Act), and Section 21E of the Exchange Act. You can identify these forward-looking statements by forward-looking words such as believe, may, could, will, estimate, continue, anticipate, intend, seek, plan, expect, should expressions in this prospectus. These forward-looking statements are subject to a number of risks, uncertainties and assumptions about ViaSat, including, among other things:

- the ability to successfully grow our commercial business, while maintaining our significant government business;
- the ability to successfully develop, introduce and sell new satellite and other wireless communications products;
- the ability to successfully develop technologies according to anticipated schedules that meet performance expectations;
- the ability to successfully integrate strategic acquisitions;
- changes in product supply, pricing and customer demand;
- changes in relationships with key suppliers; and
- increased competition and other factors affecting the telecommunications market generally.

The factors identified above are believed to be some, but not all, of the important factors that could cause actual events and results to be significantly different from those that may be expressed or implied in any forward-looking statements. Any forward-looking statements should also be considered in light of the risk factors detailed in our Annual Report on Form 10-K. We undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

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VIASAT

We are a leading provider of advanced broadband digital satellite communications and other wireless networking and signal processing equipment and services to the government and commercial markets. Although our initial focus was primarily on developing satellite communications and simulation equipment for the U.S. government, we have successfully diversified into other related government as well as commercial markets. During the period from April 2000 to January 2002 we acquired (1) the satellite networks business from Scientific-Atlanta, Inc., (2) the Comsat Laboratories business from Lockheed Martin Global Telecommunications, LLC, and (3) U.S. Monolithics, LLC. These acquisitions further enhanced our strategic positioning in the commercial satellite communications market as well as significantly expanded our intellectual property portfolio. As a result of this diversification, we have transitioned from a primarily defense-oriented company to a company with near equal amounts of government and commercial business. We believe this diversification, in combination with our unique ability to effectively apply technologies between government and commercial markets, provides us with a strong foundation to sustain and enhance our leadership in advanced communications and networking technologies.

We were incorporated in California in 1986 and reincorporated in Delaware in 1996. Our principal executive offices are located at 6155 El Camino Real, Carlsbad, California 92009 and our telephone number is (760) 476-2200. Our website address is www.viasat.com. Information contained in our website is not deemed to be a part of this prospectus.

RATIO OF EARNINGS TO FIXED CHARGES

Our ratios of earnings to fixed charges are as follows for the periods indicated:

	Year Ended March 31,				Year Ended April 2,
	2000	2001	2002	2003	2004
Ratio of earnings to fixed charges	16.28	10.79	*	**	7.59

* There was a deficiency of earnings available to cover fixed charges for the fiscal year ended March 31, 2002. Additional earnings of $615,000 would have achieved a ratio of 1:1.

** There was a deficiency of earnings available to cover fixed charges for the fiscal year ended March 31, 2003. Additional earnings of $20,980,000 would have achieved a ratio of 1:1.

Fixed charges consist of interest expense and estimated interest included in rental expense.

For the periods indicated above, we had no outstanding shares of preferred stock with required dividend payments. Therefore, the ratios of earnings to fixed charges and preferred stock dividends are identical to the ratios presented in the table above.

USE OF PROCEEDS

Unless otherwise indicated in the prospectus supplement, we intend to use the net proceeds from the sale of the securities under this prospectus for general corporate purposes, including acquisitions, capital expenditures, working capital and repayment or refinancing of our debts. When a particular series of securities is offered, the prospectus supplement relating thereto will set forth our intended use for the net proceeds we receive from the sale of the securities. Pending the application of the net proceeds, we expect to invest the proceeds in short-term, interest-bearing instruments or other investment-grade securities.

DESCRIPTION OF DEBT SECURITIES

This prospectus describes the general terms and provisions of our debt securities. When we offer to sell a particular series of debt securities, we will describe the specific terms of the series in a supplement to this prospectus. We will also indicate in the supplement whether the general terms and provisions described in this prospectus apply to a particular series of debt securities.

We may offer under this prospectus up to $200,000,000 in aggregate principal amount of debt securities, or if debt securities are issued at a discount, or in a foreign currency or composite currency, such principal amount as may be sold for an initial public offering price of up to $200,000,000. Unless otherwise specified in a supplement to this prospectus, the debt securities will be our direct, unsecured obligations and will rank equally with all of our other unsecured and unsubordinated indebtedness.

The debt securities will be issued under an indenture between us and a trustee. We have summarized select portions of the indenture below. The summary is not complete. The form of the indenture has been incorporated by reference as an exhibit to the registration statement and you should read the indenture for provisions that may be important to you. Capitalized terms used in the summary have the meaning specified in the indenture.

General

The terms of each series of debt securities will be established by or pursuant to a resolution of our Board of Directors and set forth or determined in the manner provided in an officer s certificate or by a supplemental indenture. The particular terms of each series of debt securities will be described in a prospectus supplement relating to such series, including any pricing supplement.

We can issue an unlimited amount of debt securities under the indenture that may be in one or more series with the same or various maturities, at par, at a premium, or at a discount. We will set forth in a prospectus supplement, including any pricing supplement, relating to any series of debt securities being offered, the aggregate principal amount and the following terms of the debt securities:

- the title of the debt securities;
- the price or prices (expressed as a percentage of the principal amount) at which we will sell the debt securities;
- any limit on the aggregate principal amount of the debt securities;
- the date or dates on which we will pay the principal on the debt securities;
- the rate or rates (which may be fixed or variable) per annum or the method used to determine the rate or rates (including any commodity, commodity index, stock exchange index or financial index) at which the debt securities will bear interest, the date or dates from which interest will accrue, the date or dates on which interest will commence and be payable and any regular record date for the interest payable on any interest payment date;
- the place or places where principal of, premium and interest on the debt securities will be payable;
- the terms and conditions upon which we may redeem the debt securities;
- any obligation we have to redeem or purchase the debt securities pursuant to any sinking fund or analogous provisions or at the option of a holder of debt securities;
- the dates on which and the price or prices at which we will repurchase debt securities at the option of the holders of debt securities and other detailed terms and provisions of these repurchase obligations;
- the denominations in which the debt securities will be issued, if other than denominations of $1,000 and any integral multiple thereof;
- whether the debt securities will be issued in the form of certificated debt securities or global debt securities;

the portion of principal amount of the debt securities payable upon declaration of acceleration of the maturity date, if other than the principal amount;

the currency of denomination of the debt securities;

the designation of the currency, currencies or currency units in which payment of principal of, premium and interest on the debt securities will be made;

if payments of principal of, premium or interest on the debt securities will be made in one or more currencies or currency units other than that or those in which the debt securities are denominated, the manner in which the exchange rate with respect to these payments will be determined;

the manner in which the amounts of payment of principal of, premium or interest on the debt securities will be determined, if these amounts may be determined by reference to an index based on a currency or currencies other than that in which the debt securities are denominated or designated to be payable or by reference to a commodity, commodity index, stock exchange index or financial index;

any provisions relating to any security provided for the debt securities;

any addition to or change in the events of default described in this prospectus or in the indenture with respect to the debt securities and any change in the acceleration provisions described in this prospectus or in the indenture with respect to the debt securities;

any addition to or change in the covenants described in this prospectus or in the indenture with respect to the debt securities;

any other terms of the debt securities, which may modify or delete any provision of the indenture as it applies to that series; and

any depositaries, interest rate calculation agents, exchange rate calculation agents or other agents with respect to the debt securities.

In addition, the indenture does not limit our ability to issue convertible or subordinated debt securities. Any conversion or subordination provisions of a particular series of debt securities will be set forth in the officer s certificate or supplemental indenture related to that series of debt securities and will be described in the relevant prospectus supplement. Such terms may include provisions for conversion, either mandatory, at the option of the holder or at our option, in which case the number of shares of common stock or other securities to be received by the holders of debt securities would be calculated as of a time and in the manner stated in the prospectus supplement.

We may issue debt securities that provide for an amount less than their stated principal amount to be due and payable upon declaration of acceleration of their maturity pursuant to the terms of the indenture. We will provide you with information on the federal income tax considerations and other special considerations applicable to any of these debt securities in the applicable prospectus supplement.

If we denominate the purchase price of any of the debt securities in a foreign currency or currencies or a foreign currency unit or units, or if the principal of and any premium and interest on any series of debt securities is payable in a foreign currency or currencies or a foreign currency unit or units, we will provide you with information on the restrictions, elections, general tax considerations, specific terms and other information with respect to that issue of debt securities and such foreign currency or currencies or foreign currency unit or units in the applicable prospectus supplement.

Transfer and Exchange

Each debt security will be represented by either one or more global securities registered in the name of The Depository Trust Company, as Depositary, or a nominee (we will refer to any debt security represented by a global debt security as a book-entry debt security), or a certificate issued in definitive registered form (we will refer to any debt security represented by a certificated security as a certificated debt security) as set forth in the applicable prospectus supplement. Except as set forth under the heading Global Debt Securities and Book-Entry System below, book-entry debt securities will not be issuable in certificated form.

Certificated Debt Securities. You may transfer or exchange certificated debt securities at any office we maintain for this purpose in accordance with the terms of the indenture. No service charge will be made for any transfer or exchange of certificated debt securities, but we may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection with a transfer or exchange.

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You may effect the transfer of certificated debt securities and the right to receive the principal of, and premium and interest on, certificated debt securities only by surrendering the certificate representing those certificated debt securities and either reissuance by us or the trustee of the certificate to the new holder or the issuance by us or the trustee of a new certificate to the new holder.

Global Debt Securities and Book-Entry System. Each global debt security representing book-entry debt securities will be deposited with, or on behalf of, the depositary, and registered in the name of the depositary or a nominee of the depositary.

We will require the depositary to agree to follow the following procedures with respect to book-entry debt securities.

Ownership of beneficial interests in book-entry debt securities will be limited to persons who have accounts with the depositary for the related global debt security, which we refer to as participants, or persons who may hold interests through participants. Upon the issuance of a global debt security, the depositary will credit, on its book-entry registration and transfer system, the participants accounts with the respective principal amounts of the book-entry debt securities represented by such global debt security beneficially owned by such participants. The accounts to be credited will be designated by any dealers, underwriters or agents participating in the distribution of the book-entry debt securities. Ownership of book-entry debt securities will be shown on, and the transfer of such ownership interests will be effected only through, records maintained by the depositary for the related global debt security (with respect to interests of participants) and on the records of participants (with respect to interests of persons holding through participants). The laws of some states may require that certain purchasers of securities take physical delivery of such securities in definitive form. These laws may impair the ability to own, transfer or pledge beneficial interests in book-entry debt securities.

So long as the depositary for a global debt security, or its nominee, is the registered owner of that global debt security, the depositary or its nominee, as the case may be, will be considered the sole owner or holder of the book-entry debt securities represented by such global debt security for all purposes under the indenture. Except as described below, beneficial owners of book-entry debt securities will not be entitled to have securities registered in their names, will not receive or be entitled to receive physical delivery of a certificate in definitive form representing securities and will not be considered the owners or holders of those securities under the indenture. Accordingly, each person beneficially owning book-entry debt securities must rely on the procedures of the depositary for the related global debt security and, if such person is not a participant, on the procedures of the participant through which such person owns its interest, to exercise any rights of a holder under the indenture.

We understand, however, that under existing industry practice, the depositary will authorize the persons on whose behalf it holds a global debt security to exercise certain rights of holders of debt securities, and the indenture provides that we, the trustee and our respective agents will treat as the holder of a debt security the persons specified in a written statement of the depositary with respect to that global debt security for purposes of obtaining any consents or directions required to be given by holders of the debt securities pursuant to the indenture.

We will make payments of principal of, and premium and interest on, book-entry debt securities to the depositary or its nominee, as the case may be, as the registered holder of the related global debt security. ViaSat, the trustee and any other agent of ours or agent of the trustee will not have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests in a global debt security or for maintaining, supervising or reviewing any records relating to beneficial ownership interests.

We expect that the depositary, upon receipt of any payment of principal of, and premium or interest on, a global debt security, will immediately credit participants accounts with payments in amounts proportionate to the respective amounts of book-entry debt securities held by each participant as shown on the records of such depositary. We also expect that payments by participants to owners of beneficial interests in book-entry debt securities held through those participants will be governed by standing customer instructions and customary practices, as is now the case with the securities held for the accounts of customers in bearer form or registered in street name, and will be the responsibility of those participants.

We will issue certificated debt securities in exchange for each global debt security if the depositary is at any time unwilling or unable to continue as depositary or ceases to be a clearing agency registered under the Exchange Act and a successor depositary registered as a clearing agency under the Exchange Act is not appointed by us within 90 days. In addition, we may at any time and in our sole discretion determine not to have the book-entry debt securities of any series represented by one or more global debt securities and, in that event, will issue certificated debt securities in exchange for the global debt securities of that series. Global debt securities will also be exchangeable by the holders for certificated debt securities if an event of default with respect to the book-entry debt securities represented by those global debt securities has occurred and is continuing. Any certificated debt securities issued in exchange for a global debt security will be registered in such name or names as the depositary shall instruct the trustee. We expect that such instructions will be based upon directions received by the depositary from participants with respect to ownership of book-entry debt securities relating to such global debt security.

We have obtained the foregoing information concerning the depositary and the depositary s book-entry system from sources we believe to be reliable, but we take no responsibility for the accuracy of this information.

No Protection in the Event of a Change of Control

Unless we state otherwise in the applicable prospectus supplement, the debt securities will not contain any provisions that may afford holders of the debt securities protection in the event we have a change in control or in the event of a highly leveraged transaction (whether or not such transaction results in a change in control) that could adversely affect holders of debt securities.

Covenants

We will set forth in the applicable prospectus supplement any restrictive covenants applicable to any issue of debt securities.

Consolidation, Merger and Sale of Assets

We may not consolidate with or merge with or into, or convey, transfer or lease all or substantially all of our properties and assets to, any person, which we refer to as a successor person, unless:

- we are the surviving corporation or the successor person (if other than ViaSat) is a corporation organized and validly existing under the laws of any U.S. domestic jurisdiction and expressly assumes our obligations on the debt securities and under the indenture;
- immediately after giving effect to the transaction, no event of default, and no event which, after notice or lapse of time, or both, would become an event of default, shall have occurred and be continuing under the indenture; and
- certain other conditions are met.

Events of Default

Event of default means, with respect to any series of debt securities, any of the following:

- default in the payment of any interest upon any debt security of that series when it becomes due and payable, and continuance of that default for a period of 30 days (unless the entire amount of the payment is deposited by us with the trustee or with a paying agent prior to the expiration of the 30-day period);
- default in the payment of principal of or premium on any debt security of that series when due and payable;
- default in the deposit of any sinking fund payment, when and as due in respect of any debt security of that series;

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- default in the performance or breach of any other covenant or warranty by us in the indenture (other than a covenant or warranty that has been included in the indenture solely for the benefit of a series of debt securities other than that series), which default continues uncured for a period of 60 days after we receive written notice from the trustee or we and the trustee receive written notice from the holders of not less than a majority in principal amount of the outstanding debt securities of that series as provided in the indenture;
- certain events of bankruptcy, insolvency or reorganization of our company; and
- any other event of default provided with respect to debt securities of that series that is described in the applicable prospectus supplement accompanying this prospectus.

No event of default with respect to a particular series of debt securities (except as to certain events of bankruptcy, insolvency or reorganization) necessarily constitutes an event of default with respect to any other series of debt securities. The occurrence of an event of default may constitute an event of default under our bank credit agreements in existence from time to time. In addition, the occurrence of certain events of default or an acceleration under the indenture may constitute an event of default under certain of our other indebtedness outstanding from time to time.

If an event of default with respect to debt securities of any series at the time outstanding occurs and is continuing, then the trustee or the holders of not less than a majority in principal amount of the outstanding debt securities of that series may, by a notice in writing to us (and to the trustee if given by the holders), declare to be due and payable immediately the principal (or, if the debt securities of that series are discount securities, that portion of the principal amount as may be specified in the terms of that series) of, and accrued and unpaid interest, if any, on all debt securities of that series. In the case of an event of default resulting from certain events of bankruptcy, insolvency or reorganization, the principal (or such specified amount) of and accrued and unpaid interest, if any, on all outstanding debt securities will become and be immediately due and payable without any declaration or other act on the part of the trustee or any holder of outstanding debt securities. At any time after a declaration of acceleration with respect to debt securities of any series has been made, but before a judgment or decree for payment of the money due has been obtained by the trustee, the holders of a majority in principal amount of the outstanding debt securities of that series may rescind and annul the acceleration if all events of default, other than the non-payment of accelerated principal and interest, if any, with respect to debt securities of that series, have been cured or waived as provided in the indenture. We refer you to the prospectus supplement relating to any series of debt securities that are discount securities for the particular provisions relating to acceleration of a portion of the principal amount of such discount securities upon the occurrence of an event of default.

The indenture provides that the trustee will be under no obligation to exercise any of its rights or powers under the indenture at the request of any holder of outstanding debt securities, unless the trustee receives indemnity satisfactory to it against any loss, liability or expense. Subject to certain rights of the trustee, the holders of a majority in principal amount of the outstanding debt securities of any series will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee or exercising any trust or power conferred on the trustee with respect to the debt securities of that series.

No holder of any debt security of any series will have any right to institute any proceeding, judicial or otherwise, with respect to the indenture or for the appointment of a receiver or trustee, or for any remedy under the indenture, unless:

- that holder has previously given to the trustee written notice of a continuing event of default with respect to debt securities of that series; and
- the holders of at least a majority in principal amount of the outstanding debt securities of that series have made written request, and offered reasonable indemnity, to the trustee to institute the proceeding as trustee, and the trustee has not received from the holders of a majority in principal amount of the outstanding debt securities of that series a direction inconsistent with that request and has failed to institute the proceeding within 60 days.

Notwithstanding the foregoing, the holder of any debt security will have an absolute and unconditional right to receive payment of the principal of, premium and any interest on that debt security on or after the due dates expressed in that debt security and to institute suit for the enforcement of payment.

The indenture requires us, within 120 days after the end of our fiscal year, to furnish to the trustee a statement as to compliance with the indenture. The indenture provides that the trustee may withhold notice to the holders of debt securities of any series of any default or event of default (except in payment on any debt securities of that series) with respect to debt securities of that series if it in good faith determines that withholding notice is in the interest of the holders of those debt securities.

Modification and Waiver

We may modify and amend the indenture with the consent of the holders of at least a majority in principal amount of the outstanding debt securities of each series affected by the modifications or amendments. We may not make any modification or amendment without the consent of the holders of each affected debt security then outstanding if that amendment will:

- reduce the amount of debt securities whose holders must consent to an amendment or waiver;
- reduce the rate of or extend the time for payment of interest (including default interest) on any debt security;
- reduce the principal of or premium on or change the fixed maturity of any debt security or reduce the amount of, or postpone the date fixed for, the payment of any sinking fund or analogous obligation with respect to any series of debt securities;
- reduce the principal amount of discount securities payable upon acceleration of maturity;
- waive a default in the payment of the principal of, premium or interest on any debt security (except a rescission of acceleration of the debt securities of any series by the holders of at least a majority in aggregate principal amount of the then outstanding debt securities of that series and a waiver of the payment default that resulted from such acceleration);
- make the principal of or premium or interest on any debt security payable in currency other than that stated in the debt security;
- make any change to certain provisions of the indenture relating to, among other things, the right of holders of debt securities to receive payment of the principal of, premium and interest on those debt securities and to institute suit for the enforcement of any such payment and to waivers or amendments; or
- waive a redemption payment with respect to any debt security.

Except for certain specified provisions, the holders of at least a majority in principal amount of the outstanding debt securities of any series may on behalf of the holders of all debt securities of that series waive our compliance with provisions of the indenture. The holders of a majority in principal amount of the outstanding debt securities of any series may on behalf of the holders of all the debt securities of such series waive any past default under the indenture with respect to that series and its consequences, except a default in the payment of the principal of, or premium or any interest on, any debt security of that series or in respect of a covenant or provision, which cannot be modified or amended without the consent of the holder of each outstanding debt security of the series affected; *provided, however*, that the holders of a majority in principal amount of the outstanding debt securities of any series may rescind an acceleration and its consequences, including any related payment default that resulted from the acceleration.

Defeasance of Debt Securities and Certain Covenants in Certain Circumstances

Legal Defeasance. The indenture provides that, unless otherwise provided by the terms of the applicable series of debt securities, we may be discharged from any and all obligations in respect of the debt securities of any series (except for certain obligations to register the transfer or exchange of debt securities of such series, to replace stolen, lost or mutilated debt securities of such series, and to maintain paying agencies and certain provisions relating to the treatment of funds held by paying agents). We will be so discharged upon the deposit with the trustee, in trust, of money and/or U.S. government obligations or, in the case of debt securities denominated in a single currency other than U.S. dollars, foreign government obligations, that, through the payment of interest and principal in accordance with their terms, will provide money in an amount sufficient in the opinion of a nationally recognized firm of independent public accountants to pay and discharge each installment of principal, premium and interest on and any mandatory sinking fund payments in respect of the debt securities of that series on the stated maturity of those payments in accordance with the terms of the indenture and those debt securities.

This discharge may occur only if, among other things, we have delivered to the trustee an opinion of counsel stating that we have received from, or there has been published by, the United States Internal Revenue Service a ruling or, since the date of execution of the indenture, there has been a change in the applicable United States federal income tax law, in either case to the effect that, and based thereon such opinion shall confirm that, the holders of the debt securities of that series will not recognize income, gain or loss for United States federal income tax purposes as a result of the deposit, defeasance and discharge and will be subject to United States federal income tax on the same amounts and in the same manner and at the same times as would have been the case if the deposit, defeasance and discharge had not occurred.

Defeasance of Certain Covenants. The indenture provides that, unless otherwise provided by the terms of the applicable series of debt securities, upon compliance with certain conditions:

- we may omit to comply with the covenant described under the heading Consolidation, Merger and Sale of Assets and certain other covenants set forth in the indenture, as well as any additional covenants that may be set forth in the applicable prospectus supplement; and

- any omission to comply with those covenants will not constitute a default or an event of default with respect to the debt securities of that series, or covenant defeasance.

The conditions include:

- depositing with the trustee money and/or U.S. government obligations or, in the case of debt securities denominated in a single currency other than U.S. dollars, foreign government obligations, that, through the payment of interest and principal in accordance with their terms, will provide money in an amount sufficient in the opinion of a nationally recognized firm of independent public accountants to pay and discharge each installment of principal of, premium and interest on and any mandatory sinking fund payments in respect of the debt securities of that series on the stated maturity of those payments in accordance with the terms of the indenture and those debt securities; and

- delivering to the trustee an opinion of counsel to the effect that the holders of the debt securities of that series will not recognize income, gain or loss for United States federal income tax purposes as a result of the deposit and related covenant defeasance and will be subject to United States federal income tax on the same amounts and in the same manner and at the same times as would have been the case if the deposit and related covenant defeasance had not occurred.

Covenant Defeasance and Events of Default. In the event we exercise our option to effect covenant defeasance with respect to any series of debt securities and the debt securities of that series are declared due and payable because of the occurrence of any event of default, the amount of money and/or U.S. government obligations or foreign government obligations on deposit with the trustee will be sufficient to pay amounts due on the debt securities of that series at the time of their stated maturity but may not be sufficient to pay amounts due on the debt securities of that series at the time of the acceleration resulting from the event of default. In such a case, we would remain liable for those payments.

Foreign Government Obligations means, with respect to debt securities of any series that are denominated in a currency other than U.S. dollars:

- direct obligations of the government that issued or caused to be issued such currency for the payment of which obligations its full faith and credit is pledged which are not callable or redeemable at the option of the issuer thereof; or

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obligations of a person controlled or supervised by or acting as an agency or instrumentality of that government the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by that government which are not callable or redeemable at the option of the issuer thereof.

Governing Law

The indenture and the debt securities will be governed by, and construed in accordance with, the internal laws of the State of New York.

DESCRIPTION OF CAPITAL STOCK

General

This prospectus describes the general terms of our capital stock. For a more detailed description of these securities, you should read the applicable provisions of Delaware law and our certificate of incorporation and bylaws. When we offer to sell a particular series of these securities, we will describe the specific terms of the series in a supplement to this prospectus. Accordingly, for a description of the terms of any series of securities, you must refer to both the prospectus supplement relating to that series and the description of the securities described in this prospectus. To the extent the information contained in the prospectus supplement differs from this summary description, you should rely on the information in the prospectus supplement.

Under our certificate of incorporation, the total number of shares of all classes of stock that we have authority to issue is 105,000,000, consisting of 5,000,000 shares of preferred stock, par value $.0001 per share, and 100,000,000 shares of common stock, par value $.0001 per share.

Common Stock

As of June 28, 2004, we had 26,675,531 shares of common stock outstanding. The holders of our common stock are entitled to one vote for each share on all matters voted on by stockholders. The holders of our common stock do not have cumulative voting rights, which means that holders of more than one-half of the shares voting for the election of directors can elect all of the directors then being elected. Subject to the preferences of any of our outstanding preferred stock, the holders of our common stock are entitled to a proportional distribution of any dividends that may be declared by the board of directors. In the event of a liquidation or dissolution of ViaSat, the holders of our common stock are entitled to share equally in all assets remaining after payment of liabilities and any payments due to holders of any outstanding shares of our preferred stock. The outstanding shares of our common stock are, and the shares offered by this prospectus, when issued, will be fully paid and nonassessable. The rights, preferences and privileges of holders of our common stock are subject to, and may be adversely affected by, the rights of the holders of shares of any of our outstanding preferred stock.

Preferred Stock

We currently have no outstanding shares of preferred stock. Under our certificate of incorporation, our board of directors is authorized to issue shares of our preferred stock from time to time, in one or more classes or series, without stockholder approval. Prior to the issuance of shares of each series, the board of directors is required by the General Corporation Law of the State of Delaware, known as the DGCL, and our certificate of incorporation to adopt resolutions and file a certificate of designation with the Secretary of State of the State of Delaware. The certificate of designation fixes for each class or series the designations, powers, preferences, rights, qualifications, limitations and restrictions, including the following:

- the number of shares constituting each class or series;
- voting rights;
- rights and terms of redemption, including sinking fund provisions;
- dividend rights and rates;
- dissolution;

terms concerning the distribution of assets;

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- conversion or exchange terms;
- redemption prices; and
- liquidation preferences.

All shares of preferred stock offered by this prospectus will, when issued, be fully paid and nonassessable and will not have any preemptive or similar rights. Our board of directors could authorize the issuance of additional shares of preferred stock with terms and conditions that could have the effect of discouraging a takeover or other transaction that might involve a premium price for holders of the shares or that holders might believe to be in their best interests.

We will describe in a prospectus supplement relating to the class or series of preferred stock being offered the following terms:

- the title and stated value of the preferred stock;
- the number of shares of the preferred stock offered, the liquidation preference per share and the offering price of the preferred stock;
- the dividend rate(s), period(s) or payment date(s) or method(s) of calculation applicable to the preferred stock;
- whether dividends are cumulative or non-cumulative and, if cumulative, the date from which dividends on the preferred stock will accumulate;
- the procedures for any auction and remarketing, if any, for the preferred stock;
- the provisions for a sinking fund, if any, for the preferred stock;
- the provision for redemption, if applicable, of the preferred stock;
- any listing of the preferred stock on any securities exchange;
- the terms and conditions, if applicable, upon which the preferred stock will be convertible into common stock, including the conversion price or manner of calculation and conversion period;
- voting rights, if any, of the preferred stock;
- whether interests in the preferred stock will be represented by depositary shares;
- a discussion of any material or special United States federal income tax considerations applicable to the preferred stock;
- the relative ranking and preferences of the preferred stock as to dividend rights and rights upon the liquidation, dissolution or winding up of our affairs;
- any limitations on issuance of any class or series of preferred stock ranking senior to or on a parity with the class or series of preferred stock as to dividend rights and rights upon liquidation, dissolution or winding up of our affairs; and
- any other specific terms, preferences, rights, limitations or restrictions of the preferred stock.

Unless we specify otherwise in the applicable prospectus supplement, the preferred stock will rank, relating to dividends and upon our liquidation, dissolution or winding up:

- senior to all classes or series of our common stock and to all of our equity securities ranking junior to the preferred stock;

- on a parity with all of our equity securities the terms of which specifically provide that the equity securities rank on a parity with the preferred stock; and

- junior to all of our equity securities the terms of which specifically provide that the equity securities rank senior to the preferred stock.

The term equity securities does not include convertible debt securities.

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Anti-Takeover Provisions

As a corporation organized under the laws of the State of Delaware, we are subject to Section 203 of the DGCL, which restricts our ability to enter into business combinations with an interested stockholder or a stockholder owning 15% or more of our outstanding voting stock, or that stockholder s affiliates or associates, for a period of three years. These restrictions do not apply if:

prior to becoming an interested stockholder, our board of directors approves either the business combination or the transaction in which the stockholder becomes an interested stockholder;

upon consummation of the transaction in which the stockholder becomes an interested stockholder, the interested stockholder owns at least 85% of our voting stock outstanding at the time the transaction commenced, subject to exceptions; or

on or after the date a stockholder becomes an interested stockholder, the business combination is both approved by our board of directors and authorized at an annual or special meeting of our stockholders by the affirmative vote of at least two-thirds of the outstanding voting stock not owned by the interested stockholder.

Some provisions of ViaSat s certificate of incorporation and bylaws could also have anti-takeover effects. These provisions:

permit the board of directors to increase its own size and fill the resulting vacancies;

provide for a board comprised of three classes of directors with each class serving a staggered three-year term;

authorize the issuance of preferred stock in one or more series; and

prohibit stockholder action by written consent.

These provisions are intended to enhance the likelihood of continuity and stability in the composition of the policies formulated by the board of directors. In addition, these provisions are intended to ensure that the board of directors will have sufficient time to act in what it believes to be in the best interests of ViaSat and its stockholders. These provisions also are designed to reduce our vulnerability to an unsolicited proposal for a takeover of ViaSat that does not contemplate the acquisition of all of our outstanding shares or an unsolicited proposal for the restructuring or sale of all or part of ViaSat. The provisions are also intended to discourage some tactics that may be used in proxy fights.

Classified Board of Directors

The certificate of incorporation provides for the board of directors to be divided into three classes of directors, with each class as nearly equal in number as possible, serving staggered three-year terms. As a result, approximately one-third of the board of directors will be elected each year. The classified board provision will help to assure the continuity and stability of the board of directors and the business strategies and policies of ViaSat as determined by the board of directors. The classified board provision could have the effect of discouraging a third party from making a tender offer or attempting to obtain control of ViaSat. In addition, the classified board provision could delay stockholders who do not agree with the policies of the board of directors from removing a majority of the board of directors for two years.

No Stockholder Action by Written Consent; Special Meetings

The certificate of incorporation provides that stockholder action can only be taken at an annual or special meeting of stockholders and prohibits stockholder action by written consent in lieu of a meeting.

The certificate of incorporation also provides that special meetings of stockholders may be called only by the board of directors, its chairman, the president or the secretary of ViaSat. Stockholders are not permitted to call a special meeting of stockholders or to require that the board of directors call a special meeting.

Number of Directors; Removal; Filling Vacancies

The certificate of incorporation provides that the board of directors will consist of between four and eleven members, the exact number to be fixed by resolution adopted by affirmative vote of a majority of the

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board of directors. The board of directors currently consists of five directors. Further, the certificate of incorporation authorizes the board of directors to fill newly created directorships. Accordingly, this provision could prevent a stockholder from obtaining majority representation on the board of directors by permitting the board of directors to enlarge the size of the board and fill the new directorships with its own nominees. A director so elected by the board of directors holds office until the next election of the class for which the director has been chosen and until his or her successor is elected and qualified. The certificate of incorporation also provides that directors may be removed only for cause and only by the affirmative vote of holders of a majority of the total voting power of all outstanding securities. The effect of these provisions is to preclude a stockholder from removing incumbent directors without cause and simultaneously gaining control of the board of directors by filling the vacancies created by the removal with its own nominees.

Transfer Agent and Registrar

The Transfer Agent and Registrar for our common stock is Computershare Investor Services LLC.

DESCRIPTION OF DEPOSITARY SHARES

General

We may issue depositary shares, each of which will represent a fractional interest of a share of a particular series of preferred stock, as specified in the applicable prospectus supplement. We will deposit with a depositary, referred to as the preferred stock depositary, shares of preferred stock of each series represented by depositary shares. We will enter into a deposit agreement with the preferred stock depositary and holders from time to time of the depositary receipts issued by the preferred stock depositary which evidence the depositary shares. Subject to the terms of the deposit agreement, each owner of a depositary receipt will be entitled, in proportion to the holder s fractional interest in the preferred stock, to all the rights and preferences of the series of the preferred stock represented by the depositary shares, including dividend, voting, conversion, redemption and liquidation rights.

Immediately after we issue and deliver the preferred stock to a preferred stock depositary, we will cause the preferred stock depositary to issue the depositary receipts on our behalf. You may obtain copies of the applicable form of deposit agreement and depositary receipt from us upon request. The statements made in this section relating to the deposit agreement and the depositary receipts are summaries only. These summaries are not complete and we may modify any of the terms of the depositary shares described in this prospectus in a prospectus supplement. To the extent the information contained in the prospectus supplement differs from this summary description, you should rely on the information in the prospectus supplement. For more detail, we refer you to the deposit agreement, which we will file as an exhibit to, or incorporate by reference in, the registration statement.

Dividends and Other Distributions

The preferred stock depositary will distribute all cash dividends or other cash distributions received relating to the preferred stock to the record holders of depositary receipts in proportion to the number of the depositary receipts owned by the holders, subject to the obligations of holders to file proofs, certificates and other information and to pay certain charges and expenses to the preferred stock depositary.

In the event of a distribution other than in cash, the preferred stock depositary will distribute property received by it to the record holders of depositary receipts in proportion to the number of the depositary receipts owned by the holders, unless the preferred stock depositary determines that it is not feasible to make the distribution, in which case the preferred stock depositary may, with our approval, sell the property and distribute the net proceeds from the sale to the holders.

No distribution will be made relating to any depositary share that represents any preferred stock converted into other securities.

Withdrawal of Stock

Assuming we have not previously called for redemption or converted into other securities the related depositary shares, upon surrender of the depositary receipts at the corporate trust office of the preferred stock

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depositary, the holders will be entitled to delivery at that office of the number of whole or fractional shares of the preferred stock and any money or other property represented by the depositary shares. Holders of depositary receipts will be entitled to receive shares of the related preferred stock as specified in the applicable prospectus supplement, but holders of the shares of preferred stock will no longer be entitled to receive depositary shares.

Redemption of Depositary Shares

Whenever we redeem shares of preferred stock held by the preferred stock depositary, the preferred stock depositary will concurrently redeem the number of depositary shares representing shares of the preferred stock so redeemed, provided we have paid the applicable redemption price for the preferred stock to be redeemed plus an amount equal to any accrued and unpaid dividends to the date fixed for redemption. The redemption price per depositary share will be equal to the corresponding proportion of the redemption price and any other amounts per share payable relating to the preferred stock. If fewer than all the depositary shares are to be redeemed, the depositary shares to be redeemed will be selected pro rata or by any other equitable method determined by us.

From and after the date fixed for redemption:

- all dividends relating to the shares of preferred stock called for redemption will cease to accrue;
- the depositary shares called for redemption will no longer be deemed to be outstanding; and
- all rights of the holders of the depositary receipts evidencing the depositary shares called for redemption will cease, except the right to receive any moneys payable upon the redemption and any money or other property to which the holders of the depositary receipts were entitled upon redemption and surrender to the preferred stock depositary.

Any funds we deposit with the preferred stock depositary for redemption of depositary shares that the holders fail to redeem will be returned to us after a period of two years from the date the funds are deposited.

Voting of the Preferred Stock

Upon receipt of notice of any meeting at which the holders of the preferred stock are entitled to vote, the preferred stock depositary will mail the information contained in the notice of meeting to the record holders of the depositary receipts. Each record holder of these depositary receipts on the record date, which will be the same date as the record date for the preferred stock, will be entitled to instruct the preferred stock depositary as to the exercise of the voting rights pertaining to the amount of preferred stock represented by the holder s depositary shares. The preferred stock depositary will vote the amount of preferred stock represented by the depositary shares in accordance with the instructions, and we will agree to take all reasonable action necessary to enable the preferred stock depositary to do so. The preferred stock depositary will abstain from voting the amount of preferred stock represented by the depositary shares for which it does not receive specific instructions from the holders of depositary receipts evidencing the depositary shares. The preferred stock depositary will not be responsible for any failure to carry out any instruction to vote, or for the manner or effect of any vote made, as long as the action or non-action is in good faith and does not result from the preferred stock depositary s negligence or willful misconduct.

Liquidation Preference

In the event that we voluntarily or involuntarily liquidate, dissolve or wind up, the holders of each depositary receipt will be entitled to the fraction of the liquidation preference accorded each share of preferred stock represented by the depositary shares, as specified in the applicable prospectus supplement.

Conversion of Depositary Shares

The depositary shares will not be convertible into common stock or any of our other securities or property, unless we so specify in the applicable prospectus supplement relating to an offering of depositary shares.

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Amendment and Termination of the Deposit Agreement

We may amend the form of depositary receipt and any provision of the deposit agreement at any time by agreement with the preferred stock depositary. However, any amendment that imposes or increases any fees, taxes or other charges payable by the holders of depositary receipts, other than taxes and other governmental charges, fees and other expenses payable by the holders as described below under Charges of Preferred Stock Depositary, or that otherwise prejudices any substantial existing right of holders of depositary receipts, will not take effect as to outstanding depositary receipts until the expiration of 30 days after notice of the amendment has been mailed to the record holders of outstanding depositary receipts.

When we direct the preferred stock depositary to do so, the preferred stock depositary will terminate the deposit agreement by mailing a notice of termination to the record holders of all depositary receipts then outstanding at least 30 days prior to the date fixed in the notice for termination. In addition, the preferred stock depositary may terminate the deposit agreement if at any time 45 days have passed since the preferred stock depositary has delivered to us a written notice of its election to resign and a successor depositary has not been appointed and accepted its appointment. If any depositary receipts remain outstanding after the date of termination, the preferred stock depositary thereafter will discontinue the transfer of depositary receipts, will suspend the distribution of dividends to the holders thereof, and will not give any further notices, other than the notice of termination, or perform any further acts under the deposit agreement, except as provided below and except that the preferred stock depositary will continue to collect dividends on the preferred stock and other distributions with respect to the preferred stock and will continue to deliver the preferred stock together with any dividends and distributions and the net proceeds of any sales of rights, preferences, privileges or other property, without liability for interest thereon, in exchange for depositary receipts surrendered. At any time after the expiration of two years from the date of termination, the preferred stock depositary may sell the preferred stock then held by it at public or private sales, at such place or places and upon such terms as it deems proper and may thereafter hold the net proceeds of any such sale, together with any money or other property then held by it, without liability for interest thereon, for the pro rata benefit of the holders of depositary receipts that have not been surrendered.

In addition, the deposit agreement will automatically terminate if:

- all outstanding depositary shares have been redeemed; or
- there has been a final distribution of the related preferred stock in connection with our liquidation, dissolution or winding up and the distribution has been distributed to the holders of depositary receipts evidencing the depositary shares representing the preferred stock.

Charges of Preferred Stock Depositary

We will pay all fees, charges and expenses of the preferred stock depositary in connection with its performance of the deposit agreement, except for any taxes and other governmental charges and except as provided in the deposit agreement. Holders of depositary receipts will pay the fees and expenses of the preferred stock depositary for any duties requested by the holders to be performed which are outside those expressly provided for in the deposit agreement.

Resignation and Removal of Depositary

The preferred stock depositary may resign at any time by delivering to us notice of its election to do so, and we may at any time remove the preferred stock depositary. Any resignation or removal of the acting preferred stock depository will take effect upon our appointment of a successor preferred stock depositary. We must appoint a successor preferred stock depositary within 45 days after delivery of the notice of resignation or removal.

Miscellaneous

The preferred stock depositary will make available for inspection to holders of depositary receipts any reports and communications the preferred stock depositary receives from us relating to the preferred stock.

We will not be liable, nor will the preferred stock depositary be liable, if we are prevented from or delayed in, by law or any circumstances beyond our control, performing our obligations under the deposit agreement.

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Our obligations and the obligations of the preferred stock depositary under the deposit agreement will be limited to performing our duties in good faith and without negligence or willful misconduct. We will not be obligated, nor will the preferred stock depositary be obligated, to prosecute or defend any legal proceeding relating to any depositary receipts, depositary shares or shares of preferred stock represented by depositary shares unless satisfactory indemnity is furnished to us. We may rely, and the preferred stock depositary may rely, on written advice of counsel or accountants, or information provided by persons presenting shares of preferred stock represented by depositary shares for deposit, holders of depositary receipts or other persons we believe in good faith to be competent to give this information, and on documents we believe in good faith to be genuine and signed by a proper party.

DESCRIPTION OF WARRANTS

We may issue warrants to purchase debt securities, preferred stock or common stock. We may issue warrants independently or together with any other securities we offer under a prospectus supplement. The warrants may be attached to or separate from the securities. We will issue each series of warrants under a separate warrant agreement that we will enter into with a bank or trust company, as warrant agent. The statements made in this section relating to the warrant agreement are summaries only. These summaries are not complete. When we issue warrants, we will provide the specific terms of the warrants and the applicable warrant agreement in a prospectus supplement. To the extent the information contained in the prospectus supplement differs from this summary description, you should rely on the information in the prospectus supplement. For more detail, we refer you to the applicable warrant agreement itself, which we will file as an exhibit to, or incorporate by reference in, the registration statement.

Debt Warrants

We will describe in the applicable prospectus supplement the terms of the debt warrants being offered, the warrant agreement relating to the debt warrants and the debt warrant certificates representing the debt warrants, including:

- the title of the debt warrants;
- the aggregate number of the debt warrants;
- the price or prices at which the debt warrants will be issued;
- the designation, aggregate principal amount and terms of the debt securities purchasable upon exercise of the debt warrants, and the procedures and conditions relating to the exercise of the debt warrants;
- the designation and terms of any related debt securities with which the debt warrants are issued, and the number of the debt warrants issued with each security;
- the date, if any, on and after which the debt warrants and the related debt securities will be separately transferable;
- the principal amount of debt securities purchasable upon exercise of each debt warrant, and the price at which the principal amount of the debt securities may be purchased upon exercise;
- the date on which the right to exercise the debt warrants will commence, and the date on which the right will expire;
- the maximum or minimum number of the debt warrants that may be exercised at any time;
- information with respect to book-entry procedures, if any;
- a discussion of the material United States federal income tax considerations applicable to the exercise of the debt warrants; and
- any other terms of the debt warrants and terms, procedures and limitations relating to the exercise of the debt warrants.

Holders may exchange debt warrant certificates for new debt warrant certificates of different denominations, and may exercise debt warrants at the corporate trust office of the warrant agent or any other office indicated in the applicable prospectus supplement. Prior to the exercise of their debt warrants, holders of debt

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warrants will not have any of the rights of holders of the securities purchasable upon the exercise and will not be entitled to payments of principal, premium or interest on the securities purchasable upon the exercise of debt warrants.

Equity Warrants

We will describe in the applicable prospectus supplement the terms of the preferred stock warrants or common stock warrants being offered, the warrant agreement relating to the preferred stock warrants or common stock warrants and the warrant certificates representing the preferred stock warrants or common stock warrants, including:

(Unaudited)

Note 1: Ownership, Description of Business and Summary of Significant Accounting Policies

Encore Capital Group, Inc. (Encore), through its subsidiaries (collectively, the Company), is a systems-driven purchaser and manager of charged-off consumer receivable portfolios and, through its wholly owned subsidiary Ascension Capital Group, Inc. (Ascension), a provider of bankruptcy services to the finance industry. The Company acquires its receivable portfolios at deep discounts from their face values using its proprietary valuation process that is based on the consumer attributes of the underlying accounts. Based upon the Company s ongoing analysis of these accounts, it employs a dynamic mix of collection strategies to maximize its return on investment. The receivable portfolios the Company purchases consist primarily of unsecured, charged-off domestic consumer credit card, auto deficiency and telecom receivables purchased from national financial institutions, major retail credit corporations, telecom companies and resellers of such portfolios. Acquisitions of receivable portfolios are financed by operations and by borrowings from third parties. See Note 7 for further discussion of the Company s debt.

Financial Statement Preparation

The accompanying interim condensed consolidated financial statements have been prepared by Encore, without audit, in accordance with the instructions to Form 10-Q, and Rule 10-01 of Regulation S-X promulgated by the Securities and Exchange Commission and, therefore, do not include all information and footnotes necessary for a fair presentation of its consolidated financial position, results of operations and cash flows in accordance with accounting principles generally accepted in the United States.

In the opinion of management, the unaudited financial information for the interim periods presented reflects all adjustments, consisting of only normal and recurring adjustments, necessary for a fair presentation of the Company s consolidated results of operations, financial position and cash flows. These condensed consolidated financial statements should be read in conjunction with the consolidated financial statements included in the Company s Annual Report on Form 10-K for the fiscal year ended December 31, 2008. Operating results for interim periods are not necessarily indicative of operating results for an entire fiscal year.

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts and the disclosure of contingent amounts in the Company s financial statements and the accompanying notes. Actual results could materially differ from those estimates.

Principles of Consolidation

The Company s condensed consolidated financial statements include the assets, liabilities and operating results of its wholly-owned subsidiaries. All significant intercompany accounts and transactions have been eliminated.

Change in Accounting Principle

Effective January 1, 2009, the Company retrospectively applied Financial Accounting Standard Board (FASB) Staff Position APB 14-1 (FSP APB 14-1) *Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement)* to account for its outstanding convertible senior notes. As a result, prior years consolidated financial statements have been retrospectively adjusted. See Note 12 for additional information on the application of this accounting principle.

Reclassification

The prior year s consolidated statement of cash flows has been changed to the indirect method, to conform to the current year s presentation. Additionally, certain reclassifications have been made to the consolidated financial statements to conform to the current year s presentation.

Earnings per Share

Basic earnings per share (EPS) is calculated by dividing net earnings available to common stockholders by the weighted average number of shares of common stock outstanding. Common stock outstanding includes shares of common stock and restricted stock units for which no future service is required as a condition to the delivery of the underlying common stock. Diluted EPS includes the determinants of basic EPS and, in addition, reflects the dilutive effect of the common stock

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deliverable pursuant to stock options and to restricted stock units for which future service is required as a condition to the delivery of the underlying common stock. Employee stock options to purchase approximately 1,393,000 and 1,303,000 shares of common stock were outstanding during the three months ended March 31, 2009 and 2008, respectively, but not included in the computation of diluted earnings per share because the effect on diluted earnings per share would be anti-dilutive.

New Accounting Pronouncements

In December 2008, the FASB released FSP FAS 132(R)-1, *Employers Disclosures about Postretirement Benefit Plan Assets,* which amends Statement of Financial Accounting Standard No. 132R to provide guidance on an employer s disclosures about plan assets of a defined benefit pension or other postretirement plan. This FASB Staff Position is effective for financial statements issued for fiscal years ending after December 15, 2009. The Company expects to adopt this new standard and its required disclosures in its consolidated financial statements for the fiscal year ending December 31, 2009.

In April 2009, the FASB issued FSP FAS 107-1 and APB 28-1, *Interim Disclosures about Fair Value of Financial Instruments.* This FASB Staff Position amends FASB Statement No. 107, *Disclosures about Fair Value of Financial Instruments,* to require disclosures about fair value of financial instruments for interim reporting periods of publicly traded companies as well as in annual financial statements. This FASB Staff Position also amends APB Opinion No. 28, *Interim Financial Reporting,* to require certain disclosures in summarized financial information at interim reporting periods. This standard will be effective for the Company s second quarter ended June 30, 2009. The Company is in the process of determining the effects of the adoption of this standard on its consolidated financial statement disclosures.

In April 2009, the FASB issued FSP FAS 157-4, *Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly*. This FASB Staff Position provides additional guidance for estimating fair value in accordance with FASB Statement No. 157, *Fair Value Measurements*, when the volume and level of activity for the asset or liability have significantly decreased. It also includes guidance on identifying circumstances that indicate a transaction is not orderly. This standard will be effective for the Company for its second quarter ended June 30, 2009. The Company does not expect that the adoption of this standard will have a material impact on its consolidated financial statements.

Note 2: Fair Value Measurements

On January 1, 2008, the Company adopted Statement of Financial Accounting Standard No. 157, *Fair Value Measurements* (FAS 157), for financial assets and liabilities. On January 1, 2009, the Company adopted the provisions of FAS 157 for non-financial assets and non-financial liabilities that are recognized and disclosed at fair value on a nonrecurring basis. FAS 157 defines fair value, provides guidance for measuring fair value and requires certain disclosures. It does not require any new fair value measurements, but rather applies to all other accounting pronouncements that require or permit fair value measurements.

FAS 157 utilizes a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value into three broad levels. The following is a brief description of those three levels:

Level 1: Observable inputs such as quoted prices (unadjusted) in active markets for identical assets or liabilities.

Level 2: Inputs other than quoted prices that are observable for the asset or liability, either directly or indirectly. These include quoted prices for similar assets or liabilities in active markets and quoted prices for identical or similar assets or liabilities in markets that are not active.

Level 3: Unobservable inputs that reflect the reporting entity s own assumptions.

The Company s financial instruments measured at fair value on a recurring basis are summarized below *(in thousands)*:

Financial Instruments	**Fair Value**	**Fair Value at**	**Fair Value at**

	Hierarchy	March 31, 2009	December 31, 2008
Cash and cash equivalents	Level 1	$ 4,261	$ 10,341
Cash flow hedging instruments	Level 2	(3,176)	(3,483)

The Company does not have any non-financial assets or liabilities that are measured at fair value on a nonrecurring basis.

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Note 3: Stock-Based Compensation

On March 30, 2005, the Board of Directors of the Company adopted the 2005 Stock Incentive Plan (2005 Plan) for Board members, employees, officers, and executives of, and consultants and advisors to, the Company. The 2005 Plan provides for the granting of incentive stock options, nonqualified stock options, stock appreciation rights, restricted stock, restricted stock units, and performance-based awards to eligible individuals. Upon adoption, an aggregate of 1,500,000 shares of the Company s common stock were available for awards under the 2005 Plan, plus ungranted shares of stock that were available for future awards under the 1999 Equity Participation Plan (1999 Plan). In addition, shares subject to options granted under either the 1999 Plan or the 2005 Plan that terminate or expire without being exercised are available for grant under the 2005 Plan. The benefits provided under these plans are share-based compensation subject to the provisions of FAS 123R.

In accordance with FAS 123R, compensation expense is recognized only for those shares expected to vest, net of estimated forfeitures based on the Company s historical experience and future expectations. For the three months ended March 31, 2009, approximately $1.1 million was recognized as stock-based compensation expense.

The Company s stock-based compensation arrangements are described below:

Stock Options

The 2005 Plan permits the granting of stock options to certain employees and directors of the Company. Option awards are generally granted with an exercise price equal to the market price of the Company s stock at the date of issuance. Options generally vest based on three to five years of continuous service and have ten-year contractual terms.

The Company uses the Black-Scholes option-pricing model to determine the fair-value of stock-based awards. All options are amortized ratably over the requisite service periods of the awards, which are generally the vesting periods.

The fair value of options granted is estimated at the date of grant using a Black-Scholes option-pricing model with the following weighted-average assumptions (there were no options granted during the three months ended March 31, 2008):

	Three Months Ended March 31, 2009	Three Months Ended March 31, 2008
Weighted average fair value of options granted	$ 1.36	
Risk free interest rate	1.9%	
Dividend yield	0.0%	
Volatility factor of the expected market price of the Company s common stock	52.8%	
Weighted-average expected life of options	5 Years	

Unrecognized estimated compensation cost related to stock options as of March 31, 2009, was $1.9 million, which is expected to be recognized over a weighted-average period of approximately 2.3 years.

A summary of the Company s stock option activity and related information is as follows for the three months ended March 31, 2009:

	Number of Shares	Option Price Per Share	Weighted Average Exercise Price	Aggregate Intrinsic Value *(in thousands)*
Outstanding at December 31, 2008	2,139,503	$ 0.35 - $20.09	$ 9.14	
Granted	262,500	2.89	2.89	
Cancelled/forfeited	(24,200)	10.92 - 16.19	13.33	
Exercised				
Outstanding at March 31, 2009	2,377,803	$ 0.35 - $20.09	$ 8.38	$ 3,101

Exercisable at March 31, 2009	1,622,106	$ 0.35 - $20.09	$ 8.26	$ 2,671

There were no stock options exercised during the three months ended March 31, 2009. The total intrinsic value of options exercised during the three months ended March 31, 2008 was less than $0.1 million. As of March 31, 2009, the weighted-average remaining contractual life of options outstanding and options exercisable was 6.11 years and 4.70 years, respectively.

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Restricted Stock Units

Under the Company s 2005 Plan, certain employees and directors are eligible to receive restricted stock units. In accordance with FAS 123R, the fair value of restricted stock units is equal to the closing price of the Company s common stock on the date of issuance. The total number of restricted stock unit awards expected to vest is adjusted by estimated forfeiture rates. As of March 31, 2009, 113,100 of the non-vested shares are expected to vest over approximately three to five years based on certain performance goals (Performance-Based Awards). The fair value of the Performance-Based Awards is expensed over the expected vesting period based on our forfeiture assumptions. If performance goals are not expected to be met, the compensation expense previously recognized would be reversed. No reversals of compensation expense related to the Performance-Based Awards have been made as of March 31, 2009. The remaining 696,202 non-vested shares are not performance-based, and will vest and are being expensed over approximately two to five years of continuous service.

For the three months ended March 31, 2009, restricted stock unit activity and related information is as follows:

Restricted Stock Units	Non-Vested Shares	Weighted Average Grant Date Fair Value
Non-vested at December 31, 2008	628,752	$ 11.18
Awarded	203,114	$ 3.33
Vested	(22,364)	$ 6.93
Cancelled/forfeited	(200)	$ 10.25
Non-vested at March 31, 2009	809,302	$ 9.33

Unrecognized estimated compensation cost related to restricted stock units as of March 31, 2009, was $3.6 million, which is expected to be recognized over a weighted-average period of approximately 2.4 years. The fair value of restricted stock units vested for the three months ended March 31, 2009 and 2008 was $0.2 million and $0.1 million, respectively.

Note 4: Investment in Receivable Portfolios, Net

In accordance with the provisions of SOP 03-3, discrete receivable portfolio purchases during a quarter are aggregated into pools based on common risk characteristics. Once a static pool is established, the portfolios are permanently assigned to the pool. The discount (*i.e.*, the difference between the cost of each static pool and the related aggregate contractual receivable balance) is not recorded because the Company expects to collect a relatively small percentage of each static pool s contractual receivable balance. As a result, receivable portfolios are recorded at cost at the time of acquisition. All portfolios with common risk characteristics purchased prior to the adoption of SOP 03-3 in the first quarter of 2005 were aggregated by quarter of purchase.

In compliance with SOP 03-3, the Company accounts for its investments in consumer receivable portfolios using either the interest method or the cost recovery method. The interest method applies an effective interest rate, or IRR, to the cost basis of the pool, which remains unchanged throughout the life of the pool, unless there is an increase in subsequent, expected cash flows. Subsequent increases in expected cash flows are generally recognized prospectively through an upward adjustment of the pool s IRR over its remaining life. Subsequent decreases in expected cash flows do not change the IRR, but are recognized as an impairment of the cost basis of the pool, and are reflected in the consolidated statements of income as a reduction in revenue, with a corresponding valuation allowance, offsetting the investment in receivable portfolios in the consolidated statements of financial condition.

The Company accounts for each static pool as a unit for the economic life of the pool (similar to one loan) for recognition of revenue from receivable portfolios, for collections applied to the cost basis of receivable portfolios and for provision for loss or impairment. Revenue from receivable portfolios is accrued based on each pool s IRR applied to each pool s adjusted cost basis. The cost basis of each pool is increased by revenue earned and decreased by gross collections and impairments.

If the amount and timing of future cash collections on a pool of receivables are not reasonably estimable, the Company accounts for such portfolios on the cost recovery method as Cost Recovery Portfolios. The accounts in these portfolios have different risk characteristics than those included in other portfolios acquired during the same quarter, or the necessary information was not available to estimate future cash flows and, accordingly, they were not aggregated with other portfolios. Under the cost recovery method of accounting, no income is recognized until the purchase price of a Cost Recovery Portfolio has been fully recovered. As of March 31, 2009, there were five portfolios accounted for using the cost recovery method, consisting of $0.6 million in net book value of investment in receivable portfolios, representing all of the healthcare portfolios that the Company had acquired. In September 2007, the Company decided to exit its healthcare purchasing and collection activities. At that time the Company anticipated either selling these healthcare portfolios or placing the underlying accounts with external agencies for collections. The Company no longer anticipates a sale of these receivable portfolios and has placed them with external collection agencies. Since the Company is no longer actively collecting on these accounts internally, it has classified them as Cost Recovery Portfolios. The $0.6 million net book value reflects the value the Company expects to realize through the collection activities of the external agencies.

Accretable yield represents the amount of revenue the Company expects to generate over the remaining life of its existing investment in receivable portfolios based on estimated future cash flows. Total accretable yield is the difference between future estimated collections and the current carrying value of a portfolio. All estimated cash flows on portfolios where the cost basis has been fully recovered are classified as zero basis cash flows.

The following tables summarize the Company s accretable yield and an estimate of future zero basis cash flows at the beginning and end of the current period *(in thousands)*:

	Three Months Ended March 31, 2009		
	Accretable Yield	Estimate of Zero Basis Cash Flows	Total
Beginning balance at December 31, 2008	$ 592,825	$ 8,337	$ 601,162
Revenue recognized, net	(69,775)	(2,500)	(72,275)
Additions on existing portfolios	5,715	1,032	6,747
Additions for current purchases	81,917		81,917
Balance at March 31, 2009	$ 610,682	$ 6,869	$ 617,551

	Three Months Ended March 31, 2008		
	Accretable Yield	Estimate of Zero Basis Cash Flows	Total
Beginning balance at December 31, 2007	$ 486,652	$ 13,002	$ 499,654
Revenue recognized, net	(61,510)	(2,558)	(64,068)
Reductions on existing portfolios	(50,898)	(1,015)	(51,913)
Additions for 12 months curve extension	67,287		67,287
Additions for current purchases	112,780		112,780
Balance at March 31, 2008	$ 554,311	$ 9,429	$ 563,740

During the three months ended March 31, 2009, the Company purchased receivable portfolios with a face value of $1.3 billion for $55.9 million, or a purchase cost of 4.2% of face value. The estimated future collections at acquisition for these portfolios amounted to $138.4 million.

All collections realized after the net book value of a portfolio has been fully recovered (Zero Basis Portfolios) are recorded as revenue (Zero Basis Revenue). During the three months ended March 31, 2009 and 2008, approximately $2.5 million and $2.6 million were recognized as Zero Basis Revenue, respectively.

During the quarter ended March 31, 2008, the Company revised the forecasting methodology it used to value a portfolio by extending the collection forecast from 72 months to 84 months. This change was made as a result of the Company s increased confidence in its ability to forecast future cash collections to 84 months. Extending the collection forecast from 72 months to 84 months resulted in an increase in the aggregate total estimated remaining collections for the receivable portfolios, as of March 31, 2008, by $67.3 million, or 7.5%. The impact of the change in estimate resulted in an increase in net income of $1.9 million, and an increase in fully diluted earnings per share of $0.08, for the quarter ended March 31, 2008.

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The following tables summarize the changes in the balance of the investment in receivable portfolios during the following periods *(in thousands, except percentages)*:

	For the Three Months Ended March 31, 2009			
	Accrual Basis Portfolios	Cost Recovery Portfolios	Zero Basis Portfolios	Total
Balance, beginning of period	$ 460,598	$ 748	$	$ 461,346
Purchases of receivable portfolios	55,913			55,913
Gross collections[(1)]	(112,491)	(139)	(2,496)	(115,126)
Put-backs and recalls[(2)]	(920)		(4)	(924)
Revenue recognized	75,202		2,500	77,702
Impairment, net	(5,427)			(5,427)
Balance, end of period	$ 472,875	$ 609	$	$ 473,484
Revenue as a percentage of collections[(3)]	66.9%	0.0%	100.0%	67.5%

	For the Three Months Ended March 31, 2008			
	Accrual Basis Portfolios	Cost Recovery Portfolios	Zero Basis Portfolios	Total
Balance, beginning of period	$ 390,564	$ 1,645	$	$ 392,209
Purchases of receivable portfolios	47,902			47,902
Gross collections[(1)]	(101,523)	(199)	(2,558)	(104,280)
Put-backs and recalls[(2)]	(1,678)	(14)		(1,692)
Revenue recognized[(4)]	66,845		2,558	69,403
Impairment, net [(4)]	(5,335)			(5,335)
Balance, end of period	$ 396,775	$ 1,432	$	$ 398,207
Revenue as a percentage of collections[(3)]	65.8%	0.0%	100.0%	66.6%

(1) Does not include amounts collected on behalf of others.

(2) Put-backs represent accounts that are returned to the seller in accordance with the respective purchase agreement (Put-Backs). Recalls represents accounts that are recalled by the seller in accordance with the respective purchase agreement (Recalls).

(3) Revenue as a percentage of collections excludes the effects of net impairment or net impairment reversals.

(4) Reflects additional revenue of $0.1 million and a lower net impairment of $3.1 million, as a result of extending the collection curves from 72 to 84 months.

The following table summarizes the change in the valuation allowance for investment in receivable portfolios during the three months ended March 31, 2009 (*in thousands*):

	Valuation Allowance

Balance at December 31, 2008	$ 57,152
Provision for impairment losses	5,580
Reversal of prior allowance	(153)
Balance at March 31, 2009	$ 62,579

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The Company utilizes various business channels for the collection of its receivable portfolios. The following table summarizes collections by collection channel *(in thousands)*:

	Three Months Ended March 31, 2009	2008
Collection sites	$ 50,342	$ 43,289
Legal collections	56,407	45,292
Collection agencies	7,667	10,961
Sales	817	4,214
Other		599
Gross collections for the period	$ 115,233	$ 104,355

Note 5: Deferred Court Costs

The Company contracts with a nationwide network of attorneys that specialize in collection matters. The Company generally refers charged-off accounts to its contracted attorneys when it believes the related debtor has sufficient assets to repay the indebtedness and has, to date, been unwilling to pay. In connection with the Company s agreement with the contracted attorneys, it advances certain out-of-pocket court costs (Deferred Court Costs). The Company capitalizes Deferred Court Costs in its consolidated financial statements and provides a reserve for those costs that it believes will ultimately be uncollectible. The Company determines the reserve based on its analysis of court costs that have been advanced and those that have been recovered. Deferred Court Costs not recovered within three years of placement are fully written off. Collections received from these debtors are first applied against related court costs with the balance applied to the debtors account.

Deferred Court Costs for the three year deferral period consist of the following as of the dates presented (*in thousands*):

	March 31, 2009	December 31, 2008
Court costs advanced	$ 160,077	$ 145,579
Court costs recovered	(39,649)	(36,929)
Court costs reserve	(89,783)	(80,315)
	$ 30,645	$ 28,335

Note 6: Other Assets

Other assets consist of the following *(in thousands):*

	March 31, 2009	December 31, 2008 Adjusted
Debt issuance costs	$ 1,441	$ 1,953
Deferred compensation assets	681	1,206
Prepaid expenses	1,292	973
Other	1,289	935
	$ 4,703	$ 5,067

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Note 7: Debt

The Company is obligated under borrowings as follows *(in thousands)*:

	March 31, 2009	December 31, 2008 Adjusted
Convertible Senior Notes	$ 45,845	$ 71,422
Less: Debt discount	(4,264)	(7,664)
Revolving Credit Facility	253,000	238,000
Capital Lease Obligations	1,775	1,897
	$ 296,356	$ 303,655

Convertible Senior Notes

In 2005, the Company issued $100.0 million of 3.375% Convertible Notes due September 19, 2010. Interest on the Convertible Notes is payable semi-annually, in arrears, on March 19 and September 19 of each year. The Convertible Notes rank equally with the Company s existing and future senior indebtedness and are senior to the Company s potential future subordinated indebtedness. Prior to the implementation of the net-share settlement feature discussed below, the Convertible Notes were convertible, prior to maturity, subject to certain conditions described below, into shares of the Company s common stock at an initial conversion rate of 44.7678 per $1,000 principal amount of notes, which represented an initial conversion price of approximately $22.34 per share, subject to adjustment.

In October 2005, the Company obtained stockholder approval of a net-share settlement feature that allows the Company to settle conversion of the Convertible Notes through a combination of cash and stock. Based on the provisions of Emerging Issues Task Force No. 90-19, *Convertible Bonds with Issuer Option to Settle for Cash upon Conversion* (EITF 90-19), and Emerging Issues Task Force No. 00-19, *Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled In, a Company s Own Stock* (EITF 00-19), the net-settlement feature is accounted for as convertible debt and is not subject to the provisions of Statement of Financial Accounting Standards No. 133, *Accounting for Derivative Instruments and Hedging Activities* (FAS 133). As a result of the net-settlement feature, the Company will be able to substantially reduce the number of shares issuable in the event of conversion of the Convertible Notes by repaying principal in cash instead of issuing shares of common stock for that amount. Additionally, the Company will not be required to include the underlying shares of common stock in the calculation of the Company s diluted weighted average shares outstanding for earnings per share until the Company s common stock price exceeds $22.34.

Effective January 1, 2009, the Company retrospectively adopted FSP APB 14-1 to account for its Convertible Notes. This FSP requires that issuers of convertible debt instruments that, upon conversion, may be settled fully or partially in cash, must separately account for the liability and equity components in a manner that will reflect the entity s nonconvertible debt borrowing rate when interest cost is recognized in subsequent periods. Additionally, debt issuance costs are required to be allocated in proportion to the allocation of the liability and equity components and accounted for as debt issuance costs and equity issuance costs, respectively. This FSP requires retrospective application and, accordingly, the prior periods financial statements included herein have been adjusted. See Note 12 for additional information and the effect of the change in accounting principle on the Company s condensed consolidated financial statements.

During the three months ended March 31, 2009, the Company, under three separate transactions, repurchased $25.6 million principal amount of its outstanding Convertible Notes for a total price of $19.8 million plus accrued interest. These transactions left $45.8 million principal amount of the Company s Convertible Notes outstanding and resulted in a net gain of $3.1 million. The Company has written-off approximately $0.2 million in debt issuance costs and $2.5 million in debt discount in connection with the repurchase of its Convertible Notes during the three months ended March 31, 2009.

As of March 31, 2009, the Company is making the required interest payments on the Convertible Notes and no other changes in the balance or structure of the Convertible Notes has occurred.

The Convertible Notes also contain a restricted convertibility feature that does not affect the conversion price of the Convertible Notes but, instead, places restrictions on a holder s ability to convert their Convertible Notes into shares of the Company s common stock. A holder may convert the Convertible Notes prior to March 19, 2010, only if one or more of the following conditions are satisfied:

the average of the trading prices of the Convertible Notes for any five consecutive trading day period is less than 103% of the average of the conversion values of the Convertible Notes during that period;

the Company makes certain significant distributions to holders of the Company s common stock;

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the Company enters into specified corporate transactions; or

the Company s common stock ceases to be approved for listing on the NASDAQ Global Market and is not listed for trading on a U.S. national securities exchange or any similar U.S. system of automated securities price dissemination.

Holders may also surrender their Convertible Notes for conversion anytime on or after March 19, 2010, until the close of business on the trading day immediately preceding September 19, 2010, regardless of whether any of the foregoing conditions have been satisfied. Upon the satisfaction of any of the foregoing conditions, on the last day of a reporting period, or during the twelve months prior to September 19, 2010, the Company would write off to expense all remaining unamortized debt issuance costs in that period.

If the Convertible Notes are converted in connection with certain fundamental changes that occur prior to March 19, 2010, the Company may be obligated to pay an additional make-whole premium with respect to the Convertible Notes.

Convertible Notes Hedge Strategy. Concurrent with the sale of the Convertible Notes, the Company purchased call options to purchase from the counterparties an aggregate of 4,476,780 shares of the Company s common stock at a price of $22.34 per share. The cost of the call options totaled $27.4 million. The Company also sold warrants to the same counterparties to purchase from the Company an aggregate of 3,984,334 shares of the Company s common stock at a price of $29.04 per share and received net proceeds from the sale of these warrants of $11.6 million. Taken together, the call option and warrant agreements have the effect of increasing the effective conversion price of the Convertible Notes to $29.04 per share. The call options and warrants must be settled in net shares, except in connection with certain termination events, in which case they would be settled in cash based on the fair market value of the instruments. On the date of settlement, if the market price per share of the Company s common stock is above $29.04 per share, the Company will be required to deliver shares of its common stock representing the value of the call options and warrants in excess of $29.04 per share.

The warrants have a strike price of $29.04 and are generally exercisable at any time. The Company issued and sold the warrants in a transaction exempt from the registration requirements of the Securities Act of 1933, as amended, because the offer and sale did not involve a public offering. There were no underwriting commissions or discounts in connection with the sale of the warrants. In accordance with EITF No. 00-19 and Statement of Financial Accounting Standards No. 150, *Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity,* the Company recorded the net call options and warrants as a reduction in additional paid in capital as of December 31, 2005, and will not recognize subsequent changes in fair value of the call options and warrants in its consolidated financial statements.

Revolving Credit Facility

During 2005, the Company entered into a three-year Revolving Credit Facility, to be used for the purposes of purchasing receivable portfolios and for general working capital needs. This Revolving Credit Facility has been amended several times to meet the needs of the Company, and is due to expire in May 2010.

Effective February 27, 2007, the Company amended the Revolving Credit Facility to allow for the Company to repurchase up to $50.0 million of its common stock and Convertible Notes, with no more than $25.0 million to repurchase Convertible Notes. Effective May 9, 2008, the Company amended the Revolving Credit Facility to remove the $25.0 million cap on Convertible Note repurchases and allow for the Company to repurchase up to $50.0 million in any combination of its common stock and Convertible Notes, subject to compliance with certain covenants and available borrowing capacity.

Effective May 7, 2007, the Company amended the Revolving Credit Facility in connection with an agreement reached with the lender under the Company s prior Secured Financing Facility. This amendment allows the Company to exclude the expense associated with a one-time payment of $16.9 million in connection with its termination of all future obligations under its Secured Financing Facility as further discussed below.

Effective October 19, 2007, the Company amended the Revolving Credit Facility to change the definition of change of control to exclude from that definition acquisitions of stock by Red Mountain Capital Partners LLC (Red Mountain), JCF FPK I LP (JCF FPK) and their respective affiliates.

Effective July 3, 2008, the Company amended the Revolving Credit Facility to expand the capacity from $230.0 million to $335.0 million. This amendment added three additional lenders to the syndicate of lenders in the Revolving Credit Facility and increased the applicable margin under certain circumstances between 25 and 75 basis points.

Other provisions of the amended Revolving Credit Facility include:

Interest at a floating rate equal to, at the Company s option, either: (a) reserve adjusted LIBOR plus a spread that ranges from 225 to 275 basis points, depending on the Company s leverage; or (b) the higher of the federal funds

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rate then in effect plus a spread of 50 basis points or the prime rate plus a spread that ranges from 25 to 75 basis points.

$5.0 million sub-limits for swingline loans and letters of credit.

A borrowing base that provides for an 85.0% initial advance rate for the purchase of qualified receivable portfolios. The borrowing base reduces for each qualifying portfolio by 3% per month beginning after the third complete month subsequent to the initial purchase. The aggregate borrowing base is equal to the lesser of (a) the sum of all of the borrowing bases of all qualified receivable portfolios under this facility, as defined above, or (b) 95% of the net book value of all receivable portfolios acquired on or after January 1, 2005.

Restrictions and covenants, which limit, among other things, the payment of dividends and the incurrence of additional indebtedness and liens.

Events of default which, upon occurrence, may permit the lenders to terminate the Revolving Credit Facility and declare all amounts outstanding to be immediately due and payable.

Collateralization by all assets of the Company.

At March 31, 2009, the outstanding balance on the Revolving Credit Facility was $253.0 million, which bore a weighted average interest rate of 4.01%. The aggregate borrowing base was $278.6 million, of which $25.6 million was available for future borrowings.

Derivative Instruments

On April 11, 2007, the Company entered into two separate interest rate swap agreements intended to more effectively manage interest rates by establishing a set level of fixed rates associated with a portion of the borrowings under its Revolving Credit Facility. The first agreement is for a notional amount of $25.0 million, a term of three years and a fixed interest rate of 4.99%. The second agreement is for a notional amount of $25.0 million, a term of four years and a fixed interest rate of 5.01%. Giving effect to these hedges, the interest rate the Company will pay on $50.0 million of the outstanding balance under the Revolving Credit Facility will be the fixed interest rates mentioned above plus the required credit spread. In accordance with FAS 133, the Company designates its interest rate swap instruments as cash flow hedges.

FAS 133 requires companies to recognize derivative instruments as either an asset or liability measured at fair value in the statement of financial position. The effective portion of the change in fair value of the derivative is recorded in other comprehensive income. The ineffective portion of the change in fair value of the derivative, if any, is recognized in interest expense in the period of change. From the inception of the hedging program, the Company has determined that the hedging instruments are highly effective. Accordingly, no gain or loss has been recognized in earnings for the three months ended March 31, 2009 and 2008. The change in fair value recognized in accumulated other comprehensive loss represented a gain of $0.3 million and a loss of $1.4 million for the three months ended March 31, 2009 and 2008, respectively. As of March 31, 2009, the fair value of the hedges represented a liability of $3.2 million.

	Fair Values of Derivative Instruments *(in thousands)* Liability Derivatives			
	As of March 31, 2009		As of December 31, 2008	
	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value
Derivatives designated as hedging instruments under FAS 133				
Interest rate swaps	Other liabilities	$ 3,176	Other liabilities	$ 3,483

The Effect of Derivative Instruments on the Statements of Income for the Three Months Ended March 31, 2009 and 2008 ***(in thousands)***

Derivatives in FAS 133 Cash Flow Hedging Relationships	Amount of Gain or (Loss) Recognized in OCI on Derivative (Effective Portion)		Location of Gain or (Loss) Reclassified from Accumulated OCI into Income (Effective Portion)	Amount of Gain or (Loss) Reclassified from Accumulated OCI into Income (Effective Portion)		Location of Gain or (Loss) Recognized in Income (Ineffective Portion and Amount Excluded from Effectiveness Testing)	Amount of Gain or (Loss) Recognized in Income (Ineffective Portion and Amount Excluded from Effectiveness Testing)	
	2009	**2008**		**2009**	**2008**		**2009**	**2008**
Interest rate swaps	$ 307	$ (1,430)	Interest	$	$	Other income	$	$

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Capital Lease Obligations

The Company has capital lease obligations for certain computer equipment. These lease obligations require monthly payments aggregating approximately $20,000 through November 2011 and have an implicit interest rate of approximately 6.9%.

The Company finances certain leasehold improvement projects with its lessors in its Phoenix and St. Cloud facilities. As of March 31, 2009, the Company s combined obligation was approximately $1.2 million. These financing agreements require monthly principal and interest payments, accrue interest at 8% to 9% per annum and will mature in June and September 2013.

Note 8: Income Taxes

The Company recorded an income tax provision of $6.0 million, reflecting an effective rate of 39.9% of pretax income during the three months ended March 31, 2009. The effective tax rate for the three months ended March 31, 2009, consists primarily of a provision for Federal income taxes of 32.3% (which is net of a benefit for state taxes of 2.7%), a provision for state taxes of 7.8% and the benefit of permanent book versus tax differences of 0.2%. Effective January 1, 2009, the Company retrospectively adjusted its prior years income tax provisions for the change in accounting principle related to its accounting for Convertible Notes. See Note 12 for additional information on the change in accounting principle. The adjusted income tax provision for the three months ended March 31, 2008, was $4.5 million, reflecting an effective rate of 40.0% of pretax income. The effective tax rate for the three months ended March 31, 2008, consists primarily of a provision for Federal income taxes of 32.1% (which is net of a benefit for state taxes of 2.9%), a provision for state taxes of 8.2%, and the benefit of permanent book verses tax differences of 0.3%.

Effective January 1, 2007, the Company adopted the provisions of Interpretation No. 48, *Accounting for Uncertainty in Income Taxes* (FIN 48). As of March 31, 2009, the Company had a gross unrecognized tax benefit of $1.2 million that, if recognized, would result in a net tax benefit of approximately $0.9 million and would have a positive effect on the Company s effective tax rate. During the three months ended March 31, 2009, there were no material changes to the unrecognized tax benefit.

For the three months ended March 31, 2009, the Company has not provided for the United States income taxes or foreign withholding taxes on the quarterly undistributed earnings from continuing operations of its subsidiary operating outside of the United States. Undistributed earnings of the subsidiary for the three months ended March 31, 2009, were approximately $0.2 million. Such undistributed earnings are considered permanently reinvested.

The Company s subsidiary operating outside of the United States is currently operating under a tax holiday in India. The tax holiday is due to expire on March 31, 2010. The impact of the tax holiday on the Company s condensed consolidated financial statements is not material.

Note 9: Purchase Concentrations

The following table summarizes the concentration of our purchases by seller sorted by total aggregate costs *(in thousands, except percentages):*

	Concentration of Initial Purchase Cost by Seller for the Three Months Ended March 31, 2009	
	Cost	%
Seller 1	$ 19,343	34.6%
Seller 2	12,274	22.0%
Seller 3	10,987	19.7%
Seller 4	5,440	9.7%
Seller 5	3,299	5.9%
Other	4,570	8.1%
	$ 55,913	100.0%
Adjustments(1)	(371)	
Purchases, net	$ 55,542	

(1) Adjusted for Put-backs and Recalls.

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Note 10: Commitments and Contingencies

Litigation

On October 18, 2004, Timothy W. Moser, one of the Company s former officers, filed an action in the United States District Court for the Southern District of California against the Company, and certain individuals, including several of the Company s officers and directors. On February 14, 2005, the Company was served with an amended complaint in this action alleging defamation, intentional interference with contractual relations, breach of contract, breach of the covenant of good faith and fair dealing, intentional and negligent infliction of emotional distress and civil conspiracy arising out of certain statements in the Company s Registration Statement on Form S-1, originally filed in September 2003, and alleged to be included in the Company s Registration Statement on Form S-3 originally filed in May 2004. The amended complaint seeks injunctive relief, economic and punitive damages in an unspecified amount plus an award of profits allegedly earned by the defendants and alleged co-conspirators as a result of the alleged conduct, in addition to attorney s fees and costs. On May 2, 2006, the court denied the Company s special motion to strike pursuant to California s anti-SLAPP statute, denied in part and granted in part the Company s motion to dismiss, denied a variety of *ex parte* motions and applications filed by the plaintiff and denied the plaintiff s motion for leave to conduct discovery or file supplemental briefing. The court granted the plaintiff 30 days in which to further amend his complaint, and on June 1, 2006, the plaintiff filed a second amended complaint in which he amended his claim for negligent infliction of emotional distress. On May 25, 2006, the Company filed a notice of appeal of the court s order denying the anti-SLAPP motion and on June 16, 2006, the Company filed a motion to stay the case pending the outcome of the appeal, which was granted. Oral argument on the appeal was heard on July 17, 2008, and on July 28, 2008, the appellate court affirmed the trial court s denial of the Company s anti-SLAAP motion. The appellate court denied the Company s request for a rehearing and the case has been returned to the district court where it is proceeding from the point at which it was stayed. Discovery is continuing and management believes the claims are without merit and intends to defend the action vigorously. Although the outcome of this matter cannot be predicted with certainty, management does not currently believe that this matter will have a material adverse effect on the Company s consolidated financial position or results of operations.

On September 7, 2005, Mr. Moser filed a related action in the United States District Court for the Southern District of California against Triarc Companies, Inc. (Triarc), which at the time was a significant stockholder of the Company, alleging intentional interference with contractual relations and intentional infliction of emotional distress. The case arises out of the same statements made or alleged to have been made in the Company s Registration Statements mentioned above. On January 7, 2006, Triarc was served with an amended complaint seeking injunctive relief, an order directing Triarc to issue a statement of retraction or correction of the allegedly false statements, economic and punitive damages in an unspecified amount and attorney s fees and costs. Triarc tendered the defense of this action to the Company, and the Company accepted the defense and will indemnify Triarc, pursuant to the indemnification provisions of the Registration Rights Agreements dated as of October 31, 2000 and February 21, 2002, and the Underwriting Agreements dated September 25, 2004 and January 20, 2005 to which Triarc is a party. Although the outcome of this matter cannot be predicted with certainty, management does not currently believe that this matter will have a material adverse effect on the Company s consolidated financial position or results of operations.

Claims based on the Fair Debt Collection Practices Act (FDCPA) and comparable state statutes may result in class action lawsuits, which can be material to the Company due to the remedies available under these statutes, including punitive damages. A number of cases styled as class actions have been filed against the Company. A class has been certified in several of these cases. Several of these cases present novel issues on which there is no legal precedent. As a result, the Company is unable to predict the range of possible outcomes. There are a number of other lawsuits, claims and counterclaims pending or threatened against the Company. In general, these lawsuits, claims or counterclaims have arisen in the ordinary course of business and involve claims for actual damages arising from alleged misconduct or improper reporting of credit information by the Company or its employees or agents. Although litigation is inherently uncertain, based on past experience, the information currently available and the possible availability of insurance and/or indemnification in some cases, management of the Company does not believe that the currently pending and threatened litigation or claims will have a material adverse effect on the Company s consolidated financial position or results of operations. However, future events or circumstances, currently unknown to management, will determine whether the resolution of pending or threatened litigation or claims will ultimately have a material effect on the Company s consolidated financial position, liquidity or results of operations in any future reporting periods.

Purchase Commitments

In the normal course of business, the Company enters into forward flow purchase agreements and other purchase commitment agreements. As of March 31, 2009, the Company has entered into agreements to purchase receivable portfolios with a face value of approximately $1.1 billion for a purchase price of approximately $46.1 million. Certain of these

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agreements allow the Company to terminate the commitment with 60 days notice or by paying a one-time cancellation fee. The Company does not anticipate cancelling any of these commitments at this time. The Company has no purchase commitments extending past one year, except as discussed below.

In connection with the Company s acquisition of certain assets of Jefferson Capital in June 2005, the Company entered into a forward flow agreement to purchase a minimum of $3.0 billion in face value of credit card charge-offs over a five-year period at a fixed price.

On June 10, 2008, the Federal Trade Commission (the FTC) announced that it had sued Jefferson Capital and its parent company, CompuCredit Corporation, alleging, among other allegations, that Jefferson Capital and CompuCredit had violated the FTC Act with deceptive marketing practices when issuing credit cards. The FTC announced on December 19, 2008, that it had agreed to a settlement of the litigation with Jefferson Capital and CompuCredit, whereby those companies will credit approximately $114.0 million to certain customer accounts. Jefferson Capital and CompuCredit have advised the Company that a substantial number of the accounts affected by the settlement had been sold to the Company.

On July 15, 2008, the Company gave Jefferson Capital and CompuCredit Corporation, notice of breach by Jefferson Capital and CompuCredit of the Asset Purchase and Forward Flow Agreement dated June 2, 2005, as amended, as well as a related Balance Transfer Agreement dated the same date, based upon the actions noted in the FTC complaint. On July 16, 2008, the Company initiated arbitration as a result of the breach, pursuant to the arbitration provisions of the Agreements. The Company asserts that the litigation initiated by the FTC violates the Asset Purchase and Forward Flow Agreement and Balance Transfer Agreement in several respects. The Company seeks an arbitral award that (i) Jefferson Capital and CompuCredit are in material breach of the Agreements, (ii) declares the Company s obligations to purchase forward flow accounts under the Agreements is thereby excused or discharged, (iii) confirms the Company s rights to cause Jefferson Capital to repurchase certain accounts previously sold to the Company under the Agreements, and other appropriate relief, including return of prepaid amounts relating to forward flow purchases, (iv) confirms the Company s rights to indemnity by Jefferson Capital and CompuCredit and (v) awards compensatory damages, attorney fees, interest, arbitration costs and other appropriate relief.

Arbitrators have been identified and the proceeding is in the discovery stage. The Company has ceased forward flow purchases of accounts from Jefferson Capital, the sale of bankrupt accounts to Jefferson Capital and participation in a balance transfer program with CompuCredit. The Company s remaining purchase commitment at the time of the breach by Jefferson Capital was approximately $51.3 million. In response to the Notice of Breach from the Company, Jefferson Capital and CompuCredit delivered its own Notice of Default to the Company alleging the breach by the Company of the Company s forward flow purchase, bankruptcy sale and balance transfer obligations and initiated a separate arbitration of the Company s alleged breach of its bankruptcy sale obligations.

This matter is in the early stages of development and any impact on the recoverability of the Company's forward flow asset, currently stated at $10.3 million, is uncertain. The condensed consolidated financial statements do not include any adjustment that might result from the outcome of this uncertainty.

Note 11: Securities Repurchase Program

On February 27, 2007, the Company s board of directors authorized a securities repurchase program under which the Company may buy back up to $50 million (at cost) of a combination of its common stock and Convertible Notes. The purchases may be made from time to time in the open market or through privately negotiated transactions and will be dependent upon various business and financial considerations. Securities repurchases are subject to compliance with applicable legal requirements and other factors. During the three months ended March 31, 2009, the Company repurchased $25.6 million principal amount of its outstanding Convertible Notes, for a total price of $19.8 million, plus accrued interest. From the inception of the securities repurchase program, the Company has repurchased $54.2 million principal amount of its Convertible Notes, for a total cash payment of $39.9 million. The Company has not repurchased any common stock under this program.

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Note 12: Change in Accounting Principle

Effective January 1, 2009, the Company adopted the provisions of FASB Staff Position No. APB 14-1 (FSP APB 14-1), *Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement).* FSP APB 14-1 applies to convertible debt instruments that may be settled in cash upon conversion, including partial cash settlement, when the conversion option does not need to be bifurcated and accounted for separately as a derivative instrument in accordance with FAS 133.

FSP APB 14-1 requires that issuers of convertible debt instruments that, upon conversion, may be settled fully or partially in cash, must separately account for the liability and equity components in a manner that will reflect the entity s nonconvertible debt borrowing rate when interest cost is recognized in subsequent periods. Additionally, debt issuance costs are required to be allocated in proportion to the allocation of the liability and equity components and accounted for as debt issuance costs and equity issuance costs, respectively. FSP APB 14-1 requires retrospective application and, accordingly, the prior periods financial statements included herein have been adjusted.

In accordance with the provisions of FSP APB 14-1, the Company determined that the fair value of the Convertible Notes at issuance in 2005 was approximately $73.2 million, and designated the residual value of approximately $26.8 million as the equity component. Additionally, the Company allocated approximately $2.5 million of the $3.4 million original Convertible Notes issuance cost as debt issuance cost and the remaining $0.9 million as equity issuance cost.

The balances of the liability and equity components as of each period presented are as follows *(in thousands)*:

	March 31, 2009	December 31, 2008 Adjusted
Liability component principal amount	$ 45,845	$ 71,422
Unamortized debt discount	(4,264)	(7,664)
Liability component net carrying amount	41,581	63,758
Equity component	25,878	25,878

The remaining debt discount is being amortized into interest expense over the remaining life of the Convertible Notes using the effective interest rate. The Convertible Notes are due on September 19, 2010. The effective interest rate on the liability component was 10.38% for the three months ended March 31, 2009 and 2008.

Interest expenses related to the Convertible Notes was recognized as follows *(in thousands)*:

	For the Three Months Ended March 31, 2009	March 31, 2008 Adjusted
Interest expense stated coupon rate	$ 540	$ 844
Interest expense amortization of debt discount	910	1,299
Total interest expense convertible notes	$ 1,450	$ 2,143

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Effect of Change in Accounting Principle to Consolidated Statements of Financial Condition

The following table summarizes the effect of the change in accounting principle related to the Company s Convertible Notes on the consolidated statements of financial condition as of March 31, 2009 and December 31, 2008 *(in thousands):*

	As of					
	March 31, 2009			December 31, 2008		
	As computed without change in accounting principle	As reported with change in accounting principle	Effect of Change	As Previously Reported	As Adjusted	Effect of Change
Assets:						
Cash and cash equivalents	$ 4,261	$ 4,261	$	$ 10,341	$ 10,341	$
Accounts receivable, net	1,775	1,775		1,757	1,757	
Investment in receivable portfolios, net	473,484	473,484		461,346	461,346	
Deferred court costs	30,645	30,645		28,335	28,335	
Property and equipment, net	6,279	6,279		6,272	6,272	
Prepaid income tax	2,590	2,515	(75)	7,935	7,935	
Forward flow asset	10,302	10,302		10,302	10,302	
Other assets	4,823	4,703	(120)	5,286	5,067	(219)
Goodwill	15,985	15,985		15,985	15,985	
Identifiable intangible assets, net	1,578	1,578		1,739	1,739	
Total Assets	$ 551,722	$ 551,527	$ (195)	$ 549,298	$ 549,079	$ (219)
Liabilities:						
Accounts payable and accrued liabilities	$ 17,805	$ 17,805	$	$ 18,204	$ 18,204	$
Deferred tax liabilities, net	15,344	15,253	(91)	15,199	15,108	(91)
Deferred revenue and purchased servicing obligation	5,229	5,229		5,203	5,203	
Debt	300,620	296,356	(4,264)	311,319	303,655	(7,664)
Other liabilities	3,176	3,176		3,483	3,483	
Total liabilities	342,174	337,819	(4,355)	353,408	345,653	(7,755)
Stockholders equity:						
Common Stock	231	231		231	231	
Additional paid-in capital	82,470	99,622	17,152	79,971	98,521	18,550
Accumulated earnings	128,784	115,792	(12,992)	117,809	106,795	(11,014)
Accumulated other comprehensive loss	(1,937)	(1,937)		(2,121)	(2,121)	
Total stockholders equity	209,548	213,708	4,160	195,890	203,426	7,536
Total liabilities and stockholders equity	$ 551,722	$ 551,527	$ (195)	$ 549,298	$ 549,079	$ (219)

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Effect of Change in Accounting Principle to Consolidated Statements of Income

The following table summarizes the effect of change in accounting principle related to the Company s Convertible Notes on the consolidated statements of income for the three months ended March 31, 2009 and 2008 *(in thousands):*

	Three Months Ended March 31, 2009			2008		
	As computed without change in accounting principle	As reported with change in accounting principle	Effect of Change	As Previously Reported	As Adjusted	Effect of Change
Total revenue	$ 76,446	$ 76,446	$	$ 67,554	$ 67,554	$
Total operating expenses	60,175	60,175		51,115	51,115	
Income before other (expense) income and income taxes	16,271	16,271		16,439	16,439	
Other (expense) income						
Interest expense	(3,389)	(4,273)	(884)	(3,946)	(5,200)	(1,254)
Gain on repurchase of convertible notes, net	5,470	3,053	(2,417)			
Other income	(81)	(81)		21	21	
Total other expense	2,000	(1,301)	(3,301)	(3,925)	(5,179)	(1,254)
Income before income taxes	18,271	14,970	(3,301)	12,514	11,260	(1,254)
Provision for income taxes	(7,296)	(5,973)	1,323	(5,014)	(4,509)	505
Net income	$ 10,975	$ 8,997	$ (1,978)	$ 7,500	$ 6,751	$ (749)
Earnings Per Share:						
Basic	$ 0.47	$ 0.39	$ (0.08)	$ 0.33	$ 0.29	$ (0.04)
Diluted	$ 0.46	$ 0.38	$ (0.08)	$ 0.32	$ 0.29	$ (0.03)

Effect of Change in Accounting Principle to Consolidated Statements of Stockholders Equity

The following table summarizes the effect of change in accounting principle related to the Company s Convertible Notes on the consolidated statements of stockholders equity for the three months ended March 31, 2009 and 2008 *(in thousands):*

	Three Months Ended March 31, 2009			2008		
	As computed without change in accounting principle	As reported with change in accounting principle	Effect of Change	As Previously Reported	As Adjusted	Effect of Change
Balance, beginning of the period	$ 195,890	$ 203,426	$ 7,536	$ 171,520	$ 187,435	$ 15,915
Net income	10,975	8,997	(1,978)	7,500	6,751	(749)
Other comprehensive gain (loss):						
Unrealized gain (loss) on cash flow hedge, net of tax	184	184		(853)	(853)	
Exercise of stock options				2	2	
Stock-based compensation	1,080	1,080		1,094	1,094	
Tax benefit related to stock option exercises	21	21		5	5	
Tax benefit from convertible note interest expense	375		(375)	536	12	(524)

Tax benefit from repurchase of convertible notes	1,023		(1,023)			
Balance, end of the period	$ 209,548	$ 213,708	$ 4,160	$ 179,804	$ 194,446	$ 14,642

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Effect of Change in Accounting Principle to Consolidated Statements of Cash Flows

The following table summarizes the effect of change in accounting principle related to the Company s Convertible Notes on the consolidated statements of cash flows for the three months ended March 31, 2009 and 2008 *(in thousands):*

	Three Months Ended March 31,					
	2009			2008		
	As computed without change in accounting principle	**As reported with change in accounting principle**	**Effect of Change**	**As Previously Reported[1]**	**As Adjusted**	**Effect of Change**
Operating activities:						
Net Income	$ 10,975	$ 8,997	$ (1,978)	$ 7,500	$ 6,751	$ (749)
Adjustments to reconcile net income to net cash provided by operating activities:						
Depreciation and amortization	623	623		722	722	
Amortization of loan costs and debt discount	311	1,221	910	313	1,567	1,254
Stock-based compensation expense	1,080	1,080		1,094	1,094	
Gain on repurchase of converitible notes, net	(5,470)	(3,053)	2,417			
Deferred income tax expense (benefit)	145	145		(578)	(559)	19
Tax benefit from stock-based payment arrangements	(21)	(21)		(5)	(5)	
Provision for impairment on receivable portfolios, net	5,427	5,427		5,335	5,335	
Changes in operating assets and liabilities						
Other assets	(139)	(165)	(26)	1,386	1,386	
Deferred court costs	(2,310)	(2,310)		(2,906)	(2,906)	
Prepaid income tax	6,764	5,441	(1,323)	5,343	4,819	(524)
Deferred revenue and purchased service obligation	26	26		185	185	
Accounts payable and accrued liabilities	(523)	(523)		(2,559)	(2,559)	
Net cash provided by operating activities	16,888	16,888		15,830	15,830	
Investing activities:						
Net cash used in investing activities	(18,034)	(18,034)		(9,524)	(9,524)	
Financing activities:						
Net cash used in financing activities	(4,934)	(4,934)		(2,245)	(2,245)	
Net (decrease) increase in cash	(6,080)	(6,080)		4,061	4,061	
Cash and cash equivalents, beginning of period	10,341	10,341		8,676	8,676	
Cash and cash equivalents, end of period	$ 4,261	$ 4,261	$	$ 12,737	$ 12,737	$

(1) Certain reclassifications have been made to conform to the current year s presentation. The Company reclassified $3.7 million of restricted cash as of March 31, 2008 from restricted cash to cash and cash equivalents in order to conform to the current years presentation.

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Item 2. Management s Discussion and Analysis of Financial Condition and Results of Operations

This information should be read in conjunction with the condensed consolidated financial statements and the notes thereto included in Item 1 of Part I of this Quarterly Report on Form 10-Q and the audited consolidated financial statements and notes thereto and Management s Discussion and Analysis of Financial Condition and Results of Operations for the year ended December 31, 2008 contained in our 2008 Annual Report on Form 10-K. The Form 10-K contains a general description of our industry and a discussion of recent trends affecting the industry. Certain statements herein may constitute forward-looking statements under the Private Securities Litigation Reform Act of 1995 (the Reform Act), for which we claim the protection of the safe harbor of the Reform Act. See Part II, Item 1A Risk Factors for more discussion on our forward-looking statements.

Introduction

We are a systems-driven purchaser and manager of charged-off consumer receivable portfolios and a provider of bankruptcy services to the finance industry. We acquire receivable portfolios at deep discounts from their face values using our proprietary valuation process that is based on the consumer attributes of the underlying accounts. Based upon the ongoing analysis of these accounts, we employ a dynamic mix of collection strategies to maximize our return on investment.

Market Overview

The United States and global economies are currently in a recession. In the U.S., the availability of credit is limited, unemployment rates are at 25-year highs, credit card charge-offs and delinquencies have reached a 20-year high increasing nearly 50% from first quarter 2008 levels, home foreclosures have dramatically increased and the housing market is experiencing a significant downturn. These conditions present both opportunities and challenges for Encore.

On the opportunities side, the increase in credit card charge-offs and delinquencies (which contribute to an increase in supply), combined with the challenges some of our competitors are facing in (i) generating sufficient returns on receivables they purchased in 2005 2007, when prices were high and (ii) obtaining sufficient capital to fund future purchases (which contributes to a decrease in demand) have resulted in a significant reduction in the market price for portfolios of charged-off receivables. For example, prices for fresh charge-offs (receivables that are sold immediately after charge-off) have declined from 8% 13% of face value in early 2008 to 5% - 8% of face value in early 2009. We have seen similar pricing declines across all ages of charge-offs and the decline is more pronounced in the resale market. While this is generally positive for our business, as a result of the significant price decline, some sellers of portfolio have chosen not to sell and, as an alternative to selling their charge-offs, have collected on accounts internally or placed accounts with third-party collection agencies. As such, the full impact the price reduction will have on our purchasing volumes is presently unclear.

On the challenges side, increases in unemployment, high foreclosure rates and the difficulties consumers are experiencing in obtaining credit may, for a period of time, negatively impact collections on receivables that we currently own or that we purchase during these challenging economic times. Despite these market conditions, during 2008, most of the collection metrics we track have remained relatively consistent, as compared to 2007. For example, payer rates and average payment size, adjusted for the change in single payment/payment plan mix, have remained relatively constant. One change we have noted is that more consumers are settling their debts through payment plans rather than in one-time settlements. While settlement rates remain consistent, payments made over longer periods of time impact our business in two ways. First, when payments are extended over longer periods of time rather than received up front, this delay in cash flows could result in a provision for impairment. This is because discounting a long-term payment stream using our pool group IRRs rather than discounting a one-time settlement payment using the same IRR will result in a lower net present value. As a result, even if the cash received through long-term payment plans is the same as the cash received through one-time settlements, accounting for the stream of payments under SOP 03-3 may result in a provision for impairment. Second, when debts are settled through payment plans, there is a possibility that consumers will not make all of the payments required by those plans. We refer to consumers who do not make all of their payments as broken payers. When this happens, we are often successful in getting the consumer back on plan, but this is not always the case and, in those instances where we are unable to get the consumer back on plan, we experience a shortfall in collections. We believe that this shift from single payment settlements to payment streams is one reason for the provision for impairment experienced in the first quarter of 2009. Despite the current economic environment, we have not experienced an increase in the broken payer rate in the first quarter of 2009 as compared to the same period in 2008. Please refer to Management s Discussion and Analysis Revenue below for a more detailed explanation of the provision for impairment for the three months ended March 31, 2009.

As a result of the uncertainties presented by the current economic environment, we believe we are applying conservative assumptions when valuing portfolios for purchase and when establishing our forecasted collections. Additionally, while we

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believe that consumers who are currently charging off their debt (when economic conditions are bad) are more likely to recover faster than consumers who charged off their debt historically (when economic times were good), we have not factored any such recovery into our forecasts.

When evaluating the overall, long-term returns of our business, we believe that the benefits resulting from the current lower portfolio pricing will outweigh the negative impacts from the collection shortfalls we may experience from a more distressed consumer. However, if the lower pricing environment re-attracts significant capital to our industry and prices are bid up, or if the ability of the consumer to repay their debt deteriorates further, our returns would be negatively impacted.

Purchases and Collections

Purchases by Paper Type

The following tables summarize the types of charged-off consumer receivable portfolios we purchased for the three months ended March 31, 2009 and 2008 *(in thousands):*

	Three Months Ended March 31,	
	2009	2008
Credit card	$ 55,913	$ 45,280
Other		2,622
	$ 55,913	$ 47,902

During the three months ended March 31, 2009, we invested $55.9 million for portfolios with face values aggregating $1.3 billion for an average purchase price of 4.2% of face value. This is an $8.0 million increase, or 16.7%, in the amount invested, compared with the $47.9 million invested during the three months ended March 31, 2008, to acquire portfolios with a face value aggregating $1.2 billion for an average purchase price of 4.0% of face value. Average purchase price, as a percentage of face value, varies from period to period depending on, among other things, the quality of the accounts purchased and the length of time from charge off to the time we purchase the portfolios.

Collections by Channel

During the three months ended March 31, 2009 and 2008, we utilized several business channels for the collection of charged-off credit card receivables and other charged-off receivables. The following table summarizes gross collections by collection channel *(in thousands)*:

	Three Months Ended March 31,	
	2009	2008
Collection sites	$ 50,342	$ 43,289
Legal collections	56,407	45,292
Collection agencies	7,667	10,961
Sales	817	4,214
Other		599
Gross collections for the period	$ 115,233	$ 104,355

Gross collections increased $10.8 million, or 10.4%, to $115.2 million during the three months ended March 31, 2009, from $104.4 million during the three months ended March 31, 2008.

Results of Operations

Results of operations in dollars and as a percentage of revenue were as follows *(in thousands, except percentages)*:

	Three Months Ended March 31, 2009		2008 Adjusted(1)	
Revenue				
Revenue from receivable portfolios, net	$ 72,275	94.5%	$ 64,068	94.8%
Servicing fees and other related revenue	4,171	5.5%	3,486	5.2%
Total revenue	76,446	100.0%	67,554	100.0%
Operating expenses				
Salaries and employee benefits	13,957	18.3%	14,851	22.0%
Stock-based compensation expense	1,080	1.4%	1,094	1.6%
Cost of legal collections	29,947	39.2%	20,306	30.1%
Other operating expenses	5,980	7.8%	5,651	8.4%
Collection agency commissions	2,891	3.8%	4,031	6.0%
General and administrative expenses	5,697	7.4%	4,460	6.6%
Depreciation and amortization	623	0.8%	722	1.0%
Total operating expenses	60,175	78.7%	51,115	75.7%
Income before other (expense) income and income taxes	16,271	21.3%	16,439	24.3%
Other (expense) income				
Interest expense	(4,273)	(5.6)%	(5,200)	(7.7)%
Gain on repurchase of convertible notes	3,053	4.0%		0.0%
Other (expense) income	(81)	(0.1)%	21	0.0%
Total other expense	(1,301)	(1.7)%	(5,179)	(7.7)%
Income before income taxes	14,970	19.6%	11,260	16.6%
Provision for income taxes	(5,973)	(7.8)%	(4,509)	(6.6)%
Net income	$ 8,997	11.8%	$ 6,751	10.0%

(1) Adjusted for change in accounting principle related to our convertible senior notes. See Note 12 to our unaudited condensed consolidated financial statements for additional information and the effect of the change in accounting principle to our financial statements.

Comparison of Results of Operations

Revenue

Our revenue consists primarily of portfolio revenue and bankruptcy servicing revenue. Portfolio revenue consists of accretion revenue and zero basis revenue. Accretion revenue represents revenue derived from pools (quarterly groupings of purchased receivable portfolios) with a cost basis that has not been fully amortized. Revenue from pools with a remaining unamortized cost basis is accrued based on each pool s effective interest rate applied to each pool s remaining unamortized cost basis. The cost basis of each pool is increased by revenue earned and decreased by gross collections and impairments. The effective interest rate is the internal rate of return derived from the timing and amounts of actual cash received and anticipated future cash flow projections for each pool. All collections realized after the net book value of a portfolio has been fully recovered (Zero Basis Portfolios) are recorded as revenue (Zero Basis Revenue). We account for our investment in receivable portfolios utilizing the interest method in accordance with the provisions of the AICPA s Statement of Position 03-3, *Accounting for Certain Debt Securities Acquired in a Transfer* (SOP 03-3). Servicing fee revenue is revenue primarily associated with bankruptcy servicing fees earned from our subsidiary, Ascension Capital Group, Inc. (Ascension), a provider of bankruptcy services to the finance industry.

Effective January 1, 2008, we revised our Unified Collection Score (UCS) and Behavioral Liquidation Score (BLS) methodologies by extending our collection forecast from 72 months to 84 months. UCS is a proprietary forecasting tool that generates portfolio level expectations of liquidation for portfolios that we have owned and serviced for more than six months. BLS forecasts portfolio level expectations based on credit characteristics for portfolios owned and serviced less than six

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months. We have observed that receivable portfolios purchased in 2001 and prior have consistently experienced cash collections beyond 72 months from the date of purchase. When we first developed our cash forecasting models in 2001, limited historical collection data was available with which to accurately model projected cash flows beyond 60 months. During the quarter ended June 30, 2006, we determined there was enough additional collection data accumulated over the previous several years, in addition to improvements in our forecasting tools, allowing us to extend the collection forecast to 72 months. During the quarter ended March 31, 2008, we determined that there was enough additional collection data to accurately extend the collection forecast in both our UCS and BLS models to 84 months. The increase in the collection forecast from 72 to 84 months was applied, effective January 1, 2008, to each portfolio for which we could accurately forecast through such term and resulted in an increase in the aggregate total estimated remaining collections for the receivable portfolios by $67.3 million, or 7.5%, as of March 31, 2008. We did not extend the forecast on telecom portfolios as we do not anticipate significant collections past 72 months on these portfolios. The extension of the collection forecast is treated as a change in estimate and, in accordance with Statement of Financial Accounting Standard No. 154, *Accounting Changes and Error Corrections a replacement of APB Opinion No. 20 and FASB Statement No.3,* is being recognized prospectively in our consolidated financial statements. This prospective treatment resulted in a reduction in our net impairment provision of $3.1 million and an increase in revenue of $0.1 million for the quarter ended March 31, 2008. The impact of the change in estimate resulted in an increase in net income of $1.9 million and an increase in fully diluted earnings per share of $0.08 for the quarter ended March 31, 2008.

The following tables summarize collections, revenue, end of period receivable balance and other related supplemental data by year of purchase (*in thousands, except percentages*):

	For the Three Months Ended March 31, 2009					As of March 31, 2009	
	Collections[1]	Gross Revenue[2]	Revenue Recognition Rate[3]	Net (Impairment) Reversal	Revenue % of Total Revenue	Unamortized Balances	Monthly IRR[4]
ZBA	$ 2,500	$ 2,500	100.0%	$	3.2%	$	
2002	909	570	62.7%	153	0.7%	491	29.8%
2003	2,349	2,185	93.0%	(409)	2.8%	2,090	30.7%
2004	3,375	2,211	65.5%	(437)	2.9%	8,073	8.1%
2005	12,034	7,782	64.7%	(1,257)	10.0%	43,103	5.6%
2006	12,784	9,049	70.8%	(990)	11.7%	56,642	5.1%
2007	33,221	19,085	57.4%	(848)	24.6%	107,220	5.4%
2008	44,944	31,807	70.8%	(1,639)	40.9%	200,820	5.0%
2009	3,010	2,513	83.5%		3.2%	55,045	4.2%
Total	$ 115,126	$ 77,702	67.5%	$ (5,427)	100.0%	$ 473,484	5.3%

	For the Three Months Ended March 31, 2008					As of March 31, 2008	
	Collections[1]	Gross Revenue[2]	Revenue Recognition Rate[3]	Net (Impairment) Reversal	Revenue % of Total Revenue	Unamortized Balances	Monthly IRR[4]
ZBA	$ 2,558	$ 2,558	100.0%	$	3.7%	$	
2002	1,665	1,351	81.1%	(69)	1.9%	1,437	27.1%
2003	4,189	3,781	90.3%	(289)	5.4%	3,714	30.7%
2004	6,037	4,665	77.3%	(856)	6.7%	18,489	7.8%
2005	20,936	13,976	66.8%	(2,303)	20.2%	78,085	5.6%
2006	21,575	13,940	64.6%	(1,818)	20.1%	86,227	5.1%
2007	40,032	25,617	64.0%		36.9%	166,169	4.8%
2008	7,288	3,515	48.2%		5.1%	44,086	4.8%
Total	$ 104,280	$ 69,403	66.6%	$ (5,335)	100.0%	$ 398,207	5.5%

(1) Does not include amounts collected on behalf of others.

(2) Gross revenue excludes the effects of net impairment or net impairment reversals.

(3) Revenue recognition rate excludes the effects of net impairment or net impairment reversals.

(4) Our monthly IRR is calculated based on the weighted average of each pool s IRR relative to each pool s percentage of the unamortized balance for each year of purchase. Therefore, it is possible for the monthly IRR to be lower than that reported in the prior quarter due to this weighted average calculation.

Total revenue was $76.4 million for the three months ended March 31, 2009, an increase of $8.8 million, or 13.2%, compared to total revenue of $67.6 million for the three months ended March 31, 2008. Portfolio revenue increased $8.2 million, or 12.8%, to $72.3 million. The increase of portfolio revenue was primarily the result of additional accretion revenue associated with a higher portfolio balance during the three months ending March 31, 2009 compared to the three months ending March 31, 2008. During the three months ended March 31, 2009, we recorded a net impairment provision of $5.4 million, compared to a net impairment provision of $5.3 million (net of a reduction in our net impairment provision of $3.1 million as a result of the extension of our collection forecast discussed above) during the same period in the prior year. The impairments for the three months ended March 31, 2009 and 2008, were primarily due to a shortfall in collections in certain pool groups against our forecast. We believe the shortfall against our forecast was the result of the broadening pressure on our consumers due to a weakening economy as well as to particular challenges we experienced in working certain portfolios. As a result of the deteriorating economic conditions, as mentioned in the Market Overview section above, we have seen a shift in payments from consumers from single payment settlements to payment plans. Payments made over longer periods of time impact our business in two ways. First, when payments are extended over longer periods of time rather than received up front, this delay in cash flows could result in a provision for impairment. This is because discounting a long-term payment stream using our pool group IRRs rather than discounting a one-time settlement payment using the same IRR will result in a lower net present value. As a result, even if the cash received through long-term payment plans is the same as the cash received through one-time settlements, accounting for the stream of payments under SOP 03-3 may result in a provision for impairment. Second, when debts are settled through payment plans, there is a possibility that consumers will not make all of the payments required by those plans. The impact of the broken payers will reduce our overall expected collections, which results in a provision for impairment. This shift from single payment settlements to payment plans has resulted in a decrease in our actual collections, as compared to our forecasts, in certain pool groups.

Until economic conditions improve, we may continue to experience a shortfall in collections against our UCS forecast which, depending on the magnitude of the shortfall and the pool groups that experience such shortfall, may result in future provisions for impairment. In accordance with SOP 03-3, an impairment provision to reduce the book value and therefore, maintain a level yield on a pool group s internal rate of return, is only recorded when current information and events indicate that it is probable that an entity will be unable to collect all of its expected future cash flows, or when the timing of such cash flows is delayed. Since we cannot presently determine the future impact of the current economic conditions on our collections, we cannot conclude that further reductions in cash flows are probable or that the timing of cash flows has changed in a manner that would significantly impact any pool groups' internal rate of return and, therefore, have not recorded a related additional impairment.

Revenue associated with bankruptcy servicing fees earned from Ascension, was $4.1 million for the three months ended March 31, 2009, an increase of $0.7 million, or 20.5%, compared to revenue of $3.4 million for the three months ended March 31, 2008. The increase in Ascension revenue for the three months ended March 31, 2009, is due to a higher volume of bankruptcy placements.

Operating Expenses

Total operating expenses were $60.2 million for the three months ended March 31, 2009, an increase of $9.1 million, or 17.7%, compared to total operating expenses of $51.1 million for the three months ended March 31, 2008.

Operating expenses are explained in more detail as follows:

Salaries and Employee Benefits

Total salaries and employee benefits decreased by $0.9 million, or 6.0%, to $14.0 million during the three months ended March 31, 2009, from $14.9 million during the three months ended March 31, 2008. The decrease was primarily the result of a decrease of $1.4 million in salaries and related payroll taxes and benefits, due to a shift in our collection workforce from the United States to India. This decrease was offset by an increase of $0.5 million in health related expenses.

Stock-Based Compensation Expenses

Stock-based compensation expense remained consistent at $1.1 million during the three months ended March 31, 2009 and 2008.

Cost of Legal Collections

The cost of legal collections increased $9.6 million, or 47.5%, to $29.9 million during the three months ended March 31, 2009, compared to $20.3 million during the three months ended March 31, 2008. These costs represent contingent fees paid to our nationwide network of attorneys and costs of litigation. The increase in the cost of legal collections was primarily the result of an increase of $11.1 million, or 24.5%, in gross collections through our legal channel and upfront litigation costs. Gross legal collections amounted to $56.4 million during the three months ended March 31, 2009, up from $45.3 million collected during the three months ended March 31, 2008. The cost of legal collections increased as a percent of gross collections through this channel to 53.1% during the three months ended March 31, 2009, from 44.8% during the three months ended March 31, 2008, primarily due to an increase in upfront court costs expensed associated with our pursuit of legal collections.

The following table summarizes our external collection channel performance and related direct costs *(in thousands, except percentages*):

	Legal Collections and related costs Three Months Ended March 31,			
	2009		2008	
Collections	$ 56,407	100.0%	$ 45,292	100.0%
Court costs advanced	$ 20,544	36.4%	$ 13,894	30.7%
Court costs deferred	(7,241)	(12.8)%	(7,093)	(15.7)%
Court cost expense[(1)]	13,303	23.6%	6,801	15.0%
Other[(2)]	544	1.0%	688	1.5%
Commissions	16,100	28.5%	12,817	28.3%
Total Costs	$ 29,947	53.1%	$ 20,306	44.8%

(1) In connection with our agreement with contracted attorneys, we advance certain out-of-pocket court costs. We capitalize these costs in our consolidated financial statements and provide a reserve and corresponding court cost expense for the costs that we believe will be ultimately uncollectible. This amount includes changes in our anticipated recovery rate of court costs expensed.

(2) Other costs consist of costs related to counter claims and legal network subscription fees.

Other Operating Expenses

Other operating expenses increased $0.3 million, or 5.8%, to $6.0 million during the three months ended March 31, 2009, compared to $5.7 million during the three months ended March 31, 2008. The increase was primarily attributable to a $0.3 million increase in Ascension legal expenses resulting from the higher volume of bankruptcy placements discussed above.

Collection Agency Commissions

During the three months ended March 31, 2009, we incurred $2.9 million in commissions to third party collection agencies, or 37.7% of the related gross collections of $7.7 million, compared to $4.0 million in commissions, or 36.8% of the related gross collections of $11.0 million during the three months ended March 31, 2008. The decrease in commissions was consistent with the decrease in collections through this channel. The increase in the commission rate as a percentage of the related gross collections is primarily due to the mix of accounts placed with the agencies. Commissions as a percentage of collections in this channel, vary from period to period depending on, among other things, the time from charge-off of the accounts placed with an agency. Generally, freshly charged-off accounts have a lower commission rate than accounts that have been charged off for a longer period of time.

General and Administrative Expenses

General and administrative expenses increased $1.2 million, or 27.7%, to $5.7 million during the three months ended March 31, 2009, from $4.5 million during the three months ended March 31, 2008. The increase was primarily the result of an increase of $1.1 million in corporate legal expenses. Other expenses associated with general corporate matters remained consistent as compared with the prior period.

Depreciation and Amortization

Depreciation and amortization expense decreased $0.1 million, to $0.6 million during the three months ended March 31, 2009, from $0.7 million during the three months ended March 31, 2008. Depreciation expense was $0.4 million for the three months ended March 31, 2009, compared to $0.5 million for the three months ended March 31, 2008. Amortization expense relating to intangible assets acquired in conjunction with the acquisition of Ascension remained consistent at $0.2 million during the three months ended March 31, 2009 and 2008.

Cost per Dollar Collected

The following table summarizes our cost per dollar collected *(in thousands, except percentages)*:

	Three Months Ended March 31,	
	2009	**2008**
Gross collections	$ 115,233	$ 104,355
Operating expenses[1]	$ 55,709	$ 47,283
Cost per dollar collected	48.3%	45.3%

(1) Represent all operating expenses excluding stock-based compensation expense of $1.1 million for three months ended March 31, 2009 and 2008 and costs related to Ascension of $3.4 million and $2.7 million for the three months ended March 31, 2009 and 2008, respectively.

During the three months ended March 31, 2009, cost per dollar collected increased to 48.3% of gross collections from 45.3% of gross collections during the three months ended March 31, 2008. This increase was primarily due to several factors, as follows:

- an increase in upfront litigation costs of $6.5 million as discussed in costs of legal collections above
- a decrease in site salaries and employee benefits of $0.9 million, primarily due to a shift in our collection workforce from the United States to India
- a decrease of $3.4 million of collections coming from the sales channel (these collections have minimal costs associated with them)
- approximately $1.0 million of incremental corporate legal expenses

India Expansion

Due to the strong performance of our team in India and our ability to reduce our overall site cost to collect through the expansion of our offshore collection efforts, on April 22, 2009, we signed a lease for a new, larger site. This site, which is close to our existing site in Gurgaon, India, will allow us to expand our collector headcount from approximately 350 (capacity at our current site) to 1,100. Over the next several months we will be building out this new site and expect to occupy it in October 2009. During this period, we will incur lease costs at our existing and new sites, which will result in incremental lease expense totaling approximately $1.0 million for the period April 2009 through October 2009. Additionally, there will be costs associated with expanding our workforce in India.

Our plan is to continue to maintain headcount at current levels in our domestic collection sites and leverage India for future growth. As we ramp up headcount in our new, larger India site and migrate more of our collections there, we expect that our overall variable cost to collect will increase and our overall collector productivity will decline. Once we are fully ramped up, we expect that this expansion will have a positive long-term impact on both our overall cost to collect and our productivity.

Interest Expense

Total interest expense decreased $0.9 million, or 17.8%, to $4.3 million during the three months ended March 31, 2009, from $5.2 million during the three months ended March 31, 2008.

The following table summarizes our interest expense *(in thousands, except percentages):*

	For the Three Months Ended March 31, 2009	2008 Adjusted	$ Change	% Change
Stated interest on debt obligations	$ 3,053	$ 3,632	$ (579)	(15.9)%
Amortization of loan fees and other loan costs	310	269	41	15.2%
Amortization of debt discount convertible notes	910	1,299	(389)	(29.9)%
Total interest expense	$ 4,273	$ 5,200	$ (927)	(17.8)%

Interest expense during the three months ended March 31, 2008 was retrospectively adjusted as a result of a change in accounting principle. Effective January 1, 2009, we adopted FASB Staff Position APB 14-1, (FSP APB 14-1) *Accounting*

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for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement). In accordance with the provisions of FSP APB 14-1, we adjusted our prior years financial statements to separately account for the liability and equity components of our convertible senior notes in a manner that reflects our nonconvertible debt borrowing rate at the time of the issuance. As a result, we created a debt discount for our convertible senior notes and incurred additional interest expense due to the amortization of debt discount. See Note 12 to our unaudited condensed consolidated financial statements for a further discussion of this change in accounting principle.

The following table summarizes the impact of adopting FSP APB 14-1 on our interest expense and net debt balance related to our Convertible Notes during the previous reporting periods *(in thousands):*

	Interest Expense For the Three Months Ended		Net Convertible Note Balance As of	
	As Previously Reported	**As Adjusted**	**As Previously Reported**	**As Adjusted**
September 30, 2005	$ 101	$ 230	$ 100,000	$ 73,347
December 31, 2005	841	1,914	100,000	74,419
March 31, 2006	858	1,912	100,000	75,474
June 30, 2006	844	1,942	100,000	76,572
September 30, 2006	844	1,963	100,000	77,691
December 31, 2006	844	2,031	100,000	78,878
March 31, 2007	844	2,010	100,000	80,045
June 30, 2007	844	2,059	100,000	81,260
September 30, 2007	844	2,081	100,000	82,497
December 31, 2007	844	2,150	100,000	83,803
March 31, 2008	844	2,143	100,000	85,102
June 30, 2008	810	2,099	95,000	82,124
September 30, 2008	802	2,103	95,000	83,426
December 31, 2008	704	1,920	71,422	63,758

Stated interest on debt obligations decreased $0.6 million during the three months ended March 31, 2009, as compared to the same period in the prior year, due to a decrease in our variable interest rate on our Revolving Credit Facility and decreased stated interest expense on our convertible senior notes due to a reduced principal balance as a result of buybacks of a portion of our convertible senior notes, offset by an increase in amounts borrowed under our Revolving Credit Facility to fund our purchases of receivable portfolios and general working capital needs.

Other Income and Expense

During the three months ended March 31, 2009, total other expense was $0.1 million, compared to other income of less than $0.1 million during the three months ended March 31, 2008. The $0.1 million other expense during the three months ended March 31, 2009, was primarily attributable to the net loss in our non-qualified employee plan assets and liabilities.

Provision for Income Taxes

During the three months ended March 31, 2009, we recorded an income tax provision of $6.0 million, reflecting an effective rate of 39.9% of pretax income. Our effective tax rate for the three months ended March 31, 2009, differed from the Federal statutory rate, primarily due to the net effect of state taxes and the effect of permanent book versus tax differences.

Effective January 1, 2009, we retrospectively adjusted our prior years income tax provisions upon adoption of FSP APB 14-1. See interest expense above and Note 12 to our unaudited condensed consolidated financial statements for a further discussion of the change in accounting principle related to the adoption of FSP APB 14-1. The adjusted income tax provision for the three months ended March 31, 2008, was $4.5 million, which reflected an effective rate of 40.0% of pretax income. Our effective tax rate for the three months ended March 31, 2008, differed from the Federal statutory rate primarily due to the net effect of state taxes and the effect of permanent book versus tax differences.

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Supplemental Performance Data

Cumulative Collections to Purchase Price Multiple

The following table summarizes our purchases and related gross collections by year of purchase *(in thousands, except multiples):*

		Cumulative Collections through March 31, 2009										
Year of Purchase	**Purchase Price[1]**	**<2002**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**Total[2]**	**CCM[3]**
<1999	$ 41,117[4]	$ 111,174	$ 15,007	$ 7,546	$ 4,202	$ 2,042	$ 1,513	$ 989	$ 501	$ 131	$ 143,105	3.5
1999	48,712	48,337	16,259	11,508	8,654	5,157	3,513	1,954	1,149	298	96,829	2.0
2000	6,153	12,661	4,542	4,377	2,293	1,323	1,007	566	324	76	27,169	4.4
2001	38,186	21,197	54,184	33,072	28,551	20,622	14,521	5,644	2,984	562	181,337	4.7
2002	61,494		48,322	70,227	62,282	45,699	33,694	14,902	7,922	1,406	284,454	4.6
2003	88,509			59,038	86,958	69,932	55,131	26,653	13,897	2,353	313,962	3.5
2004	101,333				39,400	79,845	54,832	34,625	19,116	3,375	231,193	2.3
2005	192,593					66,491	129,809	109,078	67,346	12,144	384,868	2.0
2006	141,999						42,354	92,265	70,743	12,784	218,146	1.5
2007	204,345							68,048	145,272	33,223	246,543	1.2
2008	228,736								69,049	45,703	114,752	0.5
2009	55,542									3,071	3,071	0.1
Total	$ 1,208,719	$ 193,369	$ 138,314	$ 185,768	$ 232,340	$ 291,111	$ 336,374	$ 354,724	$ 398,303	$ 115,126	$ 2,245,429	1.9

(1) Adjusted for put-backs, account recalls, purchase price rescissions, and the impact of an acquisition in 2000. Put-backs represent accounts that are returned to the seller in accordance with the respective purchase agreement (Put-Backs). Recalls represents accounts that are recalled by the seller in accordance with the respective purchase agreement (Recalls).

(2) Cumulative collections from inception through March 31, 2009.

(3) Cumulative Collections Multiple (CCM) through March 31, 2009 collections as a multiple of purchase price.

(4) From inception through December 31, 1998.

Total Estimated Collections to Purchase Price Multiple

The following table summarizes our purchases, resulting historical gross collections and estimated remaining gross collections, by year of purchase *(in thousands, except multiples)*:

	Purchase Price[1]	**Historical Gross Collections[2]**	**Estimated Remaining Collections[3]**	**Total Estimated Gross Collections**	**Total Estimated Gross Collections to Purchase Price**
<1999	$ 41,117[4]	$ 143,105	$ 91	$ 143,196	3.5
1999	48,712	96,829	32	96,861	2.0
2000	6,153	27,169	92	27,261	4.4
2001	38,186	181,337	867	182,204	4.8
2002	61,494	284,454	2,394	286,848	4.7

2003	88,509	313,962	8,113	322,075	3.6
2004	101,333	231,193	16,589	247,782	2.4
2005	192,593	384,868	89,105	473,973	2.5
2006	141,999	218,146	130,623	348,769	2.5
2007	204,345	246,543	232,507	479,050	2.3
2008	228,736	114,752	475,863	590,615	2.6
2009	55,542	3,071	134,759	137,830	2.5
Total	$ 1,208,719	$ 2,245,429	$ 1,091,035	$ 3,336,464	2.8

(1) Adjusted for Put-Backs, Recalls, purchase price rescissions, and the impact of an acquisition in 2000.

(2) Cumulative collections from inception through March 31, 2009.

(3) Includes $0.6 million in expected collections for the healthcare portfolios on cost recovery.

(5) From inception through December 31, 1998.

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Estimated Remaining Gross Collections by Year of Purchase

The following table summarizes our estimated remaining gross collections by year of purchase *(in thousands)*:

	Estimated Remaining Gross Collections by Year of Purchase								
	2009(2)	2010	2011	2012	2013	2014	2015	2016	Total
<1999(1)	$ 91	$	$	$	$	$	$	$	$ 91
1999(1)	32								32
2000(1)	92								92
2001(1)	767	100							867
2002(1)	2,153	189	52						2,394
2003(1)	5,568	2,545							8,113
2004	8,000	6,455	2,134						16,589
2005	30,512	31,176	20,258	7,159					89,105
2006	34,276	38,125	28,022	20,317	9,883				130,623
2007	76,979	67,065	41,612	27,215	15,448	4,188			232,507