

Colony Capital, Inc.  
Form 424B7  
April 02, 2015  
**Table of Contents**

**Filed Pursuant to Rule 424(b)(7)**  
**Registration No. 333-203202**

**CALCULATION OF REGISTRATION FEE**

<b>Title of Each Class of</b>	<b>Amount</b>	<b>Maximum</b>	<b>Maximum</b>	<b>Amount of</b>
<b>Securities to be Registered</b>	<b>to be</b>	<b>Offering Price</b>	<b>Aggregate</b>	<b>Amount of</b>
<b>Class A common stock, par value \$0.01 per share</b>	<b>Registered(1)</b>	<b>per Share(2)</b>	<b>Offering Price(2)</b>	<b>Registration Fee(2)</b>
	1,427,608	\$25.71	\$36,703,802	\$4,264.98

- (1) The securities registered herein are offered pursuant to an automatic shelf registration statement.
- (2) Calculated in accordance with Rule 457(c) and Rule 457(r) under the Securities Act of 1933, as amended. The price per share is based on the average of the high and low sale prices reported on the New York Stock Exchange for the Registrant's Class A common stock on March 30, 2015.

**Table of Contents**

**PROSPECTUS SUPPLEMENT**

**(To prospectus dated April 2, 2015)**

**1,427,608 Shares**

**Class A Common Stock**

This prospectus supplement relates to up to 1,427,608 shares of our Class A common stock, par value \$0.01 per share, or our Class A common stock, that may be sold by the selling stockholders identified in this prospectus supplement from time to time at prices determined by the selling stockholders at the time of sale. We refer in this prospectus supplement to the 1,427,608 shares of Class A common stock to which this prospectus supplement relates as the resale shares.

The selling stockholders may sell the Class A common stock in one or more transactions at the market price for our Class A common stock prevailing at the time of sale, a price related to the prevailing market price, a negotiated price or such other price as the selling stockholders determine from time to time. See Plan of Distribution.

We will not receive any proceeds from the sale of the Class A common stock by the selling stockholders. We have agreed to pay certain expenses of the registration of the Class A common stock offered and sold by the selling stockholders under the registration statement. See Plan of Distribution.

Our Class A common stock trades on the New York Stock Exchange under the symbol CLNY. On April 1, 2015, the last sale price of the shares as reported on the New York Stock Exchange was \$26.19 per share. Our Class A common stock was previously designated as our common stock, and was re-designated in connection with the combination transaction with Colony Capital, LLC described further herein. Our Class A common stock is subject to ownership and transfer limitations that are intended to assist us in complying with the requirements to continue to qualify as a real estate investment trust, or REIT.

**Investing in our Class A common stock involves certain risks. See Risk Factors beginning on page S-6 of this prospectus supplement and in the reports we file with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, incorporated by reference in this prospectus supplement and the accompanying prospectus, to read about factors you should consider before making an investment in our Class A common stock.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

**The date of this prospectus supplement is April 2, 2015.**

**Table of Contents**

**TABLE OF CONTENTS**  
**PROSPECTUS SUPPLEMENT**

	<b>Page</b>
<u>About this Prospectus Supplement</u>	S-1
<u>Cautionary Note Regarding Forward-Looking Statements</u>	S-2
<u>Prospectus Summary</u>	S-4
<u>Risk Factors</u>	S-6
<u>Use of Proceeds</u>	S-7
<u>Selling Stockholders</u>	S-8
<u>Plan of Distribution</u>	S-9
<u>Legal Matters</u>	S-12
<u>Experts</u>	S-12
<u>Where You Can Find More Information and Incorporation by Reference</u>	S-12
<b>PROSPECTUS</b>	

	<b>Page</b>
About This Prospectus	1
Where To Find Additional Information	1
Incorporation of Certain Information by Reference	3
Forward-Looking Statements	4
Our Company	6
Risk Factors	8
Use of Proceeds	11
Ratio of Earnings to Combined Fixed Charges and Preferred Stock Dividends	12
Description of Common Stock	13
Certain Provisions of Maryland Law and Our Charter and Bylaws	16
Description of Preferred Stock	22
Description of Depositary Shares	24
Description of Warrants	28
Description of Rights	29
Restrictions on Ownership and Transfer	30
U.S. Federal Income Tax Considerations	34
Book-Entry Securities	71
Plan of Distribution	73
Legal Matters	75
Experts	75

**Table of Contents**

**ABOUT THIS PROSPECTUS SUPPLEMENT**

This document is in two parts. The first part is the prospectus supplement, which describes the specific terms of this offering and also adds to and updates information contained in the accompanying prospectus and the documents incorporated by reference. The second part is the accompanying prospectus, which gives more general information, some of which may not apply to this offering. To the extent there is a conflict between the information contained in this prospectus supplement, on the one hand, and the information contained in the accompanying prospectus, on the other hand, the information in this prospectus supplement shall control. In addition, any statement in a filing we make with the Securities and Exchange Commission, or the SEC, that adds to, updates or changes information contained in an earlier filing we made with the SEC shall be deemed to modify and supersede such information in the earlier filing.

**You should read this document together with additional information described under the heading "Where You Can Find More Information and Incorporation by Reference" in this prospectus supplement. You should rely only on the information contained or incorporated by reference in this prospectus supplement, the accompanying prospectus or in any free writing prospectus. Neither we nor the underwriters have authorized anyone to provide you with different or additional information. If anyone provides you with different or additional information, you should not rely on it. You should assume that the information in this prospectus supplement, the accompanying prospectus or any such free writing prospectus, as well as the information we have previously filed with the SEC and incorporated by reference in this document, is accurate only as of its date or the date which is specified in those documents.**

Unless the context requires otherwise, references in this prospectus supplement to "Colony," "the Company," "we," "us," or "our company" are to Colony Capital, Inc., a Maryland corporation, and its subsidiaries, including Colony Capital Operating Company, LLC, a Delaware limited liability company, which we refer to as our "Operating Partnership." The term "you" refers to a prospective investor.

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**Table of Contents**

**CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This prospectus supplement, the accompanying prospectus and the documents that we incorporate by reference into these documents contain forward-looking statements within the meaning of the U.S. Private Securities Litigation Reform Act of 1995, Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange of 1934, as amended, or the Exchange Act. We caution investors that any forward-looking statements presented in this prospectus supplement, the accompanying prospectus and the documents that we incorporate by reference into these documents are based on management's beliefs and assumptions made by, and information currently available to, management. When used, the words anticipate, believe, expect, intend, may, plan, estimate, project, should, will, result and similar expressions, which do not relate solely to historical matters, are intended to identify forward-looking statements. Such statements are subject to risks, uncertainties and assumptions and are not guarantees of future performance, which may be affected by known and unknown risks, trends, uncertainties and factors that are beyond our control. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results may vary materially from those anticipated, estimated or projected. We caution you that while forward-looking statements reflect our good faith beliefs when we make them, they are not guarantees of future performance and are impacted by actual events when they occur after we make such statements. We expressly disclaim any responsibility to update forward-looking statements, whether as a result of new information, future events or otherwise, except as required by law. Accordingly, investors should use caution in relying on past forward-looking statements, which are based on results and trends at the time they are made, to anticipate future results or trends.

Some of the risks and uncertainties that may cause our actual results, performance or achievements to differ materially from those expressed or implied by forward-looking statements include, among others, the following:

the market, economic and environmental conditions in the industrial real estate, single-family rental, and lodging sectors;

any decrease in our net income and funds from operations as a result of the combination transaction with Colony Capital, LLC;

our ability to manage the combination with Colony Capital, LLC effectively;

our exposure to risks to which we have not historically been exposed, including liabilities with respect to the assets acquired from Colony Capital, LLC and ongoing liabilities and business risks inherent to Colony Capital LLC's business;

our business and investment strategy, including the ability of CAH Operating Partnership, L.P. ( "CAH OP," otherwise known as Colony American Homes) (in which we have a significant investment) to execute its single family home rental strategy;

our ability to generate revenue from the single-family homes in which we own an interest;

our ability to dispose of our real estate investments quickly;

the performance of the hotels in which we own an interest;

market trends in our industry, interest rates, real estate values, the debt securities markets or the general economy or the demand for commercial real estate loans;

our projected operating results;

actions, initiatives and policies of the U.S. government and changes to U.S. government policies and the execution and impact of these actions, initiatives and policies;

the state of the U.S. and global economy generally or in specific geographic regions;

our ability to obtain and maintain financing arrangements, including securitizations;

the amount and value of commercial mortgage loans requiring refinancing in future periods;

S-2

**Table of Contents**

the availability of attractive investment opportunities;

the availability and cost of debt financing from traditional lenders;

the volume of short-term loan extensions;

the demand for new capital to replace maturing loans;

our expected leverage;

the general volatility of the securities markets in which we participate;

changes in the value of our assets;

interest rate mismatches between our target assets and any borrowings used to fund such assets;

changes in interest rates and the market value of our target assets;

changes in prepayment rates on our target assets;

effects of hedging instruments on our target assets;

rates of default or decreased recovery rates on our target assets;

the impact of and changes in governmental regulations, tax law and rates, accounting guidance and similar matters;

our ability to maintain our qualification as a real estate investment trust ( REIT ) for U.S. federal income tax purposes;

our ability to maintain our exemption from registration as an investment company under the Investment Company Act of 1940, as amended (the 1940 Act );



the availability of opportunities to acquire commercial mortgage-related, real estate-related and other securities;

the availability of qualified personnel;

estimates relating to our ability to make distributions to our stockholders in the future; and

our understanding of our competition.

While forward-looking statements reflect our good faith beliefs, assumptions and expectations, they are not guarantees of future performance. Furthermore, we disclaim any obligation to publicly update or revise any forward-looking statement to reflect changes in underlying assumptions or factors, of new information, data or methods, future events or other changes. For a detailed discussion of the risks and uncertainties that may cause our actual results, performance or achievements to differ materially from those expressed or implied by forward-looking statements, see the section entitled "Risk Factors" in our Annual Report on Form 10-K as amended by our Annual Report on Form 10-K/A, for the fiscal year ended December 31, 2014, this prospectus supplement and the accompanying prospectus, and in other documents that we may file from time to time in the future with the SEC. Moreover, because we operate in a very competitive and rapidly changing environment, new risk factors are likely to emerge from time to time. Given these risks and uncertainties, investors should not place undue reliance on forward-looking statements as a prediction of actual results.

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**Table of Contents**

**PROSPECTUS SUMMARY**

*This summary description of us and our business highlights selected information about us contained elsewhere in this prospectus supplement or the accompanying prospectus or the documents incorporated by reference herein or therein. This summary does not contain all of the information about us that you should consider before buying securities in this offering. You should carefully read this entire prospectus supplement and the accompanying prospectus, including each of the documents incorporated herein and therein by reference, before making an investment decision.*

**Our Company**

Colony Capital, Inc. is a leading global real estate and investment management firm headquartered in Los Angeles, California with 14 offices in 10 countries and more than 300 employees. Prior to its combination with Colony Financial, Inc. in 2015, Colony Capital, LLC sponsored \$24 billion of equity across a variety of distinct funds and investment vehicles that collectively invested over \$60 billion of total capital. We target attractive risk-adjusted investment returns and our portfolio is primarily composed of: (i) general partner interests in our company sponsored private equity funds and vehicles; (ii) real estate equity; and (iii) real estate and real estate-related debt.

We were organized on June 23, 2009 as a Maryland corporation and completed our initial public offering in September 2009. We elected to be taxed as a real estate investment trust, or REIT, for U.S. federal income tax purposes commencing with our taxable year ended December 31, 2009. We are organized and conduct our operations to qualify as a REIT, and generally are not subject to U.S. federal income taxes on our taxable income to the extent that we annually distribute all of our taxable income to stockholders and maintain qualification as a REIT, although we are subject to U.S. federal income tax on income earned through our taxable subsidiaries. We also operate our business in a manner that will permit us to maintain our exemption from registration as an investment company under the 1940 Act. Prior to April 2, 2015, we were externally managed and advised by a subsidiary of Colony Capital, LLC, a privately held independent global real estate investment firm founded in 1991 by Thomas J. Barrack, Jr., our Executive Chairman. On April 2, 2015, we became an internally managed company when we acquired our former external manager as part of the combination transaction described below.

As of April 2, 2015, we own an approximate 81.2% ownership interest in the Operating Partnership. Substantially all of our assets are held by, and our operations are conducted through, the Operating Partnership.

Our principal executive offices are located at 2450 Broadway, 6th Floor, Santa Monica, CA, 90404. Our telephone number is (310) 282-8820, and our website address is [www.colonyinc.com](http://www.colonyinc.com). The information found on or accessible through our website is not incorporated into, and does not form a part of, this prospectus supplement.

**Combination with Colony Capital, LLC**

On April 2, 2015, we acquired Colony Capital, LLC's trademark name and substantially all of its real estate investment management business and operations (the "Combination"). While we continue to hold our significant ownership stake in Colony American Homes, Inc. ("CAH") and will receive certain cost reimbursements under a transitional services agreement with CAH, we will not acquire CCLLC's ownership interest in CAH or receive management fees from CAH due to the internalization of CAH's management in November 2014. Upon consummation of the Combination, we became an integrated real estate investment management platform, employing personnel previously employed by Colony Capital, LLC. As a result of the Combination, we will be able to integrate and potentially expand Colony Capital, LLC's investment management business and, as a result, diversify our revenue sources by receiving all in-place management fees previously payable to Colony Capital, LLC from the various programs it was managing at the time of the Combination. We also will be able to sponsor new investment vehicles as general partner under the

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Colony name and receive all ensuing fees and will receive carried interest from future investment programs (net of carried interest that we expect will be allocated to members of our management team, investment professionals and other individuals, which, consistent with market

S-4

## **Table of Contents**

terms, we expect to be 40% of the carried interest earned). In connection with the Combination, we changed our name from Colony Financial, Inc. to Colony Capital, Inc. We reclassified our common stock as Class A common stock, which continues to be listed on the NYSE under the ticker symbol CLNY.

In connection with and at the closing of the Combination, we issued 1,427,608 shares of Class A common stock, and 563,987 shares of newly created Class B common stock ( Class B common stock ), and our Operating Partnership issued 21,336,169 units of membership interest ( OP units ). Each share of Class B common stock will be, at the holder's option, convertible into one share of Class A common stock. Each OP unit will be redeemable, subject to the terms and conditions set forth in the operating agreement of the Operating Partnership, at the holder's option, for cash equal to the average closing price of Class A common stock for the ten consecutive trading days immediately preceding the date we receive a notice of redemption; provided, that we may choose, at our sole discretion, to satisfy this redemption right by exchanging such OP units for shares of Class A common stock on a one-for-one basis, in lieu of cash.

In addition to the shares and OP units issued at closing, we may be required to issue, as contingent consideration in the Combination, up to 1,021,689 shares of Class A common stock, 90,991 shares of Class B common stock and 3,474,350 OP units, subject to multi-year performance targets for achievement of certain funds from operations per share targets and capital-raising thresholds from the funds management businesses (the Contingent Consideration ). If the minimum performance target for either of these metrics is not met or exceeded, a portion of the Contingent Consideration paid in respect of the other metric would not be paid out in full.

## **Registration Rights Agreement**

In connection with the Combination, we previously entered into a registration rights agreement (the Registration Rights Agreement ) pursuant to which we are obligated to file, not later than the closing of the Combination, a shelf registration statement under the Securities Act, registering the shares of Class A common stock issued, issued upon the closing of the Combination. We may satisfy this obligation, however, by adding such shares to an existing registration statement or including them in a prospectus supplement to the prospectus contained in our registration statement.

To the extent that the initial registration statement does not cover all of the shares registrable pursuant to the Registration Rights Agreement, we also are obligated to file one or more additional shelf registration statements under the Securities Act, registering the resale of all other registrable shares. We have agreed to use commercially reasonable efforts to cause any such additional registration statement to be declared effective by the SEC as soon as reasonably practicable. In the case of any registrable shares issued as Contingent Consideration, we must use commercially reasonable efforts to either include such securities on an existing registration statement by filing a post-effective amendment to such registration statement or file an additional registration statement registering such securities. We have agreed to use commercially reasonable efforts to cause such post-effective amendment or additional registration statement to be declared effective promptly following the date such securities are earned.

We have agreed to keep registration statements covering registrable shares continuously effective until the later of (1) six months following the fifth anniversary of the closing of the Combination, and (2) the holders of registrable shares hold, in the aggregate, registrable shares with an aggregate offering price of less than \$75.0 million.

Pursuant to the Registration Rights Agreement, we also agreed to indemnify the persons receiving rights against specified liabilities, including liabilities under the Securities Act, or to contribute to the expenses incurred or the payments such persons may be required to make in respect thereof. In addition, we agreed to bear certain costs of registration, including, among other things, registration and filing fees, printing expenses, attorneys' fees, accountants

fees and other reasonable expenses, but not including any underwriting or broker fees, discounts and selling commissions or similar fees or arrangements, fees of counsel, accountants or other experts to the selling stockholders, transfer taxes or certain other expenses.

S-5

**Table of Contents**

**RISK FACTORS**

Investing in our Class A common stock involves certain risks. You should carefully consider the risks described in the documents incorporated by reference in this prospectus supplement and the accompanying prospectus, including (1) in our Annual Report on Form 10-K for the year ended December 31, 2014, as amended, and (2) documents filed by us with the SEC after the date of this prospectus supplement and which are deemed incorporated by reference in this prospectus supplement and the accompanying prospectus, before making an investment decision. These risks are not the only ones facing us. Additional risks not presently known to us or that we currently deem immaterial may also impair our business operations. Our business, financial condition and results of operations could be materially adversely affected by the materialization of any of these risks. The trading price of our Class A common stock could decline due to the materialization of any of these risks, and you may lose all or part of your investment.

S-6

**Table of Contents**

**USE OF PROCEEDS**

We are registering the shares of our Class A common stock to which this prospectus supplement relates to satisfy our contractual obligation pursuant to the Registration Rights Agreement. See Prospectus Summary Registration Rights Agreement. We will not receive any of the proceeds from the sale by the selling stockholders of the resale shares described herein. However, we have agreed to pay certain expenses relating to the registration of the resale shares.

S-7

**Table of Contents****SELLING STOCKHOLDERS**

Up to 1,427,608 of our Class A common stock is being offered by this prospectus supplement, all of which are being offered for resale by the selling stockholders. The selling stockholders may, from time to time, offer and sell pursuant to this prospectus any or all of the Class A common stock being registered. We will not receive any of the proceeds from the sale by the selling stockholders of these shares. When we refer to the selling stockholders in this prospectus supplement, we mean those persons specifically identified in the table below, as well as the permitted transferees, pledgees, donees, assignees, successors and others who later come to hold any of the selling stockholders' interests other than through a public sale.

The table below sets forth the name of each selling stockholder and the number of our Class A common stock that each selling stockholder may offer pursuant to this prospectus supplement, from time to time, as of the date of this prospectus supplement. We are registering the shares of our Class A common stock to which this prospectus supplement relates to satisfy our contractual obligation pursuant to the Registration Rights Agreement. The resale shares were issued without registration under the Securities Act of 1933, as amended, or the Securities Act, in reliance upon the exemption provided by Section 4(a)(2) of the Securities Act. As of April 2, 2015, there were 111,693,458 shares of Class A common stock outstanding.

Because the selling stockholders may offer all, some or none of the Class A common stock pursuant to this prospectus supplement, and because there currently are no agreements, arrangements or understandings with respect to the sale of any of these shares, no definitive estimate can be given as to the amount of Class A common stock that will be held by the selling stockholders after completion of this offering. The following table has been prepared assuming that the selling stockholders sell all of our Class A common stock beneficially owned by them that have been registered by us and do not acquire any additional Class A common stock during the offering. We cannot advise you as to whether the selling stockholders will in fact sell any or all of their Class A common stock. In addition, the selling stockholders may have sold, transferred or otherwise disposed of, or may sell, transfer or otherwise dispose of, at any time and from time to time, the Class A common stock in transactions exempt from the registration requirements of the Securities Act after the date for which the information set forth in the table below is provided.

The following table sets forth certain information about the selling stockholders based on information provided to us by the selling stockholders and is accurate to our knowledge as of April 2, 2015:

Name of Selling Stockholder	Class A Common Stock Beneficially Owned Prior to Offering		Class A Common Stock Being Offered		Class A Common Stock Beneficially Owned After Offering	
	Number	Percentage(1)	Number	Number(2)	Percentage(1)(2)	
Thomas J. Barrack, Jr.(3)(4)	614,056	*	112,627		*	
Richard B. Saltzman(4)	1,648,814	1.5%	1,314,981		*	

(1) Applicable percentage ownership is based on 111,693,458 shares of Class A common stock outstanding on April 2, 2015.

(2) Assumes sale of all Class A common stock offered hereby.

(3) Represents shares held in a family trust of which Mr. Barrack is trustee.



(4) Includes shares of restricted common stock subject to time vesting.

\* Represents less than 1%.

S-8

**Table of Contents**

**PLAN OF DISTRIBUTION**

We are registering the Class A common stock covered by this prospectus to permit selling stockholders, and any permitted assignees, transferees, pledgees, or donees or any of the successors in interest of the selling stockholders named in a prospectus supplement to this prospectus, to conduct public secondary trading of the Class A common stock. We will not receive any of the proceeds of the sale of the Class A common stock offered by this prospectus. The aggregate proceeds to the selling stockholders from the sale of the Class A common stock will be the purchase price of the Class A common stock less any discounts, commissions, transfer taxes, and certain other expenses. A selling stockholder may offer and sell the Class A common stock included in this prospectus from time to time through one or more methods specified herein or through a combination of any of such methods or any other method permitted pursuant to applicable law.

The selling stockholders may offer and sell their Class A common stock included in this prospectus from time to time directly to purchasers, through underwriters, to dealers, or through agents, at fixed prices, which may be changed, at market prices prevailing at the time of sale, at prices related to the prevailing market prices, at varying prices determined at the time of sale or at privately negotiated prices.

The selling stockholders may offer and sell some or all of the Class A common stock included in this prospectus by or through a broker-dealer in one or more, or a combination, of the following methods pursuant to applicable law, without limitation:

purchases by the broker-dealer as principal, and resale by the broker-dealer for its account;

a block trade in which the broker-dealer may attempt to sell the shares as agent, but may resell all or a portion of the block as principal in order to facilitate the transaction;

transactions in which a broker-dealer may agree with one or more selling stockholders to sell a specified number of such shares at a stipulated price per share;

transactions in which the broker-dealer as agent solicits purchasers and ordinary brokerage transactions by the broker-dealer as agent; or

an offering at other than a fixed price on or through the facilities of any stock exchange on which the Class A common stock is listed or to or through a market maker other than on that stock exchange.

The selling stockholders may directly make offers to sell some or all of the Class A common stock included in this prospectus to, or solicit offers to purchase such shares from, purchasers from time to time. If required, the prospectus supplement related to any such offering by the selling stockholders will set forth the terms of such offering.

The selling stockholders may sell some or all of the Class A common stock included in this prospectus from time to time to one or more underwriters, which would purchase the shares as principal for resale to purchasers, on a firm-commitment or other basis. If the selling stockholders sell Class A common stock to underwriters, they may execute an underwriting agreement with them at the time of sale and, if required, will name them in the prospectus

supplement related to any such offering. In connection with those sales, underwriters may be deemed to have received compensation from the selling stockholders in the form of underwriting discounts or commissions and may also receive commissions from purchasers of the Class A common stock for which they may act as agents. Underwriters may resell Class A common stock 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 purchasers for which they may act as agents. The prospectus supplement related to any such offering will include any required information about underwriting compensation to be paid to underwriters, and any discounts, concessions or commissions underwriters allow to participating dealers, in connection with such offering.

From time to time, the selling stockholders may sell the Class A common stock included in this prospectus to one or more dealers acting as principals. If required, the prospectus supplement related to any such offering

S-9

## **Table of Contents**

will name such dealers as selling stockholders, and will include information about any compensation paid to the dealers, in such offering. The dealers, which may be deemed to be underwriters as that term is defined in the Securities Act, may then resell the Class A common stock to purchasers.

The selling stockholders may designate broker-dealers as agents from time to time to solicit offers from purchasers to purchase the Class A common stock included in this prospectus, or to sell such Class A common stock in ordinary brokerage transactions, on their behalf. If required, the prospectus supplement related to any such offering will name such agents, and will include information about any commissions paid to the agents in such offering. Agents may be deemed to be underwriters as that term is defined in the Securities Act in such offering.

Each of the selling stockholders may be deemed to be an underwriter as that term is defined in the Securities Act, and any profit on the sale of the Class A common stock included in this prospectus by such selling stockholder may be deemed to be underwriting discounts or commissions under the Securities Act.

In connection with a firm commitment offering, the underwriters may purchase and sell the Class A common stock in the open market. These transactions may include short sales, stabilizing transactions and purchases to cover positions created by short sales. Short sales involve the sale by the underwriters of a greater number of shares of the Class A common stock than they are required to purchase in the offering. Stabilizing transactions consist of certain bids or purchases made for the purpose of preventing or retarding a decline in the market price of the Class A common stock while the offering is in progress. The underwriters also may impose a penalty bid. This occurs when a particular underwriter repays to the underwriters a portion of the underwriting discount received by it because the underwriters have repurchased Class A common stock sold by or for the account of that underwriter in stabilizing or short-covering transactions. These activities by the underwriters may stabilize, maintain or otherwise affect the market price of the Class A common stock. As a result, the price of the Class A common stock may be higher than the price that otherwise might exist in the open market. If these activities are commenced, they may be discontinued by the underwriters at any time. These transactions may be effected on or through the NYSE, the existing trading market for the Class A common stock, or in the over-the-counter market or otherwise.

The selling stockholders or their underwriters, broker-dealers, or agents may make sales of the Class A common stock that are deemed to be an at-the-market offering as defined in Securities Act Rule 415, which includes sales of such Class A common stock made directly on or through the NYSE, the existing trading market for the Class A common stock, or in the over-the-counter market or otherwise.

Any underwriters, broker-dealers, or agents offering the Class A common stock included in this prospectus will not confirm sales to any accounts over which they or their affiliates exercise discretionary authority without the prior approval of the customer.

We have agreed to indemnify in certain circumstances selling stockholders against certain liabilities. The selling stockholders have agreed to indemnify us in certain circumstances against certain liabilities. In addition, underwriters, broker-dealers, agents and other persons may be entitled, under agreements that they may enter into with the selling stockholders, to indemnification by them against certain liabilities in connection with an offering of the Class A common stock included in this prospectus.

We have agreed to pay certain expenses of the registration of the Class A common stock offered and sold by the selling stockholders under the registration statement, including, but not limited to, all registration and filing fees and fees and expenses of our counsel and our accountants. The selling stockholders will pay any underwriting discounts, commissions, expenses of their counsel and their accountants, with certain exceptions, and transfer taxes applicable to the Class A common stock sold by them.

We may require that the selling stockholders be subject to any restrictions on sale imposed by us from time to time.

S-10

**Table of Contents**

The selling stockholders and other persons participating in the sale or distribution of the Class A common stock may be subject to applicable provisions of the Exchange Act and the rules and regulations thereunder, including Regulation M. This regulation may limit the timing of purchases and sales of any of the Class A common stock. We have informed the selling stockholders that the anti-manipulation rules under the Exchange Act may apply to sales of the Class A common stock in the market and to the activities of the selling stockholders and their affiliates. Furthermore, Regulation M may restrict the ability of any person engaged in the distribution of the Class A common stock to engage in market-making activities with respect to the particular Class A common stock being distributed for a period of up to five business days before the distribution. These restrictions may affect the marketability of the Class A common stock and the ability of any person or entity to engage in market-making activities with respect to the Class A common stock.

In order to comply with the securities laws of certain states, if applicable, the Class A common stock must be sold in such jurisdictions only through registered or licensed brokers or dealers. In addition, in certain states the Class A common stock may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

As a result of the requirements of the Financial Industry Regulatory Authority ( FINRA ), the maximum discount, concession or commission to be received by any FINRA member or independent broker-dealer may not be greater than eight percent (8%) of the gross proceeds received by the selling stockholders for the sale of any of the Class A common stock included in this prospectus.

Any of the Class A common stock included in this prospectus held by the selling stockholders that qualifies for sale pursuant to Rule 144 under the Securities Act may be sold under Rule 144 rather than pursuant to the registration statement. If any selling stockholder sells pursuant to Rule 144, such selling stockholder will not be deemed to be an underwriter as that term is defined in the Securities Act and will not be subject to the prospectus delivery requirements of the Securities Act with respect to such sales. The Class A common stock covered by this prospectus may also be sold to non-U.S. persons outside the U.S. in accordance with Regulation S under the Securities Act rather than under this prospectus.

A selling stockholder may also sell the Class A common stock through privately negotiated transactions, settlement of short sales, the writing or settlement of options or other hedging transactions (whether through an options exchange or otherwise) and an exchange distribution in accordance with the rules of the applicable exchange.

**Table of Contents**

**LEGAL MATTERS**

The validity of the resale shares offered by the selling stockholders by means of this prospectus supplement has been passed upon for us by Hogan Lovells US LLP.

**EXPERTS**

The consolidated financial statements of Colony Capital, Inc. (the Company, formerly Colony Financial, Inc.) appearing in the Company's Annual Report (Form 10-K) for the year ended December 31, 2014, as amended, (including the schedules appearing therein) and the effectiveness of the Company's internal control over financial reporting as of December 31, 2014, have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their reports thereon and incorporated herein by reference. Such consolidated financial statements are incorporated herein by reference in reliance upon such reports given on the authority of such firm as experts in accounting and auditing.

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

We have filed a registration statement on Form S-3 with the SEC to which this offering relates. In addition, we file annual, quarterly, and current reports, proxy statements and other information with the SEC. You may read and copy the registration statement and any other documents filed by us at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the Public Reference Room. Our SEC filings are also available to the public at the SEC's Internet site at <http://www.sec.gov>. Our reference to the SEC's Internet site is intended to be an inactive textual reference only.

This prospectus supplement and the accompanying prospectus do not contain all of the information included in the registration statement. If a reference is made in this prospectus supplement or the accompanying prospectus to any of our contracts or other documents filed or incorporated by reference as an exhibit to the registration statement, the reference may not be complete and you should refer to the filed copy of the contract or document.

The SEC allows us to incorporate by reference into this prospectus supplement the information we file with the SEC, which means that we can disclose important information to you by referring you to those documents. Information incorporated by reference is part of this prospectus supplement. Later information filed with the SEC will update and supersede this information.

This prospectus supplement incorporates by reference the documents listed below, all of which have been previously filed with the SEC:

our Annual Report on Form 10-K for the fiscal year ended December 31, 2014, filed with the SEC on February 27, 2015, as amended by Amendment No. 1 to the Form 10-K filed on March 31, 2015;

our Definitive Proxy Statement filed with the SEC on April 1, 2014 (but only with respect to information required by Part III of our Annual Report on Form 10-K for the fiscal year ended December 31, 2013);

our Current Reports on Form 8-K filed on January 27, 2015 and April 2, 2015;

the description of our Class A common stock included in our Registration Statement on Form 8-A/A filed with the SEC on April 2, 2015, which incorporates by reference the description of our Class A common stock from our Registration Statement on Form S-3 (Reg. No. 333-203202) and all reports filed for the purpose of updating such description.

We also incorporate by reference into this prospectus additional documents that we may file with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Exchange Act from the date of this prospectus until we have sold

S-12



**Table of Contents**

all of the securities to which this prospectus relates or the offering is otherwise terminated. These documents may include, among others, Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, as well as proxy statements. We are not, however, incorporating any information furnished under either Item 2.02 or Item 7.01 of any Current Report on Form 8-K.

You may obtain copies of any of these filings by contacting us as described below, or through contacting the SEC or accessing its website as described above. Documents incorporated by reference are available without charge, excluding all exhibits unless an exhibit has been specifically incorporated by reference into those documents, by requesting them in writing, by telephone or via the Internet at:

Colony Capital, Inc.

2450 Broadway, 6th Floor

Santa Monica, CA 90404

(310) 282-8820

Attn: Investor Relations

Website: <http://www.colonyinc.com>

**THE INFORMATION CONTAINED ON OUR WEBSITE IS NOT A PART OF THIS PROSPECTUS  
SUPPLEMENT.**

S-13

**Table of Contents**

**PROSPECTUS**

**Class A Common Stock**

**Preferred Stock**

**Depository Shares**

**Warrants**

**Rights**

We may offer, from time to time, one or more series or classes, separately or together, and in amounts, at prices and on terms to be set forth in one or more supplements to this prospectus, the following securities:

Shares of our Class A common stock, par value \$0.01 per share;

Shares of our preferred stock, par value \$0.01 per share;

Depository shares representing our preferred stock;

Warrants to purchase our Class A common stock, preferred stock or depository shares representing preferred stock; and

Rights to purchase our Class A common stock

We refer to our Class A common stock, preferred stock, depository shares, warrants and rights collectively as the securities.

We will deliver this prospectus together with a prospectus supplement setting forth the specific terms of the securities we are offering. The applicable prospectus supplement also will contain information, where applicable, about U.S. federal income tax considerations relating to, and any listing on a securities exchange of, the securities covered by the prospectus supplement. It is important that you read both this prospectus and the applicable prospectus supplement before you invest in the securities.

We may offer the securities directly to investors, through agents designated from time to time by them or us, or to or through underwriters or dealers. If any agents, underwriters, or dealers are involved in the sale of any of the securities, their names, and any applicable purchase price, fee, commission or discount arrangement with, between or among them, will be set forth, or will be calculable from the information set forth, in an accompanying prospectus supplement. For more detailed information, see Plan of Distribution on page 73. No securities may be sold without delivery of a prospectus supplement describing the method and terms of the offering of those securities.

Our Class A common stock is listed on the New York Stock Exchange, or the NYSE, under the symbol CLNY. On April 1, 2015, the last reported sale price of our Class A common stock on the NYSE was \$26.19 per share. Our Class A common stock was previously designated as our common stock, and was re-designated in connection with the combination transaction with Colony Capital, LLC described further herein. Our Series A Preferred Stock is listed under the symbol CLNYPrA and our Series B Preferred Stock is listed under the symbol CLNYPrB, in each case on the NYSE. Our principal executive offices are located at 2450 Broadway, 6<sup>th</sup> Floor, Santa Monica, CA 90404, and our telephone number is (310) 282-8820.

**Investing in our securities involves risks. See Risk Factors beginning on page 8 of this prospectus for certain risk factors to consider before you decide to invest in the securities offered hereby.**

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

**This prospectus is dated April 2, 2015.**

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**Table of Contents**

**TABLE OF CONTENTS**

<u>About This Prospectus</u>	1
<u>Where To Find Additional Information</u>	1
<u>Incorporation of Certain Information by Reference</u>	3
<u>Forward-Looking Statements</u>	4
<u>Our Company</u>	6
<u>Risk Factors</u>	8
<u>Use of Proceeds</u>	11
<u>Ratio of Earnings to Combined Fixed Charges and Preferred Stock Dividends</u>	12
<u>Description of Common Stock</u>	13
<u>Certain Provisions of Maryland Law and Our Charter and Bylaws</u>	16
<u>Description of Preferred Stock</u>	22
<u>Description of Depositary Shares</u>	24
<u>Description of Warrants</u>	28
<u>Description of Rights</u>	29
<u>Restrictions on Ownership and Transfer</u>	30
<u>U.S. Federal Income Tax Considerations</u>	34
<u>Book-Entry Securities</u>	71
<u>Plan of Distribution</u>	73
<u>Legal Matters</u>	75
<u>Experts</u>	75

**Table of Contents**

**ABOUT THIS PROSPECTUS**

This prospectus is part of an automatic shelf registration statement that we filed with the Securities and Exchange Commission, which we refer to as the SEC, utilizing a shelf registration process. This prospectus provides you with a general description of the securities we may offer. Each time we offer securities, we will provide a prospectus supplement and attach it to this prospectus. The prospectus supplement will contain specific information about the terms of the securities being offered at that time. The prospectus supplement may also add, update or change information contained in this prospectus.

You should rely only on the information provided or incorporated by reference in this prospectus and any applicable prospectus supplement. We have not authorized anyone to provide you with different or additional information. We are not making an offer to sell these securities in any jurisdiction where the offer or sale of these securities is not permitted. You should not assume that the information appearing in this prospectus, any applicable prospectus supplement or the documents incorporated by reference herein or therein is accurate as of any date other than their respective dates. Our business, financial condition, results of operations and prospects may have changed since those dates.

You should read carefully the entire prospectus and any applicable prospectus supplement, as well as the documents incorporated by reference in the prospectus and any applicable prospectus supplement, which we have referred you to in Incorporation of Certain Information by Reference below, before making an investment decision. Information incorporated by reference after the date of this prospectus may add, update or change information contained in this prospectus. Any information in such subsequent filings and any applicable prospectus supplement that is inconsistent with this prospectus will supersede the information in this prospectus or any earlier prospectus supplement.

Unless the context requires otherwise, references in this prospectus to we, our, us and our company refer to Colony Capital, Inc., a Maryland corporation, together with its consolidated subsidiaries, including Colony Capital Operating Company, LLC, a Delaware limited liability company, which we refer to as our Operating Partnership.

**WHERE TO FIND ADDITIONAL INFORMATION**

We have filed with the SEC a shelf registration statement on Form S-3, including exhibits, schedules and amendments filed with the registration statement, of which this prospectus is a part, under the Securities Act of 1933, as amended, with respect to the securities that may be offered by this prospectus. This prospectus is a part of that registration statement, but does not contain all of the information in the registration statement. We have omitted parts of the registration statement in accordance with the rules and regulations of the SEC. For further information with respect to our company and the securities that may be offered by this prospectus, reference is made to the registration statement, including the exhibits and schedules to the registration statement. Statements contained in this prospectus as to the contents of any contract or other document referred to in this prospectus are not necessarily complete and, where that contract or other document has been filed as an exhibit to the registration statement, each statement in this prospectus is qualified in all respects by the exhibit to which the reference relates.

We are subject to the informational requirements of the Securities Exchange Act of 1934, as amended (the Exchange Act), and, in accordance therewith, we file annual, quarterly and current reports, proxy statements and other information with the SEC. The registration statement, including the exhibits and schedules to the registration statement and the reports, statements or other information we file with the SEC, may be examined and copied at the Public Reference Room of the SEC at 100 F Street, N.E., Washington, DC 20549. Information about the operation of the Public Reference Room may be obtained by calling the SEC at 1-800-SEC-0300. Our



**Table of Contents**

SEC filings, including the registration statement, are also available to you on the SEC's website (<http://www.sec.gov>), which contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC. We maintain a website at <http://www.colonyinc.com>. You should not consider information on our website to be part of this prospectus.

Our Class A common stock is listed under the symbol CLNY, our Series A Preferred Stock is listed under the symbol CLNYPrA and our Series B Preferred Stock is listed under the symbol CLNYPrB, in each case on the New York Stock Exchange, or the NYSE, and all material filed by us with the NYSE can be inspected at the offices of the NYSE, 20 Broad Street, New York, New York 10005.

**Table of Contents**

**INCORPORATION OF CERTAIN INFORMATION BY REFERENCE**

SEC rules allow us to incorporate information into this prospectus by reference, which means that we 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, except to the extent superseded by information contained herein or by information contained in documents filed with or furnished to the SEC after the date of this prospectus. This prospectus incorporates by reference the documents set forth below that have been previously filed with the SEC:

our Annual Report on Form 10-K for the fiscal year ended December 31, 2014, filed with the SEC on February 27, 2015, as amended by Amendment No. 1 to the Form 10-K filed on March 31, 2015;

our Definitive Proxy Statement filed with the SEC on April 1, 2014 (but only with respect to information required by Part III of our Annual Report on Form 10-K for the fiscal year ended December 31, 2013);

our Current Reports on Form 8-K filed on January 27, 2015 and April 2, 2015;

the description of our Class A common stock included in our Registration Statement on Form 8-A filed with the SEC on September 14, 2009, which incorporates by reference the description of our Class A common stock from our Registration Statement on Form S-11 (Reg. No. 333-160323), and all reports filed for the purpose of updating such description.

We also incorporate by reference into this prospectus additional documents that we may file with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Exchange Act from the date of this prospectus until we have sold all of the securities to which this prospectus relates or the offering is otherwise terminated. We are not, however, incorporating any information furnished under either Item 2.02 or Item 7.01 of any Current Report on Form 8-K. These documents may include, among others, Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, as well as proxy statements.

You may obtain copies of any of these filings by contacting Colony Capital, Inc. as described below, or through contacting the SEC or accessing its website as described above. Documents incorporated by reference are available without charge, excluding all exhibits unless an exhibit has been specifically incorporated by reference into those documents, by requesting them in writing, by telephone or via the Internet at:

Colony Capital, Inc.

2450 Broadway, 6th Floor

Santa Monica, CA 90404

(310) 282-8820

Attn: Investor Relations



**THE INFORMATION CONTAINED ON OUR WEBSITE IS NOT A PART OF THIS PROSPECTUS.**

**Table of Contents**

**FORWARD-LOOKING STATEMENTS**

Some of the statements contained in this prospectus constitute forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 and Section 21E of the Exchange Act, and we intend such statements to be covered by the safe harbor provisions contained therein. Forward-looking statements relate to expectations, beliefs, projections, future plans and strategies, anticipated events or trends and similar expressions concerning matters that are not historical facts. In some cases, you can identify forward-looking statements by the use of forward-looking terminology such as may, will, should, expects, intends, plans, anticipates, believes, predicts, or potential or the negative of these words and phrases or similar words or phrases which are predictions of or indicate future events or trends and which do not relate solely to historical matters. You can also identify forward-looking statements by discussions of strategy, plans or intentions.

The forward-looking statements contained in this prospectus reflect our current views about future events and are subject to numerous known and unknown risks, uncertainties, assumptions and changes in circumstances that may cause our actual results to differ significantly from those expressed in any forward-looking statement. The following factors, among others, could cause actual results and future events to differ materially from those set forth or contemplated in the forward-looking statements:

the market, economic and environmental conditions in the industrial real estate, single-family rental, and lodging sectors;

any decrease in our net income and funds from operations as a result of the combination transaction with Colony Capital, LLC;

our ability to manage the combination with Colony Capital, LLC effectively;

our exposure to risks to which we have not historically been exposed, including liabilities with respect to the assets acquired from Colony Capital, LLC and ongoing liabilities and business risks inherent to Colony Capital LLC's business;

our business and investment strategy, including the ability of CAH Operating Partnership, L.P. (CAH OP, otherwise known as Colony American Homes) (in which we have a significant investment) to execute its single family home rental strategy;

our ability to generate revenue from the single-family homes in which we own an interest;

our ability to dispose of our real estate investments quickly;

the performance of the hotels in which we own an interest;

market trends in our industry, interest rates, real estate values, the debt securities markets or the general economy or the demand for commercial real estate loans;

our projected operating results;

actions, initiatives and policies of the U.S. government and changes to U.S. government policies and the execution and impact of these actions, initiatives and policies;

the state of the U.S. and global economy generally or in specific geographic regions;

our ability to obtain and maintain financing arrangements, including securitizations;

the amount and value of commercial mortgage loans requiring refinancing in future periods;

the availability of attractive investment opportunities;

the availability and cost of debt financing from traditional lenders;

the volume of short-term loan extensions;

the demand for new capital to replace maturing loans;

**Table of Contents**

our expected leverage;

the general volatility of the securities markets in which we participate;

changes in the value of our assets;

interest rate mismatches between our target assets and any borrowings used to fund such assets;

changes in interest rates and the market value of our target assets;

changes in prepayment rates on our target assets;

effects of hedging instruments on our target assets;

rates of default or decreased recovery rates on our target assets;

the impact of and changes in governmental regulations, tax law and rates, accounting guidance and similar matters;

our ability to maintain our qualification as a real estate investment trust ( REIT ) for U.S. federal income tax purposes;

our ability to maintain our exemption from registration as an investment company under the Investment Company Act of 1940, as amended (the 1940 Act );

the availability of opportunities to acquire commercial mortgage-related, real estate-related and other securities;

the availability of qualified personnel;

estimates relating to our ability to make distributions to our stockholders in the future; and

our understanding of our competition.

While forward-looking statements reflect our good faith beliefs, assumptions and expectations, they are not guarantees of future performance. Furthermore, we disclaim any obligation to publicly update or revise any forward-looking statement to reflect changes in underlying assumptions or factors, of new information, data or methods, future events or other changes. For a detailed discussion of the risks and uncertainties that may cause our actual results, performance or achievements to differ materially from those expressed or implied by forward-looking statements, see the section entitled "Risk Factors" in our Annual Report on Form 10-K, as amended by our Annual Report on Form 10-K/A, for the fiscal year ended December 31, 2014, this prospectus supplement and the accompanying prospectus, and in other documents that we may file from time to time in the future with the SEC. Moreover, because we operate in a very competitive and rapidly changing environment, new risk factors are likely to emerge from time to time. Given these risks and uncertainties, investors should not place undue reliance on forward-looking statements as a prediction of actual results.

**Table of Contents**

**OUR COMPANY**

Colony Capital, Inc. is a leading global real estate and investment management firm headquartered in Los Angeles, California with 14 offices in 10 countries and more than 300 employees. Prior to its combination with Colony Financial, Inc. in 2015, Colony Capital, LLC sponsored \$24 billion of equity across a variety of distinct funds and investment vehicles that collectively invested over \$60 billion of total capital. We target attractive risk-adjusted investment returns and our portfolio is primarily composed of: (i) general partner interests in our company sponsored private equity funds and vehicles; (ii) real estate equity; and (iii) real estate and real estate-related debt.

We were organized on June 23, 2009 as a Maryland corporation and completed our initial public offering in September 2009. We elected to be taxed as a real estate investment trust, or REIT, for U.S. federal income tax purposes commencing with our taxable year ended December 31, 2009. We are organized and conduct our operations to qualify as a REIT, and generally are not subject to U.S. federal income taxes on our taxable income to the extent that we annually distribute all of our taxable income to stockholders and maintain qualification as a REIT, although we are subject to U.S. federal income tax on income earned through our taxable subsidiaries. We also operate our business in a manner that will permit us to maintain our exemption from registration as an investment company under the 1940 Act. Prior to April 2, 2015, we were externally managed and advised by a subsidiary of Colony Capital, LLC, a privately held independent global real estate investment firm founded in 1991 by Thomas J. Barrack, Jr., our Executive Chairman. On April 2, 2015, we became an internally managed company when we acquired our former external manager as part of the combination transaction described below.

As of April 2, 2015, we own an approximate 81.2% ownership interest in the Operating Partnership. Substantially all of our assets are held by, and our operations are conducted through, the Operating Partnership.

Our principal executive offices are located at 2450 Broadway, 6th Floor, Santa Monica, CA, 90404. Our telephone number is (310) 282-8820, and our website address is [www.colonyinc.com](http://www.colonyinc.com). The information found on or accessible through our website is not incorporated into, and does not form a part of, this prospectus or any applicable prospectus supplement.

**Combination with Colony Capital, LLC**

On April 2, 2015, we acquired Colony Capital, LLC's trademark name and substantially all of its real estate investment management business and operations (the "Combination"). While we continue to hold our significant ownership stake in Colony American Homes, Inc. ("CAH") and will receive certain cost reimbursements under a transitional services agreement with CAH, we will not acquire Colony Capital, LLC's ownership interest in CAH or receive management fees from CAH due to the internalization of CAH's management in November 2014. Upon consummation of the Combination, we became an integrated real estate investment management platform, employing personnel previously employed by Colony Capital, LLC. As a result of the Combination, we will be able to integrate and potentially expand Colony Capital, LLC's investment management business and, as a result, diversify our revenue sources by receiving all in-place management fees previously payable to Colony Capital, LLC from the various programs it was managing at the time of the Combination. We also will be able to sponsor new investment vehicles as general partner under the Colony name and receive all ensuing fees and will receive carried interest from future investment programs (net of carried interest that we expect will be allocated to members of our management team, investment professionals and other individuals, which, consistent with market terms, we expect to be 40% of the carried interest earned). In connection with the Combination, we changed our name from Colony Financial, Inc. to Colony Capital, Inc. We reclassified our common stock as Class A common stock, which continues to be listed on the NYSE under the ticker symbol CLNY.

## Edgar Filing: Colony Capital, Inc. - Form 424B7

In connection with and at the closing of the Combination, we issued 1,427,608 shares of Class A common stock, and 563,987 shares of newly created Class B common stock ( Class B common stock ), and our Operating Partnership issued 21,336,169 units of membership interest ( OP units ). Each share of Class B common stock

**Table of Contents**

will be, at the holder's option, convertible into one share of Class A common stock. Each OP unit will be redeemable, subject to the terms and conditions set forth in the operating agreement of the Operating Partnership, at the holder's option, for cash equal to the average closing price of Class A common stock for the ten consecutive trading days immediately preceding the date we receive a notice of redemption; provided, that we may choose, at our sole discretion, to satisfy this redemption right by exchanging such OP units for shares of Class A common stock on a one-for-one basis, in lieu of cash.

In addition to the shares and OP units issued at closing, we may be required to issue, as contingent consideration in the Combination, up to 1,021,689 shares of Class A common stock, 90,991 shares of Class B common stock and 3,474,350 OP units, subject to multi-year performance targets for achievement of certain funds from operations per share targets and capital-raising thresholds from the funds management businesses (the "Contingent Consideration"). If the minimum performance target for either of these metrics is not met or exceeded, a portion of the Contingent Consideration paid in respect of the other metric would not be paid out in full.



**Table of Contents**

**RISK FACTORS**

*Investing in our securities involves a high degree of risk. You should carefully consider the risk factors set forth in our Annual Report on Form 10-K for the fiscal year ended December 31, 2014, as amended, together with all the other information contained or incorporated by reference into this prospectus and the risks we have highlighted below and in other sections of this prospectus, before making an investment decision to purchase our securities. The occurrence of any of the events described could materially and adversely affect our business, prospects, financial condition, results of operations and our ability to make cash distributions to our stockholders, which could cause you to lose all or a significant part of your investment in our securities. Some statements in this prospectus constitute forward-looking statements. Please refer to the section entitled *Forward-Looking Statements*.*

**Risks Related to Our Common and Preferred Stock**

**The market price and trading volume of our common and preferred stock may vary substantially.**

The stock markets, including the NYSE, on which our Class A common and preferred stock are listed, historically have experienced significant price and volume fluctuations. As a result, the market price of our Class A common stock and preferred stock is likely to be similarly volatile, and investors in our Class A common stock and preferred stock may experience a decrease in the value of their shares, including decreases unrelated to our operating performance or prospects. The price of our publicly traded securities could be subject to wide fluctuations in response to a number of factors, including those listed herein and in the **Risk Factors** section of our Annual Report on Form 10-K for the fiscal year ended December 31, 2014 and others such as:

our operating performance and the performance of other similar companies;

actual or anticipated changes in our business strategy or prospects;

actual or anticipated variations in our quarterly operating results or dividends;

changes in our earnings estimates;

publication of research reports about us or the real estate industry;

equity issuances by us, or stock resales by our stockholders or the perception that such issuances or resales could occur;

the passage of legislation or other regulatory developments that adversely affect us or the assets in which we seek to invest;

increases in market interest rates that lead purchasers of our common and preferred stock to demand a higher yield;

the use of significant leverage to finance our assets;

changes in market valuations of similar companies;

additions to or departures of our key personnel;

actions by our stockholders;

changes in accounting principles;

speculation in the press or investment community;

the realization of any of the other risk factors presented in our Annual Report on Form 10-K for the fiscal year ended December 31, 2014; and

general market and economic conditions.

## **Table of Contents**

The trading prices of common and preferred equity securities issued by REITs and other real estate companies historically have been affected by changes in market interest rates. One of the factors that may influence the market price of our preferred stock is the annual yield from distributions on our preferred stock as compared to yields on other financial instruments. An increase in market interest rates may lead prospective purchasers of our preferred stock to demand a higher annual yield, which could reduce the market price of our preferred stock.

Additionally, in the past, securities class action litigation has often been instituted against companies following periods of volatility in the price of their publicly traded securities. This type of litigation could result in substantial costs and divert our management's attention and resources, which could have a material adverse effect on our cash flows, our ability to execute our business strategy and our ability to make distributions to our stockholders.

### **We have not established a minimum distribution payment level and we may be unable to generate sufficient cash flows from our operations to make distributions to our stockholders in the future.**

We are generally required to distribute to our stockholders at least 90% of our taxable income (excluding our net capital gains and without regard to the deductions for dividends paid) each year in order to qualify as a REIT under the Internal Revenue Code, which requirement we currently intend to satisfy. To the extent we satisfy the 90% distribution requirement but distribute less than 100% of our taxable income (including our net capital gain), we will be subject to U.S. federal corporate income tax on our undistributed taxable income. We have not established a minimum distribution payment level, and our ability to make distributions to our stockholders may be adversely affected by the risk factors described herein and in our Annual Report on Form 10-K for the year ended December 31, 2014. Moreover, we may be unable to generate sufficient cash flows from our operations to make distributions to our stockholders in the future. Therefore, although we anticipate making quarterly distributions to our stockholders, our board of directors has the sole discretion to determine the timing, form and amount of any such distributions.

Although we currently do not intend to do so, until our portfolio of assets generates sufficient income and cash flow, we could be required to sell assets, borrow funds or make a portion of our distributions in the form of a taxable stock distribution or distribution of debt securities. To the extent that we are required to sell assets in adverse market conditions or borrow funds at unfavorable rates, our results of operations could be materially and adversely affected.

Our board of directors will make determinations regarding distributions based upon, among other factors, our historical and projected results of operations, financial condition, cash flows and liquidity, maintenance of our REIT qualification and other tax considerations, capital expenditure and other expense obligations, debt covenants, contractual prohibitions or other limitations and applicable law and such other matters as our board of directors may deem relevant from time to time. Among the factors that could impair our ability to make distributions to our stockholders are:

our inability to realize attractive risk-adjusted returns on our investments;

unanticipated expenses that reduce our cash flow or non-cash earnings;

defaults in our investment portfolio or decreases in the value of the underlying assets; and

the fact that anticipated operating expense levels may not prove accurate, as actual results may vary from estimates.

As a result, no assurance can be given that we will be able to make distributions to our stockholders in the future or that the level of any distributions we do make to our stockholders will achieve a market yield or increase or even be maintained over time, any of which could materially and adversely affect the market price of our Class A common stock.

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**Table of Contents**

In addition, distributions that we make to our stockholders will generally be taxable to our stockholders as ordinary income. However, a portion of our distributions may be designated by us as long-term capital gain to the extent that they are attributable to capital gain income recognized by us, or may constitute a return of capital to the extent that they exceed our earnings and profits as determined for tax purposes. A return of capital generally is not taxable to the extent of a stockholder's basis in our stock, but has the effect of reducing the basis of a stockholder's investment in our stock.

**Future offerings of debt or equity securities, which could rank senior to our common or preferred stock, may adversely affect the market price of our common or preferred stock.**

If we decide to issue debt or equity securities in the future, which could rank senior to our common stock, our 8.50% Series A Cumulative Redeemable Perpetual Preferred Stock, liquidation preference of \$25 per share ( "Series A Preferred Stock" ) or our 7.50% Series B Cumulative Redeemable Perpetual Preferred Stock, liquidation preference of \$25 per share ( "Series B Preferred Stock," and together with our Series A Preferred Stock, "Preferred Stock" ), it is likely that they will be governed by an indenture or other instrument containing covenants restricting our operating flexibility. Additionally, any convertible or exchangeable securities that we issue, such as our 3.875% convertible senior notes and our 5.00% convertible senior notes (collectively, the "Convertible Notes" ) and any such securities that we issue in the future may have rights, preferences and privileges more favorable than those of our common stock or Preferred Stock and may result in dilution to owners of our common stock or Preferred Stock. We and, indirectly, our stockholders, will bear the cost of issuing and servicing such securities. Because our decision to issue debt or equity securities in any future offering will depend on market conditions and other factors beyond our control, we cannot predict or estimate the amount, timing or nature of our future offerings. Thus holders of our common and preferred stock will bear the risk of our future offerings reducing the market price of our Class A common stock and diluting the value of their stock holdings in us.

**Holders of our preferred stock have extremely limited voting rights.**

Holders of our Preferred Stock have extremely limited voting rights. Our common stock is the only class of our capital stock carrying full voting rights. Voting rights for holders of Series A Preferred Stock and Series B Preferred exist primarily with respect to the ability to appoint (together with holders of our parity equity securities having similar voting rights, if any) two additional directors to our Board of Directors in the event that six quarterly dividends (whether or not consecutive) payable on our Series A Preferred Stock or Series B Preferred Stock, as applicable, are in arrears, and with respect to voting on amendments to our charter or our Series A Preferred Stock or Series B Preferred Stock Articles Supplementary, as applicable, that materially and adversely affect the rights of Series A Preferred Stock or Series B Preferred Stock holders, as applicable, or create additional classes or series of preferred stock that are senior to our Series A Preferred Stock or Series B Preferred Stock, as applicable. Other than in extremely limited circumstances, holders of Preferred Stock will not have any voting rights.

**Table of Contents**

**USE OF PROCEEDS**

Unless otherwise described in the applicable prospectus supplement to this prospectus used to offer specific securities, we intend to contribute the net proceeds from any sale of the securities pursuant to this prospectus to the Operating Partnership in exchange for OP Units. Our Operating Partnership intends to use the net proceeds from the sale of securities under this prospectus for working capital and general corporate purposes, which may include, without limitation, the repayment of outstanding indebtedness and the acquisition of our target assets in a manner consistent with our investment strategies and investment guidelines, including (i) real estate equity, including direct property and real estate platform investments; and (ii) real estate and real estate-related debt, including new originations and loans acquired at a discount to par in the secondary market. Secondary debt purchases may include performing, sub-performing or non-performing loans (including loan-to-own strategies).

**Table of Contents****RATIO OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED STOCK DIVIDENDS**

The following table sets forth our ratio of earnings to combined fixed charges and preferred stock dividends for each of the periods presented. For purposes of determining the ratio of earnings to fixed charges, earnings consist of loss before income taxes before adjustment for noncontrolling interest and income from equity investees, fixed charges and distributed income of equity investees, less noncontrolling interest in pre-tax earnings of consolidated subsidiaries with no fixed charges. Fixed charges consist of interest expense, including amortization of loan costs.

	<b>Year Ended December 31, 2014</b>	<b>Year Ended December 31, 2013</b>	<b>Year Ended December 31, 2012</b>	<b>Year Ended December 31, 2011</b>	<b>Year Ended December 31, 2010</b>
Ratio of earnings to combined fixed charges and preferred stock dividends	2.4	3.2	3.3	8.5(1)	18.6(1)

(1) The Company did not have any shares of preferred stock issued and outstanding for the periods presented.

**Table of Contents**

**DESCRIPTION OF COMMON STOCK**

**General**

Our charter provides that we may issue up to 449,000,000 shares of our Class A common stock, \$0.01 par value per share ( Class A common stock ) and up to 1,000,000 shares of our Class B common stock, \$0.01 par value per share ( Class B common stock, and, together with the Class A common stock, our common stock ). Our charter authorizes our board of directors to amend our charter to increase or decrease the aggregate number of authorized shares of common stock without stockholder approval. As of April 2, 2015, 111,693,454 shares of our Class A common stock and 563,987 shares of our Class B common stock were issued and outstanding on a fully diluted basis.

Under Maryland law, stockholders generally are not personally liable for our debts or obligations solely as a result of their status as stockholders.

All shares of our Class A common stock offered by this prospectus will be duly authorized, validly issued, fully paid and non-assessable. No shares of our Class B common stock are being offered by this prospectus.

**Voting Rights of Common Stock**

Subject to the provisions of our charter regarding the restrictions on transfer and ownership of shares of our common stock and except as may otherwise be specified in the terms of any class or series of shares of common stock, each outstanding share of our Class A common stock entitles the holder to one vote and each outstanding share of Class B common stock entitles the holder to thirty-six and one half (36.5) votes on all matters submitted to a vote of stockholders, including the election of directors, and, except as provided with respect to any other class or series of shares of capital stock, the holders of such shares of common stock will possess the exclusive voting power. There will be no cumulative voting in the election of directors.

Under the Maryland General Corporation Law, or the MGCL, a Maryland corporation generally cannot dissolve, amend its charter, merge, sell all or substantially all of its assets, engage in a share exchange or engage in similar transactions outside the ordinary course of business unless approved by the affirmative vote of stockholders holding at least two-thirds of the shares entitled to vote on the matter unless a lesser percentage (but not less than a majority of all the votes entitled to be cast on the matter) is set forth in the corporation's charter. Our charter provides that these actions (other than certain amendments to the provisions of our charter related to the removal of directors and the restrictions on ownership and transfer of our shares of stock) may be taken if declared advisable by a majority of our board of directors and approved by the vote of stockholders holding at least a majority of the votes entitled to be cast on the matter. However, Maryland law permits a corporation to transfer all or substantially all of its assets without the approval of the stockholders of the corporation to one or more persons if all of the equity interests of the person or persons are owned, directly or indirectly, by the corporation. In addition, because operating assets may be held by a corporation's subsidiaries, as in our situation, these subsidiaries may be able to transfer all or substantially all of such assets without a vote of our stockholders.

**Dividends, Liquidation and Other Rights**

Subject to the preferential rights of any other class or series of our stock, including our Preferred Stock, and to the provisions of our charter regarding the restrictions on ownership and transfer of shares of stock, holders of shares of common stock are entitled to receive dividends on such shares of common stock if, as and when authorized by our board of directors, and declared by us out of assets legally available therefor. Such holders are also entitled to share ratably in the assets of our company legally available for distribution to our stockholders in the event of our



liquidation, dissolution or winding up after payment or establishment of reserves or other adequate provision for all debts and liabilities of our company and any stock with preferential rights related thereto, including our Preferred Stock. Under Maryland law, stockholders generally are not liable for the corporation's debts or obligations.

## **Table of Contents**

Holders of shares of common stock have no preference, conversion (other than as described below with respect to the Class B common stock), exchange, sinking fund or redemption rights, have no preemptive rights to subscribe for any securities of our company and generally have no appraisal rights. Subject to the provisions of our charter regarding the restrictions on ownership and transfer of shares of stock, shares of common stock will have equal dividend, liquidation and other rights.

Subject to any preferences on other outstanding shares of our company, if and when our board of directors authorizes or declares a dividend or distribution with respect to the Class A common stock, such authorization or declaration also shall constitute a simultaneous authorization or declaration of an equivalent dividend or distribution with respect to each share of Class B common stock.

In the event of any liquidation, dissolution or winding up of our company or any distribution of our company's assets, each holder of Class B common stock will be entitled to participate, together with the Class A common stock and any other class of stock not having a preference over Class B common stock, in the distribution of any remaining assets after payment of our company's debts and liabilities and distributions to holders of shares having a preference over the Class B common stock.

## **Power to Reclassify Our Unissued Shares of Stock**

Our charter authorizes our board of directors to classify and reclassify any unissued shares of common or preferred stock into other classes or series of shares of stock and to establish the number of shares in each class or series and to set the preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications or terms or conditions of redemption for each such class or series. As a result, our board of directors could authorize the issuance of shares of preferred stock that have priority over the shares of common stock with respect to dividends, distributions and rights upon liquidation and with other terms and conditions that could have the effect of delaying, deterring or preventing a transaction or a change in control that might involve a premium price for holders of shares of our common stock or otherwise might be in their best interest. As of April 2, 2015, 13,530,000 shares of preferred stock were outstanding.

## **Power to Increase or Decrease Authorized Shares of Our Common Stock and Issue Additional Shares of Our Common Stock**

We believe that the power of our board of directors to amend our charter to increase or decrease the number of authorized shares of stock, to issue additional authorized but unissued shares of common stock and to classify or reclassify unissued shares of common stock and thereafter to cause to issue such classified or reclassified shares of stock will provide us with increased flexibility in structuring possible future financings and acquisitions and in meeting other needs that might arise. The additional classes or series will be available for issuance without further action by our stockholders, unless such action is required by applicable law or the rules of any stock exchange or automated quotation system on which our securities may be listed or traded. Although our board of directors does not intend to do so, it could authorize us to issue a class or series that could, depending upon the terms of the particular class or series, delay, defer or prevent a transaction or a change in control of our company that might involve a premium price for holders of our shares of stock or otherwise be in the best interest of our stockholders. See "Certain Provisions of Maryland Law and of Our Charter and Bylaws Anti-takeover Effect of Certain Provisions of Maryland Law and of Our Charter and Bylaws."

## **Restrictions on Ownership**

With certain exceptions, our charter provides that no person may own, actually or constructively, more than 8.0% of the aggregate of the outstanding shares of our common stock by value or by number of shares, whichever is more restrictive, or 9.8% of the aggregate of the outstanding shares of any class or series of our preferred stock by value or by number of shares, whichever is more restrictive. For a description of these ownership restrictions and other restrictions intended to protect our qualification as a REIT, see [Restrictions on Ownership and Transfer](#).

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**Table of Contents**

**Conversion of Class B Common Stock**

In connection with the Combination, we issued 563,987 shares of Class B common stock. Subject to the provisions of our charter regarding the restrictions on transfer and ownership of shares of our common stock and expect as may otherwise be specified in the terms of any class or series of common stock, each share of Class B common stock, which shall only be issued in conjunction with the issuance of OP Units (in a ratio of no more than one (1) share of Class B common stock for every thirty-five and one-half (35.5) OP Units), shall convert automatically into one fully-paid and non-assessable share of Class A common stock (i) if Mr. Barrack or any of his family members (or trusts for the benefit of his family members) directly or indirectly transfers beneficial ownership of Class B common stock other than among each other, and (ii) if Mr. Barrack directly or indirectly transfers beneficial ownership of OP Units directly or indirectly held by him, other than to a Qualified Transferee, any Qualified Transferee directly or indirectly transfers beneficial ownership of OP Units directly or indirectly held by it other than to Mr. Barrack or to another Qualified Transferee, or a Qualified Transferee that beneficially owns OP Units ceases at any time to continue to be a Qualified Transferee (which, as described below, may include the failure of a Qualified Transferee that is an executive of ours to be employed by us or a divorce or annulment), in each case for every group of between one (1) and thirty-five and one-half (35.5) OP Units involved in such transfer or cessation. In other words, with respect to clause (ii), one share of Class B common stock will convert automatically for every group of between one (1) and thirty-five and one-half (35.5) OP Units involved in any transfer or cessation. Qualified Transferee means Colony Capital, LLC and Colony Capital Holdings, LLC and any member of CCH Management Partners I, LLC, CCH Management Partners II, LLC, Colony Capital, LLC or Colony Capital Holdings, LLC for so long as any such person remains employed by us or our affiliates, any family member or affiliate of such persons or any person controlled by any combination of one or more of such persons or their family members. The purpose of this automatic conversion feature is to ensure that the holders of Class B common stock do not at any time have votes in excess of the number of OP Units then held by them (or the other permitted holders described above); to the extent that a share of Class B common stock or any group of up to thirty-five and one-half (35.5) OP Units is transferred or ceases to be held by a permitted holder, a share of Class B common stock will convert into one share Class A common stock, thereafter carrying only one vote.

Each holder of Class B common stock shall have the right, at the holder's option at any time and from time to time, to convert all or a portion of such holder's Class B common stock into an equal number of fully paid and non-assessable shares of Class A common stock by delivering the certificates (if any) representing the shares of Class B common stock to be converted, duly endorsed for transfer, together with a written conversion notice to the transfer agent for the Class B common stock.

**Transfer Agent and Registrar**

The transfer agent and registrar for our shares of common stock is American Stock Transfer & Trust Company.

**Table of Contents**

**CERTAIN PROVISIONS OF MARYLAND LAW AND OUR CHARTER AND BYLAWS**

*The following summary of certain provisions of Maryland law and our charter and bylaws does not purport to be complete and is subject to and qualified in its entirety by reference to applicable Maryland law and to our charter and bylaws, copies of which are filed as exhibits to the registration statement of which this prospectus is a part. See Where You Can Find More Information.*

**Our Board of Directors**

Our charter and bylaws provide that the number of directors of our company may be established by our board of directors, but may not be fewer than the minimum number required under Maryland law nor more than 15. Currently, we have six directors. Our charter and bylaws provide that any vacancy, including a vacancy created by an increase in the number of directors, may be filled only by a majority of the remaining directors, even if the remaining directors do not constitute a quorum. Any individual elected to fill such vacancy will serve for the remainder of the full term and until a successor is elected and qualifies.

Pursuant to our bylaws, each of our directors is elected by our stockholders to serve until the next annual meeting of stockholders and until his or her successor is duly elected and qualifies under Maryland law. Holders of shares of our common stock will have no right to cumulative voting in the election of directors. Directors are elected by a plurality of the votes cast.

Our bylaws provide that at least a majority of our directors will be independent, with independence being defined in the manner established by our board of directors and in a manner consistent with listing standards established by the NYSE.

***Removal of Directors***

Our charter provides that, subject to the rights of holders of one or more classes or series of preferred stock to elect or remove one or more directors, a director may be removed only for cause (as defined in our charter) and only by the affirmative vote of at least two-thirds of the votes entitled to be cast generally in the election of directors and that our board of directors has the exclusive power to fill vacant directorships. These provisions may preclude stockholders from removing incumbent directors and filling the vacancies created by such removal with their own nominees.

***Business Combinations***

Under the MGCL, certain business combinations (including a merger, consolidation, share exchange or, in certain circumstances specified under the statute, an asset transfer or issuance or reclassification of equity securities) between a Maryland corporation and any interested stockholder, or an affiliate of such an interested stockholder, are prohibited for five years after the most recent date on which the interested stockholder becomes an interested stockholder. Maryland law defines an interested stockholder as:

any person who beneficially owns, directly or indirectly, 10% or more of the voting power of the corporation's voting stock; or

an affiliate or associate of the corporation who, at any time within the two-year period prior to the date in question, was the beneficial owner of 10% or more of the voting power of the then outstanding voting stock of the corporation.

A person is not an interested stockholder under the statute if the board of directors approves in advance the transaction by which the person otherwise would have become an interested stockholder. In approving a transaction, however, the board of directors may provide that its approval is subject to compliance at or after the time of the approval, with any terms and conditions determined by the board of directors.

## **Table of Contents**

After the five-year prohibition, any business combination between the company and an interested stockholder generally must be recommended by the board of directors and approved by the affirmative vote of at least:

80% of the votes entitled to be cast by holders of outstanding voting shares of stock of the corporation; and

two-thirds of the votes entitled to be cast by holders of voting shares of stock of the corporation other than shares held by the interested stockholder with whom (or with whose affiliate) the business combination is to be effected or shares held by an affiliate or associate of the interested stockholder, unless, among other conditions, the corporation's common stockholders receive a minimum price (as described under Maryland law) for their shares and the consideration is received in cash or in the same form as previously paid by the interested stockholder for its shares.

These provisions of the MGCL do not apply, however, to business combinations that are approved or exempted by a corporation's board of directors prior to the time that the interested stockholder becomes an interested stockholder. Pursuant to the statute, our board of directors has by resolution opted out of the business combination provisions of the MGCL and, consequently, the five-year prohibition and the supermajority vote requirements will not apply to business combinations between us and an interested stockholder, unless our board in the future alters or repeals this resolution. As a result, any person who later becomes an interested stockholder may be able to enter into business combinations with us without compliance by our company with the supermajority vote requirements and the other provisions of the statute.

We cannot assure you that our board of directors will not determine to become subject to such business combination provisions in the future. However, an alteration or repeal of this resolution will not have any effect on any business combinations that have been consummated or upon any agreements existing at the time of such modification or repeal.

### ***Control Share Acquisitions***

The MGCL provides that control shares of a Maryland corporation acquired in a control share acquisition have no voting rights except to the extent approved at a special meeting of stockholders by the affirmative vote of two-thirds of the votes entitled to be cast on the matter, excluding shares of stock in a corporation in respect of which any of the following persons is entitled to exercise or direct the exercise of the voting power of such shares in the election of directors: (1) a person who makes or proposes to make a control share acquisition, (2) an officer of the corporation or (3) an employee of the corporation who is also a director of the corporation. Control shares are voting shares of stock that, if aggregated with all other such shares of stock previously acquired by the acquirer or in respect of which the acquirer is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquirer to exercise voting power in electing directors within one of the following ranges of voting power:

one-tenth or more but less than one-third;

one-third or more but less than a majority; or

a majority or more of all voting power.

Control shares do not include shares the acquiring person is then entitled to vote as a result of having previously obtained stockholder approval. A control share acquisition means the acquisition, directly or indirectly, of ownership of, or the power to direct the exercise of voting power with respect to, issued and outstanding control shares, subject to certain exceptions.

A person who has made or proposes to make a control share acquisition, upon satisfaction of certain conditions (including an undertaking to pay expenses and making an acquiring person statement as described



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**Table of Contents**

in the MGCL), may compel our board of directors to call a special meeting of stockholders to be held within 50 days of demand to consider the voting rights of the control shares. If no request for a special meeting is made, we may present the question at any stockholders meeting.

If voting rights of control shares are not approved at the meeting or if the acquiring person does not deliver an acquiring person statement as required by Maryland law, then, subject to certain conditions and limitations, the corporation may redeem any or all of the control shares (except those for which voting rights have previously been approved) for fair value. Fair value is determined, without regard to the absence of voting rights for the control shares, as of the date of the last control share acquisition by the acquirer or of any meeting of stockholders at which the voting rights of such shares are considered and not approved. If voting rights for control shares are approved at a stockholders meeting and the acquirer becomes entitled to vote a majority of the shares entitled to vote, all other stockholders may exercise appraisal rights. The fair value of the shares as determined for purposes of such appraisal rights may not be less than the highest price per share paid by the acquirer in the control share acquisition. The control share acquisition statute does not apply (1) to shares acquired in a merger, consolidation or share exchange if we are a party to the transaction or (2) to acquisitions approved or exempted by the charter or bylaws of the corporation.

Our bylaws contain a provision exempting from the control share acquisition statute any and all acquisitions by any person of our common stock. There is no assurance, however, that our board of directors will not amend or eliminate this provision at any time in the future.

***Subtitle 8***

Subtitle 8 of Title 3 of the MGCL permits a Maryland corporation with a class of equity securities registered under the Exchange Act and at least three independent directors to elect to be subject, by provision in its charter or bylaws or a resolution of its board of directors and notwithstanding any contrary provision in the charter or bylaws, to any or all of the following five provisions:

a classified board;

a two-thirds stockholder vote requirement for removing a director;

a requirement that the number of directors be fixed only by vote of the directors;

a requirement that a vacancy on the board be filled only by the remaining directors and for the remainder of the full term of the class of directors in which the vacancy occurred; and

a requirement that requires the request of the holders of at least a majority of all votes entitled to be cast to call a special meeting of stockholders.

We have elected to be subject to the provisions of Subtitle 8 relating to the filling of vacancies on our board of directors. Through provisions in our charter and bylaws unrelated to Subtitle 8, we already (1) require the affirmative vote of the holders of not less than two-thirds of all of the votes entitled to be cast on the matter for the removal of any director from the board, which removal will be allowed only for cause, (2) vest in the board the exclusive power to fix

the number of directorships, subject to limitations set forth in our charter and bylaws, and fill vacancies and (3) require, unless called by the chairman of our board of directors, our president or chief executive officer or our board of directors, the written request of stockholders entitled to cast not less than a majority of all votes entitled to be cast at such meeting to call a special meeting. We have not elected to create a classified board. In the future, our board of directors may elect, without stockholder approval, to create a classified board or adopt one or more of the other provisions of Subtitle 8.

***Amendment of Our Charter and Bylaws and Approval of Extraordinary Transactions***

Under the MGCL, a Maryland corporation generally cannot dissolve, amend its charter, merge, sell all or substantially all of its assets, engage in a share exchange or engage in similar transactions outside the ordinary

## **Table of Contents**

course of business unless declared advisable by the board of directors and approved by the affirmative vote of stockholders entitled to cast at least two-thirds of the votes entitled to be cast on the matter unless a lesser percentage, but not less than a majority of all of the votes entitled to be cast on the matter, is set forth in the corporation's charter. Our charter provides that these actions (other than certain amendments to the provisions of our charter related to the removal of directors and the restrictions on ownership and transfer of our shares of stock) may be taken if declared advisable by a majority of our board of directors and approved by the vote of stockholders holding at least a majority of the votes entitled to be cast on the matter.

Our board of directors has the exclusive power to adopt, alter or repeal any provision of our bylaws and to make new bylaws.

### ***Meetings of Stockholders***

Under our bylaws, annual meetings of stockholders are to be held each year at a date and time as determined by our board of directors. Special meetings of stockholders may be called only by a majority of the directors then in office, by the chairman of our board of directors, our president or our chief executive officer. Additionally, subject to the provisions of our bylaws, special meetings of the stockholders shall be called by our secretary upon the written request of stockholders entitled to cast at least a majority of the votes entitled to be cast at such meeting. Only matters set forth in the notice of the special meeting may be considered and acted upon at such a meeting. Maryland law and our bylaws provide that any action required or permitted to be taken at a meeting of stockholders may be taken without a meeting by unanimous written consent, if that consent sets forth that action and is signed by each stockholder entitled to vote on the matter.

### ***Advance Notice of Director Nominations and New Business***

Our bylaws provide that, with respect to an annual meeting of stockholders, nominations of persons for election to our board of directors and the proposal of business to be considered by stockholders at the annual meeting may be made only:

pursuant to our notice of the meeting;

by or at the direction of our board of directors; or

by a stockholder who was a stockholder of record both at the time of giving of the notice of the meeting and at the time of the annual meeting, who is entitled to vote at the meeting and who has complied with the advance notice procedures set forth in our bylaws.

With respect to special meetings of stockholders, only the business specified in our notice of meeting may be brought before the meeting of stockholders. Nominations of persons for election to our board of directors may be made only:

pursuant to our notice of the meeting;

by or at the direction of our board of directors; or

provided that our board of directors has determined that directors shall be elected at such meeting, by a stockholder who is a stockholder of record both at the time of giving of the notice required by our bylaws and at the time of the meeting, who is entitled to vote at the meeting and who has complied with the advance notice provisions set forth in our bylaws.

The purpose of requiring stockholders to give advance notice of nominations and other proposals is to afford our board of directors the opportunity to consider the qualifications of the proposed nominees or the advisability of the other proposals and, to the extent considered necessary by our board of directors, to inform stockholders and make recommendations regarding the nominations or other proposals. The advance notice procedures also permit a more orderly procedure for conducting our stockholder meetings. Although our bylaws do not give our

## **Table of Contents**

board of directors the power to disapprove timely stockholder nominations and proposals, our bylaws may have the effect of precluding a contest for the election of directors or proposals for other action if the proper procedures are not followed, and of discouraging or deterring a third party from conducting a solicitation of proxies to elect its own slate of directors to our board of directors or to approve its own proposal.

### ***Anti-takeover Effect of Certain Provisions of Maryland Law and Our Charter and Bylaws***

The provisions of our charter on removal of directors and the advance notice provisions of the bylaws could delay, defer or prevent a transaction or a change in control of our company that might involve a premium price for holders of our common stock or otherwise be in the best interests of our stockholders. Likewise, if our board of directors were to opt in to the business combination provisions of the MGCL or certain of the provisions of Subtitle 8 of Title 3 of the MGCL, to the extent we have not already done so, or if the provision in the bylaws opting out of the control share acquisition provisions of the MGCL were amended or rescinded, these provisions of the MGCL could have similar anti-takeover effects.

### ***Indemnification and Limitation of Directors and Officers Liability***

The MGCL permits a Maryland corporation to include in its charter a provision limiting the liability of its directors and officers to the corporation and its stockholders for money damages except for liability resulting from actual receipt of an improper benefit or profit in money, property or services or active and deliberate dishonesty established by a final judgment as being material to the cause of action. Our charter contains such a provision that eliminates such liability to the maximum extent permitted by Maryland law.

The MGCL requires a corporation (unless its charter provides otherwise, which our charter does not) to indemnify a director or officer who has been successful, on the merits or otherwise, in the defense of any proceeding to which he or she is made or threatened to be made a party by reason of his or her service in that capacity. The MGCL permits a corporation to indemnify its present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made or are threatened to be made a party by reason of their service in those or other capacities unless it is established that:

the act or omission of the director or officer was material to the matter giving rise to the proceeding and (1) was committed in bad faith or (2) was the result of active and deliberate dishonesty;

the director or officer actually received an improper personal benefit in money, property or services; or

in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful.

However, under the MGCL, a Maryland corporation may not indemnify a director or officer for an adverse judgment in a suit by or in the right of the corporation or if the director or officer was adjudged liable on the basis that personal benefit was improperly received, unless in either case a court orders indemnification and then only for expenses.

In addition, the MGCL permits a corporation to advance reasonable expenses to a director or officer upon the corporation's receipt of:

a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by the corporation; and

a written undertaking by the director or on the director's behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the director did not meet the standard of conduct.

## **Table of Contents**

Our charter and bylaws obligate us, to the fullest extent permitted by Maryland law in effect from time to time, to indemnify and to pay or reimburse reasonable expenses in advance of final disposition of a proceeding to:

any present or former director or officer who is made or threatened to be made a party to the proceeding by reason of his or her service in that capacity; or

any individual who, while a director or officer of our company and at our request, serves or has served another corporation, REIT, partnership, joint venture, trust, employee benefit plan or any other enterprise as a director, officer, partner or trustee of such corporation, REIT, partnership, joint venture, trust, employee benefit plan or other enterprise and who is made or threatened to be made a party to the proceeding by reason of his or her service in that capacity.

Our charter and bylaws also permit us, with the approval of our board of directors, to indemnify and advance expenses to any person who served a predecessor of ours in any of the capacities described above and to any employee or agent of our company or a predecessor of our company.

In addition, we have entered into indemnification agreements with each of our directors and executive officers that provide for indemnification to the maximum extent permitted by Maryland law.

Insofar as the foregoing provisions permit indemnification of directors, officers or persons controlling us for liability arising under the Securities Act, we have been informed that in the opinion of the SEC, this indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

### ***Ownership Limit***

With certain exceptions, our charter provides that no person may own, actually or constructively, more than 8.0% of the aggregate of the outstanding shares of our common stock by value or by number of shares, whichever is more restrictive, or 9.8% of the aggregate of the outstanding shares of any class or series of our preferred stock by value or by number of shares, whichever is more restrictive. For more information regarding these ownership restrictions and the constructive ownership rules, see Restrictions on Ownership and Transfer.

### ***REIT Qualification***

Our charter provides that our board of directors may revoke or otherwise terminate our REIT election, without approval of our stockholders, if it determines that it is no longer in our best interests to attempt to qualify, or to continue to qualify, as a REIT.

**Table of Contents**

**DESCRIPTION OF PREFERRED STOCK**

The following description sets forth certain general terms of the preferred shares to which any prospectus supplement may relate. This description and the description contained in any prospectus supplement are not complete and are in all respects subject to and qualified in their entirety by reference to our charter, the applicable articles supplementary that describe the terms of the related class or series of preferred shares, and our bylaws, each of which we will make available upon request.

**General**

Our charter provides that we may issue up to 50,000,000 shares of our preferred stock, \$0.01 par value per share. Our charter authorizes our board of directors to increase or decrease the number of authorized shares without stockholder approval.

**Outstanding Preferred Stock**

As of April 2, 2015, 10,080,000 shares of our preferred stock have been designated as Series A Preferred Stock, of which 10,080,000 shares were issued and outstanding and 3,450,000 shares of our preferred stock have been designated as Series B Preferred Stock, of which 3,450,000 shares were issued and outstanding.

Our Series A Preferred Stock and Series B Preferred Stock rank senior to our common shares with respect to the payment of dividends and distribution of assets upon liquidation, dissolution or winding up of our affairs. Dividends on our Series A Preferred Stock and our Series B Preferred Stock are cumulative and payable quarterly on or about the 15th day of each January, April, July and October at the rate of 8.50% per annum of its liquidation preference (in the case of the Series A Preferred Stock), which is equivalent to \$2.125 per annum per share and at the rate of 7.50% per annum of its liquidation preference (in the case of the Series B Preferred Stock), which is equivalent to \$1.875 per annum per share. If we liquidate, dissolve or windup, holders of our Series A Preferred Stock and our Series B Preferred Stock will have the right to receive \$25.00 per share, plus an amount per share equal to accrued and unpaid dividends (whether or not earned or declared) to, but not including, the date of payment, before any payments are made to holders of our common stock or other junior securities. On and after March 20, 2017 (in the case of the Series A Preferred Stock) and June 19, 2019 (in the case of the Series B Preferred Stock), we may, at our option, redeem such preferred stock, in whole, at any time, or in part, from time to time, for cash at a redemption price of \$25.00 per share, plus any accrued and unpaid dividends (whether or not declared) to, but not including, the date of redemption. In addition, upon certain changes of control of the company, holders of our Series A Preferred Stock and Series B Preferred Stock will have the right (unless we have elected to exercise our special optional redemption right to redeem such preferred stock) to convert some or all their Series A Preferred Stock or Series B Preferred Stock into shares of our Class A common stock at the conversion rate described in the articles supplementary setting forth the terms of such preferred stock. Except in certain limited circumstances, holders of our Series A Preferred Stock and Series B Preferred Stock have no voting rights.

**Future Series of Preferred Stock**

The following description sets forth certain general terms of the preferred stock to which any prospectus supplement may relate. This description and the description contained in any prospectus supplement are not complete and are in all respects subject to and qualified in their entirety by reference to our charter, the applicable articles supplementary that describe the terms of the related class or series of preferred stock, and our bylaws, each of which we will make available upon request.



Subject to the limitations prescribed by Maryland law and our charter and bylaws, our board of directors is authorized to establish the number of shares constituting each series of preferred stock and to fix the designations and powers, preferences and relative, participating, optional or other special rights and qualifications, limitations

**Table of Contents**

or restrictions thereof, including such provisions as may be desired concerning voting, redemption, dividends, dissolution or the distribution of assets, conversion or exchange, and such other subjects or matters as may be fixed by resolution of the board of directors or duly authorized committee thereof.

The prospectus supplement relating to the series of preferred stock offered thereby will describe the specific terms of such securities, including:

the title and stated value of such preferred stock;

the number of shares of such preferred stock offered, the liquidation preference per share and the offering price of such shares;

the dividend rate(s), period(s) and/or payment date(s) or method(s) of calculation thereof applicable to such preferred stock;

whether dividends shall be cumulative or non-cumulative and, if cumulative, the date from which dividends on such preferred stock shall accumulate;

the procedures for any auction and remarketing, if any, for such preferred stock;

the provisions for a sinking fund, if any, for such preferred stock;

the provisions for redemption, if applicable, of such preferred stock, including any restrictions on the repurchase or redemption of such preferred stock by the Company while there is an arrearage in the payment of dividends or sinking fund installments, if applicable;

any listing of such preferred stock on any securities exchange;

the terms and conditions, if applicable, upon which shares of such preferred stock will be convertible into shares of our Class A common stock, including the conversion price (or manner of calculation thereof) and conversion period;

a discussion of federal income tax considerations applicable to such preferred stock;

any limitations on issuance of any series of preferred stock ranking senior to or on a parity with such series of preferred stock as to dividend rights and rights upon liquidation, dissolution or winding up of our affairs;

in addition to those limitations described herein, any other limitations on actual and constructive ownership and restrictions on transfer, in each case as may be appropriate to preserve our status as a REIT; and

any other specific terms, preferences, rights, limitations or restrictions of such preferred stock.

**Restrictions on Ownership**

With certain exceptions, our charter provides that no person may own, actually or constructively, more than 8.0% of the aggregate of the outstanding shares of our common stock by value or by number of shares, whichever is more restrictive, or 9.8% of the aggregate of the outstanding shares of any class or series of our preferred stock by value or by number of shares, whichever is more restrictive. For more information regarding these ownership restrictions and certain other restrictions intended to protect our qualification as a REIT, see [Restrictions on Ownership and Transfer](#).

**Transfer Agent and Registrar**

The transfer agent and registrar for our shares of preferred stock is American Stock Transfer & Trust Company.

**Certain Provisions of Maryland Law and Our Charter and Bylaws**

See [Description of Common Stock](#) [Certain Provisions of Maryland Law and Our Charter and Bylaws](#).

**Table of Contents**

**DESCRIPTION OF DEPOSITARY SHARES**

**General**

We may issue receipts for depositary shares, each of which will represent a fractional interest of a share of a particular series of preferred stock, as specified in the applicable prospectus supplement. Preferred stock of each series represented by depositary shares will be deposited under a separate deposit agreement among us, the depositary named therein and the holders from time to time of the depositary receipts. Subject to the terms of the applicable deposit agreement, each owner of a depositary receipt will be entitled, in proportion to the fractional interest of a share of a particular series of preferred stock represented by the depositary shares evidenced by such depositary receipt, to all the rights and preferences of the preferred stock represented by such depositary shares (including dividend, voting, conversion, redemption and liquidation rights).

The depositary shares will be evidenced by depositary receipts issued pursuant to the applicable deposit agreement. Immediately following the issuance and delivery of the shares of preferred stock by us to a preferred share depositary, we will cause such preferred shares depositary to issue, on our behalf, the depositary receipts. Copies of the applicable form of deposit agreement and depositary receipt may be obtained from us upon request, and the statements made hereunder relating to the deposit agreement and the depositary receipts to be issued thereunder are summaries of certain provisions thereof and do not purport to be complete and are subject to, and qualified in their entirety by reference to, all of the provisions of the applicable deposit agreement and related depositary receipts.

**Dividends and Other Distributions**

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

In the event of a distribution other than in cash, the preferred shares depositary will distribute property received by it to the record holders of depositary receipts entitled thereto, subject to certain obligations of holders to file proofs, certificates and other information and to pay certain charges and expenses to the preferred shares depositary, unless the preferred shares depositary determines that it is not feasible to make such distribution, in which case the preferred shares depositary may, with our approval, sell such property and distribute the net proceeds from such sale to such holders.

No distribution will be made in respect of any depositary share to the extent that it represents any shares of preferred stock converted into other securities.

**Withdrawal of Shares**

Upon surrender of the depositary receipts at the corporate trust office of the applicable preferred shares depositary (unless the related depositary shares have previously been called for redemption or converted into other securities), the holders thereof will be entitled to delivery at such office, to or upon such holder's order, of the number of whole or fractional shares of preferred stock and any money or other property represented by the depositary shares evidenced by such depositary receipts. Holders of depositary receipts will be entitled to receive whole or fractional shares of preferred stock on the basis of the proportion of preferred shares represented by each depositary share as specified in the applicable prospectus supplement, but holders of such preferred shares will not thereafter be entitled to receive

depository shares therefor. If the depository receipts delivered by the holder evidence a number of depository shares in excess of the number of depository shares representing the number of shares of preferred stock to be withdrawn, the preferred shares depository will deliver to such holder at the same time a new depository receipt evidencing such excess number of depository shares.

## **Table of Contents**

### **Redemption of Depositary Shares**

Whenever we redeem shares of preferred stock held by the preferred shares depositary, the preferred shares depositary will redeem as of the same redemption date the number of depositary shares representing shares of preferred stock so redeemed, provided we shall have paid in full to the preferred shares depositary the redemption price of the preferred shares to be redeemed plus an amount equal to any accrued and unpaid dividends thereon to the date fixed for redemption. The redemption price per depositary share will be equal to the corresponding proportion of the redemption price and any other amounts per share payable with respect to the preferred shares. If fewer than all the depositary shares are to be redeemed, the depositary shares to be redeemed will be selected pro rata (as nearly as may be practicable without creating fractional depositary shares) or by any other equitable method determined by us that will not result in a violation of the ownership restrictions in our charter.

From and after the date fixed for redemption, all dividends in respect of the preferred shares so called for redemption will cease to accrue, the depositary shares so called for redemption will no longer be deemed to be outstanding and all rights of the holders of the depositary receipts evidencing the depositary shares so called for redemption will cease, except the right to receive any moneys payable upon such redemption and any money or other property to which the holders of such depositary receipts were entitled upon such redemption and surrender thereof to the preferred shares depositary.

### **Voting of the Shares of Preferred Stock**

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

### **Liquidation Preference**

In the event of our liquidation, dissolution or winding up, whether voluntary or involuntary, the holders of each depositary receipt will be entitled to the fraction of the liquidation preference accorded each shares of preferred stock represented by the depositary shares evidenced by such depositary receipt, as set forth in the applicable prospectus supplement.

### **Conversion of Preferred Shares**

The depositary shares, as such, are not convertible into common stock or any of our other securities or property. Nevertheless, if so specified in the applicable prospectus supplement relating to an offering of depositary shares, the depositary receipts may be surrendered by holders thereof to the preferred shares depositary with written instructions

to the preferred shares depositary to instruct us to cause conversion of the preferred shares represented by the depositary shares evidenced by such depositary receipts into whole common shares, other preferred shares, and we agree that upon receipt of such instructions and any amounts payable in

## **Table of Contents**

respect thereof, we will cause the conversion thereof utilizing the same procedures as those provided for delivery of shares of preferred stock to effect such conversion. If the depositary shares evidenced by a depositary receipt are to be converted in part only, a new depositary receipt or receipts will be issued for any depositary shares not to be converted. No fractional shares of common stock will be issued upon conversion, and if such conversion would result in a fractional share being issued, an amount will be paid in cash by us equal to the value of the fractional interest based upon the closing price of the common stock on the last business day prior to the conversion.

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

The form of depositary receipt evidencing the depositary shares which represent the preferred stock and any provision of the deposit agreement may at any time be amended by agreement between us and the preferred shares depositary. However, any amendment that materially and adversely alters the rights of the holders of depositary receipts or that would be materially and adversely inconsistent with the rights granted to the holders of the related preferred shares will not be effective unless such amendment has been approved by the existing holders of at least two-thirds of the applicable depositary shares evidenced by the applicable depositary receipts then outstanding. No amendment shall impair the right, subject to certain exceptions in the deposit agreement, of any holder of depositary receipts to surrender any depositary receipt with instructions to deliver to the holder the related preferred shares and all money and other property, if any, represented thereby, except in order to comply with law. Every holder of an outstanding depositary receipt at the time any such amendment becomes effective shall be deemed, by continuing to hold such receipt, to consent and agree to such amendment and to be bound by the deposit agreement as amended thereby.

The deposit agreement may be terminated by us upon not less than 30 days' prior written notice to the preferred shares depositary if (i) such termination is necessary to preserve our status as a REIT or (ii) a majority of each series of preferred shares affected by such termination consents to such termination, whereupon the preferred shares depositary shall deliver or make available to each holder of depositary receipts, upon surrender of the depositary receipts held by such holder, such number of whole or fractional preferred shares as are represented by the depositary shares evidenced by such depositary receipts together with any other property held by the preferred shares depositary with respect to such depositary receipts. We have agreed that if the deposit agreement is terminated to preserve our status as a REIT, then we will use our best efforts to list the preferred stock issued upon surrender of the related depositary shares on a national securities exchange. In addition, the deposit agreement will automatically terminate if (i) all outstanding depositary shares shall have been redeemed, (ii) there shall have been a final distribution in respect of the related preferred shares in connection with our liquidation, dissolution or winding up and such distribution shall have been distributed to the holders of depositary receipts evidencing the depositary shares representing such preferred shares or (iii) each related share of preferred stock shall have been converted into our securities not so represented by depositary shares.

## **Charges of Preferred Shares Depositary**

We will pay all transfer and other taxes and governmental charges arising solely from the existence of the deposit agreement. In addition, we will pay the fees and expenses of the preferred shares depositary in connection with the performance of its duties under the deposit agreement. However, holders of depositary receipts will pay the fees and expenses of the preferred shares depositary for any duties requested by such holders to be performed which are outside of those expressly provided for in the deposit agreement.

## **Resignation and Removal of Depositary**

The preferred shares depositary may resign at any time by delivering to us notice of its election to do so, and we may at any time remove the preferred shares depositary, any such resignation or removal to take effect upon the



appointment of a successor preferred shares depositary. A successor preferred shares depositary must be appointed within 60 days after delivery of the notice of resignation or removal and must be a bank or trust company having its principal office in the United States and that meets certain combined capital and surplus requirements.

## **Table of Contents**

### **Miscellaneous**

The preferred shares depositary will forward to holders of depositary receipts any reports and communications from the Company which are received by the preferred shares depositary with respect to the related preferred shares.

Neither the preferred shares depositary nor we will be liable if it is prevented from or delayed in, by law or any circumstances beyond its control, performing its obligations under the deposit agreement. The obligations of us and the preferred shares depositary under the deposit agreement will be limited to performing their duties thereunder in good faith and without negligence (in the case of any action or inaction in the voting of preferred shares represented by the depositary shares), gross negligence or willful misconduct, and we and the preferred shares depositary will not be obligated to prosecute or defend any legal proceeding in respect of any depositary receipts, depositary shares or preferred shares represented thereby unless satisfactory indemnity is furnished. We and the preferred shares depositary may rely on written advice of counsel or accountants, or information provided by persons presenting preferred shares represented thereby for deposit, holders of depositary receipts or other persons believed in good faith to be competent to give such information, and on documents believed in good faith to be genuine and signed by a proper party.

In the event the preferred shares depositary shall receive conflicting claims, requests or instructions from any holders of depositary receipts, on the one hand, and us, on the other hand, the preferred shares depositary shall be entitled to act on such claims, requests or instructions received from us.

### **Restrictions on Ownership**

With certain exceptions, our charter provides that no person may own, actually or constructively, more than 8.0% of the aggregate of the outstanding shares of our common stock by value or by number of shares, whichever is more restrictive, or 9.8% of the aggregate of the outstanding shares of any class or series of our preferred stock by value or by number of shares, whichever is more restrictive. Holders of our depositary shares will be subject to the same restrictions as holders of our preferred stock. For more information regarding these ownership restrictions and certain other restrictions intended to protect our qualification as a REIT, see [Restrictions on Ownership and Transfer](#).

**Table of Contents**

**DESCRIPTION OF WARRANTS**

We may offer by means of this prospectus warrants for the purchase of any of the types of securities offered by this prospectus. We may issue warrants separately or together with any other securities offered by means of this prospectus, and the warrants may be attached to or separate from such securities. Each series of warrants will be issued under a separate warrant agreement to be entered into between us and a warrant agent specified therein or the applicable prospectus supplement. The warrant agent will act solely as our agent in connection with the warrants of such series and will not assume any obligation or relationship of agency or trust for or with any holders or beneficial owners of warrants.

The applicable prospectus supplement will describe the following terms, where applicable, of the warrants in respect of which this prospectus is being delivered:

the title of such warrants;

the aggregate number of such warrants;

the price or prices at which such warrants will be issued;

the currencies in which the price or prices of such warrants may be payable;

the price or prices at which and currency or currencies in which the securities purchasable upon exercise of such warrants may be purchased;

the designation, amount and terms of the securities purchasable upon exercise of such warrants;

the designation and terms of the other securities with which such warrants are issued and the number of such warrants issued with each such security;

if applicable, the date on and after which such warrants and the securities purchasable upon exercise of such warrants will be separately transferable;

the date on which the right to exercise such warrants shall commence and the date on which such right shall expire;

the minimum or maximum amount of such warrants which may be exercised at any one time;

information with respect to book-entry procedures, if any;

a discussion of material U.S. federal income tax considerations; and

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

### **Restrictions on Ownership**

With certain exceptions, our charter provides that no person may own, actually or constructively, more than 8.0% of the aggregate of the outstanding shares of our common stock by value or by number of shares, whichever is more restrictive, or 9.8% of the aggregate of the outstanding shares of any class or series of our preferred stock by value or by number of shares, whichever is more restrictive. Holders of warrants to purchase our Class A common stock or our preferred stock will, upon exercise of the warrant, be subject to these ownership limits. Such limits could restrict the warrant holder's ability to exercise the warrants it holds. For more information regarding these ownership restrictions and certain other restrictions intended to protect our qualification as a REIT, see [Restrictions on Ownership and Transfer](#).

**Table of Contents**

**DESCRIPTION OF RIGHTS**

We may issue rights to our stockholders for the purchase of shares of Class A common stock. Each series of rights will be issued under a separate rights agreement to be entered into between us and a bank or trust company, as rights agent, all as set forth in the prospectus supplement relating to the particular issue of rights. The rights agent will act solely as our agent in connection with the certificates relating to the rights of such series and will not assume any obligation or relationship of agency or trust for or with any holders of rights certificates or beneficial owners of rights. The rights agreement and the rights certificates relating to each series of rights will be filed with the SEC and incorporated by reference as an exhibit to the registration statement of which this prospectus is a part.

The applicable prospectus supplement will describe the terms of the rights to be issued, including the following, where applicable:

the date for determining the stockholders entitled to the rights distribution;

the aggregate number of shares Class A common stock purchasable upon exercise of such rights and the exercise price;

the aggregate number of rights being issued;

the date, if any, on and after which such rights may be transferable separately;

the date on which the right to exercise such rights shall commence and the date on which such right shall expire;

any special U.S. federal income tax consequences; and

any other terms of such rights, including terms, procedures and limitations relating to the distribution, exchange and exercise of such rights.

**Restrictions on Ownership**

With certain exceptions, our charter provides that no person may own, actually or constructively, more than 8.0% of the aggregate of the outstanding shares of our common stock by value or by number of shares, whichever is more restrictive, or 9.8% of the aggregate of the outstanding shares of any class or series of our preferred stock by value or by number of shares, whichever is more restrictive. Holders of rights to purchase our Class A common stock will, upon exercise of the rights, be subject to these ownership limits. Such limits could restrict the rights holder's ability to exercise the rights it holds. For more information regarding these ownership restrictions and certain other restrictions intended to protect our qualification as a REIT, see "Restrictions on Ownership and Transfer."



**Table of Contents**

**RESTRICTIONS ON OWNERSHIP AND TRANSFER**

In order for us to qualify as a REIT under the Internal Revenue Code, shares of our stock must be beneficially owned by 100 or more persons during at least 335 days of a taxable year of 12 months (other than the first year for which an election to be a REIT has been made) or during a proportionate part of a shorter taxable year. Also, not more than 50% of the value of the outstanding shares of stock (after taking into account options to acquire shares of common stock) may be owned, directly, indirectly or through attribution, by five or fewer individuals (as defined in the Internal Revenue Code to include certain entities) at any time during the last half of a taxable year (other than the first year for which an election to be a REIT has been made).

Following consummation of the Combination and the amendment of our charter, in order to assist us in complying with the limitations on the concentration of ownership of REIT stock imposed by the Internal Revenue Code, our charter generally prohibits any person (other than a person who has been granted an exception or a designated investment entity (as defined below)) from actually or constructively owning more than 8.0% of the aggregate of the outstanding shares of our common stock by value or by number of shares, whichever is more restrictive, or 9.8% of the aggregate of the outstanding shares of such class or series of our preferred stock by value or by number of shares, whichever is more restrictive. In addition, pursuant to the articles supplementary setting forth the terms of the Series A Preferred Stock and Series B Preferred Stock, no person may own, or be deemed to own by virtue of the attribution provisions of the Internal Revenue Code, more than 9.8% (by value or number of shares, whichever is more restrictive) of our Series A Preferred Stock or Series B Preferred Stock, respectively. However, our charter permits exceptions to be made for stockholders provided our board of directors determines such exceptions will not jeopardize our qualification as a REIT.

In addition, our charter prohibits any designated investment entity (other than a person who has been granted an exemption) from actually or constructively owning more than 9.9% of the aggregate of the outstanding shares of our common stock (by value or by number of shares, whichever is more restrictive). A designated investment entity is defined in the charter as:

an entity that is a pension trust that qualifies for look-through treatment under Section 856(h)(3) of the Internal Revenue Code;

an entity that qualifies as a regulated investment company under Section 851 of the Internal Revenue Code; or

a qualified investment manager, which is defined in the Amended and Restated Charter to mean an entity (i) who for compensation engages in the business of advising others as to the value of securities or as to the advisability of investing in, purchasing or selling securities, (ii) who purchases securities in the ordinary course of its business and not with the purpose or effect of changing or influencing control of us, nor in connection with or as a participant in any transaction having such purpose or effect, including any transaction subject to Rule 13d-3(b) of the Securities Exchange Act of 1934, as amended, and (iii) who has or shares voting power and investment power under Rule 13d-3(a) of the Securities Exchange Act of 1934, as amended;

provided, that in each case, so long as each beneficial owner of such designated investment entity or, in the case of a designated investment entity that is a qualified investment manager, of the shares owned by such designated

investment entity, would satisfy the ownership limit applicable to common stock as described above if those beneficial owners owned directly their proportionate share of our common stock owned by the designated investment entity.

If and to the extent a person (other than a designated investment entity) actually or constructively owned, on the effective date of the amendment and restatement of our charter, shares of our common stock in excess of the generally applicable 8% common stock ownership limit described above, such person will be treated as not owning shares of our common stock in violation of such generally applicable common stock ownership limit. Instead, such person will generally be prohibited from actually or constructively owning our common stock in



## **Table of Contents**

excess of the more restrictive of either (a) the generally applicable 9.8% common stock ownership limit that applied immediately prior to the amendment and restatement of our charter, or (b) such person's lowest actual or constructive percentage ownership, at any time following the effective date of the amendment and restatement of our charter, of our common stock (by value or by number of shares, whichever is more restrictive, but not less than the generally applicable 8% common stock ownership limit described above). This grandfather provision does not limit the application of the other restrictions on ownership of our stock set forth in the charter, including the restrictions described in the following paragraph.

Our charter also prohibits any person from (1) beneficially or constructively owning shares of our capital stock that would result in our being closely held under Section 856(h) of the Code, (2) transferring shares of our capital stock if such transfer would result in our being beneficially owned by fewer than 100 persons (determined without reference to any rules of attribution), (3) beneficially or constructively owning shares of our capital stock that would result in our owning (directly or indirectly) an interest in a tenant that is described in Section 856(d)(2)(B) of the Code if income derived by us (either directly or indirectly through one or more partnerships or limited liability companies) from such tenant during which such determination is being made would reasonably be expected to equal or exceed the lesser of (a) one percent (1%) of our gross income (as determined for purposes of Section 856(c) of the Code), or (b) an amount that would cause us to fail to satisfy any of the gross income requirements of Section 856(c) of the Code, and (4) beneficially or constructively owning shares of our capital stock that would cause us otherwise to fail to qualify as a REIT. Any person who acquires or attempts or intends to acquire beneficial ownership of shares of our capital stock that will or may violate any of the foregoing restrictions on transferability and ownership is required to give notice immediately to us and provide us with such other information as we may request in order to determine the effect of such transfers on our qualification as a REIT. The foregoing restrictions on transferability and ownership will not apply if our board of directors determines that it is no longer in our best interest to attempt to qualify, or to qualify, or to continue to qualify, as a REIT. In addition, our board of directors may determine that compliance with the foregoing restrictions is no longer required for our qualification as a REIT.

Our board of directors, in its sole discretion, may exempt a person from the above ownership limits and any of the restrictions described above. However, our board of directors may not grant an exemption to any person unless our board of directors obtains such representations, covenants and understandings as our board of directors may deem appropriate in order to determine that granting the exemption would not result in our losing our qualification as a REIT. As a condition of granting the exemption, our board of directors may require a ruling from the IRS or an opinion of counsel in either case in form and substance satisfactory to our board of directors, in its sole discretion in order to determine or ensure our qualification as a REIT.

In addition, our board of directors from time to time may increase the ownership limits. However, the ownership limits may not be increased if, after giving effect to such increase, five or fewer individuals could own or constructively own in the aggregate, more than 49.9% in value of the shares then outstanding.

However, if any transfer of our shares of stock occurs which, if effective, would result in any person beneficially or constructively owning shares of stock in excess, or in violation, of the above transfer or ownership limitations, known as a prohibited owner, then that number of shares of stock, the beneficial or constructive ownership of which otherwise would cause such person to violate the transfer or ownership limitations (rounded up to the nearest whole share), will be automatically transferred to a charitable trust for the exclusive benefit of a charitable beneficiary, and the prohibited owner will not acquire any rights in such shares. This automatic transfer will be considered effective as of the close of business on the business day before the violative transfer.

If the transfer to the charitable trust would not be effective for any reason to prevent the violation of the above transfer or ownership limitations, then the transfer of that number of shares of stock that otherwise would cause any person to

violate the above limitations will be void. Shares of stock held in the charitable trust will continue to constitute issued and outstanding shares of our stock. The prohibited owner will not benefit economically from ownership of any shares of stock held in the charitable trust, will have no rights to dividends or other distributions and will not possess any rights to vote or other rights attributable to the shares of stock held

**Table of Contents**

in the charitable trust. The trustee of the charitable trust will be designated by us and must be unaffiliated with us or any prohibited owner and will have all voting rights and rights to dividends or other distributions with respect to shares of stock held in the charitable trust, and these rights will be exercised for the exclusive benefit of the trust's charitable beneficiary. Any dividend or other distribution paid before our discovery that shares of stock have been transferred to the trustee will be paid by the recipient of such dividend or distribution to the trustee upon demand, and any dividend or other distribution authorized but unpaid will be paid when due to the trustee. Any dividend or distribution so paid to the trustee will be held in trust for the trust's charitable beneficiary. Subject to Maryland law, effective as of the date that such shares of stock have been transferred to the charitable trust, the trustee, in its sole discretion, will have the authority to:

rescind as void any vote cast by a prohibited owner prior to our discovery that such shares have been transferred to the charitable trust; and

recast such vote in accordance with the desires of the trustee acting for the benefit of the trust's charitable beneficiary.

However, if we have already taken irreversible corporate action, then the trustee will not have the authority to rescind and recast such vote.

Within 20 days of receiving notice from us that shares of stock have been transferred to the charitable trust, and unless we buy the shares first as described below, the trustee will sell the shares of stock held in the charitable trust to a person, designated by the trustee, whose ownership of the shares will not violate the ownership limitations in our charter. Upon the sale, the interest of the charitable beneficiary in the shares sold will terminate and the trustee will distribute the net proceeds of the sale to the prohibited owner and to the charitable beneficiary. The prohibited owner will receive the lesser of:

the price paid by the prohibited owner for the shares or, if the prohibited owner did not give value for the shares in connection with the event causing the shares to be held in the charitable trust (for example, in the case of a gift or devise), the market price of the shares on the day of the event causing the shares to be held in the charitable trust; and

the price per share received by the trustee from the sale or other disposition of the shares held in the charitable trust (less any commission and other expenses of a sale).

The trustee may reduce the amount payable to the prohibited owner by the amount of dividends and distributions paid to the prohibited owner and owed by the prohibited owner to the trustee. Any net sale proceeds in excess of the amount payable to the prohibited owner will be paid immediately to the charitable beneficiary. If, before our discovery that shares of stock have been transferred to the charitable trust, such shares are sold by a prohibited owner, then:

such shares will be deemed to have been sold on behalf of the charitable trust; and

to the extent that the prohibited owner received an amount for such shares that exceeds the amount that the prohibited owner was entitled to receive as described above, the excess must be paid to the trustee upon demand.

In addition, shares of stock held in the charitable trust will be deemed to have been offered for sale to us, or our designee, at a price per share equal to the lesser of:

the price per share in the transaction that resulted in such transfer to the charitable trust (or, in the case of a gift or devise, the market price at the time of the gift or devise); and

the market price on the date we, or our designee, accept such offer.

We may reduce the amount payable to the prohibited owner by the amount of dividends and distributions paid to the prohibited owner and owed by the prohibited owner to the trustee. We may pay the amount of such reduction to the trustee for the benefit of the charitable beneficiary. We will have the right to accept the offer

**Table of Contents**

until the trustee has sold the shares of stock held in the charitable trust. Upon such a sale to us, the interest of the charitable beneficiary in the shares sold will terminate and the trustee will distribute the net proceeds of the sale to the prohibited owner and any dividends or other distributions held by the trustee will be paid to the charitable beneficiary.

All certificates representing shares of our capital stock bear a legend referring to the restrictions described above.

Every owner of more than 5% (or such lower percentage as required by the Internal Revenue Code or the regulations promulgated thereunder) in value of the outstanding shares of our capital stock within 30 days after the end of each taxable year, will be required to give written notice to us stating the name and address of such owner, the number of shares of each class and series of shares of our stock that the owner beneficially owns and a description of the manner in which the shares are held. Each owner shall provide to us such additional information as we may request in order to determine the effect, if any, of the owner's beneficial ownership on our qualification as a REIT and to ensure compliance with our ownership limitations. In addition, each stockholder shall upon demand be required to provide to us such information as we may request, in good faith, in order to determine our qualification as a REIT and to comply with the requirements of any taxing authority or governmental authority or to determine such compliance.

Our ownership limitations could delay, defer or prevent a transaction or a change in control of us that might involve a premium price for holders of our common stock or might otherwise be in the best interest of our stockholders.

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**Table of Contents**

**U.S. FEDERAL INCOME TAX CONSIDERATIONS**

The following is a discussion of certain U.S. federal income tax considerations relating to our qualification and taxation as a REIT and the acquisition, holding, and disposition of our common stock, preferred stock, and depositary shares (for purposes of this section only, collectively referred to as the "securities"). As used in this section, references to the terms "Company," "we," "our," and "us" mean only Colony Capital, Inc. and not its subsidiaries or other lower-tier entities, except as otherwise indicated. This summary is based upon the Internal Revenue Code, the regulations promulgated by the U.S. Treasury Department (the "Treasury regulations"), rulings and other administrative interpretations and practices of the Internal Revenue Service (the "IRS") (including administrative interpretations and practices expressed in private letter rulings which are binding on the IRS only with respect to the particular taxpayers who requested and received those rulings), and judicial decisions, all as currently in effect, and all of which are subject to differing interpretations or to change, possibly with retroactive effect. No assurance can be given that the IRS would not assert, or that a court would not sustain, a position contrary to any of the tax consequences described below. We have not sought and will not seek an advance ruling from the IRS regarding any matter discussed in this section. The summary is also based upon the assumption that we have operated and will operate the Company and its subsidiaries and affiliated entities in accordance with their applicable organizational documents. This summary is for general information only, and does not purport to discuss all aspects of U.S. federal income taxation that may be important to a particular investor in light of its investment or tax circumstances, or to investors subject to special tax rules, including:

broker-dealers;

financial institutions;

holders who receive our securities through the exercise of employee stock options or otherwise as compensation;

insurance companies;

non-U.S. holders (as defined below), except to the extent discussed below in "Taxation of Holders of Our Securities" and "Taxation of Non-U.S. Holders";

persons holding 10% or more (by vote or value) of our securities;

persons holding our stock as part of a straddle, hedge, conversion transaction, synthetic security or other integrated investment;

persons holding our securities on behalf of other persons as nominees;

persons holding our securities through a partnership or similar pass-through entity;

persons subject to the alternative minimum tax provisions of the Internal Revenue Code;

REITs;

regulated investment companies, or RICs;

subchapter S corporations;

tax-exempt organizations, except to the extent discussed below in      Taxation of Holders of our  
Securities      Taxation of Tax-Exempt U.S. Holders

trusts and estates; or

U.S. expatriates.

This summary assumes that holders of our securities will hold the securities as a capital asset, which generally means as property held for investment.

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**Table of Contents**

The U.S. federal income tax treatment of us as a REIT and of holders of our securities depends in some instances on determinations of fact and interpretations of complex provisions of U.S. federal income tax law for which no clear precedent or authority may be available. In addition, the tax consequences to any particular holder of our securities will depend on the holder's particular tax circumstances. You are urged to consult your tax advisor regarding the U.S. federal, state, local, and foreign income and other tax consequences to you in light of your particular investment or tax circumstances of acquiring, holding, exchanging, or otherwise disposing of our securities.

**Taxation of Colony Capital, Inc.**

We elected to be taxed as a REIT, commencing with our initial taxable year ended December 31, 2009, upon the filing of our U.S. federal income tax return for such year. We believe that we have been organized and operated in such a manner as to qualify for taxation as a REIT, and we expect to continue to operate in such manner.

The law firm of Hogan Lovells US LLP has acted as our tax counsel in connection with this prospectus. We have received an opinion of Hogan Lovells US LLP to the effect that, commencing with our taxable year ended December 31, 2009, we have been organized and have operated in conformity with the requirements for qualification and taxation as a REIT under the Internal Revenue Code, and that our current and proposed method of operation will enable us to continue meet the requirements for qualification and taxation as a REIT. It must be emphasized that the opinion of Hogan Lovells US LLP is based on various assumptions relating to our organization and operation, and is conditioned upon factual representations and covenants made by our management regarding our organization, the nature and value of our assets (which, based on the types of assets we own, can fluctuate rapidly, significantly and unpredictably), the types of income we earn in each taxable year (which, based on the types of assets we own, can fluctuate rapidly, significantly and unpredictably), the past, the present and future conduct of our business operations, and other items regarding our ability to meet the various requirements for qualification as a REIT, and assumes that such representations and covenants are accurate and complete and that we will take no action inconsistent with our qualification as a REIT. While we intend to operate so that we will qualify as a REIT, and have made specific factual representations about our future performance to Hogan Lovells US LLP, given the highly complex nature of the rules governing REITs, the ongoing importance and subjectivity of factual determinations, and the possibility of future changes in our circumstances, no assurance has been given or can be given by Hogan Lovells US LLP or by us that we will qualify as a REIT for any particular year. The opinion is expressed only as of the date issued. Hogan Lovells US LLP will have no obligation to advise us or our holders of securities of any subsequent change in the matters stated, represented or assumed, or of any subsequent change in the applicable law. You should be aware that opinions of counsel are not binding on the IRS, and no assurance can be given that the IRS will not challenge the conclusions set forth in such opinions. Hogan Lovells US LLP's opinion does not foreclose the possibility that we may have to utilize one or more of the REIT savings provisions discussed below, which could require us to pay an excise or penalty tax (which could be significant in amount) in order to maintain our REIT qualification.

Qualification and taxation as a REIT depends on our ability to meet on a continuing basis, through actual operating results, distribution levels, and diversity of ownership by holders of our securities and asset ownership, various qualification requirements imposed upon REITs by the Internal Revenue Code, the compliance with which will not be reviewed by Hogan Lovells US LLP. In addition, our ability to qualify as a REIT may depend in part upon the operating results, organizational structure and entity classification for U.S. federal income tax purposes of certain entities in which we invest, which entities will not have been reviewed by Hogan Lovells US LLP. Our ability to qualify as a REIT also requires that we satisfy certain asset tests, some of which depend upon the fair market values of assets that we own directly or indirectly. Such values may not be susceptible to a precise determination, whether for past, current, or future periods, and based upon the types of assets that we own and intend to own, such values can vary rapidly, significantly and unpredictably. Accordingly, no assurance can be given that the actual results of our operations for any taxable year will satisfy such requirements for qualification





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**Table of Contents**

and taxation as a REIT. Similarly, the income we earn from our assets may not be earned when or in the proportions anticipated. For example, we may encounter situations in which a relatively small investment generates a higher than expected return in a particular year (or vice versa).

**Taxation of REITs in General**

As indicated above, our qualification and taxation as a REIT depends upon our ability to meet, on a continuing basis, various qualification requirements imposed upon REITs by the Internal Revenue Code. The material qualification requirements are summarized below under Requirements for Qualification as a REIT. While we intend to operate so that we qualify as a REIT, no assurance can be given that the IRS will not challenge our qualification, or that we have been or will be able to operate in accordance with the REIT requirements in the future. See Requirements for Qualification as a REIT Failure to Qualify as a REIT.

Provided that we qualify as a REIT, we will be entitled at the REIT level to a deduction from our taxable income for dividends that we pay and, therefore, will not be subject to U.S. federal corporate income tax at the REIT level on our taxable income that is currently distributed to holders of our securities. This treatment substantially eliminates the double taxation at the REIT and stockholder levels that generally results from investment in a corporation. In general, income generated by a REIT is taxed only at the stockholder level upon a distribution of dividends by the REIT to its stockholders. By contrast, we do and will pay U.S. federal and state corporate income tax on the net taxable income of our taxable REIT subsidiaries. Due to the nature of the assets in which we invest, we expect our taxable REIT subsidiaries will have a material amount of assets and net taxable income.

Most holders who are individual U.S. holders (as defined below) are taxed on corporate dividends at a maximum rate of 20% (the same as long-term capital gains). With limited exceptions, however, dividends received by individual U.S. holders from us or from other entities that are taxed as REITs will continue to be taxed at rates applicable to ordinary income, which will be as high as 39.6%. See Taxation of Holders of Our Securities Taxation of Taxable U.S. Holders Distributions Generally.

Any net operating losses, foreign tax credits and other tax attributes of a REIT generally do not pass through to holders of our securities, subject to special rules for certain items such as the capital gains that we recognize. See Taxation of Holders of Our Securities.

Even if we qualify for taxation as a REIT, we will be subject to U.S. federal income tax in the following circumstances:

We will be taxed at regular U.S. federal corporate rates on any undistributed REIT taxable income, including undistributed net capital gains, for any taxable year. REIT taxable income is the taxable income of the REIT subject to specified adjustments, including a deduction for dividends paid.

We (or holders of our securities) may be subject to the alternative minimum tax on our items of tax preference, if any.

If we have net income from prohibited transactions, which are, in general, sales or other dispositions of inventory or property held primarily for sale to customers in the ordinary course of business, other than

foreclosure property, such income will be subject to a 100% tax. See Requirements for Qualification as a REIT Gross Income Tests Income from Prohibited Transactions, and Requirements for Qualification as a REIT Gross Income Tests Income from Foreclosure Property, below.

If we elect to treat property that we acquire in connection with a foreclosure of a mortgage loan or certain leasehold terminations as foreclosure property, we may thereby avoid (a) the 100% tax on gain from a resale of that property (if the sale would otherwise constitute a prohibited transaction); and (b) the inclusion of any income from such property not qualifying for purposes of the gross income tests discussed below. Income from the sale or operation of the property may be subject to U.S. federal

## **Table of Contents**

corporate income tax at the highest applicable rate (currently 35%). See Requirements for Qualification as a REIT Gross Income Tests Income from Foreclosure Property.

We will generally be subject to tax on the portion of any excess inclusion income derived from an investment in residual interests in certain mortgage loan securitization structures (i.e., a taxable mortgage pool or a residual interest in a real estate mortgage investment conduit, or REMIC) to the extent that our securities are held by specified types of tax-exempt organizations known as disqualified organizations that are not subject to tax on unrelated business taxable income. See Requirements for Qualification as a REIT Taxable Mortgage Pools and Excess Inclusion Income.

If we fail to satisfy the 75% gross income test or the 95% gross income test, as discussed below, but our failure is due to reasonable cause and not due to willful neglect and we nonetheless maintain our REIT qualification because of specified cure provisions, we will be subject to a 100% tax on an amount equal to (a) the greater of (1) the amount by which we fail the 75% gross income test or (2) the amount by which we fail the 95% gross income test, as the case may be, multiplied by (b) a fraction intended to reflect our profitability.

If we violate the asset tests (other than certain de minimis violations) or other requirements applicable to REITs, as described below, but our failure is due to reasonable cause and not due to willful neglect and we nonetheless maintain our REIT qualification because of specified cure provisions, we will be required to pay a tax equal to at least \$50,000 per failure, and, in the case of certain asset test failures, will be determined as the amount of net income generated by the assets in question multiplied by the highest corporate tax rate (currently 35%) if that amount exceeds \$50,000 per failure.

If we fail to distribute during each calendar year at least the sum of (a) 85% of our REIT ordinary income for such year, (b) 95% of our REIT capital gain net income for such year, and (c) any undistributed taxable income from prior periods (or the required distribution), we will be subject to a non-deductible 4% excise tax on the excess of the required distribution over the sum of (1) the amounts that we actually distributed (taking into account excess distributions from prior years), plus (2) retained amounts upon which we paid income tax at the corporate level.

We may be required to pay monetary penalties to the IRS in certain circumstances, including if we fail to meet record-keeping requirements intended to monitor our compliance with rules relating to the composition of holders of our securities, as described below in Requirements for Qualification as a REIT.

We will be subject to a 100% penalty tax on amounts we receive (or on certain expenses deducted by a TRS) if certain arrangements between us and any TRSs we may own do not reflect arm's length terms.

If we acquire any appreciated asset from a corporation that is not a REIT (i.e., a corporation taxable under subchapter C of the Internal Revenue Code) in a transaction in which the adjusted tax basis of the assets in our hands is determined by reference to the adjusted tax basis of the assets in the hands of the subchapter C

corporation, we will be subject to tax on such appreciation at the highest corporate income tax rate then applicable if we subsequently recognize gain on a disposition of such asset during the 10-year period beginning on the day the asset of a non-REIT C corporation is transferred to us in a carry-over basis transaction. The results described in the preceding sentence could occur, for instance, if we failed to qualify as a REIT (and, thus, were treated as a subchapter C corporation) for a prior year and then re-qualified as a REIT in a later year, in which case the appreciation would be measured as of the beginning of the year in which we first re-qualify as a REIT.

We may elect to retain and pay U.S. federal income tax on our net long-term capital gain. In that case, a holder of our securities would include its proportionate share of our undistributed long-term capital gain (to the extent we make a timely designation of such gain to the holder) in its income, would be deemed to have paid the tax we paid on such gain, and would be allowed a credit for its proportionate share of the tax deemed to have been paid, and an adjustment would be made to increase the holder's tax basis in our securities.

## **Table of Contents**

The earnings of any subsidiaries that are subchapter C corporations, including any TRSs, are subject to U.S. federal and state corporate income tax.

Notwithstanding our qualification as a REIT, we and our subsidiaries may be subject to a variety of taxes, including payroll taxes and state, local, and foreign income, property and other taxes on our assets and operations. We could also be subject to tax in situations and on transactions not presently contemplated.

## **Requirements for Qualification as a REIT**

The Internal Revenue Code defines a REIT as a corporation, trust or association:

- (1) that is managed by one or more trustees or directors;
- (2) the beneficial ownership of which is evidenced by transferable shares, or by transferable certificates of beneficial interest;
- (3) that would be taxable as a domestic corporation but for sections 856 through 859 of the Internal Revenue Code;
- (4) that is neither a financial institution nor an insurance company subject to applicable provisions of the Internal Revenue Code;
- (5) the beneficial ownership of which is held by 100 or more persons;
- (6) during the last half of each taxable year not more than 50% in value of the outstanding shares of which is owned directly or indirectly by five or fewer individuals (as defined in the Internal Revenue Code to include certain entities and as determined by applying certain attribution rules);
- (7) that makes an election to be taxable as a REIT, or has made this election for a previous taxable year which has not been revoked or terminated, and satisfies all of the relevant filing and other administrative requirements established by the IRS that must be met to elect and maintain REIT qualification;
- (8) that uses a calendar year for U.S. federal income tax purposes;
- (9) that meets other tests described below, including with respect to the nature of its income and assets; and
- (10) that has no earnings and profits from any non-REIT taxable year at the close of any taxable year.

The Internal Revenue Code provides that conditions (1), (2), (3) and (4) must be met during the entire taxable year, and condition (5) must be met during at least 335 days of a taxable year of 12 months, or during a proportionate part of a shorter taxable year. Conditions (5) and (6) need not be satisfied during a corporation's initial tax year as a REIT (which, in our case, was 2009). Our charter provides restrictions regarding the ownership and transfers of our stock, which are intended to assist us in satisfying the stock ownership requirements described in conditions (5) and (6) above. For purposes of condition (6), an individual generally includes a supplemental unemployment compensation benefit plan, a private foundation or a portion of a trust permanently set aside or used exclusively for charitable purposes. However, a trust that is a qualified trust under Internal Revenue Code Section 401(a) generally is not considered an individual, and beneficiaries of a qualified trust are treated as holding shares of a REIT in proportion to their actual interests in the trust for purposes of condition (6) above.

To monitor compliance with the stock ownership requirements, we are generally required to maintain records regarding the actual ownership of our stock. To do so, we must demand written statements each year from the record holders of significant percentages of our stock pursuant to which the record holders must disclose the actual owners of the stock (i.e., the persons required to include in gross income the dividends paid by us). We must maintain a list of those persons failing or refusing to comply with this demand as part of our records. We could be subject to monetary penalties if we fail to comply with these record-keeping requirements.

## **Table of Contents**

A stockholder that fails or refuses to comply with the demand is required by Treasury regulations to submit a statement with its tax return disclosing the actual ownership of our stock and other information.

For purposes of condition (8), we have adopted December 31 as our year end, and thereby satisfy this requirement.

### *Relief from Violations; Reasonable Cause*

The Internal Revenue Code provides relief from violations of the REIT gross income requirements, as described below under Requirements for Qualification as a REIT Gross Income Tests, in cases where a violation is due to reasonable cause and not to willful neglect, and other requirements are met, including the payment of a penalty tax that is based upon the magnitude of the violation. In addition, certain provisions of the Internal Revenue Code extend similar relief in the case of certain violations of the REIT asset requirements (see Requirements for Qualification as a REIT Asset Tests below) and other REIT requirements, again provided that the violation is due to reasonable cause and not willful neglect, and other conditions are met, including the payment of a penalty tax. If we did not have reasonable cause for a failure, we would fail to qualify as a REIT. Whether we would have reasonable cause for any such failure cannot be known with certainty because the determination of whether reasonable cause exists depends on the facts and circumstances at the time and we cannot provide any assurance that we in fact would have reasonable cause for a particular failure or that the IRS would not successfully challenge our view that a failure was due to reasonable cause. Moreover, we may be unable to actually rectify a failure and restore asset test compliance within the required timeframe due to the inability to transfer or otherwise dispose of assets, including as a result of restrictions on transfer imposed by our lenders or undertakings with our co-investors and/or the inability to acquire additional qualifying assets due to transaction risks, access to additional capital or other considerations. If we fail to satisfy any of the various REIT requirements, there can be no assurance that these relief provisions would be available to enable us to maintain our qualification as a REIT, and, if such relief provisions are available, the amount of any resultant penalty tax could be substantial.

### *Effect of Subsidiary Entities*

*Ownership of Partnership Interests.* In the case of a REIT that is a partner in an entity that is treated as a partnership for U.S. federal income tax purposes, Treasury regulations provide that the REIT is deemed to own its proportionate share of the partnership's assets, and to earn its proportionate share of the partnership's income, for purposes of the asset and gross income tests applicable to REITs, as described below. A REIT's proportionate share of a partnership's assets and income is based on the REIT's pro rata share of the capital interests in the partnership. However, solely for purposes of the 10% value test, described below, the determination of a REIT's interest in partnership assets is based on the REIT's proportionate interest in the equity and certain debt securities issued by the partnership. In addition, the assets and gross income of the partnership are deemed to retain the same character in the hands of the REIT. Thus, our proportionate share of the assets and items of income of any of our subsidiary partnerships are treated as our assets and items of income for purposes of applying the REIT requirements. A further summary of certain rules governing the U.S. federal income taxation of partnerships and their partners is provided below in Tax Aspects of Investments in the Operating Partnership.

Any investment in partnerships involves special tax considerations, including the possibility of a challenge by the IRS of the status of any subsidiary partnership as a partnership, as opposed to an association taxable as a corporation, for U.S. federal income tax purposes. If any of these entities were treated as an association for U.S. federal income tax purposes, it would be taxable as a corporation and therefore could be subject to an entity-level tax on its income. In such a situation, the character of our assets and items of gross income would change and could preclude us from satisfying the REIT asset tests or the gross income tests as discussed in Requirements for Qualification as a REIT Asset Tests and Requirements for Qualification as a REIT Gross Income Tests, and in turn could prevent us from



qualifying as a REIT, unless we are eligible for relief from the violation pursuant to relief provisions. See  
Requirements for Qualification as a REIT Gross Income Tests,

## **Table of Contents**

Requirements for Qualification as a REIT Asset Tests and Requirements for Qualification as a REIT Failure to Qualify as a REIT, below, for discussion of the effect of failure to satisfy the REIT tests for a taxable year, and of the relief provisions. In addition, any change in the status of any subsidiary partnership for tax purposes might be treated as a taxable event, in which case we could have taxable income that is subject to the REIT distribution requirements without receiving any cash.

*Ownership of Disregarded Subsidiaries.* If a REIT owns a corporate subsidiary that is a qualified REIT subsidiary, or QRS, that subsidiary is generally disregarded for U.S. federal income tax purposes, and all assets, liabilities and items of income, deduction and credit of the subsidiary are treated as assets, liabilities and items of income, deduction and credit of the REIT itself, including for purposes of the gross income and asset tests applicable to REITs, as described below. A QRS is any corporation, other than a TRS that is directly or indirectly wholly owned by a REIT. Other entities that are wholly owned by us, including single member limited liability companies that have not elected to be taxed as corporations for U.S. federal income tax purposes, are also generally disregarded as separate entities for U.S. federal income tax purposes, including for purposes of the REIT income and asset tests. Disregarded subsidiaries, along with any partnerships in which we hold an equity interest, are sometimes referred to herein as pass-through subsidiaries.

In the event that a disregarded subsidiary ceases to be wholly owned by us (for example, if any equity interest in the subsidiary is acquired by a person other than us or another disregarded subsidiary of ours) the subsidiary's separate existence would no longer be disregarded for U.S. federal income tax purposes. Instead, the subsidiary would have multiple owners and would be treated as either a partnership or a taxable corporation. Such an event could, depending on the circumstances, adversely affect our ability to satisfy the various asset and gross income requirements applicable to REITs, including the requirement that REITs generally may not own, directly or indirectly, more than 10% of the securities of another corporation unless it is a TRS or a QRS. See Requirements for Qualification as a REIT Gross Income Tests and Requirements for Qualification as a REIT Asset Tests.

*Ownership of Taxable REIT Subsidiaries.* In general, a REIT may jointly elect with a subsidiary corporation, whether or not wholly owned, to treat such subsidiary corporation as a taxable REIT subsidiary or TRS. The separate existence of a TRS or other taxable corporation is not ignored for U.S. federal income tax purposes. Accordingly, a TRS or other taxable corporation generally would be subject to corporate income tax on its earnings, which may reduce the cash flow generated by us and our subsidiaries in the aggregate, and may reduce our ability to make distributions.

A REIT is not treated as holding the assets of a TRS or other taxable subsidiary corporation or as receiving any income that the subsidiary earns. Rather, the stock issued by a taxable subsidiary to a REIT is an asset in the hands of the REIT, and the REIT generally treats the dividends paid to it from such taxable subsidiary, if any, as income. This treatment can affect the income and asset test calculations that apply to the REIT. Because a REIT does not include the assets and income of TRSs or other taxable subsidiary corporations in determining the REIT's compliance with the REIT requirements, such entities may be used by the REIT to undertake indirectly certain activities that the REIT rules might otherwise preclude the REIT from doing directly or through pass-through subsidiaries. If dividends are paid to us by one or more domestic TRSs we may own, then a portion of the dividends that we distribute to holders of our securities who are taxed at individual rates currently may be eligible for taxation at preferential qualified dividend income tax rates rather than at ordinary income rates. See Requirements for Qualification as a REIT Annual Distribution Requirements and Taxation of Holders of Our Securities Taxation of Taxable U.S. Holders.

We have acquired equity interests in several hotel properties as a result of foreclosure proceedings. We have leased such properties to a subsidiary of a TRS, which has contracted with a hotel management company to manage the hotel properties. A TRS may not directly or indirectly manage or operate a lodging facility or health care facility or, generally, provide to another person, under a franchise, license or otherwise, rights to any brand name under which

any lodging facility or health care facility is operated. Although a TRS may not operate or

## **Table of Contents**

manage a lodging facility, it may lease or own such a facility so long as the facility is a qualified lodging facility and is operated on behalf of the TRS by an eligible independent contractor. A qualified lodging facility is, generally, a hotel at which no authorized gambling activities are conducted, and includes the customary amenities and facilities operated as part of, or associated with, the hotel. Customary amenities must be customary for other properties of a comparable size and class owned by other owners unrelated to the REIT. An eligible independent contractor is an independent contractor that, at the time a management agreement is entered into with a TRS to operate a qualified lodging facility, is actively engaged in the trade or business of operating qualified lodging facilities for a person or persons unrelated to either the TRS or any REITs with which the TRS is affiliated. A hotel management company that otherwise would qualify as an eligible independent contractor with regard to a TRS of a REIT will not so qualify if the hotel management company and/or one or more actual or constructive owners of 10% or more of the hotel management company actually or constructively own more than 35% of the REIT, or one or more actual or constructive owners of more than 35% of the hotel management company own 35% or more of the REIT (determined with respect to a REIT whose shares are regularly traded on an established securities market by taking into account only the shares held by persons owning, directly or indirectly, more than 5% of the outstanding shares of the REIT and, if the stock of the eligible independent contractor is publicly traded, 5% of the publicly traded stock of the eligible independent contractor).

We have taken and we continue to take all steps reasonably practicable to ensure that no TRS will engage in operating or managing our hotel properties and that the hotel management companies engaged to operate and manage our hotel properties qualifies and will continue to qualify as an eligible independent contractor with regard to our TRS. In that regard, constructive ownership under Section 318 of the Internal Revenue Code resulting, for example, from relationships between the hotel management companies engaged to operate and manage the hotel properties and the REIT's other shareholders could impact the hotel management companies' ability to satisfy the applicable ownership limit. Because of the broad scope of the attribution rules of Section 318 of the Internal Revenue Code, it is possible that not all prohibited relationships will be identified and avoided. The existence of such a relationship would disqualify a hotel management company as an eligible independent contractor, which could in turn disqualify us as a REIT.

In addition to the restrictions discussed above with respect to lodging and health care facilities, current restrictions imposed on TRSs are intended to ensure that such entities will be subject to appropriate levels of U.S. federal income taxation. First, a TRS may not deduct interest paid or accrued by a TRS to its parent REIT to the extent that such payments exceed, generally, 50% of the TRS's adjusted taxable income for that year (although the TRS may carry forward to, and deduct in, a succeeding year the disallowed interest amount if the 50% test is satisfied in that year). In addition, the rules impose a 100% excise tax on transactions between a TRS and its parent REIT or the REIT's tenants that are not conducted on an arm's length basis. We intend that all of our transactions with our TRSs, if any, will be conducted on an arm's length basis.

We hold a significant amount of assets in one or more TRSs, but are subject to the limitation that securities in TRSs may not represent more than 25% of our assets. There can be no assurance that we have met or will be able to continue to comply with the 25% limitation.

In general, we intend that loans that we originate or buy with an intention of selling in a manner that might expose us to a 100% tax on prohibited transactions will be originated or sold by a TRS. It is possible that the TRS (or other entities in which we own a direct or indirect interest) through which any sales of securities are made may be treated as a dealer for U.S. federal income tax purposes. As a dealer, a TRS generally would mark all the securities it holds on the last day of each taxable year to their market value, and may recognize ordinary income or loss on such loans with respect to such taxable year as if they had been sold for that value on that day. In addition, a TRS may further elect to be subject to the mark-to-market regime described above in the event that the TRS is properly classified as a trader as

opposed to a dealer for U.S. federal income tax purposes.

*Ownership of Subsidiary REITs.* We currently own and may in the future acquire direct or indirect interests in one or more other REITs. We believe that each such REIT is organized and has operated and will continue to

## **Table of Contents**

operate in a manner to permit it to qualify for taxation as a REIT for U.S. federal income tax purposes from and after the effective date of its REIT election. However, if such an entity fails to qualify as a REIT, then (i) the entity would become subject to regular U.S. corporate income tax, as described herein (see *Requirements for Qualification as a REIT* *Failure to Qualify as a REIT* below), and (ii) our equity interest in such entity would cease to be a qualifying real estate asset for purposes of the 75% asset test and would become subject to the 5% asset test, the 10% voting stock asset test, and the 10% value asset test generally applicable to our ownership in corporations other than REITs, QRSs and TRSs. See *Requirements for Qualification as a REIT* *Asset Tests* below. If an entity fails to qualify as a REIT, it is possible that we would not meet the 10% voting stock test and the 10% value test with respect to our indirect interest in such entity, in which event we would fail to qualify as a REIT, unless we could avail our self of certain relief provisions.

*Ownership of Taxable Mortgage Pools.* An entity, or a portion of an entity, may be classified as a taxable mortgage pool, or TMP, under the Internal Revenue Code if:

substantially all of its assets consist of debt obligations or interests in debt obligations;

more than 50% of those debt obligations are real estate mortgages or interests in real estate mortgages as of specified testing dates;

the entity has issued debt obligations that have two or more maturities; and

the payments required to be made by the entity on its debt obligations (liabilities) bear a relationship to the payments to be received by the entity on the debt obligations that it holds as assets.

Under Treasury Regulations, if less than 80% of the assets of an entity (or a portion of an entity) consist of debt obligations, these debt obligations are considered not to comprise substantially all of its assets, and therefore the entity would not be treated as a TMP. We, directly or through entities in which we own an interest, have entered into, and may enter into, financing and securitization arrangements that give rise to TMPs.

A TMP generally is treated as a corporation for U.S. federal income tax purposes. However, special rules apply to a REIT, a portion of a REIT, or a QRS that is a TMP. If a REIT owns directly, or indirectly through one or more QRSs or other entities that are disregarded as separate entities for U.S. federal income tax purposes, 100% of the equity interests in the TMP, the TMP will be a QRS and, therefore, ignored as an entity separate from the REIT for U.S. federal income tax purposes and would not generally affect the tax qualification of the REIT. It is possible that, based on future financing structures or investments, we would have a QRS that is a TMP or a subsidiary that is a REIT and a TMP or a separate corporation that is taxable as a corporation.

### *Gross Income Tests*

To qualify as a REIT, we must satisfy two gross income requirements on an annual basis. First, at least 75% of our gross income for each taxable year, excluding gross income from sales of inventory or dealer property in prohibited transactions, must be derived from investments relating to real property or mortgages on real property, including:

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1. interest income derived from mortgage loans secured by real property (including certain types of MBSs);
2. rents from real property;
3. dividends or other distributions on, and gain from the sale of, shares in other REITs;
4. gain from the sale of real property or mortgages on real property, in either case, not held for sale to customers; and
5. income attributable to temporary investments of new capital in stocks and debt instruments during the one-year period following our receipt of new capital that we raise through equity offerings or issuance of debt obligations with at least a five-year term.

## **Table of Contents**

Second, at least 95% of our gross income in each taxable year, excluding gross income from prohibited transactions, must be derived from some combination of income that qualifies under the 75% gross income test described in 1 through 4 above, as well as (a) other dividends, (b) interest, and (c) gain from the sale or disposition of stock or securities, in either case, not held for sale to customers.

For purposes of either or both of the 75% and 95% gross income tests, certain foreign currency income is disregarded for purposes of determining gross income. In addition, income and gain from certain hedging transactions will be disregarded as gross income for purposes of both the 75% and 95% gross income tests. See Requirements for Qualification as a REIT Gross Income Tests Income from Hedging Transactions.

*Interest Income.* Interest income constitutes qualifying mortgage interest for purposes of the 75% gross income test to the extent that the obligation upon which such interest is paid is secured by a mortgage on real property. If we receive interest income with respect to a mortgage loan that is secured by both real property and other property, and the highest principal amount of the loan outstanding during a taxable year exceeds the fair market value of the real property on the date that we acquired or originated the mortgage loan, the interest income will be apportioned between the real property and the other collateral, and our income from the arrangement will qualify for purposes of the 75% gross income test only to the extent that the interest is allocable to the real property. We may invest in loans secured by real property that is under construction or being significantly improved, in which case the loan value of the real property is the fair market value of the land plus the reasonably estimated cost of the improvements or developments (other than personal property) which will secure the loan and which are to be constructed from the proceeds of the loan.

Although the issue is not free from doubt, we may be required to treat a portion of the gross income derived from a mortgage loan that is acquired (or modified in a manner that is treated as an acquisition of a new loan for U.S. federal income tax purposes) at a time when the fair market value of the real property securing the loan is less than the loan's face amount and there are other assets securing the loan, as nonqualifying for the 75% gross income test even if our acquisition price for the loan (that is, the fair market value of the loan) is less than the value of the real property securing the loan. Until there is clarification of how interest income related to such loans should be treated for purposes of the 75% gross income test, we intend to measure our compliance with the 75% gross income test by treating a portion of the gross interest income as nonqualifying for such test. The amount of interest income from such a loan that we intend to treat as qualifying will equal the product of the interest income from such loan recognized during the year multiplied by a fraction the numerator of which is the fair market value of the real property securing the loan (measured as required pursuant to the applicable Treasury Regulations and related guidance) and the denominator of which is the highest unpaid principal balance of such loan during the portion of the taxable year that we own the loan. Generally, the assets that serve as collateral for the loans we own are not susceptible to precise valuation and we cannot provide any assurance that the IRS would not successfully challenge our valuations for these purposes. Even if a loan is not secured by real property, or is undersecured, the income that it generates may nonetheless qualify for purposes of the 95% gross income test.

To the extent that the terms of a loan provide for contingent interest that is based on the cash proceeds realized upon the sale of the property securing the loan (a shared appreciation provision), income attributable to the participation feature will be treated as gain from sale of the underlying property, which generally will be qualifying income for purposes of both the 75% and 95% gross income tests provided that the property is considered real property and is not held as inventory or dealer property in the hands of the borrower or us.

To the extent that we derive interest income from a mortgage loan, or income from the rental of real property where all or a portion of the amount of interest or rental income payable is contingent, such income generally will qualify for purposes of the gross income tests only if it is based upon the gross receipts or sales of the borrower or lessee, and no



part is based on the net income or profits of the borrower or lessee, a tenant or subtenant of the borrower or lessee, or any other person. However, where the borrower or lessee derives

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**Table of Contents**

substantially all of its income from leasing substantially all of its interest in the property to tenants or subtenants, to the extent that the rental income derived by the borrower or lessee, as the case may be, would qualify as rents from real property had we earned the income directly, such income generally will qualify for purposes of the gross income tests.

Any amount includable in our gross income with respect to a regular or residual interest in a REMIC generally is treated as interest on an obligation secured by a mortgage on real property. If, however, less than 95% of the assets of a REMIC consists of real estate assets (determined as if we held such assets), we will be treated as receiving directly our proportionate share of the income of the REMIC for purposes of determining the amount which is treated as interest on an obligation secured by a mortgage on real property. See below under Requirements for Qualification as a REIT Asset Tests for a discussion of the effect of investments in REMICs and other types of securities on our qualification as a REIT.

Among the assets we hold and may continue to hold are certain mezzanine loans secured by equity interests in a pass-through entity that directly or indirectly owns real property, rather than a direct mortgage on the real property. The IRS has issued Revenue Procedure 2003-65, which provides a safe harbor applicable to mezzanine loans. Under the Revenue Procedure, if a mezzanine loan meets each of the requirements contained in the Revenue Procedure, (1) the mezzanine loan will be treated by the IRS as a real estate asset for purposes of the asset tests described below, and (2) interest derived from the mezzanine loan will be treated as qualifying mortgage interest for purposes of the 75% gross income test. Although the Revenue Procedure provides a safe harbor on which taxpayers may rely, it does not prescribe rules of substantive tax law. We believe that we have and intend to continue to structure any investments in mezzanine loans in a manner that allows us to comply with the applicable REIT qualification requirements. Certain components of the safe harbor relate to valuations of the underlying real property and the value of the pass-through entity's other assets. Generally, the assets that serve as collateral for the loans we own are not susceptible to precise valuation and therefore we cannot provide any assurance that the IRS would not successfully challenge our valuations for these purposes. To the extent that any of our mezzanine loans do not meet all of the requirements for reliance on the safe harbor set forth in the Revenue Procedure, there can be no assurance that the IRS will not challenge the tax treatment of these loans. To the extent we make mezzanine loans that do not qualify as real estate assets, the interest income with respect to such loans will not be qualifying income for the 75% gross income test.

We hold certain participation interests, including B Notes, in mortgage loans and mezzanine loans. Such interests in an underlying loan are created by virtue of a participation or similar agreement to which the originator of the loan is a party, along with one or more participants. The borrower on the underlying loan is typically not a party to the participation agreement. The performance of this investment depends upon the performance of the underlying loan, and if the underlying borrower defaults, the participant typically has no recourse against the originator of the loan. The originator often retains a senior position in the underlying loan, and grants junior participations which absorb losses first in the event of a default by the borrower. We believe that our participation interests will qualify as real estate assets for purposes of the REIT asset tests described below, and that the interest that we will derive from such investments will be treated as qualifying mortgage interest for purposes of the 75% gross income test. The appropriate treatment of participation interests for U.S. federal income