ARENA PHARMACEUTICALS INC
Form S-3/A
June 18, 2004

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As filed with the Securities and Exchange Commission on June 18, 2004

Registration No. 333-115670

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

AMENDMENT NO. 1

TO

FORM S-3

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

ARENA PHARMACEUTICALS, INC.

(Exact Name of Registrant as Specified in its Charter)

Delaware	**23-2908305**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)

6166 Nancy Ridge Drive
San Diego, California 92121
(858) 453-7200

(Address, Including Zip Code and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

Steven W. Spector, Esq.
Vice President and General Counsel
6166 Nancy Ridge Drive
San Diego, California 92121
(858) 453-7200

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

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

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. ý

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 of 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

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment that specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

INFORMATION CONTAINED HEREIN IS SUBJECT TO COMPLETION OR AMENDMENT. A REGISTRATION STATEMENT RELATING TO THESE SECURITIES HAS BEEN FILED WITH THE SECURITIES AND EXCHANGE COMMISSION. THESE SECURITIES MAY NOT BE SOLD NOR MAY OFFERS TO BUY BE ACCEPTED PRIOR TO THE TIME THE REGISTRATION STATEMENT BECOMES EFFECTIVE. THIS PROSPECTUS SHALL NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY NOR SHALL THERE BE ANY SALE OF THESE SECURITIES IN ANY STATE IN WHICH SUCH OFFER, SOLICITATION OR SALE WOULD BE UNLAWFUL PRIOR TO REGISTRATION OR QUALIFICATION UNDER THE SECURITIES LAWS OF ANY SUCH STATE.

Subject to Completion, dated June 18, 2004

PROSPECTUS

$50,000,000

ARENA PHARMACEUTICALS, INC.

Common Stock

Our common stock is traded on the Nasdaq National Market under the symbol "ARNA". On June 16, 2004, the closing price of our common stock was $5.39.

This prospectus and the accompanying prospectus supplement will allow us to sell common stock over time in one or more offerings up to a maximum aggregate initial offering price of $50,000,000. Each time we offer shares, we will provide you with a supplement to this prospectus. You should read this prospectus, the information incorporated by reference in this prospectus and any prospectus supplement carefully before you invest.

INVESTING IN OUR SECURITIES INVOLVES A HIGH DEGREE OF RISK. SEE "RISK FACTORS" BEGINNING ON PAGE 2 AND AS UPDATED IN ANY FUTURE FILINGS MADE WITH THE SECURITIES AND EXCHANGE COMMISSION THAT ARE INCORPORATED BY REFERENCE IN THIS PROSPECTUS.

THIS PROSPECTUS MAY NOT BE USED TO OFFER OR SELL ANY SECURITIES UNLESS ACCOMPANIED BY A PROSPECTUS SUPPLEMENT.

The securities may be sold by us to or through underwriters or dealers, directly to purchasers or through agents designated from time to time. For additional information on the methods of sale, you should refer to the section entitled "Plan of Distribution" in this prospectus. If any underwriters are involved in the sale of any securities with respect to which this prospectus is being delivered, the names of such underwriters and any applicable discounts or commissions and over-allotment options will be set forth in a prospectus supplement. The price to the public of such securities and the net proceeds we expect to receive from such sale will also be set forth in a prospectus supplement. This prospectus may not be used to sell any of the common stock unless accompanied by a prospectus supplement.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the accuracy or adequacy of the prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is [ ], 2004

TABLE OF CONTENTS

You should rely only on the information contained or incorporated by reference into this prospectus or any applicable prospectus supplement. We have not authorized anyone to provide you with different information. We are not making an offer of the securities to be sold under this prospectus in any jurisdiction where the offer or sale is not permitted. You should not assume that the information contained in this prospectus or any applicable prospectus supplement is accurate as of any date other than the date on the front cover of this prospectus or the prospectus supplement, or that the information contained in any document incorporated by reference is accurate as of any date other than the date of the document incorporated by reference, regardless of the time of delivery of this prospectus or any sale of a security.

ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission, or SEC, using a "shelf" registration process. Under this shelf registration process, we may sell common stock in one or more offerings up to a total dollar amount of $50,000,000. Each time we sell any common stock under this prospectus, we will provide a prospectus supplement that will contain more specific information about the terms of that offering. We may also add, update or change in a prospectus supplement any of the information contained in this prospectus or in documents we have incorporated by reference into this prospectus. This prospectus, together with the applicable prospectus supplements and the documents incorporated by reference into this prospectus, includes all material information relating to this offering. You should carefully read both this prospectus and the applicable prospectus supplement together with the additional information described under "Where You Can Find More Information" before buying common stock in this offering.

SUMMARY

Arena Pharmaceuticals, Inc.

We are a biopharmaceutical company that discovers and develops drugs that act on an important class of drug targets called G protein-coupled receptors, or GPCRs. We use our Constitutively Activated Receptor Technology, or CART , Melanophore technology and other proprietary technologies to identify small chemical molecules that may lead to new drugs in four major therapeutic areas: metabolic diseases, cardiovascular diseases, central nervous system disorders and inflammatory diseases. We have not received regulatory approval for, or generated commercial revenues from, any of our product candidates. We initiated our first human studies on APD356, one of our internally discovered compounds for metabolic disease and obesity, in February 2004.

In addition to our internal discovery and development efforts, we have entered into research and development collaborations with several pharmaceutical and biotechnology companies, including Merck & Co., Inc., Fujisawa Pharmaceutical Co., Ltd., and Taisho Pharmaceutical Co., Ltd.

The pharmaceutical marketplace in which we operate includes many large, well-established companies competing with us to develop treatments for the same diseases and disorders. See "Risk Factors" below.

Arena Pharmaceuticals® and Arena® are registered service marks of the company. CART is an unregistered service mark of the company. Our corporate offices are located at 6166 Nancy Ridge Drive, San Diego, California 92121. Our telephone number is (858) 453-7200. Our website address is www.arenapharm.com. Information contained in our website does not constitute part of this prospectus.

Unless otherwise specified or required by context, references in this prospectus to "we," "us," "our" and "Arena" refer to Arena Pharmaceuticals, Inc. and its subsidiaries on a consolidated basis.

We may offer shares of our common stock with a total value of up to $50 million from time to time under this prospectus at prices and on terms to be determined by market conditions at the time of offering. Each time we sell any common stock under this prospectus, we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement also may add, update or change information contained in this prospectus or in documents we have incorporated by reference into this prospectus.

This prospectus may not be used to offer or sell any securities unless accompanied by a prospectus supplement.

We may sell the common stock directly to or through underwriters, dealers or agents. We, and our underwriters or agents, reserve the right to accept or reject all or part of any proposed purchase of common stock. If we do offer common stock through underwriters or agents, we will include in the applicable prospectus supplement:

- the names of those underwriters or agents;
- applicable fees, discounts and commissions to be paid to them;
- details regarding over-allotment options, if any; and
- the net proceeds to us.

We may issue shares of our common stock from time to time. Holders of our common stock are entitled to one vote per share for the election of directors and on all other matters that require stockholder approval. Subject to any preferential rights of any outstanding preferred stock, in the event of our liquidation, dissolution or winding up, holders of our common stock are entitled to share ratably in the assets remaining after payment of liabilities and the liquidation preferences of any outstanding preferred stock. Our common stock does not carry any preemptive rights enabling a holder to subscribe for, or receive shares of, any class of our common stock or any other securities convertible into shares of any class of our common stock, or any redemption rights.

1

RISK FACTORS

An investment in our stock involves a high degree of risk. Investors evaluating us should carefully consider the factors described below and all other information contained in this prospectus and in our other public filings before making investment decisions regarding our stock. Any of the following factors could materially harm our business, operating results and financial condition. Additional factors and uncertainties not currently known to us or that we currently consider immaterial could also harm our business, operating results and financial condition. Investors could lose all or part of their investment as a result of these factors.

If APD356 fails in clinical trials, we may significantly curtail some of our activities

We initiated our first clinical trial on an internally discovered compound, which we call APD356, in February 2004. This trial is being conducted at a contract Phase 1 unit in the United Kingdom. If APD356 is found to be unsafe in, or not tolerated by, the people we test in our Phase 1 clinical trial, we may not be able to raise new financing or generate significant revenue in the next year or two. Without such funding, we would need to re-evaluate our strategy of moving multiple drug development programs forward while at the same time maintaining our research and discovery capabilities. Based on such evaluation, we may need to significantly curtail some of our current and planned programs and expenditures. We do not know what programs, if any, we would need to curtail, but we believe narrowing the breadth of our pipeline would reduce our opportunity for success.

We have a history of losses and expect our losses to continue

We had losses of $12.5 million for the three months ended March 31, 2004, and we had an accumulated deficit of $120.0 million from our inception in April 1997 through March 31, 2004. Our losses have resulted in large part from the significant research and development expenditures we have made in seeking to identify and validate new drug targets and compounds that could become marketed drugs.

We expect our operating expenses over the next several years will be significant and that we will continue to have significant operating losses in the near-term, even if we or our collaborators are successful in advancing compounds discovered using our technologies.

We will need additional funds in the future for our research and development, and we may not be able to obtain such funds

We cannot sustain our current operating plan for more than the next two or three years unless we obtain additional financing from collaborators or investors. In addition, it takes potentially hundreds of millions of dollars, which is substantially more cash than what we currently have, to successfully develop a compound into a marketed drug. Financing may not be available, or may not be available on terms that are favorable, to us.

We do not believe that we can currently license our programs or technologies on terms that would significantly reduce the need for us to obtain additional financing from investors. Our strategy is to continue developing these programs and move them towards or into clinical development so that we can achieve better financial terms with a collaborator and, therefore, be able to continue our drug discovery efforts at their current levels. If our research and development efforts are not successful in the next one or two years, and if we do not receive new financing from investors, we may need to license our programs on financial terms that are unfavorable to us.

Our stock has not performed as well as the stock of many of our peers for some time, and we presently are aware of only a small number of securities analysts covering our stock, which means limited third-party information is available to investors. We believe that institutional and other investors

value third-party information in making investment decisions regarding our stock. These factors, and many others, may affect our ability to access capital markets.

If adequate funds are not available to us, we will be required to significantly curtail or eliminate one or more of our drug discovery or development programs, or to completely discontinue our operations.

Our largest stockholders may take actions that are contrary to your interests including selling their stock

A small number of our stockholders hold a significant amount of our outstanding stock. These stockholders' interests could differ from the interests of other stockholders, and they could be in a position to affect us in a way that is detrimental to the interests of other stockholders. Sales by these stockholders of our common stock could adversely affect the market price for our stock. In addition, their actions and votes would be important, and possibly determinative, in the event we consider a transaction that requires stockholder approval or in the event a third party makes a tender offer or a hostile take-over offer for outstanding shares.

On January 23, 2004, Biotechnology Value Fund, L.P., Biotechnology Value Fund II, L.P., BVF Investments, L.L.C., BVF Partners L.P., BVF Inc. (collectively, "BVF") and Investment 10, L.L.C. (collectively with BVF, the "BVF Stockholders") reported that they own or control approximately 12.2% of our outstanding common stock. We entered into an agreement with the BVF Stockholders on January 17, 2003, when the BVF Stockholders held approximately 27% of our outstanding common stock, to allow us to pursue our strategic objectives, retain key management and scientific personnel, and protect the interests of stockholders in general. This agreement provides that the BVF Stockholders will not, on their own or as part of a larger group, (i) acquire any of our stock or assets, (ii) solicit proxies or submit stockholder proposals except as provided in such agreement, or (iii) engage in any of the actions set forth in paragraphs (a) through (j) of Item 4 of Schedule 13D, including actions that relate to or would result in any person acquiring or disposing of our securities, any change to our board of directors or management, or a material change to our business or corporate structure. This agreement also provides that the BVF Stockholders will vote for director nominees recommended by our board of directors and on certain other matters as recommended by our board of directors. Under the stockholders agreement, the BVF Stockholders received, among other things, (a) the right to have their designee appointed to our board of directors, and, thereafter, nominated for election at stockholders meetings, (b) the right to have another designee serve as an observer of meetings of our board of directors, and (c) the right to call a special meeting under certain circumstances. These provisions under the stockholders agreement terminate on December 31, 2004, or earlier if the BVF Stockholders and certain related parties beneficially own less than 1,914,603 shares of our common stock.

We believe that the BVF Stockholders favor a strategic direction for the company that is different than the one favored by management. The BVF Stockholders have recently sold a large number of our shares. Further sales by the BVF Stockholders may have an adverse effect on the near-term market price for our stock.

All of our programs are in the early stage of drug discovery and development, and if problems arise in the testing or approval process, our drug development efforts may be delayed or may not be successful

We are transitioning from primarily a research company to a research and development company. The research and development of new medicines is highly uncertain and subject to significant risks. Our most advanced program, APD356, is in the early stages of drug development. We do not expect any drugs resulting from our research to be commercially available for many years, if ever.

It typically takes many years to conduct preclinical and clinical trials and failure often occurs. Interim results of trials do not assure final results, and acceptable results in early trials may not be repeated in later trials.

In the course of our discovery, preclinical testing and clinical trials, we will rely on third parties, including laboratories, investigators and manufacturers, to perform critical services for us. For example, we are relying on a European-based third party to conduct our Phase 1 clinical trials for APD356. This organization is responsible for many aspects of these trials, including finding and enrolling volunteers for testing and administering the testing. Another example is that we are currently relying on a contract manufacturer to make certain compounds for us. These third parties may not be available when we need them or, if they are available, may not perform their services in a timely or acceptable manner. As a result of our dependence on third parties, we may face delays or failures outside of our direct control. These risks also apply to the development activities of our collaborators, and we do not expect any drugs resulting from our collaborators' research and development efforts to be commercially available for many years, if ever.

If we are unable to obtain regulatory approval to develop and market products in the United States and foreign jurisdictions, we will not be able to commercialize products resulting from our research.

Governmental authorities in the U.S. heavily regulate the testing, development, manufacturing, approval and marketing of drugs. Any compound we are testing may not prove to be safe or effective or meet all of the applicable regulatory requirements. We may elect to, or a regulatory agency may require us to, discontinue development of a compound at any time for scientific, regulatory, commercial or other reasons. These regulations are complex and change from time to time.

Governments in other countries have similar requirements for the testing, development, manufacturing, approval and marketing of drugs, including in the United Kingdom (the "UK"), and, as in the U.S., the requirements are complex and change from time to time. We are currently conducting a clinical trial on APD356 in the UK. In the European Union (the "EU"), of which the UK is a member state, a new clinical trials directive (or "CTD") went into effect on May 1, 2004. Under this new directive, Phase 1 clinical trials in healthy subjects, as well as later clinical trials, require the filing of a clinical trials authorization (or "CTA") to the Medicines and Healthcare products Regulatory Agency (the "MHRA") (the equivalent of the FDA in the UK). This directive also imposes new inspection requirements for clinical trials and for facilities manufacturing clinical trials materials.

Our current study on APD356 is subject to the terms of the directive. We filed a clinical trials exemption (or "CTX") and have received approval from the MHRA. After May 1, 2004, CTX's were converted to CTA's under the new system. If we decide to conduct additional clinical trials in the EU, we will need to amend the CTA to include information on the new trial. We have filed an investigational new drug application (an "IND") with the FDA, and currently intend to conduct our next clinical trial, if any, in the U.S.

Completion of clinical trials may take several years and failure may occur at any stage of testing. The length of time required varies substantially according to the type, complexity and intended use of the product candidate. Interim results of a preclinical study or clinical trial do not necessarily predict final results, and acceptable results in early trials may not be repeated in later trials. For example, a drug candidate that is successful at the preclinical level may cause harmful or dangerous side effects when tested at the clinical level. Our rate of commencement and completion of clinical trials may be delayed by many factors, including:

- our inability to manufacture sufficient quantities of materials for use in clinical trials;
- variability in the number and types of patients available for each study;
- difficulty in maintaining contact with patients after treatment, resulting in incomplete data;

unforeseen safety issues or side effects;

poor or unanticipated lack of effectiveness of products during the clinical trials; or

regulatory delays.

Data obtained from the clinical trials are susceptible to varying interpretation, which may delay, limit or prevent regulatory approval. A number of companies in the pharmaceutical industry, including biotechnology companies, have suffered significant setbacks in advanced clinical trials, even after achieving promising results in earlier trials. In addition, regulatory authorities may refuse or delay approval as a result of other factors, such as changes in regulatory policy during the period of product development and regulatory agency review.

Satisfaction of regulatory requirements for marketing approval typically takes many years. To obtain regulatory approval, we must first show that our drug products are safe and effective for target indications through preclinical studies and clinical trials. Preclinical testing and clinical development are long, expensive and uncertain processes, and we do not know whether the FDA or its foreign counterpart will allow us to undertake clinical trials of any potential drug products.

Because, in part, of the early stage of our drug candidate research and development process, we cannot predict whether or not regulatory approval will be obtained for any product we develop. At the present time, only one of our drug candidates, APD356, is undergoing clinical trials. Compounds developed by us, alone or with other parties, may not prove to be safe and effective in clinical trials and may not meet all of the applicable regulatory requirements needed to receive marketing approval. If regulatory approval of a product is granted, this approval will be limited to those disease states and conditions for which the product is demonstrated through clinical trials to be safe and effective. Failure to obtain regulatory approval would delay or prevent us from commercializing products.

These risks also apply to the development activities of our collaborators, and we do not expect any drugs resulting from our collaborators' research and development efforts to be commercially available for many years, if ever.

Our efforts will be seriously jeopardized if we are unable to retain and attract key employees

Our success depends on the continued contributions of our principal management, development and scientific personnel, and the ability to hire and retain key personnel, particularly in the clinical development area as we transition more of our programs from research into drug development. We face intense competition for such personnel. The loss of services of any principal member of our management or scientific staff, particularly Jack Lief, our President and Chief Executive Officer, and Dominic P. Behan, Ph.D., our Senior Vice President and Chief Scientific Officer, could adversely impact our operations and ability to raise additional capital. To our knowledge, neither Mr. Lief nor Dr. Behan is planning on leaving, retiring or otherwise disassociating with us in the near future.

Our revenues are contingent upon the actions of our existing and potential collaborators

Our revenues depend on our ability to enter into new collaborative and license agreements and the success of our existing collaborations. We will receive little revenue under our existing agreements if our own or our collaborators' research, development or, ultimately, marketing efforts are unsuccessful, or if our agreements are terminated early. Typically, our collaborators (and not us) control the development of compounds into drugs after we have met early preclinical scientific milestones, and we are not entitled to the more significant milestone payments under our agreements until our collaborators have advanced compounds into clinical testing, which may not occur for many years, if ever.

In 2002 and 2003, revenues recognized under our collaboration with Merck represented approximately 8% and 62% of our revenues, respectively. Absent any new collaborations, we expect substantially all of our revenues in 2004 will be derived from our collaboration with Merck. Our revenues will be materially impacted if:

- Merck terminates its agreement with us;
- Our collaborators do not devote their time and financial resources to develop compounds identified with our technologies;
- Our collaborators dispute whether we have achieved a milestone, rights to a particular receptor or compound, or other terms of our agreements;
- Collaborators and potential collaborators use alternative technologies to our technologies and compete with us in developing drugs; and
- Our collaborators experience failures in the discovery or development of compounds identified with our technologies or in the clinic or marketplace with other drugs that cause them to discontinue or slow down progress under our collaboration.

The term of the collaborative research program with Merck is three years from October 21, 2002. Merck can terminate this program for any of the following reasons: (i) without cause, at any time on or after October 21, 2004, by giving notice at least 90 days prior to such termination date, if certain milestones have been achieved and paid; (ii) without cause, at any time after October 21, 2004, by giving 180 days prior notice; (iii) for certain technical grounds (including if the GPCRs are scientifically shown to be unsuitable targets for drug development or valid third-party patent rights block the achievement of significant program goals) by giving 30 days prior notice; and (iv) in the event of a change in control of Arena, by giving 30 days prior notice. Merck can also terminate the agreement without any reason at any time after October 21, 2005. Either party can terminate the agreement at any time for cause if the other party breaches its material obligations under the agreement by causes and reasons within its control, has not cured such breach and there is no dispute as to whether such breach has occurred. Additionally, in lieu of terminating the agreement, Merck can terminate certain aspects of the agreement by giving 90 days prior notice if we materially breach our obligations at any time during the period from October 21, 2002, to October 21, 2005 (or such earlier date of termination) and fail to cure such breach, if such default can be cured but not within a certain period, or if we do not commence and diligently continue good faith efforts to cure such default during such period. In the event of any such termination, our revenues would be materially adversely affected.

Consolidation in our industry and our or our collaborator's inability to obtain acceptable prices for drugs could make partnering more difficult and diminish our revenues

Consolidation in the pharmaceutical and biotechnology industry and setbacks caused by competition from generic drugs and litigation may have an adverse effect on us. In addition to the number of potential partners being reduced, pharmaceutical companies may be less willing to enter into a new collaboration with us during a time they are integrating a new operation as a result of a merger or acquisition, their therapeutic areas of focus may change following a merger, or they may have reduced research budgets as a result of some financial setback.

In addition, our and our collaborators' ability to commercialize future drugs will depend in part on government regulation and the reimbursement policies of government authorities, private health insurers and other third party payors. Government and third party payors are increasingly attempting to contain healthcare costs by limiting coverage and reimbursement levels for new drugs. These efforts may limit our commercial opportunity now by reducing the amount a potential collaborator is willing to pay to license our programs and in the future by reducing the revenues that we and our collaborators could generate from drug sales.

A dispute regarding the infringement or misappropriation of our proprietary rights or the proprietary rights of others could be costly and result in delays in our research and development activities

Our success depends, in part, on our ability to operate without infringing or misappropriating the proprietary rights of others. There are many patents and patent applications filed, and that may be filed, by others relating to our drug discovery and development programs that could be determined to be similar, identical or superior to ours or our licensors or collaborators. Our activities, or those of our licensors or collaborators, could be determined to infringe these patents.

Although the government sponsored project to sequence the human genome has made genomics information freely available to the public, other organizations, companies and individuals are seeking proprietary positions on genomics information that overlap with the government sponsored project. Our activities, or those of our licensors or collaborators, could be affected by conflicting positions that may exist between any overlapping genomics information made available publicly as a result of the government sponsored project and genomics information that other organizations, companies or individuals consider to be proprietary.

There could be significant litigation and other administrative proceedings in our industry regarding patent and other intellectual property rights. Any legal action against us, or our collaborators, claiming damages or seeking to enjoin commercial activities relating to our drug discovery and development programs could:

require us, or our collaborators, to obtain a license to continue to use, manufacture or market the affected products, methods or processes, which may not be available on commercially reasonable terms, if at all;

prevent us from importing, making, using, selling or offering to sell the subject matter claimed in patents held by others and subject us to potential liability for damages;

consume a substantial portion of our managerial, scientific and financial resources; or

be costly, regardless of the outcome.

Others contact us from time to time notifying us regarding their intellectual property rights, sometime asserting that we may need a license to use their technologies. No person is pursuing infringement proceedings against us that we believe will have a material adverse impact on our activities.

In addition, third parties may infringe or misappropriate our proprietary rights, and we may have to institute costly legal action to protect our intellectual property rights. We may not be able to afford the costs of enforcing or defending our intellectual property rights against third parties.

Drug discovery and development is an intensely competitive business that could render our technologies obsolete or noncompetitive

The main focus of our efforts are G protein-coupled receptors, or GPCRs. Because GPCRs are an important target class for drug discovery efforts, we believe that most pharmaceutical companies, including GlaxoSmithKline PLC, which we view as our chief competitor in terms of GPCR knowledge and expertise, and many biotechnology companies and other organizations, have internal drug discovery programs focused on GPCRs. Another company, organization or individual could have, or could develop, a technology using GPCRs to discover and develop compounds into drugs more effectively or more efficiently than our screening and other technologies. Such a technology could render our technologies, in particular our constitutively activated receptor technology, or CART, and Melanophore technology, obsolete or noncompetitive.

Many of the drugs that we or our collaborators are attempting to discover and develop would compete with existing therapies. In addition, many companies are pursuing the development of drugs that target the same diseases and conditions that we are targeting such as metabolic diseases, cardiovascular diseases, central nervous system disorders and inflammatory diseases. Our competitors, or even our collaborators, may use discovery technologies and techniques to develop compounds into drugs more efficiently or successfully than we or our collaborators are able to do with our technologies. Many of our competitors, particularly large pharmaceutical companies, have substantially greater research and development capabilities and greater financial, scientific and human resources than we do. Companies that complete clinical trials, obtain required regulatory agency approvals and commence commercial sale of their drugs before we do for the same indication may achieve a significant competitive advantage, including certain patent and FDA marketing exclusivity rights. In addition, our competitors may develop drugs with fewer side effects, more desirable characteristics (such as route of administration or frequency of dosing) or greater efficacy than our drugs, if any, for the same indication. Any results from our research and development efforts, or from our joint efforts with our existing or any future collaborators, may not compete successfully with existing products or therapies.

Our success is dependent on intellectual property rights held by us and third parties and our interest in these rights is complex and uncertain

A patent gives the patent owner the exclusive right to exclude others from making, using, importing, selling and offering for sale the patented invention. Our success will depend on our own and on our collaborators' abilities to obtain, secure and defend patents. In particular, the patents directed to compounds discovered using our technologies are important to commercializing drugs. We have numerous United States and foreign patent applications pending for our technologies, including patent applications on drug lead discovery techniques using CART, genetically altered GPCRs, GPCRs that we have discovered, new uses for previously discovered GPCRs, compounds discovered using CART and Melanophore and other technologies. The procedures for obtaining a patent in the United States and in most foreign countries are complex. These procedures require an analysis of the scientific technology related to the invention and many legal issues. Consequently, we expect that the analysis of our patent applications will be complex and time consuming. Therefore, our patent position is very uncertain and we do not know when, or if, we will obtain additional patents for our technologies.

In March 2003, we became aware that the Japanese Patent Office had issued a Notification of Reasons for Revocation of our Japanese patent on our Melanophore technology based on the alleged obviousness and lack of enablement. In subsequent proceedings, the Japanese Patent Office has dropped its lack of enablement argument and has focused on obviousness. We are currently defending the non-obviousness of this patent. If we were to lose our opposition before the Japanese Patent Office, it might adversely affect our ability to enter into new drug discovery partnerships with Japanese companies that focus on the Melanophore technology.

As of June 16, 2004, we own, in part or in whole, or have exclusively licensed the following patents: 13 in the United States, 11 in European countries, three in Australia, and two in New Zealand. In addition, as of June 16, 2004, we have approximately 196 patent applications before the United States Patent and Trademark Office, foreign patent offices and international patent authorities. These patents and patent applications are divided into 58 distinct families of related patents that are directed to CART, Melanophore technology, other novel screening methods, chemical compositions of matter, methods of treatment using chemical compositions, or GPCR genes. One of our patent families was exclusively in-licensed and contains a single issued patent. Eight of our patent families containing a total of six patents and 27 patent applications were the subject of joint inventions by our employees and the employees of other entities. The remaining 49 patent families containing a total of 22 patents and 169 patent applications were invented solely by our employees. There is no assurance that any of these patent applications will issue, or that any of the patents will be enforceable or will cover a drug

product or other commercially significant product or method. Our most advanced compounds, including APD356, are the subject of patent applications and not patents.

Except for the United States patents relating to our Melanophore technology, the term of all of our other current patents commenced, and our future patents, if any, will commence, on the date of issuance and terminate 20 years from the earliest effective filing date of the patent application. Since our United States Melanophore patents were issued under now superceded rules that provided a patent term of 17 years from the date of issuance, the term of these patents are scheduled to end in 2012, more than 21 years after their earliest filing date. Because the time from filing to issuance of biotechnology patent applications is often more than three years, the resulting term of our pending patent applications, if any, on our products and technologies may be substantially less than 20 years. In the United States, patent term extensions are available for certain delays in patent office proceedings and United States Food and Drug Administration ("FDA") approval. However, due to the specific requirements for obtaining these extensions, there is no assurance that our patents will be afforded extensions even if we encounter significant delays in patent office proceedings or FDA approval.

Our rights in our federally registered marks, including "Arena Pharmaceuticals," "Arena" and our corporate logo, can last indefinitely if we continue to use the mark on or in connection with the goods and/or services in the registration and file all necessary documentation in the United States Patent and Trademark Office at the appropriate times. Our rights in our other marks, such as "CART" and "BRL Screening", can last indefinitely under state law.

In 2000, the United States Patent and Trademark Office began issuing broad patent claims that could allow patent holders to control the use of all drug products that modulate a particular drug target or GPCR, regardless of whether the infringing drug product bears any structural resemblance to a chemical compound known to the patent holder at the time of patent filing. The question of whether these new patent claims are valid and if so under what circumstances is highly controversial and the subject of intense litigation. Whether we or our competitors are able to obtain and enforce such patent claims particularly as they apply to the GPCRs that are the subject of our drug development activities may have a large impact on our profits from any drugs that we are able to develop. Moreover, the uncertainty surrounding the validity of these patent claims may make it significantly more difficult to predict future profits and to raise additional financing.

More consistent policies regarding the breadth of claims allowed in biotechnology patents have begun to emerge in the last few years. For example, on January 5, 2001, the United States Patent and Trademark Office issued finalized Utility Examination Guidelines to its patent examiners that focus on what can be patented under United States patent law. These guidelines are beginning to be implemented in a more consistent fashion and primarily impact the procedures that are used in determining the types of inventions that can be patented and the minimum threshold of information necessary to patent inventions in the fields of biotechnology and chemistry. We still do not completely know to what extent these guidelines will ultimately affect our patents or those of our competitors and collaborators.

We also rely on trade secrets to protect our technologies. However, trade secrets are difficult to protect. We require all of our employees to contractually agree not to improperly use our trade secrets or disclose them to others, but we may be unable to determine if our employees have conformed or will conform with their legal obligations under these agreements. We also require collaborators and consultants to enter into confidentiality agreements, but we may not be able to adequately protect our trade secrets or other proprietary information in the event of any unauthorized use or disclosure or the lawful development by others of this information. Many of our employees and consultants were, and many of them may currently be, parties to confidentiality agreements with other pharmaceutical and biotechnology companies, and the use of our technologies could violate these agreements. In addition, third parties may independently discover our trade secrets or proprietary information.

Technology licensed to us by others, or in-licensed technology, is important to some aspects of our business. With a few exceptions, we generally do not control the patent prosecution, maintenance or enforcement of in-licensed technology. Accordingly, we are unable to exercise the same degree of control over in-licensed technology as we do over our internally developed technologies. Moreover, some of our academic institution licensors, research collaborators and scientific advisors have rights to publish data and information to which we have rights. If we cannot maintain the confidentiality of our technologies and other confidential information in connection with our collaborations, then our ability to receive patent protection or protect our proprietary information will be impaired.

We have entered into collaborations with several commercial and academic entities, and generally seek to prevent our partners from disclosing scientific discoveries before we have the opportunity to file patent applications on such discoveries. In some of our collaborations we do not have control over our partners' ability to disclose their own discoveries under the collaboration and in some of our academic collaborations we are limited to relatively short periods to review a proposed publication and file a patent application. As a general matter, all of our consulting agreements require consultants to maintain the secrecy of our confidential information.

We cannot protect our intellectual property rights throughout the world

Filing patents on all of our drug discovery technologies throughout the world would be prohibitively expensive. Competitors may use our technologies in jurisdictions where we have not obtained patent protection to develop their own drug products. These products may compete with our products and may not be covered by any of our patent claims or other intellectual property rights.

Patent law outside the United States is also uncertain and in many countries is currently undergoing review and revision, particularly with respect to biotechnology-related and pharmaceutical inventions. The laws of some countries do not protect our intellectual property rights to the same extent as United States laws. It may be necessary or useful for us to participate in proceedings to determine the validity of our, or our competitors', foreign patents, which could result in substantial cost and divert our efforts and attention from other aspects of our business.

We may encounter significant delays or problems with our new chemical development facility

We have a chemical development facility that we are using for process research, the scale-up and production of intermediates and other compounds for research and development purposes, and the production of active pharmaceutical ingredients.

We are completing the activities needed to obtain the applicable manufacturing licenses to ship clinical materials in accordance with current good manufacturing practices, or cGMP. U.S., Europe and other regulatory authorities require that clinical and commercial products be manufactured according to cGMP regulations. In addition, drug-manufacturing facilities in the state of California must be inspected and licensed by the California Department of Health Services in compliance with state regulatory requirements. California law prohibits the shipment of product from a manufacturing facility for any clinical testing or commercial use prior to satisfaction of licensing requirements. There is no assurance that we will obtain a license, or obtain it in a timely manner.

We may encounter delays and problems in operating our chemical development facility due to:

- governmental approvals, permits and regulation of the facility;
- accidents during operation of the facility;
- installation of equipment for the facility;
- delays in receiving raw materials from suppliers;

natural or other disasters; or

other factors inherent in operating a complex manufacturing facility.

Even if we are able to successfully commence full operation of our chemical development facility, we may not be able to do so in a cost-effective manner or in a time frame that is consistent with our expected future manufacturing needs. In addition, our future manufacturing needs may not be sufficient to allow the facility to be fully operational.

Our quarterly operating results may fluctuate and may cause our stock price to decline

Our revenues and results of operations may fluctuate significantly from quarter to quarter, depending on a variety of factors, including:

our success or failure in clinical trials;

the timing of the discovery of drug leads and the development of drug candidates, if any;

entering into a new collaboration or modifying or terminating an existing collaboration;

the timing and receipt by us of milestone and royalty payments, if any;

changes in the research and development budgets of our existing collaborators or potential collaborators;

others introducing new drug discovery techniques or new drugs that target the same diseases and conditions that we or our collaborators target;

regulatory actions;

changes in accounting principles generally accepted in the United States; and

expenses related to, and the results of, litigation and other proceedings relating to intellectual property rights or other matters.

We are not able to control all of these factors. Period-to-period comparisons of our financial results are not necessarily indicative of our future performance. If our revenues or results of operations in a particular period do not meet stockholders' or analysts' expectations, our stock price may decline and such decline could be significant.

Our stock price has fluctuated historically. From January 1, 2002, through December 31, 2003, the market price of our stock was as low as $5.20 per share and as high as $12.79 per share. From January 1, 2004, to May 31, 2004, the market price of our stock was as low as $5.55 per share and as high as $7.10 per share.

There are a substantial number of shares of our common stock eligible for future sale in the public market. The sale of these shares could cause the market price of our common stock to fall.

There were 25,551,996 shares of our common stock outstanding as of May 31, 2004. The outstanding shares of our Series B-1 Convertible Preferred Stock are convertible into up to 4,717,570 shares of common stock at $7.50 per share of common stock. Holders of the Series B-1 Convertible Preferred Stock will receive a 4% annual dividend that is payable by issuing common stock or by increasing the amount of common stock that is issuable upon conversion of the Series B-1 Convertible Preferred Stock. In addition, our Series B-1 Convertible Preferred Stock owners hold warrants to acquire common stock and unit warrants to acquire Series B-2 Convertible Preferred Stock and additional warrants to acquire common stock, which, if exercised and converted, would obligate us to issue up to 3,579,057 additional shares of common stock at a

weighted average exercise price of $8.62 per share. In addition, as of May 31, 2004, there were 2,845,742 common stock options issued and

outstanding under our equity compensation plans at a weighted average exercise price of $9.16, 1,497,015 additional shares of common stock issuable under our equity compensation plans, 768,884 shares of common stock reserved for issuance under our 2001 Employee Stock Purchase Plan and 127,501 shares issuable under a deferred compensation plan. A substantial number of the shares described above, when issued upon exercise, will be available for immediate resale in the public market. The market price of our common stock could fall as a result of such resales due to the increased number of shares available for sale in the market.

Any future equity or debt issuances by us may have dilutive or adverse effects on our existing stockholders

We have financed our operations, and we expect to continue to finance our operations, primarily by issuing and selling our common stock or securities convertible into or exercisable for shares of our common stock. In light of our need for additional financing, we may issue additional shares of common stock or additional convertible securities that could dilute your ownership in our company and may include terms that give new investors rights that are superior to yours. Moreover, any issuances by us of equity securities may be at or below the prevailing market price of our common stock and in any event may have a dilutive impact on your ownership interest, which could result in the market price of our common stock declining.

We may also raise additional funds through the incurrence of debt, and the holders of any debt we may issue would have rights superior to your rights in the event we are not successful.

Provisions of our Series B Convertible Preferred Stock may prevent or make it more difficult for us to raise funds or take certain other actions

In December 2003, we completed the private placement to two institutional investors of (i) an aggregate of 3,500 shares of our Series B-1 Convertible Preferred Stock, (ii) seven-year warrants to purchase up to an aggregate of 1,486,200 shares of our common stock at an exercise price of $10.00 per share and (iii) unit warrants to purchase for a period of approximately 16 months up to $11,500,000 of our Series B-2 Convertible Preferred Stock and additional seven-year warrants to purchase up to 450,000 shares of our common stock at an exercise price of $10.00 per share. Provisions of the Series B Convertible Preferred Stock may require us to obtain approval of the preferred stockholders, or otherwise trigger rights of first refusal or payment provisions, to (i) offer or sell new securities, other than in underwritten offerings, licensing transactions and certain other exceptions, (ii) sell or issue common stock or securities issuable into common stock below certain prices, (iii) incur debt or allow liens on our property, other than certain permitted debt and liens, (iv) amend our certificate of incorporation so as to affect adversely any rights of the preferred stockholders, (v) authorize or create a new class of stock that will be senior or equal to the Series B Convertible Preferred Stock in terms of dividends, redemption or distribution of assets, (vi) use more than $25 million in cash for acquisitions or (vii) take certain other actions. These provisions may make it more difficult for us to take certain corporate actions and could delay, discourage or prevent future financings.

Holders of our Series B Convertible Preferred Stock may require us to redeem their Series B Convertible Preferred Stock, and we will be required to redeem any shares of Series B Convertible Preferred Stock that remain outstanding on the fifth anniversary of their issuance

If (i) following the 21st month anniversary of the original issue date of the applicable series of Series B Convertible Preferred Stock, our closing price of our common stock for any 30 days is below the applicable conversion price for the Series B Convertible Preferred Stock or (ii) we issue common stock or common stock equivalents (excluding, among other things, certain common stock and common stock equivalents issued or issuable (a) to our officers, directors, employees or consultants, (b) in connection with certain strategic partnerships or joint ventures, (c) pursuant to certain underwritten

public offerings with gross proceeds of greater than $35.0 million, and (d) in connection with certain mergers and acquisitions) for less than $6.72, in the case of the Series B-1 Convertible Preferred Stock, or a price to be determined based on a formula, in the case of Series B-2 Convertible Preferred Stock, then in each case the holders of the Series B Convertible Preferred Stock may require us to redeem their shares of the applicable series of Series B Convertible Preferred Stock at a price equal to the amount of the original holder's original investment, plus all accrued but unpaid dividends thereon to the date of payment and any applicable penalties. In addition, we will be required to redeem any shares of the Series B Convertible Preferred Stock that remain outstanding on the fifth anniversary of their issuance at a price equal to the amount of the original holder's original investment, plus all accrued but unpaid dividends thereon to the date of such payment. We can elect to pay the redemption price in shares of our common stock if (i) we have sufficient number of shares of common stock available for issuance, (ii) the shares of common stock to be issued are registered under an effective registration statement, (iii) our common stock is listed on NASDAQ or other eligible market, (iv) the shares to be issued can be issued without violating the rules of NASDAQ or any applicable trading market or a provision of our agreement with the holders, (v) no bankruptcy event has occurred, and (vi) certain other enumerated conditions.

There can be no assurance that we will not have to redeem the Series B Convertible Preferred Stock, or, if we do have to redeem the stock, that we will be able to pay the redemption price using shares of our common stock. If we use common stock to redeem the Series B Convertible Preferred Stock, your ownership interest may be significantly diluted. If we are required or elect to redeem shares of the Series B Convertible Preferred Stock using cash, we may not have sufficient cash to redeem these shares or to continue our planned research and discovery activities. In such event we would likely try to raise additional capital by issuing new stock, but there can be no assurance that capital will be available on acceptable terms or at all.

We may engage in strategic transactions that could impact our liquidity

From time to time we consider strategic transactions, such as acquisitions of companies, asset purchases and out-licensing or in-licensing compounds developed by us or others. These additional potential transactions may include a variety of different business arrangements, including spin-offs, acquisitions, strategic partnerships, joint ventures, restructurings, divestitures, business combinations and investments. Any such transaction may require us to incur non-recurring or other charges, may increase our near and long-term expenditures and may pose significant integration challenges or disrupt our management or business, which could harm our operations and financial results.

Our rights agreement and certain provisions in our charter documents and Delaware law could delay or prevent a change in management or a takeover attempt that you may consider to be in your best interest

We have adopted certain anti-takeover provisions, including a stockholders' rights plan, dated as of October 30, 2002, between us and Computershare Trust Company, Inc., as Rights Agent, as amended on December 24, 2003 (the "Rights Agreement"). The Rights Agreement is not intended to prevent an acquisition of us at a full and fair price. Rather, it is intended to deter an attempt to acquire us in a manner or on terms not approved by our board of directors, and will cause substantial dilution to any person who attempts to acquire us in a manner or on terms not so approved.

The Certificate of Designations for the Series B Convertible Preferred Stock provides that the Series B Convertible Preferred Stock holders are entitled to receive a premium in the event of a change of control. The Series B Convertible Preferred Stock holders have also agreed to vote as recommended by our board of directors on all matters in which the common stockholders have the right to vote.

The Rights Agreement and Certificate of Designations for the Series B Convertible Preferred Stock, as well as other provisions in our certificate of incorporation and by-laws and under Delaware law, could delay or prevent the removal of directors and other management and could make more difficult a merger, tender offer or proxy contest involving us. For example, these provisions:

- allow our board of directors to issue preferred stock without stockholder approval;
- limit who can call a special meeting of stockholders;
- eliminate stockholder action by written consent; and
- establish advance notice requirements for nomination for election to the board of directors or for proposing matters to be acted upon at stockholders meetings.

We use biological materials, hazardous materials, chemicals and radioactive compounds

Our research and development activities involve the use of potentially harmful biological materials as well as hazardous materials, chemicals and various radioactive compounds that could be hazardous to human health, safety or the environment. These materials and various wastes resulting from their use are stored at our facility pending ultimate use and disposal. We cannot completely eliminate the risk of contamination, which could cause:

- an interruption of our research and development efforts;
- injury to our employees and others resulting in the payment of damages;
- environmental damage resulting in costly clean up; or
- liabilities under federal, state and local laws and regulations governing the use, storage, handling and disposal of these materials and specified waste products.

In such an event, we could be held liable for any resulting damages, and any such liability could exceed our resources. Although we believe that we carry insurance in amounts and type that we consider commercially reasonable, we do not have insurance coverage for losses relating to an interruption of our research and development efforts caused by contamination and we cannot be certain that the coverage or coverage limits of our insurance policies will be adequate.

Our operations might be interrupted by the occurrence of a natural disaster or other catastrophic event

We depend on our collaborators, contractors and venders and on our laboratories and other facilities for the continued operation of our business. Natural disasters or other catastrophic events, including terrorist attacks, power interruptions, wildfires and other fires, actions of animal rights activists, earthquakes and wars, could disrupt our operations or those of our collaborators, contractors and vendors. Even though we believe we carry reasonably adequate business interruption and liability insurance, and our contractors may carry liability insurance, that protect us in certain events, we might suffer losses as a result of business interruptions that exceed the coverage available under our and our contractors' insurance policies or for which we or our contractors do not have coverage. For example, we are not insured against a terrorist attack. Any natural disaster or catastrophic event could have a significant negative impact on our operations and financial results.

FORWARD-LOOKING STATEMENTS

This prospectus contains or incorporates by reference, and the applicable prospectus supplement may contain, "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act. These forward-looking statements can generally be identified as such because the context of the statement will include words such as "may," "will," "intends," "plans," "believes," "anticipates," "expects," "estimates," "predicts," "potential," "continue," or "opportunity," the negative of these words or words of similar import. Similarly, statements that describe our future plans, strategies, intentions, expectations, objectives, goals or prospects are also forward-looking statements. Discussions containing these forward-looking statements may be found, among other places, in "Business" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" incorporated by reference from our most recent Annual Report on Form 10-K and our Quarterly Reports on Form 10-Q for the quarters ended subsequent to our filing of such Annual Report on Form 10-K with the SEC, as well as any amendments thereto reflected in subsequent filings with the SEC. These forward-looking statements are or will be, as applicable, based largely on our expectations and projections about future events and future trends affecting our business, and so are or will be, as applicable, subject to risks and uncertainties that could cause actual results to differ materially from those anticipated in the forward-looking statements. The risks and uncertainties include, among others, those noted in "Risk Factors" above and in the applicable prospectus supplement and any documents incorporated herein or therein by reference.

In addition, past financial and/or operating performance is not necessarily a reliable indicator of future performance and you should not use our historical performance to anticipate results or future period trends. We can give no assurances that any of the events anticipated by the forward-looking statements will occur or, if any of them do, what impact they will have on our results of operations and financial condition. Except as required by law, we undertake no obligation to publicly revise our forward-looking statements to reflect events or circumstances that arise after the date of this prospectus or the prospectus supplement or the date of documents incorporated by reference in this prospectus that include forward-looking statements.

USE OF PROCEEDS

Except as described in any prospectus supplement, we currently intend to use the net proceeds from the sale of our securities under this prospectus for general corporate purposes.

DESCRIPTION OF CAPITAL STOCK

As of the date of this prospectus, our certificate of incorporation authorizes us to issue 67,500,000 shares of common stock, par value $.0001 per share and 7,500,000 shares of preferred stock, par value $.0001 per share. As of May 31, 2004, approximately 25,600,000 shares of common stock were outstanding. To date, our board of directors has designated 350,000 of the authorized shares of preferred stock as Series A Junior Participating Preferred Stock (the "Series A Preferred Stock"), which series is described in greater detail below under "Share Purchase Rights Plan," and 4,650 of the authorized shares of preferred stock as Series B Convertible Preferred Stock as described in greater detail below under "Series B Preferred Stock." As of May 31, 2004, 3,500 shares of Series B Convertible Preferred Stock were outstanding.

The following summary describes the material terms of our capital stock and stockholder rights plan. The description of capital stock and stockholder rights plan is qualified by reference to our amended and restated certificate of incorporation, our bylaws, the certificates of designation for the Series A Preferred Stock and our Series B Convertible Preferred Stock, and our stockholder rights plan, which are incorporated by reference as exhibits into the registration statement of which this prospectus is a part.

Common Stock

Voting. Common stockholders are entitled to one vote per share for the election of directors and on all other matters that require stockholder approval.

Dividends and Other Distributions. Holders of our common stock are entitled to share in an equal amount per share in any dividends declared by our board of directors on the common stock and paid out of legally available assets.

Distribution on Dissolution. Subject to any preferential rights of any outstanding preferred stock, in the event of our liquidation, dissolution or winding up, holders of our common stock are entitled to share ratably in the assets remaining after payment of liabilities and the liquidation preferences of any outstanding preferred stock.

Other Rights. Our common stock does not carry any preemptive rights enabling a holder to subscribe for, or receive shares of, any class of our common stock or any other securities convertible into shares of any class of our common stock, or any redemption rights.

Preferred Stock

Under our certificate of incorporation, our board of directors has the authority, without further action by stockholders, to designate up to 7,500,000 shares of preferred stock in one or more series and to fix the rights, preferences, privileges, qualifications and restrictions granted to or imposed upon the preferred stock, including dividend rights, conversion rights, voting rights, rights and terms of redemption, liquidation preference and sinking fund terms, any or all of which may be greater than the rights of the common stock. To date, our board of directors has designated 350,000 of the authorized shares of preferred stock as the Series A Preferred Stock, which series is described in greater detail below under "Share Purchase Rights Plan," and 4,650 of the authorized shares of preferred stock as Series B Convertible Preferred Stock as described in greater detail below under "Series B Preferred Stock."

The issuance of additional preferred stock could adversely affect the voting power of holders of common stock and reduce the likelihood that common stockholders will receive dividend payments and payments upon liquidation. The issuance could have the effect of decreasing the market price of the

common stock. The issuance of preferred stock also could have the effect of delaying, deterring or preventing a change in control of us.

Share Purchase Rights Plan. Each outstanding share of our common stock has attached to it one preferred share purchase right, which we refer to as a Right. Each Right entitles the registered holder to purchase from us one one-hundredth of a share of the Series A Preferred Stock at a price of $36 per one one-hundredth of a share of the Series A Preferred Stock (the "Purchase Price"), subject to adjustment. The description and terms of the Rights are set forth in a Rights Agreement dated as of October 30, 2002, between us and Computershare Trust Company, Inc. as Rights Agent, which is incorporated by reference as an exhibit into the registration statement of which this prospectus is a part.

Until the earlier to occur of (i) 10 days following a public announcement that a person or group of affiliated or associated persons (an "Acquiring Person") have acquired beneficial ownership of 10% or more (or more than the BVF Percentage in the case of BVF (as such terms are hereafter defined)) of our outstanding common stock or (ii) 10 business days (or such later date as may be determined by action of our board of directors prior to such time as any person or group of affiliated persons becomes an Acquiring Person) following the commencement of, or announcement of an intention to make, a tender offer or exchange offer the consummation of which would result in the beneficial ownership by a person or group of 10% or more (or more than the BVF Percentage in the case of BVF) of our outstanding common stock (the earlier of such dates being called the "Distribution Date"), the Rights will be evidenced, with respect to any of our common stock certificates outstanding as of November 13, 2002, by such common stock certificate with a copy of the Summary of Rights in the form attached as Exhibit C to the Rights Agreement. BVF will not be considered an "Acquiring Person" for purposes of the Rights Agreement unless BVF's beneficial ownership of our common stock exceeds its current beneficial ownership level of approximately 12.2% (the "BVF Percentage"), subject to reduction if BVF disposes of our common stock.

The Rights Agreement provides that none of our directors or officers shall be deemed to beneficially own any of our common stock owned by any other director or officer by virtue of such persons acting in their capacities as such, including, without limitation, in connection with any formulation and publication of our board of director's recommendation of its position, and any actions taken in furtherance thereof, with respect to any acquisition proposal relating to Arena, a tender or exchange offer for any of our common stock or any solicitation of proxies with respect to any of our common stock.

The Rights Agreement provides that, until the Distribution Date (or earlier redemption or expiration of the Rights), the Rights will be transferred with and only with our common stock. Until the Distribution Date (or earlier redemption or expiration of the Rights), new common stock certificates issued after November 13, 2002, upon transfer or new issuance of our common stock will contain a notation incorporating the Rights Agreement by reference. Until the Distribution Date (or earlier redemption or expiration of the Rights), the surrender for transfer of any certificates for our common stock outstanding as of November 13, 2002, even without such notation or a copy of the Summary of Rights attached thereto, will also constitute the transfer of the Rights associated with our common stock represented by such certificate. As soon as practicable following the Distribution Date, separate certificates evidencing the Rights ("Right Certificates") will be mailed to holders of record of our common stock as of the close of business on the Distribution Date and such separate Right Certificates alone will evidence the Rights.

The Rights are not exercisable until the Distribution Date. The Rights will expire on October 30, 2012, (the "Final Expiration Date"), unless the Final Expiration Date is extended or the Rights are earlier redeemed or exchanged by us, in each case, as described below.

The Purchase Price payable, and the number of shares of the Series A Preferred Stock or other securities or property issuable, upon exercise of the Rights are subject to adjustment from time to time to prevent dilution (i) in the event of a stock dividend on, or a subdivision, combination or reclassification of, the Series A Preferred Stock, (ii) upon the grant to holders of the Series A Preferred Stock of certain rights or warrants to subscribe for or purchase Series A Preferred Stock at a price, or securities convertible into Series A Preferred Stock with a conversion price, less than the then-current market price of the Series A Preferred Stock or (iii) upon the distribution to holders of the Series A Preferred Stock of evidences of indebtedness or assets (excluding regular periodic cash dividends paid out of earnings or retained earnings or dividends payable in Series A Preferred Stock) or of subscription rights or warrants (other than those referred to above).

The number of outstanding Rights and the number of one one-hundredths of a share of Series A Preferred Stock issuable upon exercise of each Right are also subject to adjustment in the event of a stock split of our common stock or a stock dividend on our common stock payable in our common stock or subdivisions, consolidations or combinations of our common stock occurring, in any such case, prior to the Distribution Date.

Series A Preferred Stock purchasable upon exercise of the Rights will not be redeemable. Once issued upon exercise of Rights, each share of Series A Preferred Stock will be entitled to a minimum preferential quarterly dividend payment of $1 per share but will be entitled to an aggregate dividend of 100 times the dividend declared per share of our common stock. In the event of liquidation, the holders of outstanding shares of Series A Preferred Stock will be entitled to a minimum preferential liquidation payment of $100 per share but will be entitled to an aggregate payment of 100 times the payment made per share of our common stock. Each outstanding share of Series A Preferred Stock will have 100 votes, voting together with our common stock. Finally, in the event of any merger, consolidation or other transaction in which our common stock is exchanged, each outstanding share of Series A Preferred Stock will be entitled to receive 100 times the amount received per share of our common stock. These rights are protected by customary antidilution provisions.

Because of the nature of the Series A Preferred Stock's dividend, liquidation and voting rights, the value of the one one-hundredth interest in a share of Series A Preferred Stock purchasable upon exercise of each Right should approximate the value of one share of our common stock.

In the event that any person or group of affiliated or associated persons becomes an Acquiring Person, the Rights Agreement provides that proper provision shall be made so that each holder of a Right, other than Rights beneficially owned by the Acquiring Person (which will thereafter be void), will thereafter have the right to receive (subject to adjustment) upon exercise thereof at the then current Purchase Price, that number of shares of our common stock having a market value of two times the Purchase Price. At any time after any person or group becomes an Acquiring Person and prior to the acquisition by such person or group of 50% or more of our outstanding common stock, our board of directors may exchange the Rights (other than Rights owned by such person or group, which will have become void), in whole or in part, at an exchange ratio of one share of our common stock, or one one-hundredth of a share of Series A Preferred Stock (or of a share of a class or series of our preferred stock having equivalent rights, preferences and privileges), per Right (subject to adjustment).

In the event that we are acquired in a merger or other business combination transaction or 50% or more of our consolidated assets or earning power are sold after a person or group has become an Acquiring Person, proper provision will be made so that each holder of a Right will thereafter have the right to receive, upon the exercise thereof at the then current Purchase Price, that number of shares of common stock of the acquiring company which at the time of such transaction will have a market value of two times the Purchase Price.

With certain exceptions, no adjustment in the Series A Preferred Stock will be required until cumulative adjustments require an adjustment of at least 1% in the Purchase Price. No fractional

shares of Series A Preferred Stock will be issued (other than fractions which are integral multiples of one one-hundredth of a share of Series A Preferred Stock, which may, at our election, be evidenced by depositary receipts) and in lieu thereof, an adjustment in cash will be made based on the market price of the Series A Preferred Stock on the last trading day prior to the date of exercise.

At any time prior to the acquisition by a person or group of affiliated or associated persons of beneficial ownership of 10% or more (or more than the BVF Percentage in the case of BVF) of our outstanding common stock, our board of directors may redeem the Rights in whole, but not in part, at a price of $.01 per Right (the "Redemption Price"). The redemption of the Rights may be made effective at such time on such basis with such conditions as our board of directors in its sole discretion may establish.

The terms of the Rights may be amended by our board of directors without the consent of the holders of the Rights, including an amendment to (i) fix a Final Expiration Date later than October 30, 2012, (ii) reduce the Redemption Price or (iii) increase the Purchase Price, except that from and after such time as any person or group of affiliated or associated persons becomes an Acquiring Person no such amendment may adversely affect the interests of the holders of the Rights (other than the Acquiring Person and its affiliates and associates).

Until a Right is exercised, the holder thereof, as such, will have no rights as a stockholder of Arena, including, without limitation, the right to vote or to receive dividends.

Series B Preferred Stock. On December 24, 2003, we completed the private placement of $35 million of Series B-1 Convertible Preferred Stock to two institutional investors (the "Investors") pursuant to a Securities Purchase Agreement (the "Securities Purchase Agreement").

The Series B-1 Convertible Preferred Stock is convertible into our common stock at a fixed conversion price of $7.50 per share. If not previously converted, we must redeem the Series B-1 Convertible Preferred Stock five years from the original issue date or earlier under certain circumstances. We may make any such redemption in cash or, if certain conditions have been met, in shares of our common stock. Dividends on the Series B-1 Convertible Preferred Stock are payable at a rate of 4% per annum either in kind or in shares of our common stock.

In connection with the sale of the Series B-1 Convertible Preferred Stock, we issued to the Investors seven-year Warrants to purchase up to 1,486,200 shares of our common stock at an exercise price of $10.00 per share. We also issued to the Investors Unit Warrants giving such Investors the right to purchase from us for a period of approximately 16 months, at their option, up to $11.5 million of Series B-2 Convertible Preferred Stock and additional seven-year Warrants to purchase up to 450,000 shares of our common stock at an exercise price of $10.00 per share.

If issued, the Series B-2 Convertible Preferred Stock would be convertible into our common stock at a fixed conversion price, calculated as 110% of the market price of our common stock at the time of issuance of the Series B-2 Convertible Preferred Stock, but not less than $7.00 per share or greater than $10.00 per share. Otherwise, the Series B-2 Convertible Preferred Stock has substantially identical terms as the Series B-1 Convertible Preferred Stock, as more fully described in the Certificate of Designations relating to the Series B Convertible Preferred Stock (the "Certificate of Designations").

So long any shares of Series B Convertible Preferred Stock are outstanding, we cannot, directly or indirectly, incur or guarantee, assume or suffer to exist any debt other than permitted debt, as more fully described in the Securities Purchase Agreement. In addition, so long as shares of Series B Convertible Preferred Stock are outstanding, we cannot, directly or indirectly, allow or suffer to exist any lien other than permitted liens, as more fully described in the Securities Purchase Agreement.

From the end of the Blockout Period (as defined in the Securities Purchase Agreement) and for so long as an Investor holds 20% of the shares of Series B Convertible Preferred Stock originally

purchased by such Investor, we cannot, directly or indirectly, effect any Subsequent Placement (as defined in the Securities Purchase Agreement), unless, among other things, we have delivered to each Investor a written notice of any proposed or intended issuance or sale or exchange of the securities being offered in such Subsequent Placement offering to issue and sell to or exchange with each Investor a pro rata portion of fifty percent (50%) of the offered securities, based on such Investor's pro rata portion of the aggregate purchase price paid by the Investors for all of the shares of Series B Convertible Preferred Stock purchased under the Securities Purchase Agreement.

Each Investor agrees that for so long as it holds Series B Convertible Preferred Stock, it shall vote its shares of Series B Convertible Preferred Stock and our common stock on all matters in which such Investor is entitled to vote and on which holders of common stock have the right to vote, in the manner recommended by our board of directors to all of our shareholders unless our board of directors elects to permit the Investors to vote such shares in their own discretion.

If a Change of Control (as defined in the Certificate of Designations) occurs before the two-year anniversary of the original issue date of the Series B Convertible Preferred Stock, we can repurchase the Series B Convertible Preferred Stock at a price equal to the greater of 125% of the stated value or the market value (as calculated in the Certificate of Designations) of such shares of Series B Convertible Preferred Stock plus all accrued but unpaid dividends thereon to the date of payment. If such Change of Control occurs following the two-year anniversary of the original issue date of the Series B Convertible Preferred Stock, we can repurchase the Series B Convertible Preferred Stock at a price equal to the greater of 115% of the stated value or the market value (as calculated in the Certificate of Designations) of such shares of Series B Convertible Preferred Stock plus all accrued but unpaid dividends thereon to the date of payment. We can elect to pay such redemption price in shares of our common stock.

With respect to the Series B Convertible Preferred Stock, (i) following the 21st month anniversary of the original issue date of the Series B Convertible Preferred Stock, if the closing prices of our common stock are below a certain specified level for any 30 consecutive trading days or (ii) if, during any time while any such shares of Series B Convertible Preferred Stock are outstanding, we or any of our Subsidiaries (as defined in the Securities Purchase Agreement) issues common stock or common stock equivalents at an effective net price to us less than certain specified levels, then in each case the holders of the Series B Convertible Preferred Stock may require us to redeem its shares of Series B Convertible Preferred Stock at a price equal to the stated value of such shares of Series B Convertible Preferred Stock to be redeemed plus all accrued but unpaid dividends thereon to the date of payment. We can elect to pay such redemption price in shares of our common stock, if certain conditions have been met.

At any time following the occurrence of a Triggering Event (as defined in the Certificate of Designations), a holder of the Series B Convertible Preferred Stock may require us to repurchase all or any portion of the Series B Convertible Preferred Stock then held by such holder at a price per share equal to the greater of 115% of the stated value or the market value (as calculated in the Certificate of Designations) of such shares of Series B Convertible Preferred Stock plus all accrued but unpaid dividends thereon to the date of payment. We can elect to pay such redemption price in shares of our common stock under certain circumstances.

Our Stockholders Rights Plan has been amended to provide, among other things, that the Investors will not become "Acquiring Persons" solely by virtue of such purchases and issuances of our common stock in connection therewith.

Anti-Takeover Provisions

Delaware Law. We are governed by the provisions of Section 203 of the Delaware General Corporation Law. In general, Section 203 prohibits a publicly held Delaware corporation from engaging

in a "business combination" with an "interested stockholder" for a period of three years after the date of the transaction in which the person became an interested stockholder, unless before the date that the person became an "interested stockholder," the board of directors approved either the "business combination" or the transaction which makes the person an "interested stockholder," or after the date that the person became an "interested stockholder," the business combination is approved by our board of directors and the vote of at least $66^{2}/_{3}\%$ of our outstanding voting stock that is not owned by the "interested stockholder." Generally, a "business combination" includes a merger, asset sale or other transaction resulting in a financial benefit to the stockholder. An "interested stockholder" is a person who either owns 15% or more of our outstanding voting stock or, together with affiliates and associates, owns or, within three prior years, did own, 15% or more of our outstanding voting stock. The statute could have the effect of delaying, deferring or preventing a change in our control.

Bylaw and Certificate of Incorporation Provisions. Our bylaws provide that special meetings of our stockholders may be called only by our President, the board of directors or, in limited circumstances, by BVF. Our bylaws also specify that the authorized number of directors may be changed by resolution of the board of directors. Our certificate of incorporation does not include a provision for cumulative voting for directors. Under cumulative voting, a minority stockholder holding a sufficient percentage of a class of shares may be able to ensure the election of one or more directors. These and other provisions contained in our certificate of incorporation and bylaws could delay or discourage transactions involving an actual or potential change in control of us or our management, including transactions in which stockholders might otherwise receive a premium for their shares over then current prices. Such provisions could also limit the ability of stockholders to remove current management or approve transactions that stockholders may deem to be in their best interests and could adversely affect the price of our common stock.

Transfer Agent And Registrar

The transfer agent and registrar for our common stock is Computershare Trust Company, Inc.

Listing on the Nasdaq National Market

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

PLAN OF DISTRIBUTION

We may sell the common stock covered by this prospectus in any of three ways (or in any combination):

- to or through underwriters or dealers;
- directly to a limited number of purchasers or to a single purchaser; or
- through agents.

We may distribute the common stock:

- from time to time in one or more transaction at a fixed price or prices, which may be changed from time to time;
- at market prices prevailing at the time of sale;
- at prices related to such prevailing market prices; or
- at negotiated prices.

The prospectus supplement will describe the method of distribution and set forth the terms of the offering of the common stock covered by this prospectus, including:

- the name or names of any underwriters, dealers or agents and the amounts of securities underwritten or purchased by each of them;
- any over-allotment options under which underwriters may purchase additional securities from us;
- any underwriting discounts or commissions or agency fees and other items constituting underwriters' or agents' compensation; and
- the initial public offering price of the securities and the proceeds to us and any discounts, commissions or concessions allowed or reallowed or paid to dealers.

Any initial public offering price and any discounts or concessions allowed or reallowed or paid to dealers may be changed from time to time. We may determine the price or other terms of the common stock offered under this prospectus by use of an electronic auction. We will describe how any auction will determine the price or any other terms, how potential investors may participate in the auction and the nature of the obligations of the underwriter, dealer or agent in the applicable prospectus supplement.

Underwriters may offer and sell the offered common stock from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. If underwriters are used in the sale of any common stock, the common stock will be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions described above. The common stock may be either offered to the public through underwriting syndicates represented by managing underwriters, or directly by underwriters. Generally, the underwriters' obligations to purchase the common stock will be subject to certain conditions precedent. The underwriters will be obligated to purchase all of the common stock if they purchase any of the common stock. We may use underwriters with whom we have a material relationship. We will describe in the prospectus supplement, naming the underwriter, the nature of any such relationship.

We may sell the common stock through agents from time to time. The prospectus supplement will name any agent involved in the offer or sale of the common stock and any commissions we pay to them. Generally, any agent will be acting on a best efforts basis for the period of its appointment. We may authorize underwriters, dealers or agents to solicit offers by certain purchasers to purchase the

common stock from us at the public offering price set forth in the prospectus supplement pursuant to delayed delivery contracts providing for payment and delivery on a specified date in the future. The contracts will be subject only to those conditions set forth in the prospectus supplement, and the prospectus supplement will set forth any commissions we pay for solicitation of these contracts.

Agents and underwriters may be entitled to indemnification by us against certain civil liabilities, including liabilities under the Securities Act, or to contribution with respect to payments which the agents or underwriters may be required to make in respect thereof. Agents and underwriters may be customers of, engage in transactions with, or perform services for us in the ordinary course of business.

Any underwriter may engage in overallotment, stabilizing transactions, short covering transactions and penalty bids in accordance with Regulation M under the Exchange Act. Overallotment involves sales in excess of the offering size, which create a short position. This short sales position may involve either "covered" short sales or "naked" short sales. Covered short sales are short sales made in an amount not greater than the underwriters' over-allotment option to purchase additional shares in this offering described above. The underwriters may close out any covered short position either by exercising their over-allotment option or by purchasing shares in the open market. To determine how they will close the covered short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market, as compared to the price at which they may purchase shares through the over-allotment option. Naked short sales are short sales in excess of the over-allotment option. The underwriters must close out any naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that, in the open market after pricing, there may be downward pressure on the price of the shares that could adversely affect investors who purchase shares in this offering. Stabilizing transactions permit bids to purchase the underlying security for the purpose of fixing the price of the security so long as the stabilizing bids do not exceed a specified maximum. Short covering transactions involve purchases of the securities in the open market after the distribution is completed to cover short positions. Penalty bids permit the underwriters to reclaim a selling concession from a dealer when the securities originally sold by the dealer are purchased in a covering transaction to cover short positions. Those activities may cause the price of the common stock to be higher than it would otherwise be. If commenced, the underwriters may discontinue any of the activities at any time.

Similar to other purchase transactions, an underwriter's purchase to cover the syndicate short sales or to stabilize the market price of our common stock may have the effect of raising or maintaining the market price of our common stock or preventing or mitigating a decline in the market price of our common stock. As a result, the priwrap align="left"> **(116.5) (116.5) (8.9)**

Eliminations Other
(19.7) (19.7) (1.0)

Consolidated Total
$793.5 $ $793.5 $83.3

Three Months Ended March 31, 2008

	Revenues			Operating Profit (Loss)
	External	Intersegment	Total	
	(in millions)			
Rail Group	$ 347.7	$ 220.1	$ 567.8	$ 77.2
Construction Products Group	165.0	4.3	169.3	12.2
Inland Barge Group	137.8		137.8	26.5
Energy Equipment Group	126.2	3.3	129.5	18.2
Railcar Leasing and Management Services Group	119.8		119.8	34.1
All Other	2.4	15.8	18.2	(0.3)
Corporate				(5.4)
Eliminations Lease subsidiary		(216.7)	(216.7)	(31.2)
Eliminations Other		(26.8)	(26.8)	(5.1)
Consolidated Total	$ 898.9	$	$ 898.9	$ 126.2

Table of Contents

Note 3. Railcar Leasing and Management Services Group

The Railcar Leasing and Management Services Group (Leasing Group) provides fleet management, maintenance, and leasing services. Selected combined financial information for the Leasing Group is as follows:

	March 31, 2009	December 31, 2008 (as reported)
	(in millions)	
Cash	**$ 13.8**	$ 12.7
Leasing equipment:		
Machinery and other	**37.6**	37.0
Equipment on lease	**2,929.6**	2,973.2
	2,967.2	3,010.2
Accumulated depreciation	**(245.9)**	(232.7)
	2,721.3	2,777.5
Restricted assets	**122.5**	120.2
Debt:		
Recourse	**12.9**	61.4
Non-recourse	**1,177.7**	1,190.3

	Three Months Ended March 31,	
	2009	2008
	(in millions)	
Revenues	**$222.4**	$119.8
Operating profit	**52.7**	34.1

For the three months ended March 31, 2009 and 2008, revenues of $132.1 million and $37.9 million, respectively, and operating profit of $18.6 million and $5.8 million, respectively, were related to sales of railcars from the lease fleet to a company in which Trinity holds an equity investment. See Note 4 Equity Investment.

The Leasing Group s interest expense, which is not a component of operating profit and which includes the effects of hedges related to the Leasing Group s debt, was $18.3 million and $13.0 million for the three months ended March 31, 2009 and 2008, respectively. Rent expense, which is a component of operating profit, was $11.5 million and $11.2 million for the three months ended March 31, 2009 and 2008, respectively.

Equipment consists primarily of railcars leased by third parties. The Leasing Group purchases equipment manufactured by Trinity s rail subsidiaries and enters into lease contracts with third parties with terms generally ranging between one and twenty years. The Leasing Group primarily enters into operating leases. Future contractual minimum rental revenues on leases in each year are as follows:

Remaining nine months of 2009	2010	2011	2012	2013	Thereafter	Total
			(in millions)			

Future Contractual Minimum Rental Revenues on Leases	$167.4	$205.4	$164.3	$133.0	$103.9	$276.6	$1,050.6

The Leasing Group s debt at March 31, 2009 consists of both recourse and non-recourse debt. In February 2009, the Company repaid in full the $61.4 million of recourse debt outstanding at December 31, 2008 while incurring $12.9 million of new recourse debt in the form of capital lease obligations. See Note 8 for the form, maturities, and descriptions of the debt. Leasing Group equipment with a net book value of approximately $1,575.9 million is pledged as collateral for Leasing Group debt. Leasing Group equipment with a net book value of approximately $106.6 million is pledged as collateral against operating lease obligations.

Table of Contents

In prior years, the Leasing Group completed a series of financing transactions whereby railcars were sold to one or more separate independent owner trusts (Trusts). The Leasing Group, through newly formed, wholly owned qualified subsidiaries, leased railcars from the Trusts under operating leases with terms of 22 years, and subleased the railcars to independent third party customers under shorter term operating rental agreements. See Note 4 of the December 31, 2008 Consolidated Financial Statements filed on Form 10-K for a detailed explanation of these financing transactions. Future operating lease obligations of the Leasing Group s subsidiaries as well as future contractual minimum rental revenues related to these leases due to the Leasing Group are as follows:

	Remaining nine months of 2009	2010	2011	2012	2013	Thereafter	Total
				(in millions)			
Future Operating Lease Obligations of Trusts Cars	$35.7	$40.7	$41.7	$44.9	$46.1	$475.0	$684.1
Future Contractual Minimum Rental Revenues of Trusts Cars	$40.9	$46.8	$38.7	$31.8	$21.4	$ 68.9	$248.5

Note 4. Equity Investment

In 2007, the Company and five other equity investors unrelated to the Company or its subsidiaries formed TRIP Rail Holdings LLC (TRIP Holdings) for the purpose of providing railcar leasing and management services in North America. TRIP Holdings, through its wholly-owned subsidiary, TRIP Rail Leasing LLC (TRIP Leasing) purchases railcars from the Company s Rail and Leasing Groups funded by capital contributions from TRIP Holdings equity investors and third-party debt. The Company agreed to provide 20% of the total of all capital contributions required by TRIP Holdings up to a total commitment of $49.0 million in exchange for 20% of the equity in TRIP Holdings. In June 2008, the Company entered into an agreement with an equity investor of TRIP Holdings potentially requiring Trinity to acquire from the equity investor up to an additional 5% equity ownership in TRIP Holdings. In January 2009, the equity investor exercised the option requiring the Company to acquire an additional 5% equity ownership in TRIP Holdings for approximately $9.0 million. As a result, the Company now owns a 25% equity ownership in TRIP Holdings, increasing the Company s total commitment by $12.3 million to $61.3 million, of which $51.4 million has been paid. The exercising of this agreement does not change the accounting treatment of TRIP Holdings in the Company s consolidated financial statements. The Company receives 25% of the distributions made from TRIP Holdings to equity investors and has a 25% interest in the net assets of TRIP Holdings upon a liquidation event. The terms of the Company s 25% equity investment are identical to the terms of each of the other five equity investors. Railcars purchased from the Company by TRIP Leasing are required to be purchased at prices comparable with the prices of all similar railcars sold by the Company during the same period for new railcars and at prices based on third party appraised values for used railcars. The manager of TRIP Holdings, Trinity Industries Leasing Company (TILC), a wholly owned subsidiary of Trinity, may be removed without cause as a result of a majority vote of the non-Company equity members.

In 2008 and 2007, the Company contributed $14.6 and $21.3 million, respectively, in capital to TRIP Holdings equal to its 20% pro rata share of total capital received during those years by TRIP Holdings from the equity investors of TRIP Holdings. During the three months ended March 31, 2009, Trinity funded $15.5 million pursuant to Trinity s 25% equity ownership obligation, totaling a $51.4 million investment in TRIP Holdings as of March 31, 2009. Trinity s remaining equity commitment exposure to TRIP Holdings is $9.9 million through June 2009. The Company also paid $13.8 million in structuring and placement fees to the principal underwriter in conjunction with the

formation of TRIP Holdings that are expensed on a pro rata basis as railcars are purchased from the Company. For the three months ended March 31, 2009, $2.6 million of these structuring and placement fees were expensed, leaving a net unamortized balance of $1.5 million as of March 31, 2009. Such expense is treated as sales commissions included in operating costs in the Company s Consolidated Statements of Operations. As of March 31, 2009, TRIP Leasing had purchased $1,158.0 million of railcars from the Company and has the capacity to purchase an additional $242.0 million. The Company has no obligation to guarantee performance under the debt agreement, guarantee any railcar residual values, shield any parties from losses, or guarantee minimum yields.

Table of Contents

Sales of railcars to TRIP Leasing and related gains for the three month periods ended March 31, 2009 and 2008 are as follows:

	Three Months Ended March 31,	
	2009	**2008**
	(in millions)	
Rail Group:		
Sales of railcars to TRIP Leasing	**$ 38.0**	$146.0
Gain on sales of railcars to TRIP Leasing	**$ 5.0**	$ 25.6
Deferral of gain on sales of railcars to TRIP Leasing based on Trinity s equity interest	**$ 1.2**	$ 5.1
TILC:		
Sales of railcars to TRIP Leasing	**$132.1**	$ 37.9
Recognition of previously deferred gain on sales of railcars to TRIP Leasing	**$ 24.8**	$ 7.2
Deferral of gain on sales of railcars to TRIP Leasing based on Trinity s equity interest	**$ 6.2**	$ 1.4

Administrative fees paid to TILC by TRIP for the three month periods ended March 31, 2009 and 2008, were $1.4 million and $1.2 million, respectively.

See Note 5 of the December 31, 2008 Consolidated Financial Statements filed on Form 10-K for additional information.

Note 5. Derivative Instruments

We use derivative instruments to mitigate the impact of increases in zinc, natural gas, and diesel fuel prices and interest rates, as well as to convert a portion of our variable-rate debt to fixed-rate debt. Additionally, we use derivative instruments to mitigate the impact of unfavorable fluctuations in foreign currency exchange rates. We also use derivatives to lock in fixed interest rates in anticipation of future debt issuances. Derivative instruments designated as hedges are accounted for as cash flow hedges under SFAS 133, as amended.

Interest rate hedges

In anticipation of a future debt issuance, we entered into interest rate swap transactions during the fourth quarter of 2006 and during 2007. These instruments, with a notional amount of $370 million, hedged the interest rate on a portion of a future debt issuance associated with an anticipated railcar leasing transaction, which closed in May 2008. These instruments settled during the second quarter of 2008. The weighted average fixed interest rate under these instruments was 5.34%. These interest rate swaps are accounted for as cash flow hedges with changes in the fair value of the instruments of $24.5 million recorded as a loss in Accumulated Other Comprehensive Loss (AOCL) through the date the related debt issuance closed with a principal balance of $572.2 million in May 2008. The balance is being amortized over the term of the related debt. On March 31, 2009, the balance remaining in AOCL was $20.8 million. The effect on interest expense for the three months ended March 31, 2009, was an increase of $1.0 million due to amortization of the AOCL balance. The effect on interest expense for the three months ended March 31, 2008, was an increase of $2.2 million due to the ineffective portion of the hedges primarily associated with hedged interest payments that will not be made. It is expected that $3.9 million in losses will be recognized in earnings during the next twelve months from amortization of the AOCL balance.

In May 2008, we entered into an interest rate swap transaction which is being used to fix the LIBOR component of the debt issuance which closed in May 2008. The fixed interest rate under this instrument is 4.126%. The amount recorded for this instrument as of March 31, 2009 in the consolidated balance sheet was a liability of $52.3 million, with $51.5 million of expense in AOCL. The effect on interest expense for the three months ended March 31, 2009 was an increase of $5.0 million, which primarily related to the monthly settlement of interest.

During the fourth quarter of 2008, we entered into interest rate swap transactions, with a notional amount of $200 million, which are being used to counter our exposure to changes in the variable interest rate associated with our

warehouse facility. The weighted average fixed interest rate under these instruments at March 31, 2009 was 1.798%. The amount recorded for these instruments as of March 31, 2009 in the consolidated balance sheet was a liability of $2.9 million. The effect on interest expense for the three months ended March 31, 2009 was an increase of $1.1 million, which included the mark to market valuation on the interest rate swap transactions and the monthly settlement of interest.

Table of Contents

During 2005 and 2006, we entered into interest rate swap transactions in anticipation of a future debt issuance. These instruments, with a notional amount of $200 million, fixed the interest rate on a portion of a future debt issuance associated with a railcar leasing transaction in 2006 and settled at maturity in the first quarter of 2006. The weighted average fixed interest rate under these instruments was 4.87%. These interest rate swaps were being accounted for as cash flow hedges with changes in the fair value of the instruments of $4.5 million in income recorded in AOCL through the date the related debt issuance closed in May 2006. The balance is being amortized over the term of the related debt. At March 31, 2009, the balance remaining in AOCL was $3.3 million. The effect of the amortization on interest expense for each of the three month periods ended March 31, 2009 and 2008 was a decrease of $0.1 million.

Natural gas and diesel fuel

We continue a program to mitigate the impact of fluctuations in the price of natural gas and diesel fuel purchases. The intent of the program is to protect our operating profit from adverse price changes by entering into derivative instruments. For those instruments that do not qualify for hedge accounting treatment, any changes in their valuation are recorded directly to the consolidated statement of operations. The amount recorded in the consolidated balance sheet for these instruments was a liability of $0.9 million as of March 31, 2009 and $0.2 million of income in AOCL. The effect of both derivatives on the consolidated statement of operations for the three month period ended March 31, 2009 was operating expense of $1.8 million including losses of $0.5 million resulting from the mark to market valuation for the three month period ended March 31, 2009. The effect on the consolidated statement of operations for the three month period ended March 31, 2008 was operating income of $1.4 million, including gains of $1.3 million resulting from the mark to market valuation for the three month period ended March 31, 2008.

Foreign Exchange Hedge

During the first quarter of 2009, we entered into a foreign exchange hedge to mitigate the impact on operating profit of unfavorable fluctuations in foreign currency exchange rates. This instrument is short term with quarterly maturities and no remaining balance in AOCL. The effect on the consolidated statement of operations for the three months ended March 31, 2009 was expense of $0.2 million included in other, net on the consolidated statement of operations.

Zinc

In 2008, we continued a program to mitigate the impact of fluctuations in the price of zinc purchases. The intent of this program was to protect our operating profit from adverse price changes by entering into derivative instruments. These instruments were short term with monthly maturities and no remaining balances in AOCL. The effect on the consolidated statement of operations for the three months ended March 31, 2008 was operating income of $0.5 million. We have not entered into any new zinc derivative instruments in 2009.

Note 6. Property, Plant, and Equipment

The following table summarizes the components of property, plant, and equipment as of March 31, 2009 and December 31, 2008.

	March 31, 2009	**December 31, 2008 (as reported)**
	(in millions)	
Corporate/Manufacturing:		
Land	**$ 38.1**	$ 38.1
Buildings and improvements	**420.5**	401.4
Machinery and other	**717.6**	685.4
Construction in progress	**33.1**	50.7
	1,209.3	1,175.6
Less accumulated depreciation	**(654.4)**	(620.2)

	554.9	555.4
Leasing:		
Machinery and other	**37.6**	37.0
Equipment on lease	**2,929.6**	2,973.2
	2,967.2	3,010.2
Less accumulated depreciation	**(245.9)**	(232.7)
	2,721.3	2,777.5
Deferred profit on railcars sold to the Leasing Group	**(328.5)**	(342.3)
	$ 2,947.7	$ 2,990.6

Table of Contents

Note 7. Warranties

The Company provides warranties against workmanship and materials defects ranging from one to five years depending on the product. The warranty costs are estimated using a two step approach. First, an engineering estimate is made for the cost of all claims that have been filed by a customer. Second, based on historical claims experience, a cost is accrued for all products still within a warranty period for which no claims have been filed. The Company provides for the estimated cost of product warranties at the time revenue is recognized related to products covered by warranties and assesses the adequacy of the resulting reserves on a quarterly basis. The changes in the accruals for warranties for the three month periods ended March 31, 2009 and 2008 were as follows:

	Three Months Ended March 31,	
	2009	2008
	(in millions)	
Beginning balance	**$ 25.7**	$ 28.3
Warranty costs incurred	**(2.3)**	(1.3)
Product warranty accrual	**(0.8)**	1.6
Ending balance	**$ 22.6**	$ 28.6

Note 8. Debt

The following table summarizes the components of debt as of March 31, 2009 and December 31, 2008.

	March 31, 2009	December 31, 2008 (adjusted)
	(in millions)	
Corporate/Manufacturing Recourse:		
Revolving commitment	**$**	$
Convertible subordinated notes	**450.0**	450.0
Less: unamortized discount	**(128.8)**	(131.2)
	321.2	318.8
Senior notes	**201.5**	201.5
Other	**2.7**	2.7
	525.4	523.0
Leasing Recourse:		
Other	**12.9**	
Equipment trust certificates		61.4
	538.3	584.4
Leasing Non-recourse:		
Secured railcar equipment notes	**316.4**	320.0
Warehouse facility	**310.2**	312.7
Promissory notes	**551.1**	557.6

	1,177.7		1,190.3
Total debt	**$ 1,716.0**	$	1,774.7

On January 1, 2009, we adopted the provisions of APB 14-1 as applicable to the Company s 3 7/8% Convertible Subordinated Notes issued June 2006. APB 14-1 requires that the accounting for these types of instruments reflect their underlying economics by capturing the value of the conversion option as borrowing costs and recognizing their potential dilutive effects on earnings per share. APB 14-1 requires retrospective application to all periods presented and does not grandfather existing instruments.

Table of Contents

As a result of adopting APB 14-1, on January 1, 2009, we recorded the following adjustments to amounts previously reported in our December 31, 2008 Consolidated Balance Sheet:

	Originally reported	Increase/(Decrease) Adjustments as of debt issuance date	Increase/(Decrease) Adjustments to income from debt issuance date through December 31, 2008	Adjusted
		(In millions)		
Other assets	$ 297.1	$ (3.2)	$ (0.5)	$ 293.4
Deferred income taxes	$ 341.9	$ 56.6	$ (10.2)	$ 388.3
Debt	$1,905.9	$(152.6)	$ 21.4	$1,774.7
Capital in excess of par value	$ 519.9	$ 92.8	$	$ 612.7
Retained earnings	$1,438.7	$	$ (11.7)	$1,427.0

These adjustments, required by APB 14-1, record the effects of (1) reclassifying $152.6 million to capital in excess of par value with an offsetting reduction to debt in the form of unamortized discount, the amount of the proceeds received from the issuance of the Convertible Subordinated Notes attributable to their conversion options; (2) reclassifying $3.2 million in debt origination costs related to the Convertible Subordinated Notes from other assets to capital in excess of par value; (3) recognizing additional amortization of debt discount and debt origination costs as an increase to interest expense for the period from the issuance of the Convertible Subordinated Notes through December 31, 2008; and (4) the corresponding effect of these adjustments on deferred tax expense and deferred tax liability.

Additionally, interest expense for the three months ended March 31, 2008 was increased by $2.2 million from amounts originally reported to include amortization of debt discount and debt origination costs with an offsetting tax benefit of $0.7 million. The effect of these adjustments for the three months ended March 31, 2008 was to decrease basic net income from continuing operations and in total per common share by $0.02 and to decrease diluted net income from continuing operations and in total per common share by $0.01. There was no change to the discontinued operations per common share data.

As of March 31, 2009 and December 31, 2008, as adjusted, capital in excess of par value included $92.8 million related to the estimated value of the Convertible Subordinated Notes conversion options. Debt discount recorded in the consolidated balance sheet is being amortized through June 1, 2018 to yield an effective annual interest rate of 8.42% based upon the estimated market interest rate for comparable non-convertible debt as of the issuance date of the Convertible Subordinated Notes. Total interest expense recognized on the Subordinated Convertible Notes for the three months ended March 31, 2009 and 2008 is as follows:

	Three Months Ended March 31,	
	2009	**2008**
	(in millions)	
Coupon rate interest	**$ 4.4**	$ 4.4
Amortized debt discount	**2.3**	2.2
	$ 6.7	$ 6.6

Trinity s revolving credit facility requires maintenance of ratios related to interest coverage for the leasing and manufacturing operations, leverage, and minimum net worth. Interest on the revolving credit facility is calculated at prime or LIBOR plus 75 basis points. At March 31, 2009, there were no borrowings under our $425 million revolving credit facility that matures on October 19, 2012. After $91.2 million was considered for letters of credit, $333.8 million was available under the revolving credit facility.

Table of Contents

The $600 million warehouse facility, established to finance railcars owned by TILC, had $310.2 million outstanding as of March 31, 2009. The warehouse facility matures August 2009 and, unless renewed, will be payable in three equal installments in February 2010, August 2010, and February 2011. Advances under the facility bear interest at a defined index rate plus a margin, for an all-in interest rate of 1.76% at March 31, 2009. At March 31, 2009, $289.8 million was available under this facility.

Terms and conditions of other debt, including recourse and non-recourse provisions, are described in Note 10 of the December 31, 2008 Consolidated Financial Statements filed on Form 10-K.

The remaining principal payments under existing debt agreements as of March 31, 2009 are as follows:

	Remaining nine months of 2009	2010	2011	2012	2013	Thereafter
			(in millions)			
Recourse:						
Corporate/Manufacturing	$ 0.6	$ 0.4	$ 0.3	$ 0.3	$ 0.2	$ 652.4
Leasing (Note 3)	0.3	0.5	0.6	0.6	0.6	10.3
Non-recourse:						
Leasing secured railcar equipment notes (Note 3)	11.7	16.5	14.9	13.7	15.4	244.2
Leasing warehouse facility (Note 3)	8.4	2.7				
Leasing promissory notes (Note 3)	19.8	27.6	29.0	30.9	28.8	415.0
Total principal payments excluding termination of warehouse facility	40.8	47.7	44.8	45.5	45.0	1,321.9
Warehouse facility termination payments		199.4	99.7			
Total principal payments	$ 40.8	$ 247.1	$ 144.5	$ 45.5	$ 45.0	$ 1,321.9

Note 9. Other, Net

Other, net (income) expense consists of the following items:

	Three Months Ended March 31,	
	2009	2008
	(in millions)	
Gain on disposition of property, plant, and equipment	**$ (2.6)**	$ (0.1)
Foreign currency exchange transactions	**2.7**	(0.7)
Gain on equity investments	**(0.6)**	(0.2)
Other	**(0.1)**	(0.1)

Other, net	**$ (0.6)**	$ (1.1)

Note 10. Income Taxes

The change in unrecognized tax benefits for the three months ended March 31, 2009 and 2008 were as follows:

	Three Months Ended March 31,	
	2009	**2008**
	(in millions)	
Beginning balance	**$ 32.9**	$ 23.7
Additions for tax positions related to the current year	**0.7**	
Additions for tax positions of prior years	**0.3**	3.9
Reductions for tax positions of prior years	**(1.1)**	(1.0)
Ending balance	**$ 32.8**	$ 26.6

The additions for the three months ended March 31, 2009, were amounts provided for tax positions previously taken in foreign jurisdictions and tax positions taken for federal and state income tax purposes as well as deferred tax liabilities that have been reclassified to uncertain tax positions.

Table of Contents

The reduction for tax positions of prior years for the three months ended March 31, 2009 related primarily to the completion of state audits in which the Company s tax position was not challenged by the state and for which the position is now effectively settled.

The total amount of unrecognized tax benefits including interest and penalties at March 31, 2009 that would affect the Company s effective tax rate if recognized was $16.5 million. There is a reasonable possibility that unrecognized federal and state tax benefits will decrease by March 31, 2010 due to a lapse in the statute of limitations for assessing tax. Amounts subject to a lapse in statute by March 31, 2010 are $0.1 million. Further, there is a reasonable possibility that the unrecognized federal tax benefits will decrease by March 31, 2010 due to settlements with taxing authorities. Amounts expected to settle by March 31, 2010 are $11.3 million.

Trinity accounts for interest expense and penalties related to income tax issues as income tax expense. Accordingly, interest expense and penalties associated with an uncertain tax position are included in the income tax provision. The total amount of accrued interest and penalties as of March 31, 2009 and December 31, 2008 was $11.8 million and $10.6 million, respectively.

Income tax expense for the three months ended March 31, 2009 and 2008, included $1.2 million and $2.3 million, respectively, in interest expense and penalties related to uncertain tax positions.

We are currently under Internal Revenue Service (IRS) examination for the tax years ended 1998 through 2002 and 2004 through 2005, thus our statute remains open from the year ended March 31, 1998, forward. We expect the 1998 through 2002 examination to be completed within the next three months and expect the majority of issues on the 2004 through 2005 examination to be resolved within the next several months. There are certain issues upon which the IRS and the Company currently disagree, thus the statute related to the 2004 through 2005 examination may remain open for an undeterminable period.

In addition, statutes of limitations governing the right of Mexico s tax authorities to audit the tax returns of our operations in Mexico remain open for the 2002 tax year forward. Our Mexico subsidiaries are currently under audit for the 2002 and 2003 tax years. Additionally, our Swiss subsidiary is under audit for the 2006 tax year. We expect these examinations to be completed within the next three months. Our various European subsidiaries, including subsidiaries that were sold in 2006, are impacted by various statutes of limitations which are generally open from 2003 forward. An exception to this is our discontinued operations in Romania, which have been audited through 2004. Generally, states statutes in the United States are open from 2002 forward.

In the preparation of the 2008 income tax returns, the Company expects that the ultimate income tax refund will be $91.7 million. This has been adjusted from the previous expectation of $98.7 million. This refund is primarily due to expected tax losses that will be carried back and applied against previous years tax liabilities resulting in a refund of taxes previously paid. The Company expects to receive these refunds in 2009.

Note 11. Employee Retirement Plans

The following table summarizes the components of net periodic pension cost for the Company.

	Three Months Ended March 31,	
	2009	**2008**
	(in millions)	
Service cost	**$ 2.2**	$ 2.4
Interest	**5.5**	5.2
Expected return on plan assets	**(4.0)**	(5.0)
Amortization and deferral	**1.9**	0.5
Curtailment	**(0.3)**	
Profit sharing	**3.0**	2.0
Net expenses	**$ 8.3**	$ 5.1

During the first quarter of 2009, the Company amended its Supplemental Retirement Plan (the Supplemental Plan) to reduce future retirement plan costs. This amendment provides that all benefit accruals under the Supplemental Plan shall cease effective March 31, 2009, and the Supplemental Plan will be frozen as of that date. In addition, the Company amended the Trinity Industries, Inc. Standard Pension Plan (the Pension Plan). The amendment was designed to reduce future pension costs and provides that, effective March 31, 2009, all future benefit accruals under the Pension Plan will automatically cease for all participants, and the accrued benefits under the Pension Plan will be determined and frozen as of

Table of Contents

that date. Accordingly, as a result of these amendments, accrued pension liability was reduced by $44.1 million with an offsetting reduction in funded status of pension liability included in AOCL.

Trinity contributed $8.5 million and $3.5 million to the Company s defined benefit pension plans for the three month periods ended March 31, 2009 and 2008, respectively. Total contributions to the Company s pension plans in 2009 are expected to be approximately $19.1 million.

Note 12. Accumulated Other Comprehensive Loss

Comprehensive net income is as follows:

	Three Months Ended March 31,	
	2009	**2008**
	(in millions)	
Net income	**$ 33.9**	$ 63.8
Other comprehensive income (loss):		
Change in funded status of pension liability, net of tax expense of $16.4 and $	**27.7**	
Change in unrealized loss on derivative financial instruments, net of tax expense (benefit) of $2.4 and $(6.9)	**4.5**	(12.9)
Other changes, net of tax (benefit) of $(0.5) and $	**(0.8)**	
Comprehensive net income	**$ 65.3**	$ 50.9

The components of accumulated other comprehensive loss are as follows:

	March 31, 2009	**December 31, 2008**
	(in millions)	**(as reported)**
Currency translation adjustments	**$ (17.1)**	$ (17.1)
Unrealized loss on derivative financial instruments	**(52.3)**	(56.8)
Funded status of pension liability	**(58.7)**	(86.4)
Other changes	**(1.8)**	(1.0)
	$ (129.9)	$ (161.3)

Note 13. Stock-Based Compensation

Stock-based compensation totaled approximately $3.9 million and $5.0 million for the three months ended March 31, 2009 and 2008, respectively.

Note 14. Net Income Per Common Share

On January 1, 2009, we adopted the provisions of FSP EITF 03-6-1 requiring that unvested share-based payment awards containing non-forfeitable rights to dividends be considered participating securities and included in the computation of earnings per share pursuant to the two-class method. FSP EITF 03-6-1 requires that, upon adoption, all prior period earnings per share data presented be adjusted retrospectively. The effect of adopting FSP EITF 03-6-1 for the three months ended March 31, 2008 was to decrease basic and diluted net income from continuing operations and in total per common share by $0.02. There was no change to the discontinued operations per common share data.

Basic net income per common share is computed by dividing net income remaining after allocation to unvested restricted shares by the weighted average number of common shares outstanding for the period. Except when the effect would be anti-dilutive, the calculation of diluted net income per common share includes the net impact of unvested restricted shares and shares that could be issued under outstanding stock options. Total weighted average

restricted shares and stock options having an antidilutive effect on diluted earnings per share were 3.8 million shares and 2.4 million shares for the three month periods ended March 31, 2009 and 2008, respectively.

Table of Contents

The computation of basic and diluted net income applicable to common stockholders is as follows:

	Three Months Ended March 31, 2009 (in millions, except per share amounts)			Three Months Ended March 31, 2008 (in millions, except per share amounts)		
	Income (Loss)	**Average Shares**	**EPS**	**Income (Loss)**	**Average Shares**	**EPS**
Income from continuing operations	**$ 34.0**			$ 64.1		
Income allocable to unvested restricted shares	**(1.1)**			(1.9)		
Income from continuing operations basic	**32.9**	**76.6**	**$ 0.43**	62.2	78.9	$ 0.79
Effect of dilutive securities: Stock options		**0.0**			0.4	
Income from continuing operations diluted	**$ 32.9**	**76.6**	**$ 0.43**	$ 62.2	79.3	$ 0.78
Loss from discontinued operations, net of taxes	**$ (0.1)**			$ (0.3)		
Loss allocable to unvested restricted shares	**0.0**			0.0		
Loss from discontinued operations, net of taxes basic	**$ (0.1)**	**76.6**	**$ 0.00**	$ (0.3)	78.9	$ 0.00
Effect of dilutive securities: Stock options		**0.0**			0.4	
Loss from discontinued operations, net of taxes diluted	**$ (0.1)**	**76.6**	**$ 0.00**	$ (0.3)	79.3	$ 0.00

Note 15. Contingencies

Barge Litigation

The Company and its wholly owned subsidiary, Trinity Marine Products, Inc. (TMP), were co-defendants in a class-action lawsuit filed in April 2003 entitled Waxler Transportation Company, Inc. v. Trinity Marine Products, Inc., et al. (Suit No. 49-741, Division B in the 25th Judicial District Court in and for the Parish of Plaquemines, Louisiana: the Waxler Case). A settlement of this case was approved by the court and became final February 13, 2008. The Court Appointed Disbursing Agent (CADA) has prepared an Allocation Plan and Distribution Plan for the disbursement of

settlement compensation that was approved by the court on November 14, 2008. As of March 31, 2009, based on instructions from the CADA to the settlement funds escrow agent, the Company had received $2.9 million in refund of unclaimed settlement funds.

Other Litigation and Contingencies

The Company is involved in other claims and lawsuits incidental to our business. Based on information currently available, it is management s opinion that the ultimate outcome of all current litigation and other claims, including settlements, in the aggregate will not have a material adverse effect on the Company s overall financial condition for purposes of financial reporting. However, resolution of certain claims or lawsuits by settlement or otherwise could have a significant impact on the operating results of the reporting period in which such resolution occurs.

We are subject to Federal, state, local, and foreign laws and regulations relating to the environment and the workplace. We have reserved $7.5 million to cover our probable and estimable liabilities with respect to the investigations, assessments, and remedial responses to such matters, taking into account currently available information and our contractual rights to indemnification and recourse to third parties. However, estimates of liability arising from future proceedings, assessments, or remediation are inherently imprecise. Accordingly, there can be no assurance that we will not

Table of Contents

become involved in future litigation or other proceedings involving the environment and the workplace or, if we are found to be responsible or liable in any such litigation or proceeding, that such costs would not be material to the Company. Other than with respect to the foregoing, we believe that we are currently in substantial compliance with environmental and workplace laws and regulations.

Note 16. Financial Statements for Guarantors of the Senior Debt

The Company s senior debt and certain operating leases are fully and unconditionally and jointly and severally guaranteed by certain of Trinity s wholly owned subsidiaries: Transit Mix Concrete & Materials Company, Trinity Industries Leasing Company, Trinity Marine Products, Inc., Trinity Rail Group, LLC, Trinity North American Freight Car, Inc., Trinity Tank Car, Inc., and Trinity Parts & Components, LLC. No other subsidiaries guarantee the senior debt. As of March 31, 2009, assets held by the non-guarantor subsidiaries include $122.5 million of restricted assets that are not available for distribution to Trinity Industries, Inc. (Parent), $1,575.9 million of equipment securing certain debt, $106.6 million of equipment securing certain lease obligations held by the non-guarantor subsidiaries, and $240.6 million of assets located in foreign locations. As of December 31, 2008, assets held by the non-guarantor subsidiaries include $120.2 million of restricted assets that are not available for distribution to the Parent, $1,546.5 million of equipment securing certain debt, $107.2 million of equipment securing certain lease obligations held by the non-guarantor subsidiaries, and $266.9 million of assets located in foreign locations.

Table of Contents

Statement of Operations
For the Three Months Ended March 31, 2009

	Parent	Combined Guarantor Subsidiaries	Combined Non-Guarantor Subsidiaries	Eliminations	Consolidated
			(in millions)		
Revenues	**$**	**$ 525.0**	**$ 343.4**	**$ (74.9)**	**$ 793.5**
Cost of revenues	**12.1**	**438.8**	**285.3**	**(74.9)**	**661.3**
Selling, engineering, and administrative expenses	**7.5**	**23.0**	**18.4**		**48.9**
	19.6	**461.8**	**303.7**	**(74.9)**	**710.2**
Operating profit (loss)	**(19.6)**	**63.2**	**39.7**		**83.3**
Other (income) expense	**(47.0)**	**(1.4)**	**20.0**	**56.5**	**28.1**
Income from continuing operations before income taxes	**27.4**	**64.6**	**19.7**	**(56.5)**	**55.2**
Provision (benefit) for income taxes	**(6.5)**	**19.9**	**7.8**		**21.2**
Income from continuing operations	**33.9**	**44.7**	**11.9**	**(56.5)**	**34.0**
Loss from discontinued operations, net of benefit for income taxes of $(0.0)			**(0.1)**		**(0.1)**
Net income	**$ 33.9**	**$ 44.7**	**$ 11.8**	**$ (56.5)**	**$ 33.9**

Statement of Operations
For the Three Months Ended March 31, 2008 (adjusted)

	Parent	Combined Guarantor Subsidiaries	Combined Non-Guarantor Subsidiaries	Eliminations	Consolidated
			(in millions)		
Revenues	$ 2.6	$ 594.9	$ 436.7	$ (135.3)	$ 898.9
Cost of revenues	38.8	458.3	354.7	(135.3)	716.5
Selling, engineering, and administrative expenses	5.5	29.0	21.7		56.2
	44.3	487.3	376.4	(135.3)	772.7
Operating profit (loss)	(41.7)	107.6	60.3		126.2
Other (income) expense	(92.2)	(0.2)	14.7	97.5	19.8
Income from continuing operations before income taxes	50.5	107.8	45.6	(97.5)	106.4

Provision (benefit) for income taxes	(13.3)	38.3	17.3		42.3
Income from continuing operations	63.8	69.5	28.3	(97.5)	64.1
Loss from discontinued operations, net of benefit for income taxes of 0.1			(0.3)		(0.3)
Net income	$ 63.8	$ 69.5	$ 28.0	$ (97.5)	$ 63.8

Table of Contents

Balance Sheet
March 31, 2009

	Parent	Combined Guarantor Subsidiaries	Combined Non-Guarantor Subsidiaries	Eliminations	Consolidated
			(in millions)		
Assets:					
Cash and cash equivalents	**$ 150.5**	**$ 1.4**	**$ 18.5**	**$**	**$ 170.4**
Receivables, net of allowance	**0.1**	**77.3**	**128.4**		**205.8**
Income tax receivable	**91.7**				**91.7**
Inventory	**0.3**	**375.7**	**183.1**		**559.1**
Property, plant, and equipment, net	**20.4**	**881.5**	**2,045.8**		**2,947.7**
Investments in subsidiaries/intercompany receivable (payable), net	**2,416.8**	**80.1**	**518.4**	**(3,015.3)**	
Goodwill and other assets	**137.5**	**441.3**	**284.9**	**(68.8)**	**794.9**
	$ 2,817.3	**$ 1,857.3**	**$ 3,179.1**	**$ (3,084.1)**	**$ 4,769.6**
Liabilities:					
Accounts payable and accrued liabilities	**$ 196.4**	**$ 127.4**	**$ 205.2**	**$**	**$ 529.0**
Debt	**522.6**	**15.6**	**1,177.8**		**1,716.0**
Deferred income	**70.1**	**4.3**	**3.5**		**77.9**
Deferred income taxes		**456.7**	**26.6**	**(68.8)**	**414.5**
Other liabilities	**62.3**	**0.9**	**3.1**		**66.3**
Total stockholders equity	**1,965.9**	**1,252.4**	**1,762.9**	**(3,015.3)**	**1,965.9**
	$ 2,817.3	**$ 1,857.3**	**$ 3,179.1**	**$ (3,084.1)**	**$ 4,769.6**

Balance Sheet
December 31, 2008
(adjusted)

	Parent	Combined Guarantor Subsidiaries	Combined Non-Guarantor Subsidiaries	Eliminations	Consolidated
			(in millions)		
Assets:					
Cash and cash equivalents	$ 139.7	$ 2.1	$ 20.0	$	$ 161.8
Receivables, net of allowance	0.4	90.0	160.9		251.3
Income tax receivable	98.7				98.7
Inventory	0.3	407.7	203.8		611.8
Property, plant, and equipment, net	20.7	957.7	2,012.2		2,990.6
Investments in subsidiaries/ intercompany receivable (payable),	2,399.5	217.5	497.2	(3,114.2)	

net					
Goodwill and other assets	215.1	438.4	285.9	(141.5)	797.9
	$ 2,874.4	$ 2,113.4	$ 3,180.0	$ (3,255.7)	$ 4,912.1
Liabilities:					
Accounts payable and accrued liabilities	$ 269.0	$ 184.0	$ 246.4	$	$ 699.4
Debt	520.3	64.2	1,190.2		1,774.7
Deferred income	64.9	3.3	3.6		71.8
Deferred income taxes	46.4	456.8	26.6	(141.5)	388.3
Other liabilities	61.5	0.9	3.2		65.6
Total stockholders equity	1,912.3	1,404.2	1,710.0	(3,114.2)	1,912.3
	$ 2,874.4	$ 2,113.4	$ 3,180.0	$ (3,255.7)	$ 4,912.1

Table of Contents

Statement of Cash Flows
For the Three Months Ended March 31, 2009

	Parent	Combined Guarantor Subsidiaries	Combined Non-Guarantor Subsidiaries	Eliminations	Consolidated
			(in millions)		
Net cash provided (required) by operating activities	**$ 21.9**	**$ (34.0)**	**$ 63.7**	**$**	**$ 51.6**
Net cash provided (required) by investing activities	**1.5**	**94.8**	**(52.8)**		**43.5**
Net cash provided (required) by financing activities	**(12.6)**	**(61.5)**	**(12.4)**		**(86.5)**
Net increase (decrease) in cash and cash equivalents	**10.8**	**(0.7)**	**(1.5)**		**8.6**
Cash and cash equivalents at beginning of period	**139.7**	**2.1**	**20.0**		**161.8**
Cash and cash equivalents at end of period	**$ 150.5**	**$ 1.4**	**$ 18.5**	**$**	**$ 170.4**

Statement of Cash Flows
For the Three Months Ended March 31, 2008

	Parent	Combined Guarantor Subsidiaries	Combined Non-Guarantor Subsidiaries	Eliminations	Consolidated
			(in millions)		
Net cash provided (required) by operating activities	$ (55.9)	$ 62.3	$ 32.6	$	$ 39.0
Net cash provided (required) by investing activities	(0.3)	(47.9)	(119.0)		(167.2)
Net cash provided (required) by financing activities	(17.9)	(14.4)	70.6		38.3
Net increase (decrease) in cash and cash equivalents	(74.1)		(15.8)		(89.9)
Cash and cash equivalents at beginning of period	238.0	0.7	50.9		289.6
Cash and cash equivalents at end of period	$ 163.9	$ 0.7	$ 35.1	$	$ 199.7

Table of Contents

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

General

The following discussion should be read in conjunction with the unaudited consolidated financial statements and related notes thereto appearing elsewhere in this document.

In 2007, Trinity Industries Inc. (Trinity , Company , we or our) purchased 20% of the equity in newly-formed TR Rail Holdings LLC (TRIP Holdings). TRIP Holdings provides railcar leasing and management services in North America. Railcars are purchased from Trinity by a wholly-owned subsidiary of TRIP Holdings, TRIP Rail Leasing LLC (TRIP Leasing).

In June 2008, the Company entered into an agreement with an equity investor of TRIP Holdings potentially requiring Trinity to acquire from the equity investor up to an additional 5% equity ownership in TRIP Holdings. In January 2009, the equity investor exercised the option requiring the Company to acquire an additional 5% equity ownership in TRIP Holdings for approximately $9.0 million. As a result, the Company now owns a 25% equity ownership in TRIP Holdings, increasing the Company s total commitment by $12.3 million to $61.3 million, of which $51.4 million has been paid. The exercising of this agreement does not change the accounting treatment of TRIP Holdings in the Company s consolidated financial statements.

On December 13, 2007, the Company s Board of Directors authorized a $200 million common stock repurchase program allowing for repurchases through December 31, 2009. During the three months ended March 31, 2009 and March 31, 2008, 813,028 and 471,100 shares were repurchased under this program at a cost of approximately $6.3 million and $12.2 million, respectively. Since the inception of this program through March 31, 2009, the Company has repurchased a total of 3,532,728 shares at a cost of approximately $67.5 million.

In May 2008, the Financial Accounting Standards Board (FASB) issued FASB Staff Position No. APB 14-1, *Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (including Partial Cash Settlement)* (APB 14-1). APB 14-1 requires that issuers of certain convertible debt instruments that may be settled in cash upon conversion to separately account for the liability and equity components in a manner that will reflect the entity s nonconvertible debt borrowing rate when interest expense is recognized in subsequent periods. The effective date of APB 14-1 is for financial statements issued for fiscal years and interim periods beginning after December 15, 2008 and does not permit earlier application. The pronouncement requires that all periods presented be adjusted. The Company adopted the provisions of APB 14-1 as of January 1, 2009 and has accordingly adjusted amounts previously reported with respect to Debt, Other assets, Capital in excess of par value, Deferred income taxes and Interest expense. See Note 8 of the Consolidated Financial Statements for a further explanation of the effects of implementing this pronouncement as it applies to our Convertible Subordinated Notes.

Overall Summary for Continuing Operations

Revenues

	Three Months Ended March 31, 2009			**Three Months Ended March 31, 2008**			
	External	**Revenues Intersegment**	**Total**	**External**	**Revenues Intersegment**	**Total**	**Percent Change**
			($ in millions)				
Rail Group	**$ 162.7**	**$ 121.2**	**$ 283.9**	$ 347.7	$ 220.1	$ 567.8	**(50.0)%**
Construction Products Group	**121.0**	**2.5**	**123.5**	165.0	4.3	169.3	**(27.1)**
Inland Barge Group	**157.0**		**157.0**	137.8		137.8	**13.9**
Energy Equipment Group	**126.7**	**1.8**	**128.5**	126.2	3.3	129.5	**(0.8)**
Railcar Leasing and Management Services Group	**222.4**		**222.4**	119.8		119.8	**85.6**
All Other	**3.7**	**10.7**	**14.4**	2.4	15.8	18.2	**(20.9)**

Eliminations lease subsidiary		**(116.5)**	**(116.5)**		(216.7)	(216.7)		
Eliminations other		**(19.7)**	**(19.7)**		(26.8)	(26.8)		
Consolidated Total	**$ 793.5**	**$**	**$ 793.5**	$ 898.9	$	$ 898.9	**(11.7)**	

Our revenues for the three month period ended March 31, 2009 decreased in all groups, except the Railcar Leasing and Management Services Group (the Leasing Group) and the Inland Barge Group, as compared to the same period in the prior year. Inland Barge Group revenues increased primarily due to a change in the mix of barges shipped. Revenues from the Leasing Group were higher due to higher rental revenues resulting from additions to the lease and management fleet and higher sales of railcars from the lease fleet. Rail Group revenues declined due to a decrease in shipments. Revenues for the Construction Products Group decreased due to lower volumes and highly competitive markets. Energy Equipment Group revenues were down slightly resulting from an increase in structural wind towers sales offset by lower domestic container sales.

Table of Contents

Operating Profit (Loss)

	Three Months Ended March 31,	
	2009	2008
	(in millions)	
Rail Group	**$ (5.8)**	$ 77.2
Construction Products Group	**(1.9)**	12.2
Inland Barge Group	**38.9**	26.5
Energy Equipment Group	**18.3**	18.2
Railcar Leasing and Management Services Group	**52.7**	34.1
All Other	**(1.4)**	(0.3)
Corporate	**(7.6)**	(5.4)
Eliminations lease subsidiary	**(8.9)**	(31.2)
Eliminations other	**(1.0)**	(5.1)
Consolidated Total	**$ 83.3**	$ 126.2

Operating profit for the three month period ended March 31, 2009 decreased as the result of overall lower revenues, lower pricing pressure for new railcars and costs resulting from right-sizing the Company in response to current market conditions. These decreases in operating profit were offset by higher operating profit resulting from an increase in the size of our lease fleet, more car sales from our lease fleet, a more profitable mix of barge units delivered and increased wind tower sales.

Other Income and Expense. Interest expense, net of interest income, was $28.7 million and $20.9 million (as adjusted see Note 8), respectively, for the three month periods ended March 31, 2009 and March 31, 2008. Interest income decreased $2.0 million over the same quarter last year as a result of lower interest rates and a decrease in cash available for investment. Interest expense increased $5.8 million over the same period last year due to an increase in debt levels, including $551.1 million of promissory notes for the Leasing Group, and expense related to the ineffective portion of interest rate hedges. The decrease in Other, net for the three month period ended March 31, 2009 was primarily due to unfavorable foreign currency translation adjustments.

Income Taxes. The effective tax rate for continuing operations for the three month periods ended March 31, 2009 and 2008 was 38.4% and 39.8%, respectively, and varied from the statutory rate of 35.0% due primarily to state income taxes and discrete adjustments related to foreign and state taxes.

Table of Contents

Rail Group

	Three Months Ended March 31,		
	2009	2008	Percent Change
	($ in millions)		
Revenues:			
Rail	**$ 250.8**	$ 525.9	**(52.3)%**
Components	**33.1**	41.9	**(21.0)**
Total revenues	**$ 283.9**	$ 567.8	**(50.0)**
Operating profit (loss)	**$ (5.8)**	$ 77.2	
Operating profit (loss) margin	**(2.0)%**	13.6%	

Railcar shipments decreased 49% to approximately 3,050 during the three month period ended March 31, 2009, compared to the same period in 2008. As of March 31, 2009, our Rail Group backlog was approximately $547.1 million consisting of approximately 6,210 railcars as compared to approximately 27,960 railcars as of March 31, 2008. The railcar backlog dollar value as of March 31, 2009 and March 31, 2008 was as follows:

	As of March 31,	
	2009	2008
	(in millions)	
External Customers	**$ 201.2**	$ 768.4
TRIP Leasing	**85.1**	515.9
Leasing Group	**260.8**	1,065.9
Total	**$ 547.1**	$ 2,350.2

The total amount of the backlog dedicated to the Leasing Group was supported by lease agreements with external customers. The final amount dedicated to the Leasing Group or TRIP Leasing may vary by the time of delivery. Results for the three months ended March 31, 2009 included $38.0 million in railcars sold to TRIP Leasing that resulted in a gain of $5.0 million, of which $1.2 million in profit was deferred based on our 25% equity interest. Results for the three months ended March 31, 2008 included $146.0 million in railcars sold to TRIP Leasing that resulted in a gain of $25.6 million, of which $5.1 million in profit was deferred based on our 20% equity interest. See Note 4 Equity Investment of the Consolidated Financial Statements for information about TRIP Leasing.

Operating profit for the Rail Group decreased $83.0 million for the three month period ended March 31, 2009 compared to the same period last year. This decrease was primarily due to a significantly reduced volume of railcars delivered during the period and the lower pricing environment.

In the three months ended March 31, 2009, railcar shipments included sales to the Leasing Group of $116.5 million compared to $216.7 million in the comparable period in 2008 with a deferred profit of $8.9 million compared to $31.2 million for the same period in 2008. Sales to the Leasing Group and related profits are included in the operating results of the Rail Group but eliminated in consolidation.

Construction Products Group

	Three Months Ended March 31,		
	2009	2008	Percent Change
	($ in millions)		

Revenues:			
Concrete and Aggregates	**$ 77.9**	$ 104.5	**(25.5)%**
Highway Products	**43.1**	57.3	**(24.8)**
Other	**2.5**	7.5	**(66.7)**
Total revenues	**$ 123.5**	$ 169.3	**(27.1)**
Operating profit (loss)	**$ (1.9)**	$ 12.2	
Operating profit (loss) margin	**(1.5)%**	7.2%	

The decrease in revenues for the three month period ended March 31, 2009 compared to the same period in 2008 was primarily attributable to the overall decline in the economic conditions related to the markets served by this segment. Operating profit for the three months ended March 31, 2009 compared to the same period in 2008 decreased as a result of lower volumes coupled with margin compression resulting from the sale of higher priced inventory into a lower-priced market place. Additionally the Construction Products Group recorded a $1.7 million write down of inventory to market value.

Table of Contents

Inland Barge Group

	Three Months Ended March 31,		
	2009	2008	Percent Change
	($ in millions)		
Revenues	**$157.0**	$137.8	**13.9%**
Operating profit	**$ 38.9**	$ 26.5	
Operating profit margin	**24.8%**	19.2%	

Revenues and operating profit increased for the three month period ended March 31, 2009 compared to the same period in the prior year due to a change in the mix of barges sold. Operating profit for the three months ended March 31, 2009 and 2008 included the refund of $0.9 and $2.0 million, respectively, in unclaimed settlement funds related to the Waxler Case. As of March 31, 2009, the backlog for the Inland Barge Group was approximately $401.6 million compared to approximately $792.4 million as of March 31, 2008.

Energy Equipment Group

	Three Months Ended March 31,		
	2009	2008	Percent Change
	($ in millions)		
Revenues:			
Structural wind towers	**$ 91.8**	$ 84.0	**9.3%**
Other	**36.7**	45.5	**(19.3)**
Total revenues	**$ 128.5**	$ 129.5	**(0.8)**
Operating profit	**$ 18.3**	$ 18.2	
Operating profit margin	**14.2%**	14.1%	

Revenues decreased slightly for the three month period ended March 31, 2009 compared to the same period in 2008 due to an increase in sales of structural wind towers offset by lower sales in the weaker domestic container market as well as lower sales on products manufactured and sold in Mexico. Operating profit increased slightly due to higher sales of structural wind towers. As of March 31, 2009, the backlog for structural wind towers was approximately $1.3 billion compared to approximately $1.6 billion as of March 31, 2008.

Table of Contents

Railcar Leasing and Management Services Group

	Three Months Ended March 31,		
	2009	2008	Percent Change
	($ in millions)		
Revenues:			
Leasing and management	**$ 85.7**	$ 70.1	**22.3%**
Sales of cars from the lease fleet	**136.7**	49.7	**175.1**
Total revenues	**$ 222.4**	$ 119.8	**85.6**
Operating Profit:			
Leasing and management	**$ 35.8**	$ 26.7	
Sales of cars from the lease fleet	**16.9**	7.4	
Total operating profit	**$ 52.7**	$ 34.1	
Operating profit margin:			
Leasing and management	**41.8%**	38.1%	
Sales of cars from the lease fleet	**12.4**	14.9	
Total operating profit margin	**23.7**	28.5	
Fleet utilization	**98.4%**	99.2%	

Total revenues increased for the three month period ended March 31, 2009 compared to the same period last year due to increased sales from the lease fleet as well as increased rental revenues related to additions to the lease fleet and management and origination fees.

Operating profit for leasing and management operations increased for the three month period ended March 31, 2009 compared to the same period last year due primarily to increased rental proceeds from fleet additions and increased sales from the lease fleet. Results for the three months ended March 31, 2009 included $132.1 million in sales of railcars to TRIP Leasing that resulted in the recognition of previously deferred gain of $24.8 million, of which $6.2 million was deferred based on our 25% equity interest. Results for the three months ended March 31, 2008 included $37.9 million in sales of railcars to TRIP Leasing that resulted in the recognition of previously deferred gain of $7.2 million, of which $1.4 million was deferred based on our 20% equity interest. For the three months ended March 31, 2009 and 2008, operating profit included $1.7 million and $0.4 million, respectively, in structuring and placement fees related to TRIP Holdings that was expensed. See Note 4 of the Consolidated Financial Statements for information about TRIP Leasing.

To fund the continued expansion of its lease fleet to meet market demand, the Leasing Group generally uses its non-recourse $600 million warehouse facility or excess cash to provide initial financing for a portion of the purchase price of the railcars. See *Financing Activities.*

As of March 31, 2009, the Leasing Group s lease fleet of approximately 47,650 owned or leased railcars had an average age of 4.8 years and an average remaining lease term of 4.3 years.

All Other

	Three Months Ended March 31,		
	2009	2008	Percent Change
	($ in millions)		
Revenues	**$14.4**	$18.2	**(20.9)%**

Operating loss	**$ (1.4)**	$ (0.3)

The decrease in revenues for the three month period ended March 31, 2009 over the same period last year was primarily due to a decrease in intersegment sales by our transportation company. The increase in the operating loss for the three month period ended March 31, 2009 was primarily due to the decrease in intersegment sales and a decline in the market valuation of commodity hedges that are required to be marked to market.

Table of Contents

Liquidity and Capital Resources

Cash Flows

Operating Activities. Net cash provided by operating activities of continuing operations for the three months ended March 31, 2009 was $51.6 million compared to $39.0 million of net cash provided by operating activities of continuing operations for the same period in 2008.

Accounts receivables at March 31, 2009 as compared to the accounts receivables balance at December 31, 2008 decreased by approximately $45.5 million or 18% due to lower shipping volumes and the collection of foreign tax receivables. Raw materials inventory at March 31, 2009 decreased by $87.1 million or approximately 25% since December 31, 2008 primarily attributable to lower production offset by a $52.3 million increase in finished goods inventory in our Rail Group. Accounts payable and accrued liabilities decreased from December 31, 2008 by $119.9 million primarily due to lower production activity. We continually review reserves related to bad debt as well as the adequacy of lower of cost or market valuations related to accounts receivable and inventory.

Investing Activities. Net cash provided by investing activities of continuing operations for the three months ended March 31, 2009 was $43.5 million compared to $167.2 million of cash required by investing activities for the same period last year. Capital expenditures for the three months ended March 31, 2009 were $131.0 million, of which $112.0 million were for additions to the lease fleet. This compares to $217.1 million of capital expenditures for the same period last year, of which $190.2 million were for additions to the lease fleet. Proceeds from the sale of property, plant, and equipment and other assets were $174.5 million for the three months ended March 31, 2009 composed primarily of railcar sales from the lease fleet, which included $132.1 million to TRIP Leasing, and the sale of non-operating assets. This compares to $49.9 million for the same period in 2008 composed primarily of railcar sales from the lease fleet, which included $37.9 million to TRIP Leasing, and the sale of non-operating assets.

Financing Activities. Net cash required by financing activities during the three months ended March 31, 2009 was $86.5 million compared to $38.3 million of cash provided by financing activities for the same period in 2008. In February 2009, we repaid in full our Leasing Group s equipment trust certificates in the amount of $61.4 million. We intend to use our cash and credit facilities to fund the operations, expansions, and growth initiatives of the Company.

At March 31, 2009, there were no borrowings under our $425 million revolving credit facility that matures on October 19, 2012. Interest on the revolving credit facility is calculated at prime or LIBOR plus 75 basis points. After $91.2 million was considered for letters of credit, $333.8 million was available under the revolving credit facility as of March 31, 2009.

In May 2008, the Financial Accounting Standards Board (FASB) issued FASB Staff Position No. APB 14-1, *Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (including Partial Cash Settlement)* (APB 14-1). APB 14-1 requires that issuers of certain convertible debt instruments that may be settled in cash upon conversion to separately account for the liability and equity components in a manner that will reflect the entity s nonconvertible debt borrowing rate when interest expense is recognized in subsequent periods. The effective date of APB 14-1 is for financial statements issued for fiscal years and interim periods beginning after December 15, 2008 and does not permit earlier application. The pronouncement requires that all periods presented be adjusted. The Company adopted the provisions of APB 14-1 as of January 1, 2009 and has accordingly adjusted amounts previously reported with respect to Debt, Other assets, Capital in excess of par value, Deferred income taxes and Interest expense. See Note 8 of the Consolidated Financial Statements for a further explanation of the effects of implementing this pronouncement as it applies to our Convertible Subordinated Notes.

The $600 million warehouse facility, established to finance railcars owned by TILC, had $310.2 million outstanding as of March 31, 2009. The warehouse facility matures August 2009 and, unless renewed, will be payable in three equal installments in February 2010, August 2010, and February 2011. Advances under the facility bear interest at a defined index rate plus a margin, for an all-in interest rate of 1.76% at March 31, 2009. At March 31, 2009, $289.8 million was available under this facility.

On December 13, 2007, the Company s Board of Directors authorized a $200 million common stock repurchase program allowing for repurchases through December 31, 2009. During the three months ended March 31, 2009 and 2008, 813,028 and 471,100 shares were repurchased under this program at a cost of approximately $6.3 million and $12.2 million, respectively. Since the inception of this program through March 31, 2009, the Company has

repurchased a total of 3,532,728 shares at a cost of approximately $67.5 million.

The economic and financial crisis experienced by the United States economy during 2008 and into 2009 impacted our businesses. New orders for railcars and barges continued to drop significantly in the first quarter of 2009 as the transportation industry saw a significant decline in the shipment of freight. The 2009 outlook for the transportation industry

Table of Contents

is for a continued significant downturn. Orders for structural wind towers have been slow since mid-2008 as green energy companies experienced tightened credit markets coupled with lower prices for electricity and natural gas sales. The slowdown in the residential and commercial construction markets impacted our Construction Products Group as well. We continually assess our manufacturing capacity and take steps to align our production capacity with demand. As a result of our assessment, we idled four railcar production facilities and one structural wind towers production facility during the fourth quarter of 2008 and in the first quarter of 2009.

Equity Investment

See Note 4 of the Consolidated Financial Statements for information about the equity investment.

Future Operating Requirements

We expect to finance future operating requirements with cash flows from operations, and depending on market conditions, long-term and short-term debt, and equity. Debt instruments that the Company has utilized include its revolving credit facility, the warehouse facility, senior notes, convertible subordinated notes, asset-backed securities, and sale/leaseback transactions. The Company has also issued equity at various times. As of March 31, 2009, the Company had $333.8 million available under its revolving credit facility and $289.8 million available under its warehouse facility. Despite the volatile conditions in both the credit and stock markets, the Company believes it has access to adequate capital resources to fund operating requirements and is active in the financial markets.

Off Balance Sheet Arrangements

See Note 3 of the Consolidated Financial Statements for information about off balance sheet arrangements.

Derivative Instrument

We use derivative instruments to mitigate the impact of increases in zinc, natural gas, and diesel fuel prices and interest rates, as well as to convert a portion of our variable-rate debt to fixed-rate debt. Additionally, we use derivative instruments to mitigate the impact of unfavorable fluctuations in foreign currency exchange rates. We also use derivatives to lock in fixed interest rates in anticipation of future debt issuances. Derivative instruments designated as hedges are accounted for as cash flow hedges under SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities* (SFAS 133), as amended.

Interest rate hedges

In anticipation of a future debt issuance, we entered into interest rate swap transactions during the fourth quarter of 2006 and during 2007. These instruments, with a notional amount of $370 million, hedged the interest rate on a portion of a future debt issuance associated with an anticipated railcar leasing transaction, which closed in May 2008. These instruments settled during the second quarter of 2008. The weighted average fixed interest rate under these instruments was 5.34%. These interest rate swaps are accounted for as cash flow hedges with changes in the fair value of the instruments of $24.5 million recorded as a loss in Accumulated Other Comprehensive Loss (AOCL) through the date the related debt issuance closed with a principal balance of $572.2 million in May 2008. The balance is being amortized over the term of the related debt. On March 31, 2009, the balance remaining in AOCL was $20.8 million. The effect on interest expense for the three months ended March 31, 2009, was an increase of $1.0 million due to amortization of the AOCL balance. The effect on interest expense for the three months ended March 31, 2008, was an increase of $2.2 million due to the ineffective portion of the hedges primarily associated with hedged interest payments that will not be made. It is expected that $3.9 million in losses will be recognized in earnings during the next twelve months from amortization of the AOCL balance.

In May 2008, we entered into an interest rate swap transaction which is being used to fix the LIBOR component of the debt issuance which closed in May 2008. The fixed interest rate under this instrument is 4.126%. The amount recorded for this instrument as of March 31, 2009 in the consolidated balance sheet was a liability of $52.3 million, with $51.5 million of expense in AOCL. The effect on interest expense for the three months ended March 31, 2009 was an increase of $5.0 million, which primarily related to the monthly settlement of interest.

During the fourth quarter of 2008, we entered into interest rate swap transactions, with a notional amount of $200 million, which are being used to counter our exposure to changes in the variable interest rate associated with our warehouse facility. The weighted average fixed interest rate under these instruments at March 31, 2009 was 1.798%. The amount recorded for these instruments as of March 31, 2009 in the consolidated balance sheet was a liability of $2.9 million. The effect on interest expense for the three months ended March 31, 2009 was an increase of $1.1

million, which included the mark to market valuation on the interest rate swap transactions and the monthly settlement of interest.

Table of Contents

During 2005 and 2006, we entered into interest rate swap transactions in anticipation of a future debt issuance. These instruments, with a notional amount of $200 million, fixed the interest rate on a portion of a future debt issuance associated with a railcar leasing transaction in 2006 and settled at maturity in the first quarter of 2006. The weighted average fixed interest rate under these instruments was 4.87%. These interest rate swaps were being accounted for as cash flow hedges with changes in the fair value of the instruments of $4.5 million in income recorded in AOCL through the date the related debt issuance closed in May 2006. The balance is being amortized over the term of the related debt. At March 31, 2009, the balance remaining in AOCL was $3.3 million. The effect of the amortization on interest expense for each of the three month periods ended March 31, 2009 and 2008 was a decrease of $0.1 million.

Natural gas and diesel fuel

We continue a program to mitigate the impact of fluctuations in the price of natural gas and diesel fuel purchases. The intent of the program is to protect our operating profit from adverse price changes by entering into derivative instruments. For those instruments that do not qualify for hedge accounting treatment, any changes in their valuation are recorded directly to the consolidated statement of operations. The amount recorded in the consolidated balance sheet for these instruments was a liability of $0.9 million as of March 31, 2009 and $0.2 million of income in AOCL. The effect of both derivatives on the consolidated statement of operations for the three month period ended March 31, 2009 was operating expense of $1.8 million including losses of $0.5 million resulting from the mark to market valuation for the three month period ended March 31, 2009. The effect on the consolidated statement of operations for the three month period ended March 31, 2008 was operating income of $1.4 million, including gains of $1.3 million resulting from the mark to market valuation for the three month period ended March 31, 2008.

Foreign Exchange Hedge

During the first quarter of 2009, we entered into a foreign exchange hedge to mitigate the impact on operating profit of unfavorable fluctuations in foreign currency exchange rates. This instrument is short term with quarterly maturities and no remaining balance in AOCL. The effect on the consolidated statement of operations for the three months ended March 31, 2009 was expense of $0.2 million included in other, net on the consolidated statement of operations.

Zinc

In 2008, we continued a program to mitigate the impact of fluctuations in the price of zinc purchases. The intent of this program was to protect our operating profit from adverse price changes by entering into derivative instruments. These instruments were short term with monthly maturities and no remaining balances in AOCL. The effect on the consolidated statement of operations for the three months ended March 31, 2008 was operating income of $0.5 million. We have not entered into any new zinc derivative instruments in 2009.

Contractual Obligation and Commercial Commitments

As of March 31, 2009, other commercial commitments related to letters of credit decreased to $91.2 million from $98.8 million as of December 31, 2008. Refer to Note 8 of the Consolidated Financial Statements for changes to our outstanding debt and maturities. Other commercial commitments that relate to operating leases under sale/leaseback transactions were basically unchanged as of March 31, 2009.

Recent Accounting Pronouncements

See Note 1 of the Consolidated Financial Statements for information about recent accounting pronouncements.

Forward-Looking Statements

This quarterly report on Form 10-Q (or statements otherwise made by the Company or on the Company s behalf from time to time in other reports, filings with the Securities and Exchange Commission (SEC), news releases, conferences, World Wide Web postings or otherwise) contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Any statements contained herein that are not historical facts are forward-looking statements and involve risks and uncertainties. These forward-looking statements include expectations, beliefs, plans, objectives, future financial performances, estimates, projections, goals, and forecasts. Trinity uses the words anticipates, believes, estimates, expects, intends, forecasts, may, will, should, expressions to identify these forward-looking statements. Potential factors, which could cause our actual results of operations to differ materially from those in the forward-looking statements, include among others:

market conditions and demand for our business products and services;

the cyclical nature of industries in which we compete;

variations in weather in areas where our construction and energy products are sold, used, or installed;

Table of Contents

disruption of manufacturing capacity due to weather related events;

the timing of introduction of new products;

the timing of customer orders or a breach of customer contracts;

the credit worthiness of customers and their access to capital;

product price changes;

changes in mix of products sold;

the extent of utilization of manufacturing capacity;

availability and costs of steel, component parts, supplies, and other raw materials;

competition and other competitive factors;

changing technologies;

surcharges and other fees added to contracted pricing agreements for raw materials;

interest rates and capital costs;

counter-party risks for financial instruments;

long-term funding of our operations;

taxes;

the stability of the governments and political and business conditions in certain foreign countries, particularly Mexico;

changes in import and export quotas and regulations;

business conditions in foreign economies;

results of litigation; and

legal, regulatory, and environmental issues.

Any forward-looking statement speaks only as of the date on which such statement is made. Trinity undertakes no obligation to update any forward-looking statement to reflect events or circumstances after the date on which such statement is made.

Item 3. ***Quantitative and Qualitative Disclosures About Market Risk***

There has been no material change in our market risks since December 31, 2008. Refer to Item 2, Management s Discussion and Analysis of Financial Condition and Results of Operations, for a discussion of debt-related activity and the impact of hedging activity for the three months ended March 31, 2009.

Item 4. ***Controls and Procedures***

Disclosure Controls and Procedures

The Company maintains controls and procedures designed to ensure that it is able to collect the information it is required to disclose in the reports it files with the SEC, and to process, summarize, and disclose this information within the time periods specified in the rules of the SEC. The Company s Chief Executive and Chief Financial Officers are responsible for establishing and maintaining these procedures and, as required by the rules of the SEC, evaluating their effectiveness. Based on their evaluation of the Company s disclosure controls and procedures which took place as of the end of the period covered by this report, the Chief Executive and Chief Financial Officers believe that these procedures are effective to ensure that the Company is able to collect, process, and disclose the information it is required to disclose in the reports it files with the SEC within the required time periods.

Internal Controls

The Company maintains a system of internal controls designed to provide reasonable assurance that: transactions are executed in accordance with management s general or specific authorization; transactions are recorded as necessary (1) to permit preparation of financial statements in conformity with generally accepted accounting principles, and (2) to maintain accountability for assets; access to assets is permitted only in accordance with management s general or specific authorization; and the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

During the period covered by this report, there have been no changes in the Company s internal controls over financial reporting that have materially affected or are reasonably likely to materially affect the Company s internal controls over financial reporting.

Table of Contents

PART II

Item 1. ***Legal Proceedings***

The information provided in Note 15 of the Consolidated Financial Statements is hereby incorporated into this Part II, Item 1 by reference.

Item 1A. ***Risk Factors***

There have been no material changes from the risk factors previously disclosed in Item 1A of our 2008 Form 10-K.

Item 2. ***Unregistered Sales of Equity Securities and Use of Proceeds***

This table provides information with respect to purchases by the Company of shares of its Common Stock during the quarter ended March 31, 2009:

Period	Number of Shares Purchased(1)	Average Price Paid per Share(1)	Total Number of Shares (or Units) Purchased as Part of Publicly Announced Plans or Programs (2)	Maximum Number (or Approximate Dollar Value) of Shares (or Units) that May Yet Be Purchased Under the Plans or Programs (2)
January 1, 2009 through January 31, 2009	32,567	$ 16.61		$138,851,256
February 1, 2009 through February 28, 2009	813,402	$ 7.77	813,028	$132,536,481
March 1, 2009 through March 31, 2009				$132,536,481
Total	845,969	$ 8.11	813,028	$132,536,481

(1) These columns include the following transactions during the three months ended March 31, 2009: (i) the surrender to the Company of 32,941 shares of common stock to satisfy tax withholding obligations in connection with the vesting of restricted stock

issued to employees and (ii) the purchase of 813,028 shares of common stock on the open market as part of the Company s stock repurchase program.

(2) On December 13, 2007, the Company s Board of Directors authorized a $200 million stock repurchase program of its common stock. This program allows for the repurchase of the Company s common stock through December 31, 2009. During the three months ended March 31, 2009, 813,028 shares were repurchased under this program at a cost of approximately $6.3 million. Since the inception of this program through March 31, 2009, the Company has repurchased a total of

3,532,728 shares at a cost of approximately $67.5 million.

Item 3. ***Defaults Upon Senior Securities***

None.

Item 4. ***Submission of Matters to a Vote of Security Holders***

None.

Item 5. ***Other Information***

None.

Table of Contents

Item 6. ***Exhibits***

Exhibit Number	Description
10.18.7	Sixth Amendment to the Second Amended and Restated Credit Agreement dated March 31, 2009, amending the Second Amended and Restated Credit Agreement dated April 20, 2005 (filed herewith).
31.1	Rule 13a-15(e) and 15d-15(e) Certification of Chief Executive Officer (filed herewith).
31.2	Rule 13a-15(e) and 15d-15(e) Certification of Chief Financial Officer (filed herewith).
32.1	Certification pursuant to 18 U.S.C., Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith).
32.2	Certification pursuant to 18 U.S.C., Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith).

Table of Contents

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

TRINITY INDUSTRIES, INC.
Registrant

By /s/ WILLIAM A. MCWHIRTER II
William A. McWhirter II
Senior Vice President and
Chief Financial Officer
April 30, 2009

Table of Contents

INDEX TO EXHIBITS

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31.2	Rule 13a-15(e) and 15d-15(e) Certification of Chief Financial Officer (filed herewith).
32.1	Certification pursuant to 18 U.S.C., Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith).
32.2	Certification pursuant to 18 U.S.C., Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (filed herewith).