

Gogo Inc.  
Form S-3ASR  
April 12, 2016  
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As filed with the Securities and Exchange Commission on April 12, 2016

Registration No. 333-

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

**Form S-3**  
**REGISTRATION STATEMENT**  
***UNDER***  
***THE SECURITIES ACT OF 1933***

**Gogo Inc.**  
**(Exact name of registrant as specified in its charter)**

**Delaware**  
**(State or other jurisdiction of**  
**incorporation or organization)**

**27-1650905**  
**(I.R.S. Employer**  
**Identification Number)**

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**111 North Canal St., Suite 1500**

**Chicago, IL 60606**

**(312) 517-5000**

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

**Marguerite M. Elias**

**Executive Vice President and General Counsel**

**111 North Canal St., Suite 1500**

**Chicago, IL 60606**

**(312) 517-5000**

**(Address, including zip code, and telephone number, including area code, of agent for service)**

*Copies to:*

**Matthew E. Kaplan**

**Debevoise & Plimpton LLP**

**919 Third Avenue**

**New York, NY 10022**

**(212) 909-6000**

**APPROXIMATE DATE OF COMMENCEMENT OF PROPOSED SALE TO THE PUBLIC: From time to time after the effective date of this registration statement.**

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

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

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

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

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

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

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

**Large accelerated filer**  **Accelerated filer**   
**Non-accelerated filer**  (Do not check if a smaller reporting company) **Smaller reporting company**

**CALCULATION OF REGISTRATION FEE**

<b>Title of each class of securities to be registered</b>	<b>Amount to be registered/ Proposed maximum offering price per unit/ Proposed maximum aggregate offering price/ Amount of registration fee(1)</b>
Debt Securities	
Common Stock, par value \$0.0001 per share	
Preferred Stock, par value \$0.01 per share	

Depositary Shares  
Warrants  
Stock Purchase Contracts  
Stock Purchase Units

- (1) An unspecified aggregate initial offering price and number or amount of the securities of each identified class is being registered as may from time to time be sold at unspecified prices. Separate consideration may or may not be received for securities that are issuable on exercise, conversion or exchange of other securities or that are issued in units or represented by depositary shares. The registrant is relying on Rule 456(b) and Rule 457(r) under the Securities Act of 1933, as amended (the Securities Act ), to defer payment of all of the registration fee.

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**PROSPECTUS**

**GOGO INC.**

**Debt Securities**

**Common Stock**

**Preferred Stock**

**Depositary Shares**

**Warrants**

**Purchase Contracts**

**Purchase Units**

By this prospectus, we or certain of our stockholders (the selling stockholders ) may offer and sell, from time to time, our common stock and we may offer and sell, from time to time, the other securities described in this prospectus separately or together in any combination.

We will provide specific terms of any securities to be offered in a supplement to this prospectus. You should read this prospectus and any applicable prospectus supplement carefully before you invest. A supplement may also change, add to, update, supplement or clarify information contained in this prospectus.

To the extent that any selling stockholder resells any securities, the selling stockholder may be required to provide you with the prospectus and a prospectus supplement identifying and containing information about the selling stockholder and the terms of the securities being offered.

The securities to be offered and sold by this prospectus may be offered and sold to or through one or more agents, underwriters, dealers or other third parties or directly to one or more purchasers, on a continuous or delayed basis.

Any selling stockholder that is an affiliate of Gogo Inc. may be deemed to be an underwriter within the meaning of the Securities Act of 1933, as amended, or the Securities Act, and, as a result, may be deemed to be offering securities, indirectly, on our behalf. We will not receive any proceeds from any sales of securities by a selling stockholder.

You should carefully read this prospectus and any accompanying prospectus supplement, together with the documents we incorporate by reference, before you invest in our securities.

**Investing in our securities involves risks. See the Risk Factors on page 8 of this prospectus, any similar section contained in any accompanying prospectus supplement and in our Securities and Exchange Commission filings that are incorporated by reference into this prospectus concerning factors you should consider before investing in our securities.**

Our common stock is listed on NASDAQ under the symbol GOGO. If we decide to list or seek a quotation for any other securities, the prospectus supplement relating to those securities will disclose the exchange or market on which those securities will be listed or quoted.

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

**The date of this prospectus is April 12, 2016.**

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**ABOUT THIS PROSPECTUS**

This prospectus is part of an automatic shelf registration statement that we filed with the U.S. Securities and Exchange Commission, or the SEC, as a well-known seasoned issuer as defined in Rule 405 under the Securities Act, using a shelf registration process. By using a shelf registration statement, we and/or the selling stockholders to be named in a supplement to this prospectus may, from time to time, sell any combination of the securities described in this prospectus in one or more offerings from time to time. This prospectus provides a general description of the securities we and/or the selling stockholders may offer. Each time we and/or the selling stockholders sell securities under this shelf registration statement, a prospectus supplement to this prospectus will be provided that will contain specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus with respect to that offering. If there is any inconsistency between the information in this prospectus and the applicable prospectus supplement, you should rely on the prospectus supplement (including any information incorporated by reference therein). Before purchasing any securities, you should carefully read both this prospectus and the applicable prospectus supplement, together with the additional information described under the heading **Where You Can Find More Information; Incorporation by Reference**.

We are responsible for the information contained or incorporated by reference in this prospectus, any accompanying prospectus supplement and in any related free-writing prospectus we prepare or authorize. Neither we nor the selling stockholders have authorized anyone to give you any other information, and we and the selling stockholders take no responsibility for any other information that others may give you. We and the selling stockholders will not make an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus and the applicable prospectus supplement to this prospectus is accurate as of the date on its respective cover, and that any information incorporated by reference is accurate only as of the date of the document incorporated by reference, unless we indicate otherwise. Our business, financial condition, results of operations and prospects may have changed since those dates.

Unless the context otherwise indicates or requires, references to **we**, **us**, **our**, **Gogo** and the **Company** refer to Gogo Inc. and its directly and indirectly owned subsidiaries as a combined entity, except where otherwise stated or where it is clear that the terms mean only Gogo Inc. exclusive of its subsidiaries. Unless otherwise indicated, information contained in this prospectus is as of December 31, 2015. Unless the context otherwise indicates or requires, the term **CA-NA** refers to our commercial aviation North America segment and the term **CA-ROW** refers to our commercial aviation rest of world segment. We have made rounding adjustments to reach some of the figures included in this prospectus and, unless otherwise indicated, percentages presented in this prospectus are approximate.

**CERTAIN TRADEMARKS**

Gogo, Gogo Biz and Gogo Vision, the Gogo logo, and other trademarks or service marks of Gogo Inc. and its subsidiaries appearing in this prospectus, are the property of Gogo Inc. or one of its subsidiaries. Solely for convenience, our trademarks and tradenames referred to in this prospectus may appear without the ® or symbols, but such references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights or the right of the applicable licensor to these trademarks and tradenames. Trade names, trademarks and service marks of other companies appearing in this prospectus are the property of their respective owners. We do not intend our use or display of other companies' trade names, trademarks or service marks to imply relationships with, or endorsements of us by, these other companies.



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**WHERE YOU CAN FIND MORE INFORMATION; INCORPORATION BY REFERENCE**

**Available Information**

We file reports, proxy statements and other information with the SEC. Information filed with the SEC by us can be inspected and copied at the Public Reference Room maintained by the SEC at 100 F Street, N.E., Washington, D.C. 20549. You may also obtain copies of this information by mail from the Public Reference Room of the SEC at prescribed rates. Further information on the operation of the SEC's Public Reference Room in Washington, D.C. can be obtained by calling the SEC at 1-800-SEC-0330. The SEC also maintains a website that contains reports, proxy and information statements and other information about issuers, such as us, who file electronically with the SEC. The address of that website is <http://www.sec.gov>.

These periodic and current reports and all amendments to those reports are also available free of charge on the investor relations page of our website at <http://ir.gogoair.com>. We have included our website throughout this filing as textual references only. The information on our website, however, is not, and should not be deemed to be, a part of this prospectus.

This prospectus and any prospectus supplement are part of a registration statement that we filed with the SEC and do not contain all of the information in the registration statement. The full registration statement may be obtained from the SEC or us, as provided below. Forms of the documents establishing the terms of the offered securities are or may be filed as exhibits to the registration statement. Statements in this prospectus or any prospectus supplement about these documents are summaries and each statement is qualified in all respects by reference to the document to which it refers. You should refer to the actual documents for a more complete description of the relevant matters. You may inspect a copy of the registration statement at the SEC's Public Reference Room in Washington, D.C. or through the SEC's website, as provided above.

Our common stock is quoted on The NASDAQ Global Select Market under the symbol GOGO, and our SEC filings can also be read at the offices of The NASDAQ Stock Market at One Liberty Plaza, 165 Broadway, New York, New York 10006.

**Incorporation by Reference**

The SEC's rules allow us to incorporate by reference information into this prospectus, which means that we can disclose important information to you by referring you to another document filed separately with the SEC. The information incorporated by reference is deemed to be part of this prospectus, and subsequent information that we file with the SEC will automatically update and supersede that information. Any statement contained in a previously filed document incorporated by reference will be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained in this prospectus modifies or replaces that statement.

We incorporate by reference our documents listed below and any future filings made by us with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, which we refer to as the Exchange Act in this prospectus, between the date of this prospectus and the termination of the offering of the securities described in this prospectus (other than information that is furnished and not deemed filed under the Exchange Act).

This prospectus and any accompanying prospectus supplement incorporate by reference the documents set forth below that have previously been filed with the SEC:

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Our Annual Report on Form 10-K for the year ended December 31, 2015, filed with the SEC on February 25, 2016;

Our Definitive Proxy Statement on Schedule 14A, filed with the SEC on April 28, 2015;

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Our Current Reports on Form 8-K filed with the SEC on February 4, 2016, February 16, 2016, February 17, 2016, February 22, 2016, February 24, 2016, February 25, 2016, February 29, 2016 and March 10, 2016 (as amended by the Form 8-K/A filed with the SEC on March 11, 2016); and

The description of our common stock contained in our Registration Statement on Form 8-A, filed with the SEC on June 20, 2013, and any amendment or report filed with the SEC for the purpose of updating such description.

All reports and other documents we subsequently file pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act prior to the termination of the offering of the securities described in this prospectus, but excluding any information furnished to, rather than filed with, the SEC, will also be incorporated by reference into this prospectus and deemed to be part of this prospectus from the date of the filing of such reports and documents.

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

Gogo Inc.

Attention: Corporate Secretary

111 North Canal Street

Chicago, IL, 60606

Telephone: (312) 517-5000

Exhibits to the filings will not be sent, however, unless those exhibits have specifically been incorporated by reference in this prospectus and any accompanying prospectus supplement.

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**CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS**

Certain statements contained or incorporated in this prospectus and any accompanying prospectus supplement and any document incorporated by reference herein or therein include forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act. These forward-looking statements include, without limitation, statements regarding our business outlook, industry, business strategy, plans, goals and expectations concerning our market position, international expansion, future technologies, future operations, margins, profitability, future efficiencies, capital expenditures, liquidity and capital resources and other financial and operating information. In some cases, you can identify forward-looking statements by terminology such as anticipate, assume, believe, budget, continue, could, estimate, expect, intend, may, plan, potential, predict, project, the negative of these terms or comparable terminology. Forward-looking statements reflect our current expectations regarding future events, results or outcomes. These expectations may or may not be realized. Although we believe the expectations reflected in the forward-looking statements are reasonable, we can give you no assurance these expectations will prove to have been correct. Some of these expectations may be based upon assumptions, data or judgments that prove to be incorrect. Actual events, results and outcomes may differ materially from our expectations due to a variety of known and unknown risks, uncertainties and other factors. Although it is not possible to identify all of these risks and factors, they include, among others, the following:

the loss of, or failure to realize benefits from, agreements with our airline partners or any failure to renew any existing agreements upon expiration or termination;

the failure to maintain airline satisfaction with our equipment or the Gogo service;

any inability to timely and efficiently roll out our 2Ku service or other components of our technology roadmap for any reason, including regulatory delays or failures or delays on the part of any of our suppliers, some of whom are single source, or the failure by our airline partners to roll out equipment upgrades, new services or adopt new technologies in order to support increased network capacity demands;

the loss of relationships with original equipment manufacturers or dealers;

our ability to develop or purchase ATG and satellite network capacity sufficient to accommodate current and expected growth in passenger demand in North America and internationally as we expand;

our reliance on third-party suppliers for services and equipment we use to provide satellite telecommunications and connectivity services to commercial airline passengers and business aviation customers;

unfavorable economic conditions in the airline industry and/or the economy as a whole;

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our ability to expand our international or domestic operations, including our ability to grow our business with current and potential future airline partners;

an inability to compete effectively with other current or future providers of in-flight connectivity services and other products and services that we offer, including on the basis of price, service performance and line-fit availability;

our reliance on third-party satellite service providers and equipment and other suppliers, including single-source providers and suppliers;

our ability to successfully develop and monetize new products and services such as Gogo Vision, Gogo Text & Talk and Gogo TV, including those that were recently released, are currently being offered on a limited or trial basis, or are in various stages of development;

our ability to deliver products and services, including newly developed products and services, on schedules consistent with our contractual commitments to customers;

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the effects, if any, on our business of past or future airline mergers, including the merger of American Airlines and U.S. Airways;

the failure of our equipment or material defects or errors in our software resulting in recalls or substantial warranty claims;

a future act or threat of terrorism, cyber-security attack or other events that could result in a prohibition of the use of Wi-Fi enabled devices on aircraft;

a revocation of, or reduction in, our right to use licensed spectrum, the availability of other air-to-ground spectrum to a competitor or the repurposing by a competitor of other spectrum for air-to-ground use;

our use of open-source software and licenses;

the effects of service interruptions or delays, technology failures and equipment failures or malfunctions arising from defects or errors in our software or defects in or damage to our equipment;

the limited operating history of our CA-NA and CA-ROW segments;

increases in our projected capital expenditures due to, among other things, unexpected costs incurred in connection with the roll-out of our technology roadmap or our international expansion;

compliance with U.S. and foreign government regulations and standards, including those related to regulation of the internet, including e-commerce or online video distribution changes, and the installation and operation of satellite equipment and our ability to obtain and maintain all necessary regulatory approvals to install and operate our equipment in the United States and foreign jurisdictions;

our, or our technology suppliers', inability to effectively innovate;

costs associated with defending pending or future intellectual property infringement and other litigation or claims;

our ability to protect our intellectual property;

breaches of the security of our information technology network, resulting in unauthorized access to our customers' credit card information or other personal information;

any negative outcome or effects of pending or future litigation;

limitations and restrictions in the agreements governing our indebtedness and our ability to service our indebtedness;

our ability to obtain additional financing on acceptable terms or at all;

fluctuations in our operating results;

our ability to attract and retain customers and to capitalize on revenue from our platform;

the demand for and market acceptance of our products and services;

changes or developments in the regulations that apply to us, our business and our industry;

the attraction and retention of qualified employees, including key personnel;

the effectiveness of our marketing and advertising and our ability to maintain and enhance our brands;

our ability to manage our growth in a cost-effective manner and integrate and manage acquisitions;

compliance with anti-corruption laws and regulations in the jurisdictions in which we operate, including the Foreign Corrupt Practices Act and the (U.K.) Bribery Act 2010;

restrictions on the ability of U.S. companies to do business in foreign countries, including, among others, restrictions imposed by the U.S. Office of Foreign Assets Control;

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difficulties in collecting accounts receivable; and

other risks and uncertainties.

Important factors that could cause actual results to differ materially from our expectations are disclosed under Risk Factors in this prospectus and any accompanying prospectus supplement, as well as the documents we incorporate by reference. Any one of these factors or a combination of these factors could materially affect our financial condition or future results of operations and could influence whether any forward-looking statements contained in this prospectus or any prospectus supplement ultimately prove to be accurate. Our forward-looking statements are not guarantees of future performance, and you should not place undue reliance on them. All forward-looking statements speak only as of the date made and we undertake no obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise.



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**WHO WE ARE**

Our mission is to advance aviation by connecting every aircraft with the most trusted communications services on and above our planet. We believe that aircraft connectivity is transforming the global aviation industry and that we are well-positioned to lead this transformation.

We are the leading provider of in-flight connectivity and wireless entertainment solutions for the global aviation industry. We believe we deliver the most reliable communications services for global aviation, enabling our customers to operate with confidence and efficiency in connected aircraft. Our commercial aviation business, which operates through our CA-NA and CA-ROW segments, provides connectivity-based solutions that enable our airline partners to differentiate their service offerings, increase passenger satisfaction, unlock new revenue streams and achieve operational efficiencies. Our Gogo Business Aviation segment offers a broad suite of in-flight Internet connectivity and other voice and data communications products and services to the business aviation market.

Our full fleet solutions enable our airline partners and business aircraft owners and operators to benefit from connected aircraft by delivering in-flight connectivity-based services to passengers and connecting the aircraft and its crew with ground-based operations. We currently provide services on approximately 9,600 aircraft, which represents more than 20% of the world's total commercial and business jet aircraft. Our scale position supports global operational execution, as well as a research and development program that enables us to pioneer groundbreaking technologies for the global aviation industry.

Our principal executive offices are located at 111 N. Canal St., Suite 1500, Chicago, IL 60606. Our telephone number is (312) 517-5000.

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**RISK FACTORS**

Investment in our securities involves risks. You should carefully consider the risk factors incorporated by reference to our most recent Annual Report on Form 10-K and any subsequent Quarterly Reports on Form 10-Q or Current Reports on Form 8-K we file after the date of this prospectus, and all other information contained or incorporated by reference into this prospectus, as updated by our subsequent filings under the Exchange Act, as well as the risk factors and other information contained in the applicable prospectus supplement before acquiring any of such securities. The occurrence of any of these risks might cause you to lose all or part of your investment in the offered securities. See **Where You Can Find More Information; Incorporation by Reference.**

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**USE OF PROCEEDS**

Unless otherwise indicated in an applicable prospectus supplement, we currently intend to use the net proceeds from the sale by the Company of the offered securities for one or more of the following purposes:

to repay the outstanding indebtedness of our amended senior secured credit facility (the Amended and Restated Senior Term Facility ). As of December 31, 2015, the Amended and Restated Senior Term Facility had outstanding indebtedness of approximately \$301.5 million, consisting of two tranches of loans: one for an aggregate principal amount of \$227.8 million (the Tranche B-1 Loans ), and another for an aggregate additional principal amount of \$73.7 million (the Tranche B-2 Loans and, together with the Tranche B-1 Loans, the loans ). The interest rates applicable to the Tranche B-1 Loans are based on a fluctuating rate of interest measured by reference, at the option of Gogo Business Aviation LLC, f/k/a Aircell Business Aviation Services LLC ( GBA ), to either (i) a London inter-bank offered rate adjusted for statutory reserve requirements ( LIBOR ) (subject to a 1.50% floor) plus an applicable margin of 9.75% per annum, or (ii) an alternate base rate ( Base Rate ) (subject to a 2.50% floor) plus an applicable margin of 8.75% per annum. The interest rates applicable to the Tranche B-2 Loans are based on a fluctuating rate of interest measured by reference, at GBA s option, to either (i) LIBOR (subject to a 1.00% floor) plus an applicable margin of 6.50% per annum, or (ii) a Base Rate (subject to a 2.00% floor) plus an applicable margin of 5.50% per annum. As of December 31, 2015, all loans were outstanding as one-month LIBOR loans, and the interest rates on the Tranche B-1 Loans and the Tranche B-2 Loans were 11.25% and 7.50%, respectively. As of December 31, 2015, accrued and unpaid interest on our borrowings under our Amended and Restated Senior Term Facility was approximately \$0.1 million. The Amended and Restated Senior Term Facility matures on March 21, 2018;

working capital and other general corporate purposes, including potential costs associated with the launch and commercial rollout of our next generation technology solutions; and

the acquisition of additional spectrum should it become available

We may provide additional information on the use of the net proceeds from the sale of securities in an applicable prospectus supplement.

We will not receive any proceeds from the sale of common stock by any selling stockholders.

**Table of Contents****RATIO OF EARNINGS TO FIXED CHARGES AND PREFERENCE SECURITY DIVIDENDS**

The table below sets forth our ratio of earnings to fixed charges and preference security dividends for the periods indicated, computed on a consolidated basis.

	<b>Fiscal Year Ended</b>				
	<b>December 31,</b>				
	<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>2012</b>	<b>2011</b>
<b>Ratio of earnings to fixed charges(1)(2)</b>					<b>18.83</b>
<b>Ratio of earnings to fixed charges and preference security dividends(1)(3)(4)</b>					<b>0.61</b>

- (1) Earnings consist of our consolidated net income (loss) before income taxes, reduced by the non-controlling interest in the pre-tax income of a consolidated subsidiary that did not incur fixed charges, plus fixed charges. Fixed charges consist of interest expense (including only interest expense on third party indebtedness and excluding interest expense accrued on uncertain tax positions), amortization of debt discounts and capitalized expenses and certain other non-capitalized fees related to indebtedness, as well as a portion of rental expense deemed by us to be representative of the interest factor within rental payments under operating leases.
- (2) Earnings for the years ended December 31, 2015, 2014, 2013 and 2012 were insufficient to cover fixed charges by \$107.8 million, \$85.2 million, \$111.7 million and \$32.0 million, respectively.
- (3) Preference security dividends represent the estimated amount of pre-tax earnings necessary to pay dividends on our previously outstanding Class A and Class B Senior Convertible Preferred Stock, including accretion in the carrying value of redeemable preferred stock. Dividends on our Class A and Class B Senior Convertible Preferred Stock were cumulative. Our Class A and Class B Senior Convertible Preferred Stock was converted into common stock on June 21, 2013 in connection with our initial public offering. As such, there were no shares outstanding of our Class A and Class B Senior Convertible Preferred Stock as of December 31, 2013, December 31, 2014 and December 31, 2015. No cash dividends had been declared or paid on our Class A or Class B Senior Convertible Preferred Stock.
- (4) As of the date of this prospectus, and during the years ended December 31, 2015 and 2014, we had no preferred stock outstanding. Consequently, during those periods, our ratio of earnings to fixed charges and preference security dividends would be identical to our ratio of earnings to fixed charges. Earnings for the years ended December 31, 2013, 2012 and 2011 were insufficient to cover fixed charges and preference security dividends by \$146.3 million, \$94.9 million and \$16.8 million, respectively.

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**DESCRIPTION OF CAPITAL STOCK**

Our authorized capital stock consists of 500,000,000 shares of common stock, par value \$0.0001 per share, and 100,000,000 shares of preferred stock, par value \$0.01 per share. As of February 17, 2016, 85,913,206 shares of common stock were outstanding and no shares of preferred stock were outstanding.

The following descriptions of our capital stock and provisions of our third amended and restated certificate of incorporation, which we refer to as our amended and restated certificate of incorporation, and amended and restated bylaws, which we refer to as our amended and restated bylaws, are summaries of their material terms and provisions. You should keep in mind, however, that it is our amended and restated certificate of incorporation and our amended and restated bylaws, and the Delaware General Corporation Law, and not this summary, which define your rights as a security holder. There may be other provisions in these documents which are also important to you. You should read these documents for a full description of the terms of our capital stock. This description is summarized from, and qualified in its entirety by reference to, our amended and restated certificate of incorporation and amended and restated bylaws, which have been publicly filed with the SEC. See [Where You Can Find More Information; Incorporation by Reference](#).

**Common Stock**

Holders of common stock are entitled to cast one vote for each share held of record on all matters submitted to a vote of the stockholders; receive, on a pro rata basis, dividends and distributions, if any, that the board of directors may declare out of legally available funds, subject to preferences that may be applicable to preferred stock, if any, then outstanding; and upon our liquidation, dissolution or winding up, share equally and ratably in any assets remaining after the payment of all debt and other liabilities, subject to the prior rights, if any, of holders of any outstanding shares of preferred stock. Any dividends declared on the common stock will not be cumulative.

The holders of our common stock do not have any preemptive, cumulative voting, subscription, conversion, redemption or sinking fund rights. The common stock is not subject to future calls or assessments by us. Except as otherwise required by law, holders of the common stock are not entitled to vote on any amendment or certificate of designation relating to the terms of any series of preferred stock if the holders of the affected series are entitled to vote on such amendment or certificate of designation under the certificate of incorporation.

**Preferred Stock**

We will describe the particular terms of any series of preferred stock and any related guarantee in the prospectus supplement relating to the offering.

Our board of directors has the authority to issue preferred stock in one or more series and to fix the number of shares constituting any such series and the voting rights, designations, preferences and qualifications, limitations and restrictions of the shares constituting any series, without any further vote or action by our stockholders. The issuance of preferred stock by our board of directors could adversely affect the rights of holders of common stock.

We will fix or designate the rights, preferences, privileges and restrictions, including dividend rights, voting rights, terms of redemption, retirement and sinking fund provisions and liquidation preferences, if any, of a series of preferred stock through a certificate of designation adopted by our board of directors. We will describe the terms, if any, on which shares of any series of preferred stock are convertible or exchangeable into common stock in the prospectus supplement relating to the offering. The conversion or exchange may be mandatory, at your option or at our option. The applicable prospectus supplement will state the manner in which the shares of common stock that you

will receive as a holder of preferred stock would be converted or exchanged.

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**Table of Contents****Registration Rights**

On December 31, 2009, we entered into a registration rights agreement (the *Registration Rights Agreement*) with certain of our stockholders party thereto, including certain entities affiliated with Oakleigh Thorne. The following description of the terms of the *Registration Rights Agreement* is intended as a summary only and is qualified in its entirety by reference to the *Registration Rights Agreement* filed as an exhibit to the registration statement of which this prospectus is a part. The registration of shares of our common stock pursuant to the exercise of registration rights described below would enable the holders to trade these shares without restriction under the Securities Act when the applicable registration statement is declared effective. We will pay the registration expenses, other than underwriting discounts and commissions and certain counsel or advisor fees as described therein, of the shares registered pursuant to the demand and piggyback registrations described below.

The demand and piggyback registration rights described below commenced 180 days after the closing of our initial public offering on June 26, 2013 and shall continue perpetually. We are not required to effect more than two demand registrations in any twelve month period or any demand registration within 180 days following the date of effectiveness of any other registration statement. If the board of directors (or an authorized committee thereof), in its reasonable good faith judgment determines that the filing of a registration statement will materially affect a significant transaction or would force us to disclose confidential information which is adverse to our interest, then the board of directors may delay a required registration filing for periods of up to 90 days, so long as the periods do not aggregate to more than 120 days in a twelve-month period. Generally, in an underwritten offering, the managing underwriter has the right, subject to specified conditions, to limit the number of shares such holders may include.

*Demand Registration Rights.* Under the terms of the *Registration Rights Agreement*, stockholders that are a party to the agreement may, under certain circumstances and provided they meet certain thresholds described in the *Registration Rights Agreement*, make a written request to us for the registration of the offer and sale of all or part of the shares subject to such registration rights (*Registrable Securities*). If we are eligible to file a registration statement on Form S-3 or any successor form with similar short-form disclosure requirements, the holders of *Registrable Securities* may make a written request to us for the registration of the offer and sale of all or part of the *Registrable Securities* provided that the *Registrable Securities* to be registered under such short-form registration have an aggregate market value, based upon the offering price to the public, equal to at least \$15.0 million.

*Piggyback Registration Rights.* If we register the offer and sale of any of our securities (other than a registration statement relating to an initial public offering or on Form S-4 or S-8 or any successor form for securities to be offered in a transaction of the type referred to in Rule 145 under the Securities Act or to our employees pursuant to any employee benefit plan, respectively) either on our behalf or on the behalf of other security holders, the holders of the *Registrable Securities* under the *Registration Rights Agreement* are entitled to include their *Registrable Securities* in the registration subject to certain exceptions relating to employee benefit plans and mergers and acquisitions. The managing underwriters of any underwritten offering may limit the number of *Registrable Securities* included in the underwritten offering if the underwriters believe that including these shares would have a materially adverse effect on the offering. If the number of *Registrable Securities* is limited by the managing underwriter, the securities to be included first in the registration will depend on whether we or certain holders of our securities initiate the piggyback registration. If we initiate the piggyback registration, we are required to include in the offering (i) first, the securities we propose to sell and (ii) second, the *Registrable Securities* requested to be included in such registration, pro rata among the holders of such *Registrable Securities* on the basis of the number of *Registrable Securities* owned by each such holder. If the holder of *Registrable Securities* initiates the piggyback registration, it is required to include in the offering (i) first, the *Registrable Securities* requested to be included in such registration, pro rata among the holders of such *Registrable Securities* on the basis of the number of *Registrable Securities* owned by each such holder and (ii) second, the securities we propose to sell.





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**Table of Contents****Certain Certificate of Incorporation, Bylaw and Statutory Provisions**

The provisions of our amended and restated certificate of incorporation and amended and restated bylaws and of the Delaware General Corporation Law summarized below may have an anti-takeover effect and may delay, defer or prevent a tender offer or takeover attempt that you might consider in your best interest, including an attempt that might result in your receipt of a premium over the market price for your shares. These provisions are also designed, in part, to encourage persons seeking to acquire control of us to first negotiate with our board of directors, which could result in an improvement of their terms. As a result, stockholders who might desire to participate in such a transaction may not have an opportunity to do so. This description is summarized from, and qualified in its entirety by reference to, our amended and restated certificate of incorporation and amended and restated bylaws, which have been publicly filed with the SEC. See [Where You Can Find More Information; Incorporation by Reference](#).

*Classified Board of Directors.* Our board of directors is divided into three classes, class I, class II and class III, with members of each class serving staggered three-year terms. Our amended and restated certificate of incorporation provides that the authorized number of directors may be changed only by resolution of the board of directors. Any additional directorships resulting from an increase in the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one-third of the directors. Our amended and restated certificate of incorporation and our amended and restated bylaws also provide that our directors may be removed only for cause by the affirmative vote of the holders of at least a majority of our voting stock, and that any vacancy on our board of directors, including a vacancy resulting from an enlargement of our board of directors, may be filled only by vote of a majority of our directors then in office. Our classified board of directors could have the effect of delaying or discouraging an acquisition of us or a change in our management.

*Special Meetings of Stockholders.* Our amended and restated bylaws provide that a special meeting of stockholders may be called only by the chairman of our board of directors or by a resolution adopted by a majority of our board of directors. Stockholders are not permitted to call a special meeting of stockholders, to require that the chairman call such a special meeting, or to require that our board of directors request the calling of a special meeting of stockholders, which may delay the ability of our stockholders to force consideration of a proposal or for holders controlling a majority of our capital stock to take any action, including the removal of directors.

*No Stockholder Action by Written Consent.* Our amended and restated certificate of incorporation provides that stockholder action may be taken only at an annual meeting or special meeting of stockholders and may not be taken by written consent in lieu of a meeting, unless the action to be taken by written consent of stockholders and the taking of this action by written consent has been expressly approved in advance by the board of directors. Failure to satisfy any of the requirements for a stockholder meeting could delay, prevent or invalidate stockholder action.

*Stockholder Advance Notice Procedure.* Our amended and restated bylaws establish an advance notice procedure for stockholders to make nominations of candidates for election as directors or to bring other business before an annual meeting of our stockholders. The amended and restated bylaws provide that any stockholder wishing to nominate persons for election as directors at, or bring other business before, an annual meeting must deliver to our secretary a written notice of the stockholder's intention to do so. These provisions may have the effect of precluding the conduct of certain business at a meeting if the proper procedures are not followed. We expect that these provisions may also discourage or deter a potential acquirer from conducting a solicitation of proxies to elect the acquirer's own slate of directors or otherwise attempting to obtain control of our company. To be timely, the stockholder's notice must be delivered to or mailed and received by us not less than 90 days nor more than 120 days before the anniversary date of the preceding annual meeting, except that if the annual meeting is set for a date that is not within 30 days before or 60 days after such anniversary date, we must receive the notice not later than the close of business on the fifth day following the day on which we provide the notice or public disclosure of the date of the meeting. The notice must

include the following information:

the name and address of the stockholder who intends to make the nomination and the name and address of the person or persons to be nominated or the nature of the business to be proposed;

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a representation that the stockholder is a holder of record of our capital stock entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons or to introduce the business specified in the notice;

if applicable, a description of all arrangements or understandings between the stockholder and each nominee and any other person or persons, naming such person or persons, pursuant to which the nomination is to be made by the stockholder;

such other information regarding each nominee or each matter of business to be proposed by such stockholder as would be required to be included in a proxy statement filed under the SEC's proxy rules if the nominee had been nominated, or intended to be nominated, or the matter had been proposed, or intended to be proposed, by the board of directors;

if applicable, the consent of each nominee to serve as a director if elected; and

such other information that the board of directors may request in its discretion.

## **Limited Ownership by Foreign Entities**

The Communications Act and Federal Communications Commission, or FCC, regulations impose restrictions on foreign ownership of FCC licensees. These requirements generally forbid more than 20% ownership or control of an FCC licensee by non-U.S. citizens directly and more than 25% ownership of a licensee indirectly (e.g., through a parent company) by non-U.S. citizens. Since we serve as a holding company for our FCC licensee subsidiary, AC BidCo LLC, we are effectively restricted from having more than 25% of our stock owned or voted directly or indirectly by foreign individuals or entities, including corporations, partnerships or limited liability companies. The FCC may, in certain circumstances and upon application for prior approval by the FCC, authorize foreign ownership in the licensee's parent in excess of these percentages if the FCC finds it to be in the public interest. Our corporate charter and bylaws include provisions that permit our board of directors to take certain actions in order to comply with FCC regulations regarding foreign ownership, including, but not limited to, a right to redeem shares of common stock from non-U.S. citizens.

To the extent necessary to comply with the Communications Act and FCC rules and policies, our board of directors may (i) redeem shares of our common stock sufficient to eliminate any violation of FCC rules and regulations on the terms and conditions set forth in our amended and restated certificate of incorporation; (ii) take any action it believes necessary to prohibit the ownership or voting of more than 25% of our outstanding capital stock in the aggregate by or for the account of non-U.S. citizens or their representatives or by a foreign government or representative thereof or by any entity organized under the laws of a foreign country (collectively, "Aliens"), or by any other entity (a) that is subject to or deemed to be subject to control by Aliens on a de jure or de facto basis or (b) owned by, or held for the benefit of Aliens in a manner that would cause Gogo Inc. or AC BidCo LLC to be in violation of the Communications Act or FCC regulations; (iii) prohibit any transfer of our stock which we believe could cause more than 25% of our outstanding capital stock in the aggregate to be owned or voted by or for persons or entities identified in the foregoing clause (i); and (iv) prohibit the ownership, voting or transfer of any portion of our outstanding capital stock to the extent the ownership, voting or transfer of such portion would cause Gogo Inc. or AC BidCo LLC to violate or would otherwise result in violation of any provision of the Communications Act or FCC regulations.

**Limitations on Liability and Indemnification**

Our amended and restated certificate of incorporation contains provisions permitted under Delaware General Corporation Law relating to the liability of directors. These provisions eliminate a director's personal liability for monetary damages resulting from a breach of fiduciary duty, except in circumstances involving:

any breach of the director's duty of loyalty;

acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law;

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under Section 174 of the Delaware General Corporation Law (unlawful dividends); or

any transaction from which the director derives an improper personal benefit.

The principal effect of the limitation on liability provision is that a stockholder will be unable to prosecute an action for monetary damages against a director unless the stockholder can demonstrate a basis for liability for which indemnification is not available under the Delaware General Corporation Law. These provisions, however, should not limit or eliminate our rights or any stockholder's rights to seek non-monetary relief, such as an injunction or rescission, in the event of a breach of a director's fiduciary duty. These provisions will not alter a director's liability under federal securities laws. The inclusion of this provision in our amended and restated certificate of incorporation may discourage or deter stockholders or management from bringing a lawsuit against directors for a breach of their fiduciary duties, even though such an action, if successful, might otherwise have benefited us and our stockholders.

Our amended and restated bylaws require us to indemnify and advance expenses to our directors and officers to the fullest extent not prohibited by the Delaware General Corporation Law and other applicable law, except in the case of a proceeding instituted by the director without the approval of our board of directors. Our amended and restated bylaws will provide that we are required to indemnify our directors and executive officers, to the fullest extent permitted by law, for all judgments, fines, settlements, legal fees and other expenses incurred in connection with pending or threatened legal proceedings because of the director's or officer's positions with us or another entity that the director or officer serves at our request, subject to various conditions, and to advance funds to our directors and officers to enable them to defend against such proceedings. To receive indemnification, the director or officer must have been successful in the legal proceeding or have acted in good faith and in what was reasonably believed to be a lawful manner in our best interest and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful.

We have also entered into an indemnification agreement with each of our directors and executive officers. The indemnification agreement provides our directors and executive officers with contractual rights to the indemnification and expense advancement rights provided under our amended and restated bylaws, as well as contractual rights to additional indemnification as provided in the indemnification agreement.

**Transfer Agent and Registrar**

The transfer agent and registrar for our common stock is Computershare Limited.

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**DESCRIPTION OF DEBT SECURITIES**

The following description, together with the additional information we include in any applicable prospectus supplement, summarizes certain general terms and provisions of the debt securities that we may offer under this prospectus. When we offer to sell a particular series of debt securities, we will describe the specific terms of the series in a supplement to this prospectus. We will also indicate in the supplement the extent to which the general terms and provisions described in this prospectus apply to a particular series of debt securities. To the extent the information contained in the prospectus supplement differs from this summary description, you should rely on the information in the prospectus supplement.

We may issue debt securities either separately, or together with, or upon the conversion or exercise of or in exchange for, other securities described in this prospectus. Debt securities may be our senior, senior subordinated or subordinated obligations and, unless otherwise specified in a supplement to this prospectus, the debt securities will be our direct, unsecured obligations and may be issued in one or more series.

The debt securities will be issued under an indenture between us and U.S. Bank National Association, as trustee. We have summarized select portions of the indenture below. The summary is not complete. You should keep in mind, however, that it is the indenture, any applicable supplemental indenture and the debt securities, and not this summary, which define your rights as a securityholder. There may be other provisions in these documents which are also important to you. You should read these documents for a full description of the terms of our debt securities. The form of the indenture has been filed as an exhibit to the registration statement and you should read the indenture for provisions that may be important to you. In the summary below, we have included references to the section numbers of the indenture so that you can easily locate these provisions. Capitalized terms used in the summary and not defined herein have the meanings specified in the indenture.

As used in this section only, we, us, our, Gogo and the Company refer to Gogo Inc. exclusive of its subsidiaries, unless expressly stated or the context otherwise requires.

**General**

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

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

the title and ranking of the debt securities (including the terms of any subordination provisions);

the limit, if any, upon the aggregate principal amount of the debt securities which may be authenticated and delivered under the Indenture (except for debt securities authenticated and delivered upon registration or transfer of, or in exchange for, or in lieu of, other debt securities of the same series pursuant to the Indenture

and except for any debt securities which, pursuant to the Indenture, are deemed never to have been authenticated and delivered hereunder); provided, however, that the authorized aggregate principal amount of debt securities may be increased above such amount by a Board Resolution to such effect;

the Stated Maturity or Maturities on which the principal of the debt securities is payable or the method of determination thereof;

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the price or prices (expressed as a percentage of the principal amount thereof) at which the debt securities will be issued;

the rate or rates, if any, at which the debt securities shall bear interest or the method of determining such rate or rates, if any, the Interest Payment Dates on which such interest, if any, shall be payable, our right, if any, to defer or extend an Interest Payment Date, the Regular Record Date (if other than as defined in the Indenture) for the interest payable, if any, on any Interest Payment Date and the dates from which interest, if any, shall accrue and the method of determining these dates;

the place or places where the principal of (and premium, if any) and interest on the debt securities shall be payable, the place or places where the debt securities may be presented for registration of transfer or exchange, and the place or places where notices and demands to or upon us in respect of the debt securities may be made;

the period or periods within which, the price or prices at which, the currency or currencies (including currency unit or units) in which and the other terms and conditions upon which the debt securities may be redeemed or prepaid, in whole or in part, at our option;

our obligation or our right, if any, to redeem, repay or purchase the debt securities pursuant to any sinking fund, amortization or analogous provisions or at the option of a Holder thereof and the period or periods within which, the price or prices at which, the currency or currencies (including currency unit or units) in which and the other terms and conditions upon which debt securities shall be redeemed, repaid or purchased, in whole or in part, pursuant to such obligation;

the denominations in which any debt securities shall be issuable, if other than denominations of \$1,000 and any integral multiple thereof;

if other than Dollars, the currency or currencies (including currency unit or units) in which the principal of (and premium, if any) and interest, if any, on the debt securities shall be payable, or in which the debt securities shall be denominated and if payments of principal of or interest or premium, if any, on the debt securities are to be made in one or more currencies or currency units other than that or those in which such debt securities are denominated, the manner in which the exchange rate with respect to such payments will be determined;

the additions, modifications or deletions, if any, in the Events of Default or the covenants applicable to us set forth in the Indenture with respect to the debt securities;

if other than the principal amount thereof, the portion of the principal amount of debt securities that shall be payable upon declaration of acceleration of the Maturity thereof;



the additions or changes, if any, to the Indenture with respect to the debt securities as shall be necessary to permit or facilitate the issuance of the debt securities in bearer form, registrable or not registrable as to principal, and with or without interest coupons;

any index or indices used to determine the amount of payments of principal of and premium, if any, on the debt securities or the manner in which such amounts will be determined;

the issuance of a temporary Global Security representing all of the debt securities and the terms upon which such temporary Global Security may be exchanged for definitive debt securities;

whether the debt securities shall be issued in whole or in part in the form of one or more Global Securities and, in such case, the identity of the Depositary for such Global Securities;

the appointment of any Paying Agent or Agents for the debt securities;

the terms and conditions of any right or obligation on our part, or any option on the part of the Holders, to convert or exchange debt securities into cash or any other securities or property of the Company or any other Person, and the additions or changes, if any, to the Indenture with respect to the debt securities to permit or facilitate such conversion or exchange;

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the provisions, if any, relating to any collateral provided for the debt securities;

the terms and conditions, if any, upon which the debt securities shall be subordinated in right of payment to our other Indebtedness;

if applicable, that the debt securities, in whole or any specified part, shall be defeasible; and

any other terms of the debt securities (which terms shall not be inconsistent with the provisions of the Indenture except as permitted thereby or which may modify or delete any provision of the Indenture as it applies to such debt securities).

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

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

**Transfer and Exchange**

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

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

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

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

**No Protection in the Event of a Change of Control**

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

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### **Covenants**

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

### **Subordination**

Debt securities of a series may be subordinated, which we refer to as subordinated debt securities, to senior indebtedness (as defined in the applicable prospectus supplement) to the extent set forth in the prospectus supplement relating thereto. To the extent we conduct operations through subsidiaries, the holders of debt securities (whether or not subordinated debt securities) will be structurally subordinated to the creditors of our subsidiaries except to the extent any subsidiary is a guarantor of such series of debt securities.

### **Consolidation, Merger and Sale of Assets**

We may not consolidate with or merge with or into, or convey, transfer or lease all or substantially all of our properties and assets to, any Person, unless:

the Person formed by such consolidation or into which we merge or the Person which acquires by conveyance or transfer, or which leases, our assets substantially as an entirety shall be a corporation, partnership, trust or limited liability company, organized and validly existing under the laws of the United States of America, any State thereof or the District of Columbia and shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee, the due and punctual payment of the principal of and any premium and interest on all the debt securities and the performance or observance of every covenant of the Indenture to be performed or observed by us; and

immediately after giving effect to such transaction, no Event of Default, and no event which, after notice or lapse of time or both, would become an Event of Default, shall have happened and be continuing; and

we have delivered to the Trustee an Opinion of Counsel, stating that such consolidation, merger, conveyance, transfer or lease and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture complies with the Indenture.

Notwithstanding the above, any of our subsidiaries may consolidate with, merge into or transfer all or part of its properties to us.

### **Events of Default**

Unless otherwise provided by the terms of the applicable series of debt securities, **Event of Default** means, with respect to any series of debt securities, any of the following:

default in the payment of any interest upon any debt security when it becomes due and payable, and such default continues for a period of 30 days; or

default in the payment of the principal of or premium, if any, on any debt security at its Maturity, and such default continues for a period of 5 days; or

default in the performance, or breach, of any other covenant or warranty by us in respect of the debt securities, and continuance of such default or breach for a period of 90 consecutive days after there has been given, by registered or certified mail, to us by the Trustee or to us and the Trustee by the Holders of at least 25% in aggregate principal amount of the Outstanding debt securities of that series a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a Notice of Default ; or

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the entry by a court having jurisdiction in the premises of a decree or order for relief in respect of us in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 90 consecutive days; or

the commencement by us of a voluntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law; or

No Event of Default with respect to a particular series of debt securities necessarily constitutes an Event of Default with respect to any other series of debt securities.

If an Event of Default with respect to debt securities at the time Outstanding occurs and is continuing, then in every such case the Trustee or the Holders of not less than 25% in aggregate principal amount of the Outstanding debt securities of that series may declare the principal amount of all of the debt securities of that series to be due and payable immediately, by a notice in writing to us (and to the Trustee if given by Holders), and upon any such declaration such principal amount (or specified amount) shall become immediately due and payable. If an Event of Default resulting from certain events of bankruptcy, insolvency or reorganization occurs with respect to debt securities of a series at the time Outstanding occurs, the principal amount of all the debt securities of such series shall automatically, and without any declaration or other action on the part of the Trustee or any Holder, become immediately due and payable.

The Holders of a majority in aggregate principal amount of the Outstanding debt securities of any series shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee, with respect to the debt securities of such series, provided that such direction shall not be in conflict with any rule of law or with the Indenture, involve the Trustee in personal liability or be unduly prejudicial to the Holders of the Securities not joining in the action, and the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

No provision of the Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties thereunder, or in the exercise of any of its rights or powers, if it believes that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it. The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by the Indenture (other than the payment of debt service on the debt securities from moneys furnished to it pursuant hereto), whether at the request or direction of the Holders or any other Person, pursuant to the Indenture or otherwise, unless it shall have been offered indemnity or security satisfactory to the Trustee against the fees, advances, costs, expenses and liabilities which might be incurred by it in connection with the exercise of any such rights or powers.

The indenture requires us to file with the Trustee and the SEC, in accordance with rules and regulations prescribed from time to time by the SEC, such additional information, documents and reports with respect to our compliance with the conditions and covenants of the Indenture as may be required from time to time by such rules and regulations and to transmit by mail, to all Holders, as their names and addresses appear in the Security Register, within 30 days after the filing thereof with the Trustee, summaries of any such information, documents and reports required to be filed. Within 90 days after the occurrence of any default hereunder with respect to the debt securities of any series, the Trustee shall transmit by first-class mail, postage prepaid, to all Holders of debt securities of such series, as their names and addresses appear in the Security Register, notice of such default known to the Trustee, unless such default shall have been cured or waived. However, other than in the case of a payment default, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors or Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the

interest of the Holders of debt securities of such series. In the case of a default in the performance, or breach, of certain other covenants or warranties with respect to debt securities of such series, no such notice to Holders shall be given until at least 30 days after the occurrence thereof.

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Notwithstanding any other provision in the Indenture, the Holder of any debt security shall have the right, which is absolute and unconditional, to receive payment of the principal of (and premium, if any) and interest on such debt security on the respective Stated Maturities expressed in such debt security (or, in the case of redemption, on the Redemption Date) and to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the consent of such Holder.

**Modification and Waiver**

We and the trustee may modify and amend the indenture or the debt securities of any series without the consent of any holder of any debt security:

to evidence the succession of another Person to the Company and the assumption by any such successor of the covenants in the Indenture and in the debt securities; or

to convey, transfer, assign, mortgage or pledge any property to or with the Trustee or to surrender any right or power herein conferred upon us; or

to provide for the issuance under the Indenture of debt securities in bearer form (including securities registrable as to principal only) and to provide for exchangeability of such debt securities for debt securities issued hereunder in fully registered form, and to make all appropriate changes for such purpose; or

to establish the form or terms of debt securities of any series as permitted by the Indenture; or

to add to our covenants for the benefit of the Holders of all debt securities or any series of debt securities (and if such covenants are to be for the benefit of less than all series of debt securities, stating that such covenants are expressly being included solely for the benefit of such series) or to surrender any right or power herein conferred upon us; or

to add any additional Events of Default; or

to secure the debt securities; or

to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the debt securities of one or more series and to add to or change any provisions of the Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one trustee; or

to cure any ambiguity or mistake, to correct or supplement any provision in the Indenture which may be defective or inconsistent with any other provision herein, to conform any terms of debt securities of any



series to the description of such debt securities contained in the prospectus supplement pursuant to which such debt securities were offered and sold, or to make any other provisions with respect to matters or questions arising under the Indenture as we may deem necessary or desirable, provided that such action shall not adversely affect the interests of the Holders of debt securities of any series in any material respect; or

to conform any provision of the Indenture to the requirements of the Trust Indenture Act or otherwise as necessary to comply with applicable law; or

to make any change that does not adversely affect the rights of any Holder in any material respect. We may also modify and amend the indenture with the consent of the holders of at least a majority in principal amount of the Outstanding debt securities of each series affected by the modifications or amendments. We may not make any modification or amendment without the consent of the holders of each affected debt security then Outstanding if that amendment will:

change the Stated Maturity of the principal of, or any installment of interest payable on, any Outstanding debt security, or reduce the principal amount of or the rate of interest thereon or any premium payable upon the redemption thereof, or reduce the amount of principal of debt security

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issued with original issue discount that would be due and payable upon redemption or would be provable in bankruptcy, or adversely affect any right of repayment of the Holder of any debt security or change the Place of Payment or the coin or currency in which, any Outstanding debt security or the interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date); or

reduce the percentage in principal amount of the Outstanding debt security of any series, the consent of whose Holders is required for any such supplemental indenture, or the consent of whose Holders is required for any waiver of compliance with certain provisions of the Indenture or certain defaults hereunder and their consequences or reduce the quorum or voting requirements provided for in the Indenture; or

modify any of the provisions relating to the waiver, modification and amendment of the terms and conditions of the Indenture with consent of the Holders, except to increase any required percentage or to provide that certain other provisions of the Indenture cannot be modified or waived without the consent of the Holder of each Outstanding debt security affected thereby.

A supplemental indenture which changes or eliminates any covenant or other provision of the Indenture which has expressly been included solely for the benefit of one or more particular series of debt security, or which modifies the rights of the Holders of debt security of such series with respect to such covenant or other provision, shall be deemed not to affect the rights under the Indenture of the Holders of debt securities of any other series.

We may omit in any particular instance to comply with any term, provision, covenant or condition set forth in any covenant for the benefit of the Holders if before or after the time for such compliance the Holders of at least a majority in principal amount of the Outstanding debt securities of such series either waive such compliance in such instance or generally waive compliance with such term, provision or condition, but no such waiver shall extend to or affect such term, provision or condition except to the extent so expressly waived, and, until such waiver shall become effective, our obligations and the duties of the Trustee in respect of any such term, provision or condition shall remain in full force and effect. We shall provide the Trustee with written notification upon such waiver of any covenant.

## **Redemption**

Unless otherwise provided by the terms of the applicable series of debt securities, and notwithstanding any additional redemption rights that may be so specified, we may, at our option, redeem the debt securities of any series after their date of issuance in whole or in part at any time and from time to time, subject to the Indenture. Unless otherwise provided by the terms of the applicable series of debt securities, the redemption price for any debt securities so redeemed shall be equal to 100% of the principal amount of such debt securities then Outstanding plus accrued and unpaid interest up to but excluding the date fixed for redemption. Installments of accrued and unpaid interest whose Stated Maturity is on or prior to the Redemption Date will be payable to the Holders of such debt securities, or one or more predecessor debt securities, registered as such at the close of business on the relevant Regular Record Dates according to their terms and the provisions of the Indenture, unless otherwise so specified.

## **Defeasance of Debt Securities and Certain Covenants in Certain Circumstances**

The indenture provides that, unless otherwise provided by the terms of the applicable series of debt securities, we may be discharged from any and all obligations in respect of the debt securities of any series (subject to certain exceptions) and we may omit to comply with the covenant described under the heading Consolidation, Merger, Conveyance, Transfer Or Lease and certain other covenants set forth in the indenture, as well as any additional covenants that may

be set forth in the applicable prospectus supplement and any omission to comply with those covenants will not constitute a Default or an Event of Default with respect to the debt securities of that series.

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We will be so discharged upon the deposit with the trustee, in trust, of money and/or U.S. government obligations that, through the payment of interest and principal in accordance with their terms, will provide money or U.S. government obligations in an amount sufficient in the opinion of a nationally recognized firm of independent public accountants to pay and discharge the principal of and any premium and interest on such debt securities due on or before the respective Stated Maturities or the Redemption Date, in accordance with the terms of the Indenture and such debt securities.

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

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**DESCRIPTION OF DEPOSITARY SHARES**

**General Terms**

We may elect to offer depositary shares representing receipts for fractional interests in debt securities or preferred stock. In this case, we will issue receipts for depositary shares, each of which will represent a fraction of a debt security or share of a particular series of preferred stock, as the case may be.

We will deposit the debt securities or shares of any series of preferred stock represented by depositary shares under a deposit agreement between us and a depositary which we will name in the applicable prospectus supplement. Subject to the terms of the deposit agreement, as an owner of a depositary share you will be entitled, in proportion to the applicable fraction of a debt security or share of preferred stock represented by the depositary share, to all the rights and preferences of the debt security or preferred stock, as the case may be, represented by the depositary share, including, as the case may be, interest, dividend, voting, conversion, redemption, sinking fund, repayment at maturity, subscription and liquidation rights.

The following description of the terms of the deposit agreement is a summary. It summarizes only those terms of the deposit agreement that we believe will be most important to your decision to invest in our depositary shares. You should keep in mind, however, that it is the deposit agreement, and not this summary, which defines your rights as a holder of depositary shares. There may be other provisions in the deposit agreement that are also important to you. You should read the deposit agreement for a full description of the terms of the depositary shares. The form of the deposit agreement is filed as an exhibit to the registration statement that includes this prospectus. See **Where You Can Find More Information; Incorporation by Reference** for information on how to obtain a copy of the deposit agreement.

**Interest, Dividends and Other Distributions**

The depositary will distribute all payments of interest, cash dividends or other cash distributions received on the debt securities or preferred stock, as the case may be, to you in proportion to the number of depositary shares that you own.

In the event of a distribution other than in cash, the depositary will distribute property received by it to you in an equitable manner, unless the depositary determines that it is not feasible to make a distribution. In that case the depositary may sell the property and distribute the net proceeds from the sale to you.

**Redemption of Depositary Shares**

If we redeem a debt security or series of preferred stock represented by depositary shares, the depositary will redeem your depositary shares from the proceeds received by the depositary resulting from the redemption. The redemption price per depositary share will be equal to the applicable fraction of the redemption price per debt security or share of preferred stock, as the case may be, payable in relation to the redeemed series of debt securities or preferred stock. Whenever we redeem debt securities or shares of preferred stock held by the depositary, the depositary will redeem as of the same redemption date the number of depositary shares representing, as the case may be, the debt securities or shares of preferred stock redeemed. If fewer than all the depositary shares are to be redeemed, the depositary shares to be redeemed will be selected by lot, proportionately or by any other equitable method as the depositary may determine.

**Exercise of Rights under the Indentures or Voting the Preferred Stock**

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Upon receipt of notice of any meeting at which you, as a holder of interests, in deposited preferred stock, are entitled to vote, or of any request for instructions or directions from you, as a holder of interests in deposited debt securities, the depositary will mail to you the information contained in that notice. Each record holder of the depositary shares on the record date will be entitled to instruct the depositary how to give instructions or directions with respect to the debt securities represented by that holder's depositary shares or how to vote the amount of the preferred stock represented by that holder's depositary shares. The record date for the depositary

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shares will be the same date as the record date for the debt securities or preferred stock, as the case may be. The depositary will endeavor, to the extent practicable, to give instructions or directions with respect to the debt securities or to vote the amount of the preferred stock, as the case may be, represented by the depositary shares in accordance with those instructions. We will agree to take all reasonable action which the depositary may deem necessary to enable the depositary to do so. The depositary will abstain from giving instructions or directions with respect to the debt securities or voting shares of the preferred stock, as the case may be, if it does not receive specific instructions from you.

## **Amendment and Termination of the Deposit Agreement**

We and the depositary may amend the form of depositary receipt evidencing the depositary shares and any provision of the deposit agreement at any time. However, any amendment which materially and adversely alters the rights of the holders of the depositary shares will not be effective unless the amendment has been approved by the holders of at least a majority of the depositary shares then outstanding.

The deposit agreement will terminate if:

all outstanding depositary shares have been redeemed, or

there has been a complete repayment or redemption of the debt securities or a final distribution in respect of the preferred stock, including in connection with our liquidation, dissolution or winding up, and the repayment, redemption or distribution proceeds, as the case may be, have been distributed to you.

## **Resignation and Removal of Depositary**

The depositary may resign at any time by delivering to us notice of its election to do so. We also may, at any time, remove the depositary. Any resignation or removal will take effect upon the appointment of a successor depositary and its acceptance of such appointment. We must appoint the successor depositary within 60 days after delivery of the notice of resignation or removal. The successor depositary must be a bank or trust company having its principal office in the United States and having a combined capital and surplus of at least \$50,000,000.

## **Charges of Depositary**

We will pay all transfer and other taxes and governmental charges arising solely from the existence of the depositary arrangements. We will pay charges of the depositary in connection with the initial deposit of the debt securities or preferred stock, as the case may be, and issuance of depositary receipts, all withdrawals of shares of debt securities or preferred stock, as the case may be, by you and any repayment or redemption of the debt securities or preferred stock, as the case may be. You will pay other transfer and other taxes and governmental charges, as well as the other charges that are expressly provided in the deposit agreement to be for your account.

## **Miscellaneous**

The depositary will forward all reports and communications from us which are delivered to the depositary and which we are required or otherwise determine to furnish to holders of debt securities or preferred stock, as the case may be.

Neither we nor the depositary will be liable under the deposit agreement to you other than for the depositary's gross negligence, willful misconduct or bad faith. Neither we nor the depositary will be obligated to prosecute or defend any legal proceedings relating to any depositary shares, debt securities or preferred stock unless satisfactory indemnity is furnished. We and the depositary may rely upon written advice of counsel or accountants, or upon information provided by persons presenting debt securities or shares of preferred stock for deposit, you or other persons believed to be competent and on documents which we and the depositary believe to be genuine.



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**DESCRIPTION OF WARRANTS**

We may issue warrants, including warrants to purchase debt securities, preferred stock, common stock or other securities, property or assets (including rights to receive payment in cash or securities based on the value, rate or price of one or more specified commodities, currencies, securities or indices) as well as other types of warrants. We may issue warrants independently or together with any other securities, and they may be attached to or separate from those securities. We will issue the warrants under warrant agreements between us and a bank or trust company, as warrant agent, that we will describe in the prospectus supplement relating to the warrants that we offer.

The following description of the terms of the warrants is a summary. It summarizes only those terms of the warrants and the warrant agreement which we believe will be most important to your decision to invest in our warrants. You should keep in mind, however, that it is the warrant agreement and the warrant certificate relating to the warrants, and not this summary, which defines your rights as a warrant holder. There may be other provisions in the warrant agreement and the warrant certificate relating to the warrants which are also important to you. You should read these documents for a full description of the terms of the warrants. Forms of these documents are filed as exhibits to the registration statement that includes this prospectus. See [Where You Can Find More Information; Incorporation by Reference](#) for information on how to obtain copies of these documents.

**Debt Warrants**

We will describe in the applicable prospectus supplement the terms of warrants to purchase debt securities that we may offer, the warrant agreement relating to the debt warrants and the warrant certificates representing the debt warrants. These terms will include the following:

the title of the debt warrants,

the debt securities for which the debt warrants are exercisable,

the aggregate number of the debt warrants,

the price or prices at which we will issue the debt warrants, the principal amount of debt securities that you may purchase upon exercise of each debt warrant and the price or prices at which such principal amount may be purchased upon exercise,

currency, currencies, or currency units, if other than in U.S. dollars, in which such debt warrants are to be issued or for which the debt warrants may be exercised,

the procedures and conditions relating to the exercise of the debt warrants,

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the designation and terms of any related debt securities and guarantee issued with the debt warrants, and the number of debt warrants issued with each debt security,

the date, if any, from which you may separately transfer the debt warrants and the related securities,

the date on which your right to exercise the debt warrants commences, and the date on which your right expires,

the maximum or minimum number of the debt warrants which you may exercise at any time,

if applicable, a discussion of material United States federal income tax considerations,

any other terms of the debt warrants and terms, procedures and limitations relating to your exercise of the debt warrants, and

the terms of the securities you may purchase upon exercise of the debt warrants.

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We will also describe in the applicable prospectus supplement any provisions for a change in the exercise price or expiration date of the warrants and the kind, frequency and timing of any notice to be given. You may exchange debt warrant certificates for new debt warrant certificates of different denominations and may exercise debt warrants at the corporate trust office of the warrant agent or any other office that we indicate in the applicable prospectus supplement. Prior to exercise, you will not have any of the rights of holders of the debt securities purchasable upon that exercise and will not be entitled to payments of principal, premium, if any, or interest on the debt securities purchasable upon the exercise.

**Other Warrants**

We may issue other warrants. We will describe in the applicable prospectus supplement the following terms of those warrants:

the title of the warrants,

the securities, which may include preferred stock, common stock or other securities, property or assets (including rights to receive payment in cash or securities based on the value, rate or price of one or more specified commodities, currencies, securities or indices), for which you may exercise the warrants,

the aggregate number of the warrants,

the price or prices at which we will issue the warrants, the number of securities or amount of other property or assets that you may purchase upon exercise of each warrant and the price or prices at which such securities, property or assets may be purchased,

currency, currencies, or currency units, if other than in U.S. dollars, in which such debt warrants are to be issued or for which the debt warrants may be exercised,

the procedures and conditions relating to the exercise of the warrants,

the designation and terms of any related securities issued with the warrants, and the number of warrants issued with each security,

the date, if any, from which you may separately transfer the warrants and the related securities,

the date on which your right to exercise the warrants commences, and the date on which your right expires,

the maximum or minimum number of warrants which you may exercise at any time,

if applicable, a discussion of material United States federal income tax considerations, and

any other terms of the warrants, including terms, procedures and limitations relating to your exchange and exercise of the warrants.

We will also describe in the applicable prospectus supplement any provisions for a change in the exercise price or the expiration date of the warrants and the kind, frequency and timing of any notice to be given. You may exchange warrant certificates for new warrant certificates of different denominations and may exercise warrants at the corporate trust office of the warrant agent or any other office that we indicate in the applicable prospectus supplement. Prior to the exercise of your warrants, you will not have any of the rights of holders of the preferred stock, common stock or other securities purchasable upon that exercise and will not be entitled to dividend payments, if any, or voting rights of the preferred stock, common stock or other securities purchasable upon the exercise.

### **Exercise of Warrants**

We will describe in the prospectus supplement relating to the warrants the principal amount or the number of our securities, or amounts of other securities, property or assets that you may purchase for cash upon exercise of a warrant, and the exercise price. You may exercise a warrant as described in the prospectus supplement

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relating to the warrants at any time up to the close of business on the expiration date stated in the prospectus supplement. Unexercised warrants will become void after the close of business on the expiration date, or any later expiration date that we determine.

We will forward the securities purchasable upon the exercise as soon as practicable after receipt of payment and the properly completed and executed warrant certificate at the corporate trust office of the warrant agent or other office stated in the applicable prospectus supplement. If you exercise less than all of the warrants represented by the warrant certificate, we will issue you a new warrant certificate for the remaining warrants.

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**DESCRIPTION OF STOCK PURCHASE CONTRACTS AND STOCK PURCHASE UNITS**

We may issue purchase contracts, including contracts obligating or entitling you to purchase from us, and obligating or entitling us to sell to you, a specific number of shares of common stock or preferred stock or other securities, property or assets, at a future date or dates. Alternatively, the purchase contracts may obligate or entitle us to purchase from you, and obligate or entitle you to sell to us, a specific or varying number of shares of common stock or preferred stock, or other securities, property or assets, at a future date. The price per share of preferred stock or common stock may be fixed at the time the purchase contracts are issued or may be determined by reference to a specific formula described in the purchase contracts. We may issue purchase contracts separately or as a part of units each consisting of a purchase contract and debt securities, undivided beneficial ownership interests in debt securities, trust preferred securities, depositary shares representing fractional interests in debt securities or shares of preferred stock, or debt obligations of third parties, including U.S. Treasury securities, securing your obligations to purchase the preferred stock or the common stock, or other securities, property or assets, under the purchase contract. The purchase contracts may require us to make periodic payments to you or vice versa and the payments may be unsecured or prefunded on some basis. The purchase contracts may require you to secure your obligations in a specified manner. We will describe in the applicable prospectus supplement the terms of any purchase contracts or purchase units and any related guarantee.

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**PLAN OF DISTRIBUTION**

We may offer and sell the securities described in this prospectus, and the selling stockholders may sell the securities covered by this prospectus from time to time pursuant to underwritten public offerings, negotiated transactions, block trades or a combination of these methods or through underwriters or dealers, through agents and/or directly to one or more purchasers. The securities may be distributed from time to time in one or more transactions:

at a fixed price or prices, which may be changed;

at market prices prevailing at the time of sale;

at prices related to such prevailing market prices; or

at negotiated prices.

Each time that we or any of the selling stockholders sell securities covered by this prospectus, we or the selling stockholders will provide a prospectus supplement or supplements that will describe the method of distribution and set forth the terms and conditions of the offering of such securities, including (i) the name or names of any underwriters, dealers or agents and the amounts of securities underwritten or purchased by each of them; (ii) if a fixed price offering, the public offering price of the securities and the proceeds from the sale (whether to us or to the selling stockholders); (iii) any options under which underwriters may purchase additional securities from us or from the selling stockholders; (iv) any underwriting discounts or commissions or agency fees and other items constituting underwriters or agents compensation; (v) terms and conditions of the offering and (vi) any discounts, commissions or concessions allowed or reallocated or paid to dealers.

Offers to purchase the securities being offered by this prospectus may be solicited directly. Agents may also be designated to solicit offers to purchase the securities from time to time. Any agent involved in the offer or sale of our securities will be identified in a prospectus supplement.

If a dealer is utilized in the sale of the securities being offered by this prospectus, the securities will be sold to the dealer, as principal. The dealer may then resell the securities to the public at varying prices to be determined by the dealer at the time of resale.

If an underwriter is utilized in the sale of the securities being offered by this prospectus, an underwriting agreement will be executed with the underwriter at the time of sale and the name of any underwriter will be provided in the prospectus supplement that the underwriter will use to make resales of the securities to the public. In connection with the sale of the securities, the selling stockholders, or the purchasers of securities for whom the underwriter may act as agent, may compensate the underwriter in the form of underwriting discounts or commissions. The underwriter may sell the securities to or through dealers, and those dealers may receive compensation in the form of discounts, concessions or commissions from the underwriters and/or commissions from the purchasers for which they may act as agent. Unless otherwise indicated in a prospectus supplement, an agent will be acting on a best efforts basis and a dealer will purchase securities as a principal, and may then resell the securities at varying prices to be determined by the dealer.

Any compensation paid to underwriters, dealers or agents in connection with the offering of the securities, and any discounts, concessions or commissions allowed by underwriters to participating dealers will be provided in the applicable prospectus supplement. Underwriters, dealers and agents participating in the distribution of the securities may be deemed to be underwriters within the meaning of the Securities Act, and any discounts and commissions received by them and any profit realized by them on resale of the securities may be deemed to be underwriting discounts and commissions. We and the selling stockholders may each enter into agreements to indemnify underwriters, dealers and agents against civil liabilities, including liabilities under the Securities Act, or to contribute to payments they may be required to make in respect thereof and to reimburse those persons for certain expenses.



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Each series of securities will be a new issue of securities and will have no established trading market, other than our common stock, which is listed on NASDAQ. The securities other than the common stock may or may not be listed on a national securities exchange and no assurance can be given that there will be a secondary market for any such securities or liquidity in the secondary market if one develops. Any underwriters to whom securities are sold by us or the selling stockholders for public offering and sale may make a market in the securities, but such underwriters will not be obligated to do so and may discontinue any market making at any time without notice.

To facilitate the offering of securities, certain persons participating in the offering may engage in transactions that stabilize, maintain or otherwise affect the price of the securities. This may include over-allotments or short sales of the securities, which involve the sale by persons participating in the offering of more securities than were sold to them. In these circumstances, these persons would cover such over-allotments or short positions by making purchases in the open market or by exercising their over-allotment option, if any. In addition, these persons may stabilize or maintain the price of the securities by bidding for or purchasing securities in the open market or by imposing penalty bids, whereby selling concessions allowed to dealers participating in the offering may be reclaimed if securities sold by them are repurchased in connection with stabilization transactions. The effect of these transactions may be to stabilize or maintain the market price of the securities at a level above that which might otherwise prevail in the open market. These transactions may be discontinued at any time.

We and/or the selling stockholders may enter into derivative transactions with third parties, or sell securities not covered by this prospectus to third parties in privately negotiated transactions. If the applicable prospectus supplement indicates, in connection with those derivatives, the third parties may sell securities covered by this prospectus and the applicable prospectus supplement, including short sale transactions. If so, the third party may use securities pledged by us or the selling stockholders or borrowed from us or the selling stockholders or others to settle those sales or to close out any related open borrowings of stock, and may use securities received from us or the selling stockholders in settlement of those derivatives to close out any related open borrowings of stock. The third party in such sale transactions will be an underwriter and will be identified in the applicable prospectus supplement or a post-effective amendment to this registration statement.

If indicated in the applicable prospectus supplement, underwriters or other persons acting as agents may be authorized to solicit offers by institutions or other suitable purchasers to purchase the securities at the public offering price set forth in the prospectus supplement, pursuant to delayed delivery contracts providing for payment and delivery on the date or dates stated in the prospectus supplement. These purchasers may include, among others, commercial and savings banks, insurance companies, pension funds, investment companies and educational and charitable institutions. Delayed delivery contracts will be subject to the condition that the purchase of the securities covered by the delayed delivery contracts will not at the time of delivery be prohibited under the laws of any jurisdiction in the United States to which the purchaser is subject. The underwriters and agents will not have any responsibility with respect to the validity or performance of these contracts.

The specific terms of any lock-up provisions in respect of any given offering will be described in the applicable prospectus supplement.

The underwriters, dealers and agents may engage in transactions with us, or perform services for us, in the ordinary course of business for which they receive compensation.

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**LEGAL MATTERS**

The validity of the securities offered by this prospectus will be passed upon for us by Debevoise & Plimpton LLP and for the selling stockholders by Marguerite M. Elias, our Executive Vice President and General Counsel. Ms. Elias owns shares of our common stock.

**EXPERTS**

The consolidated financial statements, incorporated in this prospectus by reference from the Company's Annual Report on Form 10-K for the year ended December 31, 2015, and the effectiveness of Gogo Inc.'s internal control over financial reporting, have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their reports, which are incorporated herein by reference. Such consolidated financial statements have been so incorporated in reliance upon the reports of such firm given upon their authority as experts in accounting and auditing.

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**PART II**

**INFORMATION NOT REQUIRED IN PROSPECTUS**

**Item 14. Other Expenses of Issuance and Distribution**

The following is an estimate of the expenses (all of which are to be paid by the registrant) that we may incur in connection with the securities being registered hereby.

SEC registration fee	\$	(1)(2)
FINRA filing fee	\$	(1)
Fees and expenses of the transfer agent	\$	(1)
Printing expenses	\$	(1)
Legal fees and expenses	\$	(1)
Accounting fees and expenses	\$	(1)
Miscellaneous expenses	\$	(1)
 Total	 \$	 (1)

- (1) These fees are calculated based on the securities offered and the number of issuances and accordingly cannot be estimated at this time.
- (2) Deferred in accordance with Rule 456(b) and Rule 457(r) of the Securities Act.

**Item 15. Indemnification of Directors and Officers**

*Delaware General Corporation Law.* Under the Section 145 of the Delaware General Corporation Law ( DGCL ), a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding (i) if such person acted in good faith and in a manner that person reasonably believed to be in or not opposed to the best interests of the corporation and (ii) with respect to any criminal action or proceeding, if he or she had no reasonable cause to believe such conduct was unlawful. In actions brought by or in the right of the corporation, a corporation may indemnify such person against expenses (including attorneys fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner that person reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification may be made in respect of any claim, issue or matter as to which that person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which the Court of Chancery or other such court shall

deem proper. To the extent that such person has been successful on the merits or otherwise in defending any such action, suit or proceeding referred to above or any claim, issue or matter therein, he or she is entitled to indemnification for expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith. The indemnification and advancement of expenses provided for or granted pursuant to Section 145 of the DGCL is not exclusive of any other rights of indemnification or advancement of expenses to which those seeking indemnification or advancement of expenses may be entitled, and a corporation may purchase and maintain insurance against liabilities asserted against any former or current, director, officer, employee or agent of the corporation, or a person who is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, whether or not the power to indemnify is provided by the statute.

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Section 102(b)(7) of the DGCL permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability for any breach of the director's duty of loyalty to the corporation or its stockholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, for unlawful payments of dividends or unlawful stock repurchases, redemptions or other distributions, or for any transaction from which the director derived an improper personal benefit. Our amended and restated certificate of incorporation provides for such limitation of liability.

*Certificate of Incorporation.* Our amended and restated certificate of incorporation provides that we shall, to the fullest extent authorized by the DGCL, indemnify any person made, or is threatened to be made, a party to any action, suit or proceeding (whether civil, criminal or otherwise) by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director or officer of the Company or is or was serving at the request of the Company as a director, officer or trustee of another corporation, partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such action, suit or proceeding is alleged action or inaction in an official capacity as a director, officer or trustee or in any other capacity while serving as a director, officer or trustee; provided, however, that we shall indemnify any such person in connection with an action, suit or proceeding (or part thereof) initiated by such person only if such action, suit or proceeding (or part thereof) was authorized by our board of directors. We may, by action of our board of directors, provide indemnification to employees and agents of the Company with the same scope and effect as the foregoing indemnification of directors, officers and trustees. Our amended and restated certificate of incorporation provides that no director of the Company shall be personally liable to the Company or our stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Company or our stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL, or (iv) for any transaction from which the director derived an improper personal benefit.

*Bylaws.* Our amended and restated bylaws provide that we shall, to the fullest extent permitted by law, indemnify any person made or threatened to be made a party or is otherwise involved in any action, suit or proceeding (whether civil, criminal or otherwise) by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director, officer, employee or agent of the Company or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture or other enterprise; provided, however, we shall indemnify any such person in connection with an action, suit or proceeding initiated by such person, including a counterclaim or crossclaim, if such action, suit or proceeding was authorized by our board of directors.

*Indemnification Agreements.* In addition to the provisions of our amended and restated certificate of incorporation and amended and restated bylaws described above, we have entered into indemnification agreements with each of our directors and executive officers. The form of agreement that we have adopted provides that we will indemnify each of our directors, executive officers and such other key employees against any and all expenses incurred by that director, executive officer or other key employee because of his or her status as one of our directors, executive officers or other key employees, to the fullest extent permitted by Delaware law, our amended and restated certificate of incorporation and our amended and restated bylaws. In addition, the form agreement provides that, to the fullest extent permitted by Delaware law, we will advance all expenses incurred by our directors, executive officers and other key employees in connection with a legal proceeding.

*D&O Insurance.* We maintain standard policies of insurance under which coverage is provided to our directors and officers against loss rising from claims made by reason of breach of duty or other wrongful act, and to us with respect to payments which may be made by us to such officers and directors pursuant to the above indemnification provision

or otherwise as a matter of law.

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**Item 16. Exhibits**

(a) Exhibits

A list of exhibits filed with this registration statement on Form S-3 is set forth on the Exhibit Index and is incorporated herein by reference.

**Item 17. Undertakings**

(a) The undersigned registrant hereby undertakes:

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

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

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

*provided, however*, that paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii) above do not apply if the registration statement is on Form S-3 or Form F-3 and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

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

(4) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:

(A) Each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(B) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the purpose of

providing the information required by section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for

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liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(5) That, for the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities:

The undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.



Table of Contents**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Chicago, State of Illinois, on this the 12<sup>th</sup> day of April, 2016.

**GOGO INC.**

By: /s/ Norman Smagley  
**Norman Smagley**  
**Executive Vice President and Chief Financial Officer**

**POWER OF ATTORNEY**

Each person whose signature appears below constitutes and appoints each of Michael J. Small, Norman Smagley and Marguerite M. Elias, or any of them, as his true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to file and sign any and all amendments, including post-effective amendments and any registration statement for the same offering that is to be effective under Rule 462 of the Securities Act, to this registration statement, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or their substitute or substitutes may lawfully do or cause to be done by virtue hereof. This power of attorney shall be governed by and construed with the laws of the State of Delaware and applicable federal securities laws.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed below by the following persons on behalf of the registrant in the capacities and on the dates indicated.

<b>SIGNATURE</b>	<b>TITLE</b>	<b>DATE</b>
/s/ Michael J. Small	President and Chief Executive	April 12, 2016
<b>Michael J. Small</b>	Officer and Director (Principal Executive Officer)	
/s/ Norman Smagley	Executive Vice President	April 12, 2016
<b>Norman Smagley</b>	and Chief Financial Officer (Principal Financial Officer)	
/s/ Michael P. Bayer	Senior Vice President, Controller and Chief Accounting Officer (Principal	April 12, 2016
<b>Michael P. Bayer</b>	Accounting Officer)	

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/s/ Ronald T. LeMay	Chairman of the Board	April 12, 2016
<b>Ronald T. LeMay</b>		
/s/ Robert L. Crandall	Director	April 12, 2016
<b>Robert L. Crandall</b>		
/s/ Robert H. Mundheim	Director	April 12, 2016
<b>Robert H. Mundheim</b>		

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<b>SIGNATURE</b>	<b>TITLE</b>	<b>DATE</b>
/s/ Christopher Payne <b>Christopher Payne</b>	Director	April 12, 2016
/s/ Oakleigh Thorne <b>Oakleigh Thorne</b>	Director	April 12, 2016
/s/ Charles C. Townsend <b>Charles C. Townsend</b>	Director	April 12, 2016
/s/ Harris N. Williams <b>Harris N. Williams</b>	Director	April 12, 2016

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<b>Exhibit Number</b>	<b>Description</b>
1.1*	Forms of Underwriting Agreement (debt securities, common stock, preferred stock, depositary shares, warrants, stock purchase contracts and stock purchase units)
3.1	Third Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.2 to Form 10-Q filed on August 7, 2013 (File No. 001-35975))
3.2	Amended and Restated Bylaws (incorporated by reference to Exhibit 3.2 to Form 10-Q filed on August 7, 2013 (File No. 001-35975))
4.1	Form of Stock Certificate (incorporated by reference to Exhibit 4.1 to Gogo Inc. s Registration Statement on Form S-1 (File No. 333-178727))
4.2	Registration Rights Agreement, dated as of December 31, 2009, by and between AC Holdco Inc. and the Class A Holders, the Ripplewood Investors, the Thorne Investors and the other investors named therein (incorporated by reference to Exhibit 4.5 to Gogo Inc. Registration Statement on Form S-1 (File No. 333-178727))
4.3**	Form of Indenture relating to the debt securities
4.4**	Form of debt security (included as an exhibit to Exhibit 4.3)
4.5*	Form of certificate of designations of preferred stock
4.6*	Form of deposit agreement, including the form of depositary receipt
4.7*	Form of warrant agreement
4.8*	Form of purchase contract agreement
4.9*	Form of stock purchase unit
5.1**	Opinion of Debevoise & Plimpton LLP
5.2**	Opinion of Marguerite M. Elias, General Counsel of Gogo Inc.
12.1**	Calculation of ratio of earnings to fixed charges and preference security dividends
23.1**	Consent of Debevoise & Plimpton LLP (included in Exhibit 5.1)
23.2**	Consent of Deloitte & Touche LLP, independent registered public accounting firm
23.3**	Consent of General Counsel of Gogo Inc. (included in Exhibit 5.2)
24.1**	Powers of Attorney (incorporated by reference to the signature pages to the Company s Registration Statement on Form S-3)
25.1**	Form T-1 Statement of Eligibility under the Trust Indenture Act of 1939 of U.S. Bank National Association, the trustee under the indenture

\* To be filed by amendment or as an exhibit to a report on Form 8-K pursuant to Item 601 of Regulation S-K.

\*\* Filed herewith.