BRIGHT HORIZONS FAMILY SOLUTIONS INC.
Form 424B7
December 12, 2014

Table of Contents

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	**Amount to be Registered**	**Proposed Maximum Offering Price Per Share(1)**	**Proposed Maximum Aggregate Offering Price(1)**	**Amount of Registration Fee(2)**
Common Stock, $0.001 par value per share	8,000,000	$44.91	$359,280,000	$41,749

(1) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(a) of the Securities Act of 1933, as amended. In accordance with Rule 457(c) of the Securities Act of 1933, as amended, the price shown is the average of the high and low selling prices of the Common Stock on December 9, 2014 as reported on the New York Stock Exchange.

(2) Pursuant to Rule 457(p) under the Securities Act, the registrant is applying the remaining $1,366 from the filing fee of $41,637 associated with the unsold securities under its registration statement on Form S-1 (No. 333-192240) initially filed with the Securities and Exchange Commission on November 8, 2013 (the Prior Registration Statement) against the total filing fee of $41,749 that would otherwise be due in connection with this registration statement. The registrant withdrew the Prior Registration Statement pursuant to Rule 477 on February 7, 2014.

Table of Contents

Filed Pursuant to Rule 424(b)(7)
File No. 333-194790

Prospectus Supplement to Prospectus dated March 25, 2014

8,000,000 Shares

Bright Horizons Family Solutions Inc.

Common Stock

The selling stockholders named in this prospectus supplement are offering 8,000,000 shares of our common stock. We will not receive any proceeds from the sale of our common stock by the selling stockholders.

Subject to the completion of this offering, we have agreed to purchase from the underwriter 4,500,000 shares of our common stock that are subject to this offering at a price per share equal to the price per share paid by the underwriter to the selling stockholders in this offering.

Our common stock is listed on the New York Stock Exchange under the symbol BFAM. On December 9, 2014, the last sale price of our common stock as reported on the New York Stock Exchange was $45.59 per share.

Investing in our common stock involves substantial risk. Please read Risk Factors beginning on page S-11.

Neither the Securities and Exchange Commission nor any other regulatory body has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus supplement or the accompanying prospectus. Any representation to the contrary is a criminal offense.

	Per share	Total(2)
Public offering price	$ 45.00	$ 360,000,000
Underwriting discounts and commissions(1)	$ 0.19	$ 665,000
Proceeds to selling stockholders, before expenses	$ 44.81	$ 358,480,000

(1) We have agreed to reimburse the underwriter for certain expenses in connection with this offering. See Underwriting.
(2) The total public offering price does not give effect to the price to be paid by us for the 4,500,000 shares of common stock being acquired by us. No underwriting discounts or commissions are payable in respect of the shares being acquired by us.

The underwriter expects to deliver the shares against payment in New York, New York on or about December 16, 2014.

Barclays

Prospectus supplement dated December 10, 2014

Table of Contents

Table of contents

Prospectus Supplement

Prospectus

We have not authorized anyone to provide any information or to make any representations other than those contained in or incorporated by reference into this prospectus supplement, the accompanying prospectus or in any free writing prospectuses we have prepared. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. This prospectus supplement and the accompanying prospectus are an offer to sell only the shares offered hereby, but only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this prospectus supplement and the accompanying prospectus is current only as of the date of the applicable document.

Table of Contents

ABOUT THIS PROSPECTUS SUPPLEMENT

Unless otherwise indicated or the context otherwise requires, references in this prospectus supplement to the Company, Bright Horizons, we, us and our refer to Bright Horizons Family Solutions Inc. and its consolidated subsidiaries.

This document is in two parts. The first part is this prospectus supplement, which describes the specific terms of this common stock offering and certain other matters relating to us, our business and prospects. The second part, the accompanying prospectus, contains a description of our common stock and certain other information.

The information contained in this prospectus supplement may add, update or change information contained in the accompanying prospectus or in documents that we file or have filed with the Securities and Exchange Commission (SEC). To the extent the information contained in this prospectus supplement differs or varies from the information contained in the accompanying prospectus or documents incorporated by reference filed before the date of this prospectus supplement, the information in this prospectus supplement will supersede such information.

Table of Contents

PROSPECTUS SUPPLEMENT SUMMARY

This summary highlights information appearing elsewhere or incorporated by reference in this prospectus supplement and the accompanying prospectus. This summary is not complete and does not contain all of the information that you should consider before investing in our common stock. You should carefully read the entire prospectus supplement, the accompany prospectus and the financial data and related notes and other information incorporated by reference in this prospectus supplement and the accompanying prospectus before deciding whether to invest in our common stock.

Our Company

We are a leading provider of high-quality child care and early education services as well as other services designed to help employers and families better address the challenges of work and life. We provide services primarily under multi-year contracts with employers who offer child care and other dependent care solutions as part of their employee benefits packages to improve employee engagement, productivity, recruitment and retention. As of September 30, 2014, we had more than 900 client relationships with employers across a diverse array of industries, including more than 130 Fortune 500 companies and more than 80 of Working Mother magazine s 2014 100 Best Companies for Working Mothers. Our service offerings include:

- Center-based full service child care and early education (representing approximately 86% of our revenue in the year ended December 31, 2013);
- Back-up dependent care; and
- Educational advisory services.

We believe we are a provider of choice for each of the solutions we offer. As of September 30, 2014, we operated a total of 876 child care and early education centers across a wide range of customer industries with the capacity to serve approximately 99,900 children in the United States, as well as in the United Kingdom, the Netherlands, Ireland, Canada and India. We have achieved satisfaction ratings of approximately 95% among respondents in our employer and parent satisfaction surveys over each of the past five years and an annual client retention rate of 97% for employer-sponsored centers over each of the past ten years.

We have a more than 25-year track record of providing high-quality services and a history of strong financial performance. From 2001 through 2013, we have achieved year-over-year revenue and adjusted EBITDA growth at a compound annual growth rate of 11% for revenue and 18% for adjusted EBITDA. We also achieved year-over-year net income growth at a compound annual growth rate of 23% from 2001 to 2007. In 2008 through 2010, we incurred net losses due primarily to the additional debt service obligations and amortization expense incurred in connection with our going private transaction. In 2011, 2012 and 2013, our net income grew $14.8 million, $3.7 million and $3.8 million, respectively, over the prior year to $4.8 million, $8.5 million and $12.3 million, respectively. For the nine months ended September 30, 2014, our net income grew $64.4 million to $53.1 million over the prior nine month period. Our strong revenue growth has been driven by additions to our center base through organic center growth and acquisitions, expansions of our service offerings to back-up dependent care and educational advisory services and consistent annual tuition increases. We have also increased our adjusted EBITDA margin in each year from 2001 through 2013. For the years ended December 31, 2012 and 2013 and the nine months ended September 30, 2014, we generated revenue of $1.07 billion, $1.22 billion and $1.02 billion, net income of $8.5 million, $12.3 million, which included a loss on extinguishment of debt of $63.7 million related to our debt refinancing in January 2013, and $53.1 million, adjusted EBITDA of $180.9 million, $208.5 million and $177.1 million and adjusted net income

Table of Contents

of $37.8 million, $78.3 million and $71.5 million, respectively. Additional information regarding adjusted EBITDA and adjusted net income, including a reconciliation of adjusted EBITDA and adjusted net income to net income, is included in the Summary Consolidated Financial and Other Data in this prospectus supplement and the Management s Discussion and Analysis of Financial Condition and Results of Operations incorporated by reference from our Annual Report on Form 10-K for the fiscal year ended December 31, 2013, filed with the SEC on March 25, 2014 and the Management s Discussion and Analysis of Financial Condition and Results of Operations incorporated by reference from our Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2014, filed with the SEC on November 7, 2014.

Incremental Term Loan

On December 9, 2014, we entered into an incremental joinder to our senior credit facility that provides us with an aggregate principal amount of $165 million in additional term loan borrowings. See Risk factors Our substantial indebtedness could adversely affect our financial condition.

Share Repurchase

We intend to purchase from the underwriter 4,500,000 shares of our common stock that are subject to this offering at a price per share equal to the price per share paid by the underwriter to the selling stockholders in this offering. We refer to this repurchase as the share repurchase. The share repurchase is part of our existing $225 million equity repurchase program approved by our board of directors on March 28, 2014. After giving effect to the share repurchase, we will have remaining authorization to repurchase up to approximately $3.4 million of our common stock under the repurchase program. We intend to fund the share repurchase with cash on hand and with borrowings under our incremental term loan facility. The closing of the share repurchase is contingent on the closing of this offering.

The description and the other information in this prospectus supplement regarding the share repurchase is included in this prospectus supplement solely for informational purposes. Nothing in this prospectus supplement should be construed as an offer to sell, or the solicitation of an offer to buy, any of our common stock subject to the share repurchase.

Corporate Information

Our principal executive offices are located at 200 Talcott Avenue South, Watertown, Massachusetts 02472, and our telephone number is (617) 673-8000. Our Internet website address is *www.brighthorizons.com*. The information on, or that can be accessed through, our website is not part of this prospectus supplement or the accompanying prospectus, and you should not rely on any such information in making the decision whether to purchase our common stock.

Table of Contents

The Offering

Common stock offered by the selling stockholders	8,000,000 shares
Use of proceeds	We will not receive any of the proceeds from the sale of shares of common stock by the selling stockholders.
Dividend policy	We do not currently pay cash dividends on our common stock.
Share repurchase	Subject to completion of this offering, we have agreed to repurchase 4,500,000 shares of our common stock that are subject to this offering from the underwriter at a price per share equal to the price paid by the underwriter to the selling stockholders in this offering. The closing of the share repurchase is contingent on the closing of this offering. The share repurchase was approved by a special committee of our Board, which is comprised entirely of disinterested directors.
Principal stockholders	Upon completion of this offering, investment funds affiliated with the Sponsor will no longer beneficially own a majority controlling interest in us. As a result, we will no longer be able to avail ourselves of the controlled company exception under the New York Stock Exchange listing rules.
Risk factors	You should read carefully the information set forth under Risk Factors herein and in the accompanying prospectus for a discussion of factors that you should consider before deciding to invest in our common stock.
New York Stock Exchange Trading symbol	BFAM

Table of Contents

Summary Consolidated Financial and Other Data

The following table sets forth our summary historical and unaudited pro forma consolidated financial data as of the dates and for the periods indicated. The summary historical financial data as of December 31, 2012 and 2013 and for the three years in the period ended December 31, 2013 presented in this table have been derived from our audited consolidated financial statements incorporated by reference in this prospectus supplement and the accompanying prospectus. The summary historical financial data as of September 30, 2014 and for the nine months ended September 30, 2013 and September 30, 2014 have been derived from our unaudited consolidated financial statements incorporated by reference in this prospectus supplement and the accompanying prospectus. The summary consolidated balance sheet data as of September 30, 2013 has been derived from our unaudited consolidated financial statements as of such date, which are not incorporated by reference into this prospectus supplement or the accompanying prospectus. The summary consolidated balance sheet data as of December 31, 2011 has been derived from our audited consolidated financial statements for such year, which are not incorporated by reference in this prospectus supplement or the accompanying prospectus. The unaudited consolidated financial data have been prepared on the same basis as our audited consolidated financial statements, and, in our opinion, all adjustments (consisting only of normal recurring adjustments) necessary for a fair statement of the financial position, results of operations, and cash flows have been included. The results for any interim period are not necessarily indicative of the results that may be expected for a full fiscal year. Historical results are not necessarily indicative of the results to be expected for future periods. The data in the following table related to adjusted EBITDA, adjusted income from operations, adjusted net income, child care and early education centers and licensed capacity are unaudited for all periods presented.

The unaudited pro forma consolidated statement of operations data for the year ended December 31, 2013 and for the nine months ended September 30, 2014 have been derived from our historical financial statements for such year and period, which are incorporated by reference in this prospectus supplement and the accompanying prospectus, after giving effect to the transactions specified in note 1 below.

This summary historical consolidated financial and other data should be read in conjunction with the disclosures set forth under Management s Discussion and Analysis of Financial Condition and Results of Operations and the consolidated financial statements and the related notes thereto, both of which can be found in our Annual Report on Form 10-K for the year ended December 31, 2013 and our Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2014, both of which are incorporated by reference herein.

Table of Contents

	Years Ended December 31,			Nine Months Ended September 30,	
	2011	2012	2013	2013	2014
	(In thousands, except share and operating data)				
Consolidated Statement of Operations Data:					
Revenue	$ 973,701	$ 1,070,938	$ 1,218,776	$ 899,599	$ 1,015,231
Cost of services	766,500	825,168	937,840	689,879	782,107
Gross profit	207,201	245,770	280,936	209,720	233,124
Selling, general and administrative expenses	92,938	123,373	141,827	109,048	101,464
Amortization of intangible assets	27,427	26,933	30,075	22,049	22,068
Income from operations	86,836	95,464	109,034	78,623	109,592
Gains from foreign currency transactions	835	-	-	-	-
Loss on extinguishment of debt	-	-	(63,682)	(63,682)	-
Interest income	824	152	85	76	74
Interest expense	(82,908)	(83,864)	(40,626)	(31,463)	(25,810)
Net interest expense and other	(81,249)	(83,712)	(104,223)	(95,069)	(25,736)
Income (loss) before income taxes	5,587	11,752	4,811	(16,446)	83,856
Income tax (expense) benefit	(825)	(3,243)	7,533	5,114	(30,715)
Net income (loss)	4,762	8,509	12,344	(11,332)	53,141
Net income (loss) attributable to non-controlling interest	3	347	(279)	(212)	-
Net income (loss) attributable to Bright Horizons Family Solutions Inc.	$ 4,759	$ 8,162	$ 12,623	$ (11,120)	$ 53,141
Accretion of Class L preference	71,568	79,211	-	-	-
Accretion of Class L preference for vested options	1,274	5,436	-	-	-
Net (loss) income available to common shareholders	$ (68,083)	$ (76,485)	$ 12,623	$ (11,120)	$ 53,141
Allocation of net income (loss) to common stockholders basic and diluted:					
Class L	$ 71,568	$ 79,211	$ -	$ -	$ -
Common	$ (68,083)	$ (76,485)	$ 12,623	$ (11,120)	$ 52,936
Earnings (loss) per share:					
Class L basic and diluted	$ 54.33	$ 59.73	$ -	$ -	$ -
Common basic	$ (11.32)	$ (12.62)	$ 0.20	$ (0.18)	$ 0.81
Common diluted	$ (11.32)	$ (12.62)	$ 0.20	$ (0.18)	$ 0.79
Weighted average shares outstanding:					
Class L basic and diluted	1,317,273	1,326,206	-	-	-
Common basic	6,016,733	6,058,512	62,659,264	61,815,607	65,755,911
Common diluted	6,016,733	6,058,512	64,509,036	61,815,607	67,433,972
Pro Forma Consolidated Statements of Operations Data: (1)					
Pro forma net income			$ 59,813		$ 49,510
Pro forma earnings per share:					
Basic			$ 0.92		$ 0.75
Diluted			$ 0.90		$ 0.73
Pro forma weighted average shares outstanding					
Basic			64,823,660		65,755,911
Diluted			66,673,432		67,433,972
Consolidated Balance Sheet Data (at period end):					
Total cash and cash equivalents	$ 30,448	$ 34,109	$ 29,585	$ 35,010	$ 109,008
Total assets	1,771,164	1,916,108	7		

Scenario Analysis and Examples at Maturity

The following table and hypothetical examples below illustrate the Payment at Maturity per $10.00 Face Amount of Securities for a hypothetical range of performances for the Index from -100.00% to +100.00%, assume an Initial Level of 2,000.00 and a Trigger Level of 1,200.00 (60.00% of the hypothetical Initial Level) and reflect the Participation Rate of 111.00%. The actual Initial Level and Trigger Level are set forth in the “Final Terms” and on the cover of this pricing supplement .The hypothetical Payment at Maturity examples set forth below are for illustrative purposes only and may not be the actual returns applicable to a purchaser of the Securities. The actual Payment at Maturity will be determined based on the Final Level on the Final Valuation Date. You should consider carefully whether the Securities are suitable to your investment goals. The numbers appearing in the table and in the examples below may have been rounded for ease of analysis.

Final Level	Index Return (%)	Payment at Maturity ($)	Return on Securities (%)
4,000.00	100.00%	$21.10	111.00%
3,800.00	90.00%	$19.99	99.90%
3,600.00	80.00%	$18.88	88.80%
3,400.00	70.00%	$17.77	77.70%
3,200.00	60.00%	$16.66	66.60%
3,000.00	50.00%	$15.55	55.50%
2,800.00	40.00%	$14.44	44.40%
2,600.00	30.00%	$13.33	33.30%
2,400.00	20.00%	$12.22	22.20%
2,200.00	10.00%	$11.11	11.10%
2,000.00	0.00%	$10.00	0.00%
1,800.00	-10.00%	$10.00	0.00%
1,600.00	-20.00%	$10.00	0.00%
1,400.00	-30.00%	$10.00	0.00%
1,200.00	-40.00%	$10.00	0.00%
1,000.00	-50.00%	$5.00	-50.00%
800.00	-60.00%	$4.00	-60.00%
600.00	-70.00%	$3.00	-70.00%
400.00	-80.00%	$2.00	-80.00%
200.00	-90.00%	$1.00	-90.00%
0.00	-100.00%	$0.00	-100.00%

Example 1 — The Final Level of 2,200.00 is greater than the Initial Level of 2,000.00, resulting in an Index Return of 10.00%. Because the Index Return is 10.00%, Deutsche Bank AG will pay you a Payment at Maturity of $11.11 per $10.00 Face Amount of Securities (a return of 11.10%), calculated as follows:

$10.00 + ($10.00 x Index Return x Participation Rate)
$10.00 + ($10.00 x 10.00% x 111.00%) = $11.11

Example 2 — The Final Level is equal to the Initial Level of 2,000.00, resulting in an Index Return of zero. Because the Index Return is zero, Deutsche Bank AG will pay you a Payment at Maturity of $10.00 per $10.00 Face Amount of Securities (a return of 0.00%).

Example 3 — The Final Level of 1,800.00 is less than the Initial Level of 2,000.00, resulting in an Index Return of -10.00%. Because the Index Return is negative and the Final Level is greater than the Trigger Level, Deutsche Bank AG will pay you a Payment at Maturity of $10.00 per $10.00 Face Amount of Securities (a return of 0.00%).

Example 4 — The Final Level of 600.00 is less than the Initial Level of 2,000.00, resulting in an Index Return of -70.00%. Because the Index Return is negative and the Final Level is less than the Trigger Level, Deutsche Bank AG will pay you a Payment at Maturity of $3.00 per $10.00 Face Amount of Securities (a return of -70.00%), calculated as follows:

$$\$10.00 + (\$10.00 \text{ x Index Return})$$
$$\$10.00 + (\$10.00 \text{ x } -70.00\%) = \$3.00$$

If the Final Level is less than the Trigger Level, you will be fully exposed to any negative Index Return, resulting in a loss on the Face Amount that is proportionate to the percentage decline in the level of the Index. In this circumstance, you will lose a significant portion or all of your initial investment at maturity. Any payment on the Securities, including any repayment of the Face Amount at maturity, is subject to the creditworthiness of the Issuer and if the Issuer were to default on its payment obligations, you could lose your entire investment.

The S&P 500® Index

The S&P 500® Index is intended to provide a performance benchmark for the U.S. equity markets. The calculation of the level of the S&P 500® Index is based on the relative value of the aggregate market value of the shares of 500 companies as of a particular time as compared to the aggregate average market value of the shares of 500 similar companies during the base period of the years 1941 through 1943. On March 11, 2014, the sponsor of the S&P 500® Index announced that the sponsor will start including, on a case by case basis, multiple share class lines in the S&P 500® Index. This will result in the S&P 500® Index including more than 500 component shares while continuing to include only 500 component companies. The sponsor expects to revise the S&P 500® Index's methodology to fully reflect a multiple share class structure by September 2015. This is just a summary of the S&P 500® Index. For more information on the S&P 500® Index, including information concerning its composition, calculation methodology and adjustment policy, please see the section entitled "The S&P Dow Jones Indices – The S&P 500® Index" in the accompanying underlying supplement No. 1 dated October 1, 2012.

The graph below illustrates the performance of the S&P 500® Index from January 2, 2008 to October 28, 2014. The closing level of the S&P 500® Index on October 28, 2014 was 1,985.05. The dotted line represents the Trigger Level of 1,191.03, equal to 60.00% of 1,985.05, which was the closing level of the S&P 500® Index on October 28, 2014. We obtained the historical closing levels of the S&P 500® Index from Bloomberg, and we have not participated in the preparation of, or verified, such information. The historical closing levels of the S&P 500® Index should not be taken as an indication of future performance and no assurance can be given as to the Final Level or any future closing level of the Index. We cannot give you assurance that the performance of the Index will result in a positive return on your initial investment and you could lose a significant portion or all of your initial investment at maturity.

What Are the Tax Consequences of an Investment in the Securities?

In the opinion of our special tax counsel, Davis Polk & Wardwell LLP, which is based on prevailing market conditions, it is more likely than not that the Securities will be treated for U.S. federal income tax purposes as prepaid financial contracts that are not debt. Generally, if this treatment is respected, (i) you should not recognize taxable income or loss prior to the taxable disposition of your Securities (including at maturity) and (ii) the gain or loss on your Securities should be capital gain or loss and should be long-term capital gain or loss if you have held the Securities for more than one year. The IRS or a court might not agree with this treatment, however, in which case the timing and character of income or loss on your Securities could be materially and adversely affected.

In 2007, the U.S. Treasury Department and the IRS released a notice requesting comments on various issues regarding the U.S. federal income tax treatment of "prepaid forward contracts" and similar instruments. The notice focuses in particular on whether beneficial owners of these instruments should be required to accrue income over the term of their investment. It also asks for comments on a number of related topics, including the character of income or loss with respect to these instruments; the relevance of factors such as the nature of the underlying property to which the instruments are linked; the degree, if any, to which income (including any mandated accruals) realized by non-U.S. persons should be subject to withholding tax; and whether these instruments are or should be subject to the "constructive ownership" regime, which very generally can operate to recharacterize certain long-term capital gain as ordinary income and impose a notional interest charge. While the notice requests comments on appropriate transition rules and effective dates, any Treasury regulations or other guidance promulgated after consideration of these issues could materially and adversely affect the tax consequences of an investment in the Securities, possibly with retroactive effect.

You should review carefully the section of the accompanying product supplement entitled "U.S. Federal Income Tax Consequences." The preceding discussion, when read in combination with that section, constitutes the full opinion of our special tax counsel regarding the material U.S. federal income tax consequences of owning and disposing of the Securities.

Under current law, the United Kingdom will not impose withholding tax on payments made with respect to the Securities.

For a discussion of certain German tax considerations relating to the Securities, you should refer to the section in the accompanying prospectus supplement entitled "Taxation by Germany of Non-Resident Holders."

You should consult your tax adviser regarding the U.S. federal tax consequences of an investment in the Securities (including possible alternative treatments and the issues presented by the 2007 notice), as well as tax consequences arising under the laws of any state, local or non-U.S. taxing jurisdiction.

Supplemental Plan of Distribution (Conflicts of Interest)

UBS Financial Services Inc. and its affiliates, and Deutsche Bank Securities Inc., acting as agents for Deutsche Bank AG, will receive or allow as a concession or reallowance to other dealers discounts and commissions of $0.35 per $10.00 Face Amount of Securities. We have agreed that UBS Financial Services Inc. may sell all or part of the Securities that it purchases from us to investors at the price to public indicated on the cover of this pricing supplement or to its affiliates at the price to public indicated on the cover of this pricing supplement minus a concession not to exceed the discounts and commissions indicated on the cover. DBSI, one of the agents for this offering, is our affiliate. Because DBSI is both our affiliate and a member of the Financial Industry Regulatory Authority, Inc. ("FINRA"), the underwriting arrangement for this offering must comply with the requirements of FINRA Rule 5121 regarding a FINRA member firm's distribution of the securities of an affiliate and related conflicts of interest. In accordance with FINRA Rule 5121, DBSI may not make sales in this offering of the Securities to any of its discretionary accounts without the prior written approval of the customer. See "Underwriting (Conflicts of Interest)" in the accompanying product supplement.

Validity of the Securities

In the opinion of Davis Polk & Wardwell LLP, as special United States products counsel to the Issuer, when the Securities offered by this pricing supplement have been executed and issued by the Issuer and authenticated by the authenticating agent, acting on behalf of the trustee, pursuant to the senior indenture, and delivered against payment as contemplated herein, such Securities will be valid and binding obligations of the Issuer, enforceable in accordance with their terms, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, concepts of reasonableness and equitable principles of general applicability (including, without limitation, concepts of good faith, fair dealing and the lack of bad faith), provided that such counsel expresses no opinion as to the effect of fraudulent conveyance, fraudulent transfer or similar provision of applicable law on the conclusions expressed above. This opinion is given as of the date hereof and is limited to the laws of the State of New York. Insofar as this opinion involves matters governed by German law, Davis Polk & Wardwell LLP has relied, without independent investigation, on the opinion of Group Legal Services of Deutsche Bank AG, dated as of September 28, 2012, filed as an exhibit to the letter of Davis Polk & Wardwell LLP, and this opinion is subject to the same assumptions, qualifications and limitations with respect to such matters as are contained in such opinion of Group Legal Services of Deutsche Bank AG. In addition, this opinion is subject to customary assumptions about the trustee's authorization, execution and delivery of the senior indenture and the authentication of the Securities by the authenticating agent and the validity, binding nature and enforceability of the senior indenture with respect to the trustee, all as stated in the letter of Davis Polk & Wardwell LLP dated September 28, 2012, which has been filed as an exhibit to the registration statement referred to above.