MARSHALL & ILSLEY CORP
Form 424B2
June 12, 2009
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Filed Pursuant to Rule 424(b)(2)
Registration Statement No. 333-147162

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee
Common Stock, $1.00 par value per share	100,000,000(1)	$5.75	$575,000,000(1)	$32,085(2)

(1) Includes 13,000,000 shares of Marshall & Ilsley Corporation common stock that the underwriters have the option to purchase.

(2) Calculated in accordance with Rule 457(r) under the Securities Act of 1933, as amended.

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PROSPECTUS SUPPLEMENT

(To Prospectus dated November 6, 2007)

87,000,000 Shares

Marshall & Ilsley Corporation

Common Stock

We are offering 87,000,000 shares of our common stock. Our common stock is listed on the New York Stock Exchange under the symbol MI. On June 11, 2009, the last reported sale price of our common stock on the NYSE was $6.14 per share.

Our common stock is not a savings account, deposit or other obligation of any of our bank or non-bank subsidiaries and is not insured by the Federal Deposit Insurance Corporation or any other governmental agency.

Investing in our common stock involves risks. See Risk Factors on page S-3 of this prospectus supplement to read about factors you should consider before buying our common stock.

None of the Securities and Exchange Commission, any state securities commission, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System or any other regulatory body has approved or disapproved of these securities or determined if this prospectus supplement is truthful or complete. Any representation to the contrary is a criminal offense.

	Per Share	Total
Public Offering Price	$5.75	$500,250,000
Underwriting Discounts and Commissions	$0.23	$20,010,000

Proceeds to Marshall & Ilsley Corporation (before expenses)	$5.52	$480,240,000

The underwriters expect to deliver the common stock in book-entry form only, through the facilities of The Depository Trust Company, against payment on or about June 17, 2009.

The underwriters also may purchase up to an additional 13,000,000 shares of common stock within 30 days of the date of this prospectus supplement.

Joint Book-Running Managers

Morgan Stanley

Barclays Capital

Credit Suisse

Robert W. Baird & Co.

Keefe, Bruyette & Woods

Prospectus Supplement dated June 11, 2009

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Supplemental Prospectus

Prospectus

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ABOUT THIS PROSPECTUS SUPPLEMENT

This document consists of two parts. The first part is the prospectus supplement, which describes the specific terms of this offering of our common stock and also adds to and updates information contained in the accompanying prospectus and the documents incorporated by reference in this prospectus supplement and the accompanying prospectus. The second part is the accompanying prospectus, dated November 6, 2007, which describes more general information, some of which may not apply to this offering. You should read both this prospectus supplement and the accompanying prospectus, together with the additional information described under the heading Where You Can Find More Information below.

When acquiring any securities discussed in this prospectus supplement, you should rely only on the information provided in this prospectus supplement and the accompanying prospectus, including the information incorporated by reference. Neither we nor any underwriters have authorized anyone to provide you with different information. We are not offering the common stock in any jurisdiction where the offer is prohibited. You should not assume that the information in this prospectus supplement or any document incorporated by reference is accurate or complete at any date other than the date mentioned on the cover page of these documents.

If the information set forth in this prospectus supplement differs in any way from the information set forth in the accompanying prospectus, you should rely on the information set forth in this prospectus supplement. If the information conflicts with any statement in a document which we have incorporated by reference, then you should consider only the statement in the more recent document.

Unless otherwise mentioned or unless the context requires otherwise, all references in this prospectus supplement and the accompanying prospectus to the Company, we, us and our refer to Marshall & Ilsley Corporation.

WHERE YOU CAN FIND MORE INFORMATION

We have filed a registration statement with the Securities and Exchange Commission (the SEC). The prospectus is part of the registration statement, and the registration statement also contains additional information and exhibits. We file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any document that we file at the SEC s public reference room at 100 F Street, N.E., Washington, D.C. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. In addition, our SEC filings are available to the public from the SEC s web site at http://www.sec.gov. Our SEC filings are also available at the offices of the NYSE. For further information on obtaining copies of our public filings at the NYSE, you should call (212) 656-5060.

The SEC allows us to incorporate by reference the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be a part of this prospectus supplement, and later information that we file with the SEC will automatically update and supersede this information. We incorporate by reference the following documents listed below and any future filings made with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended (the Exchange Act), on or after the date of this prospectus supplement and before the termination of the offering of the securities (other than, with respect to Current Reports on Form 8-K, information that is deemed not to have been filed in accordance with SEC rules).

The documents listed below are incorporated by reference into this prospectus supplement:

Annual Report on Form 10-K for the year ended December 31, 2008 (the 2008 Annual Report);

Quarterly Report on Form 10-Q for the quarter ended March 31, 2009;

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Current Reports on Form 8-K, filed January 15, 2009, April 28, 2009, May 20, 2009 and May 27, 2009;

The definitive Proxy Statement on Schedule 14A filed on March 13, 2009; and

The description of our common stock incorporated by reference in Amendment No. 4 to our registration statement on Form 10, filed October 10, 2007 pursuant to Section 12 of the Exchange Act, including any amendment or report filed with the SEC for the purpose of updating such description.

You may request a copy of these filings, at no cost, by writing or telephoning us at the following address:

Secretary

Marshall & Ilsley Corporation

770 North Water Street

Milwaukee, Wisconsin 53202

Phone: (414) 765-7801

FORWARD-LOOKING STATEMENTS

This prospectus supplement and the accompanying prospectus, and the documents incorporated herein by reference, may contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the Securities Act) and Section 21E of the Exchange Act. Such forward-looking statements include, without limitation, statements regarding expected financial and operating activities and results which are preceded by words such as expects , anticipates or believes . Such statements are subject to important factors that could cause our actual results to differ materially from those anticipated by the forward-looking statements. These factors include those referenced elsewhere in this prospectus supplement, in Item 1A. Risk Factors, in our 2008 Annual Report and in the other documents incorporated herein by reference. We assume no obligation to provide revisions to any forward-looking statements should circumstances change, except as otherwise required by securities and other applicable laws.

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SUMMARY

The following information should be read together with the information contained in or incorporated by reference in other parts of this prospectus supplement and in the accompanying prospectus. It may not contain all the information that is important to you. You should carefully read this entire prospectus supplement and the accompanying prospectus, as well as the information incorporated by reference herein, before making a decision about whether to invest in the common stock. To the extent the following information is inconsistent with the information in the accompanying prospectus, you should rely on the following information. If any statement in this prospectus supplement conflicts with any statement in a document which we have incorporated by reference, then you should consider only the statement in the more recent document. You should pay special attention to the Risk Factors section of this prospectus supplement to determine whether an investment in our common stock is appropriate for you.

Marshall & Ilsley Corporation

We are a Wisconsin corporation, a registered bank holding company under the Bank Holding Company Act of 1956 and are certified as a financial holding company under the Gramm-Leach-Bliley Act. As of March 31, 2009, we had consolidated total assets of approximately $61.8 billion and consolidated total deposits of approximately $39.6 billion, making us the largest bank holding company headquartered in Wisconsin. Our principal assets are the stock of our bank and nonbank subsidiaries, which, as of April 30, 2009, consisted of five bank and trust subsidiaries and a number of companies engaged in businesses that the Board of Governors of the Federal Reserve System (the Federal Reserve Board) has determined to be closely-related or incidental to the business of banking. We provide our subsidiaries with financial and managerial assistance in such areas as budgeting, tax planning, auditing, compliance assistance, asset and liability management, investment administration and portfolio planning, business development, advertising and human resources management.

We provide diversified financial services to a wide variety of corporate, institutional, government and individual customers. Our largest affiliates and principal operations are in Wisconsin; however, we have activities in other markets, particularly in certain neighboring Midwestern states, and in Arizona, Nevada and Florida. Our principal activities consist of banking and wealth management services.

Our executive offices are located at 770 North Water Street, Milwaukee, Wisconsin 53202 (telephone number (414) 765-7801).

Recent Developments

Based on currently available information, we believe our provision for loan and lease losses in the second quarter of 2009 will be approximately the same as our provision for loan and lease losses for the first quarter of 2009. We also believe that our net charge-offs for the second quarter of 2009 will be approximately the same as our provision for loan and lease losses in the second quarter of 2009.

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The Offering

The following summary contains basic information about our common stock and this offering and is not intended to be complete. It does not contain all the information that is important to you. For a more complete understanding of the common stock, you should read the section of this prospectus supplement entitled Description of Capital Stock.

Common stock we are offering	87,000,000 shares
Common stock outstanding after this offering	352,701,574 shares[1][2]
Option to purchase additional shares	13,000,000 shares
Use of proceeds after expenses	We intend to use the net proceeds of this offering for general corporate purposes and may contribute some portion of the net proceeds to the capital of our subsidiaries, which will use these contributions for their general corporate purposes. To the extent that our Board of Directors determines at a future date that it is in the best interests of us and our shareholders, we may elect to repurchase a portion of our Senior Preferred Stock, Series B, which repurchase may be funded in whole or in part by the remaining net proceeds of this offering. Any such repurchase would be subject to consultation with and approval by our banking regulators. In the event that we choose to seek such approval, there can be no assurance that such approval would be granted.
Risk factors	Investing in our common stock involves risks. See Risk Factors for a description of certain risks you should consider before investing in our common stock.
NYSE symbol	MI

(1) The number of shares of common stock outstanding immediately after the closing of this offering is based on 265,701,574 shares of common stock outstanding as of March 31, 2009.

(2) Unless otherwise indicated, the number of shares of common stock presented in this prospectus supplement excludes shares issuable pursuant to the exercise of the underwriters option to purchase additional shares, 33,161,641 shares of common stock issuable under our employee benefit plans and the warrant for the issuance of 13,815,789 shares of common stock held by the U.S. Treasury and 670,300 shares of common stock issued under our Discretionary Equity Issuance Plan that commenced on May 19, 2009.

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RISK FACTORS

An investment in our common stock involves certain risks. You should carefully consider the risks described below and the risks described in Item 1A. Risk Factors in our 2008 Annual Report, as well as the other information included or incorporated by reference in this prospectus supplement and the accompanying prospectus, before making an investment decision. Our business, financial condition or results of operations could be materially adversely affected by any of these risks. The trading price of our common stock could decline due to any of these risks, and you may lose all or part of your investment.

Our stock price can be volatile, and this may make it difficult for you to resell shares of common stock owned by you at times or at prices you find attractive.

Our stock price can fluctuate widely in response to a variety of factors, including the factors described elsewhere under the heading Risk Factors and the following additional factors:

- actual or anticipated variations in our quarterly results;
- changes or contemplated changes in government regulations;
- unanticipated losses or gains due to unexpected events, including losses or gains on securities held for investment purposes;
- credit quality ratings;
- new technology or services offered by our competitors;
- significant acquisitions or business combinations, strategic partnerships, joint ventures or capital commitments by or involving us or our competitors, the failure to successfully integrate our acquisitions or realize anticipated benefits from our acquisitions;
- changes in accounting policies or practices;
- news reports relating to trends, concerns and other issues in the financial services industry;
- changes in the frequency or amount of dividends or share repurchases;
- anticipated or pending investigations, proceedings, or litigation that involve or affect us;
- domestic and international economic factors unrelated to our performance; and

general market conditions and, in particular, developments related to market conditions for the financial services industry.

In addition, in recent months, the stock market has experienced extreme price and volume fluctuations. This volatility has had a significant effect on the market price of securities issued by many companies, including for reasons unrelated to their operating performance. These broad market fluctuations may adversely affect our share price, notwithstanding our operating results. Accordingly, any shares of common stock that you purchase in this offering may in the future trade at a lower price than that at which they were purchased.

There may be future sales or other dilution of our equity, which may adversely affect the market price of our common stock.

Except as described under the heading Underwriting below, we are not restricted from issuing additional common stock, including any securities that are convertible into or exchangeable for, or that represent the right to receive, common stock. The issuance of any additional shares of common stock or securities convertible into, exchangeable for or that represent the right to receive common stock or the exercise of such securities could be substantially dilutive to shareholders of our common stock. Holders of our shares of common stock have no preemptive rights that entitle holders to purchase their pro rata share of any offering of shares of any class or

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series. The market price of our common stock could decline as a result of sales of shares of our common stock made after this offering or the perception that such sales could occur. Because our decision to issue 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, our shareholders bear the risk of our future offerings reducing the market price of our common stock and diluting their interests in us.

In connection with our participation in the United States Department of the Treasury s (the U.S. Treasury) Capital Purchase Program (the CPP), we issued 1,715,000 shares of our Senior Preferred Stock, Series B (the Senior Preferred Stock) and a warrant representing the right to purchase 13,815,789 shares of our common stock to the U.S. Treasury at an exercise price of $18.62 per share. The market price of our common stock could decline as a result of sales of a large number of shares of common stock acquired upon exercise of the warrant in the market. If the warrant is exercised, the issuance of additional common stock would dilute the ownership interest of our existing shareholders.

You may not receive dividends on the common stock.

Holders of our common stock are only entitled to receive such dividends as our Board of Directors may declare out of funds legally available for such payments. Furthermore, holders of our common stock are subject to the prior dividend rights of holders of our preferred stock at any time outstanding. On January 15, 2009, we reduced the quarterly dividend on our common stock from $0.32 per share to $0.01 per share.

As of March 31, 2009, 1,715,000 shares of our Senior Preferred Stock were issued and outstanding. Under the terms of the Senor Preferred Stock, our ability to declare or pay dividends on our common stock will be subject to restrictions in the event that we fail to declare and pay (or set aside for payment) full dividends on the Senior Preferred Stock. In addition, prior to November 14, 2011, unless we have redeemed all of the Senior Preferred Stock or the U.S. Treasury has transferred all of the Senior Preferred Stock to third parties, the consent of the U.S. Treasury will be required for us to, among other things, increase our quarterly common stock dividend above $0.32 per share, except in limited circumstances.

We rely on dividends from our subsidiaries for most of our revenue, and our banking subsidiaries hold a significant portion of their assets indirectly.

We are a separate and distinct legal entity from our subsidiaries, and receive substantially all of our revenue from dividends from our subsidiaries. These dividends are the principal source of funds to pay dividends on the our common stock and interest on our debt. The payment of dividends by a banking subsidiary is subject to federal law restrictions and to the laws of the subsidiary s state of incorporation. Furthermore, a parent company s right to participate in a distribution of assets upon a subsidiary s liquidation or reorganization is subject to the prior claims of the subsidiary s creditors. Furthermore, our banking and federal savings bank subsidiaries hold a significant portion of their mortgage loan and investment portfolios indirectly through their ownership interests in direct and indirect subsidiaries.

In addition, if, in the opinion of the applicable regulatory authority, a bank under its jurisdiction is engaged in or is about to engage in an unsafe or unsound practice, such authority may require, after notice and hearing, that such bank cease and desist from such practice. Depending on the financial condition of our banking subsidiaries, the applicable regulatory authority might deem us to be engaged in an unsafe or unsound practice if our banking subsidiaries were to pay dividends. The Federal Reserve and the Office of the Comptroller of the Currency have issued policy statements generally requiring insured banks and bank holding companies only to pay dividends out of current operating earnings. The Federal Reserve recently released a supervisory letter advising bank holding companies, among other things, that as a general matter a bank holding company should inform the Federal Reserve and should eliminate, defer or significantly reduce its dividends if (i) the bank holding company s net income available to shareholders for the past four quarters, net of dividends previously paid during that period, is not sufficient to fully fund

the dividends, (ii) the bank holding company s prospective rate of earnings is not consistent with the bank holding company s capital needs and overall current and

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prospective financial condition, or (iii) the bank holding company will not meet, or is in danger of not meeting, its minimum regulatory capital adequacy ratios.

Payment of dividends would also be subject to regulatory limitations if any of our banking subsidiaries became under-capitalized for purposes of the prompt corrective action regulations of the federal bank regulatory agencies that are the primary regulators of our banking subsidiaries. Under-capitalized is currently defined as having a total risk-based capital ratio of less than 8.0%, a Tier 1 risk-based capital ratio of less than 4.0%, or a leverage ratio (that is, capital to total consolidated assets) of less than 4.0%. While our banking subsidiaries were in compliance with all regulatory capital requirements and considered to be well-capitalized through 2008, there can be no assurance that they will continue to be well-capitalized in the future.

We may offer debt securities in the future, which would be senior to our common stock upon liquidation, and/or preferred equity securities which may be senior to our common stock for purposes of dividend distributions or upon liquidation.

We may offer our debt or preferred equity securities, including medium-term notes, trust preferred securities, senior or subordinated notes and preferred stock, in the future. Upon liquidation, holders of our debt securities and shares of preferred stock and lenders with respect to other borrowings will receive distributions of our available assets prior to the holders of our common stock. If we issue preferred stock in the future that has a preference over our common stock with respect to the payment of dividends or upon our liquidation, dissolution, or winding up, or if we issue preferred stock with voting rights that dilute the voting power of our common stock, the rights of holders of our common stock could be adversely affected.

Anti-takeover provisions could negatively impact our shareholders.

Certain provisions of our Restated Articles of Incorporation, as amended, and our Amended and Restated By-Laws and the Wisconsin Business Corporation Law (the WBCL) may delay or make more difficult acquisitions or changes of control of our company not approved by our Board of Directors. These provisions also make it more difficult for third parties to replace our management without the concurrence of our Board of Directors. In addition, Federal Reserve Board approval is required for certain acquisitions of our common stock or other voting stock. All of these provisions could have the effect of discouraging third parties from making proposals that shareholders may otherwise consider to be in their best interests, including tender offers or attempts that might allow shareholders to receive premiums over the market price of their common stock.

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USE OF PROCEEDS

We intend to use the net proceeds of this offering, estimated to be approximately $480 million (after underwriting discounts and commissions and offering expenses) for general corporate purposes and may contribute some portion of the net proceeds to the capital of our subsidiaries, which will use these contributions for their general corporate purposes.

To the extent that our Board of Directors determines at a future date that it is in the best interests of us and our shareholders to do so, we may elect to repurchase a portion of our Senior Preferred Stock with all or a portion of the remaining net proceeds of this offering. Any such repurchase would be subject to consultation with and approval by our banking regulators. In the event that we choose to seek such approval, there can be no assurance that such approval would be granted.

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PRICE RANGE OF COMMON STOCK AND DIVIDENDS

Our common stock is listed and traded on the NYSE under the symbol MI. As of March 31, 2009, there were 265,701,574 shares of our common stock issued and outstanding. The following tables set forth for the periods indicated the high and low reported sales prices of our common stock on the NYSE, and the cash dividends declared per share. The information for 2007 has been separated to show the prices prior to and after our separation from Metavante Corporation (now known as Metavante Technologies, Inc.) on November 1, 2007. As a result, the fourth quarter pre-separation prices are through October 31, 2007 only. The post-separation prices are from November 1, 2007 through December 31, 2007.

	High Sale Price	Low Sale Price	Dividends Declared per Share
2009			
Second Quarter (through June 11, 2009)	$ 10.79	$ 5.34	$ 0.01
First Quarter	13.98	2.98	0.01
2008			
Fourth Quarter	24.00	10.98	0.32
Third Quarter	29.97	10.90	0.32
Second Quarter	27.19	15.26	0.32
First Quarter	29.07	20.92	0.31
2007			
Fourth Quarter (November 1 - December 31)	42.01	26.04	N/A
Fourth Quarter (October 1 - October 31)	46.17	41.49	0.31
Third Quarter	48.37	40.38	0.31
Second Quarter	51.48	45.62	0.31
First Quarter	49.26	45.33	0.27

On June 11, 2009, the last reported sale price of our common stock on the NYSE was $6.14 per share.

The declaration and payment of dividends is at the discretion of our Board of Directors. Any determination to pay dividends will depend upon our results of operations and cash flows, our financial position and capital requirements, general business conditions, legal, tax, regulatory, rating agency and any contractual and regulatory restrictions on the payment of dividends and any other factors our Board of Directors deems relevant. Currently, our ability to declare or pay dividends on shares of our common stock is subject to certain restrictions in the event that we fail to pay or set aside full dividends on the Senior Preferred Stock for all past dividend periods. In addition, we must obtain regulatory approval to pay dividends on our common stock in excess of $0.32 per share.

For the first quarter of 2009, our Board of Directors declared a dividend of $.01 per share of common stock, which is substantially lower than has been declared and paid in prior quarters. The Federal Reserve recently released a supervisory letter advising bank holding companies, among other things, that as a general matter a bank holding company should inform the Federal Reserve and should eliminate, defer or significantly reduce its dividends if (i) the bank holding company s net income available to shareholders for the past four quarters, net of dividends previously paid during that period, is not sufficient to fully fund the dividends, (ii) the bank holding company s prospective rate of earnings is not consistent with the bank holding company s capital needs and overall current and prospective financial condition, or (iii) the bank holding company will not meet, or is in danger of not meeting, its minimum regulatory capital adequacy ratios. Payments of dividends on our common stock may be subject to any preferential rights under any of our preferred stock that may be outstanding from time to time. See Description of Capital Stock.

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DESCRIPTION OF CAPITAL STOCK

We have summarized the material terms and provisions of our capital stock in this section. This summary does not purport to be complete, and its qualified in its entirety by reference to our Restated Articles of Incorporation, as amended, and our Amended and Restated By-Laws. Our Restated Articles of Incorporation, as amended, and our Amended and Restated By-Laws are incorporated by reference as exhibits to our 2008 Annual Report.

Common Stock

Authorized and Outstanding Shares. As of March 31, 2009, our authorized common stock was 700,000,000 shares. As of March 31, 2009, we had issued and outstanding 265,701,574 shares. The shares of our common stock offered by this prospectus supplement will be validly issued, fully paid and non-assessable.

Voting Rights. The holders of our common stock are entitled to one vote per share on all matters to be voted on by shareholders, except to the extent that the voting power of shares held by any person in excess of 20% of the voting power in the election of directors may be limited (in voting on any matter) to one-tenth of the full voting power of those shares under Section 180.1150 of the WBCL. The holders of common stock are not entitled to cumulative voting rights. The WBCL and our Amended and Restated By-Laws require a plurality of all votes cast at a meeting at which a quorum is present to elect directors. Our Board of Directors has adopted Corporate Governance Guidelines that require any nominee in an uncontested election who receives a greater number of votes withheld from his or her election than votes for such election to promptly tender his or her resignation as a director to the Chairman of the Board for consideration by the Board in accordance with the policy. For most other shareholder votes, the WBCL and our Amended and Restated By-Laws provide that an action is approved if the votes cast in favor of the action exceed the votes cast opposing the action at a meeting at which a quorum is present, unless our Restated Articles of Incorporation, as amended, our Amended and Restated By-Laws or the WBCL provide otherwise.

Dividends. Holders of our common stock are entitled to receive dividends when, as and if declared by our Board of Directors out of funds legally available for payment of dividends, subject to any preferential rights of any outstanding preferred stock. See Price Range of Common Stock and Dividends.

Liquidation. In the event of our liquidation or dissolution, the holders of our common stock will be entitled to share ratably in all assets remaining for distribution to shareholders, subject to any preferential rights of any outstanding preferred stock.

Other Rights. Except as set forth in any written agreement between us and any shareholder, holders of our common stock have no preemptive or other subscription rights, and the shares of common stock are not subject to further calls or assessment by us. There are no conversion rights or sinking fund provisions applicable to the shares of our common stock.

Listing. The outstanding shares of our common stock are listed on the NYSE under the symbol MI. The transfer agent for our common stock is Continental Stock Transfer & Trust Company.

Wisconsin Law and Certain Articles and By-Laws Provision; Anti-Takeover Measures

Certain provisions of our Restated Articles of Incorporation, as amended, and our Amended and Restated By-Laws and the WBCL may delay or make more difficult acquisitions or changes of control of our company not approved by our Board of Directors. These provisions may also make it more difficult for third parties to replace our current management without the concurrence of our Board of Directors. In addition, Federal Reserve Board approval is required for certain acquisitions of our common stock or other voting stock. All of these provisions could have the effect of discouraging third parties from making proposals that shareholders may otherwise consider to be in their best interests, including tender offers or attempts that might allow shareholders to receive premiums over the market price of their common stock.

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Size of Board of Directors and Special Meetings. Our Restated Articles of Incorporation, as amended, and Amended and Restated By-Laws provide that our Board will consist of not less than three directors (exclusive of directors, if any, elected by the holders of one or more classes or series of preferred stock pursuant to the restated articles of incorporation applicable thereto), the number of which may be established within such limits by resolution adopted by the affirmative vote of a majority of the entire Board of Directors then in office; provided, that, the Board of Directors may not decrease the number if the term of any incumbent director would thereby be affected. Except as otherwise provided by the WBCL and subject to the rights of the holders of any class or series of capital stock having a preference over the common stock as to dividends or upon liquidation, special meetings of our shareholders may be called only by the Chief Executive Officer or the President pursuant to a resolution approved by not less than a majority of the Board of Directors or upon the demand, in accordance with the procedures set forth in the Amended and Restated By-Laws, of the holders of record shares representing at least ten percent (10%) of all the votes entitled to be cast on any issue proposed to be considered at the proposal special meeting. These provisions have the effect of making it difficult for a potential acquirer to gain control of our Board of Directors.

Removal of Directors for Cause. Exclusive of directors, if any, elected by holders of one or more classes of preferred stock, holders of common stock may remove a director only for cause and then only by a vote of two-thirds of the outstanding shares of our capital stock entitled to vote at a meeting of shareholders called for that purpose. Cause is defined solely as malfeasance arising from the performance of a director s duties which has a materially adverse effect on our business. This provision could deter or discourage a party seeking to obtain control of our business by removing one or more directors from our Board.

Our Restated Articles of Incorporation, as amended, provide that any newly created directorship resulting from an increase in the number of directors and any other vacancy on our Board of Directors, however caused, shall be filled by vote of a majority of the directors then in office, although less than a quorum (or by a sole remaining director). Any director so elected to fill any vacancy in our Board of Directors, including a vacancy created by an increase in the number of directors, shall hold office until the next annual meeting of our shareholders and until his or her successor shall be elected and shall qualify. Notwithstanding the foregoing, whenever the holders of any one or more series of preferred stock issued shall have the right, voting separately by series, to elect directors at an annual or special meeting of shareholders, the election, term of office, filling of vacancies and other features of such directorship shall be governed by the terms of the Restated Articles of Incorporation, as amended.

Advance Notice of Proposals to be Brought at the Annual Meeting. Pursuant to our Amended and Restated By-Laws, any shareholder who intends to bring business before an annual meeting of shareholders must provide us with notice of such intention, the nature of such proposal, the reasons for conducting such business at the annual meeting and certain information regarding the shareholder bringing the proposal not less than 90 days prior to the anniversary date of the annual meeting of shareholders in the immediately preceding year. This provision could render more difficult or discourage an attempt to obtain control of our company through a proposal brought before an annual meeting of shareholders. We would have to be given advance notice of any such proposal in accordance with our Amended and Restated By-Laws, which notice requirement may discourage the making of such proposal.

Advance Notice of Nominations of Directors. Pursuant to our Restated Articles of Incorporation, as amended, and our Amended and Restated By-Laws, any shareholder who intends to nominate directors for election at a meeting called for that purpose must provide us with notice of such intention, a written consent of the nominee to serve as a director, certain information regarding the proposed nominee and certain information regarding the nominating shareholder not less than 90 days prior to the anniversary date of the annual meeting of shareholders in the immediately preceding year. This provision could deter or discourage a party seeking to obtain control of our company by electing directors to our Board. Any such party would be required to comply with our Restated Articles of Incorporation, as amended, and our Amended and Restated By-Laws in nominating directors to our Board and such compliance could deter or discourage such party from nominating directors to our Board.

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Authorized and Unissued Stock. As of March 31, 2009, our authorized capital consisted of 5,000,000 shares of preferred stock, of which 3,285,000 shares were unissued, and 700,000,000 shares of common stock, of which 427,681,385 shares were unissued. Our Board of Directors has the right to cause us to issue authorized and unissued shares from time to time, without shareholder approval. These additional shares may be used for a variety of corporate purposes, including future public or private offerings to raise additional capital or to facilitate corporate acquisitions. The Board s power to approve the issuance of preferred stock could, depending on the terms of such stock, either impede or facilitate the completion of a merger, tender offer or other takeover attempt. Similarly, the Board s existing ability to issue additional shares of our common stock could, depending upon the circumstances of their issue, either impede or facilitate the completion of a merger, tender offer or other takeover attempt, and thereby protect the continuity of our management and possibly deprive the shareholders of opportunities to sell their shares of common stock at higher than prevailing market prices. For example, the issuance of new shares might impede a business combination if they were issued in connection with a rights plan or if the terms of those shares include series voting rights which would enable the holder to block business combinations. Alternatively, the issuance of new shares might facilitate a business combination if those shares have general voting rights sufficient to cause an applicable percentage vote requirement to be satisfied. The Board will make any determination regarding issuance of additional shares based on its judgment as to the best interests of us and our shareholders.

Constituency or Stakeholder Provision. Under Section 180.0827 of the WBCL, in discharging his or her duties to us and in determining what he or she believes to be in the best interests of M&I, a director or officer may, in addition to considering the effects of any action on shareholders, consider the effects of the action on employees, suppliers, customers, the communities in which we operate and any other factors that the director or officer considers pertinent. This provision may have anti-takeover effects in situations where the interests of our stakeholders, other than shareholders, conflict with the short-term maximization of shareholder value.

Wisconsin Anti-Takeover Statutes. Sections 180.1140 to 180.1144 of the WBCL, which are referred to as the Wisconsin business combination statutes, prohibit a Wisconsin corporation from engaging in a business combination with an interested stockholder for a period of three years after the date of the transaction in which the person became an interested stockholder, unless prior to such date the Board of Directors approved the business combination or the transaction in which the person became an interested stockholder. Under specified circumstances, a Wisconsin corporation may engage in a business combination with an interested stockholder more than three years after the stock acquisition date. For purposes of the Wisconsin business combination statutes, a business combination includes (a) a merger or share exchange, (b) a sale, lease, exchange, mortgage, pledge, transfer or other disposition of assets equal to at least 5% of the aggregate market value of the assets or outstanding stock of the corporation or 10% of the corporation s earning power or income on a consolidated basis, (c) the issuance of stock or rights to purchase stock having an aggregate market value equal to at least 5% of the outstanding stock, unless the stock was issued or transferred pursuant to the exercise of warrants, rights or options or a dividend or distribution made proportionately to all shareholders, (d) the adoption of a plan of liquidation or dissolution and (e) other enumerated transactions involving an interested stockholder if the affect is to increase the proportionate share of the outstanding stock (or securities convertible into stock) of the corporation or its subsidiary beneficially owned by the interested stockholder, and (f) receipt by the interested stockholder of the benefit of a loan, advance, guarantee, pledge or other financial assistance provided by or through the corporation or subsidiary, unless the benefit is received proportionately by all shareholders. Under the Wisconsin business combination statutes, an interested stockholder is a person who beneficially owns 10% of the voting power of the outstanding voting stock of the corporation, or who is an affiliate or associate of the corporation and beneficially owned 10% of the voting power of the then outstanding voting stock within three years prior to the date in question.

A resident domestic corporation means a public Wisconsin corporation that, as of the stock acquisition date in question, has:

its principal offices located in Wisconsin;

significant business operations located in Wisconsin;

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more than 10% of the holders of record of its stock who are residents of Wisconsin; or

more than 10% of its shares held of record by residents of Wisconsin.

We are considered a resident domestic corporation for purposes of these provisions.

Sections 180.1130 to 180.1133 of the WBCL, which are referred to as the Wisconsin fair price statutes, require that business combinations involving a significant shareholder and a Wisconsin corporation be approved by the affirmative vote of at least (1) 80% of the votes entitled to be cast by the outstanding voting shares of the corporation, and (2) two-thirds of the votes entitled to be cast by the holders of the voting shares that are not beneficially owned by a significant shareholder or an affiliate or associate of a significant shareholder who is a party to the transaction, unless the fair price conditions specified in the statute have been satisfied. This requirement is in addition to any vote that may be required by law or our Restated Articles of Incorporation, as amended. For purposes of the Wisconsin fair price statutes, a business combination generally includes a merger or share exchange, or a sale, lease, exchange or other disposition, other than a mortgage or pledge if not made to avoid the fair price statutes and the defensive action restrictions statute (as described below). Under the Wisconsin fair price statutes, a significant shareholder is a person who beneficially owns, directly or indirectly, 10% or more of the voting power of the outstanding stock of the corporation, or who is an affiliate of the corporation and beneficially owned, directly or indirectly, 10% or more of the voting power of the outstanding stock of the corporation within two years prior to the date in question. The Wisconsin fair price statutes may discourage any attempt by a shareholder to squeeze out other shareholders without offering an appropriate premium purchase price.

Under Section 180.1150(2) of the WBCL, the voting power of shares of a Wisconsin corporation that are held by any person in excess of 20% of the voting power are limited (in voting on any matter) to 10% of the full voting power of those excess shares, unless otherwise provided in the articles of incorporation or unless full voting rights have been restored at a special meeting of the shareholders called for that purpose. This statute is designed to protect corporations against uninvited takeover bids by reducing to one tenth of their normal voting power all shares in excess of 20% owned by an acquiring person. This provision may deter any shareholder from acquiring in excess of 20% of our outstanding voting stock. Section 180.1150(3) excludes shares held or acquired under certain circumstances from the application of Section 180.1150(2), including, among others, shares acquired directly from M&I and shares acquired in a merger or share exchange to which we are a party.

Section 180.1134 of the WBCL, which is referred to as the Wisconsin defensive action restrictions statute, provides that, in addition to the vote otherwise required by law or the articles of incorporation, a Wisconsin corporation must receive approval of the holders of a majority of the shares entitled to vote before the corporation can take the actions discussed below while a takeover offer is being made or after a takeover offer has been publicly announced and before it is concluded. Under the Wisconsin defensive action restrictions statute, shareholder approval is required for the corporation to acquire more than 5% of the corporation s outstanding voting shares at a price above the market price from any individual who or organization which owns more than 3% of the outstanding voting shares and has held the shares for less than two years, unless a similar offer is made to acquire all voting shares and all securities which may be converted into voting shares. This restriction may deter a shareholder from acquiring shares of our common stock if the shareholder s goal is to have us repurchase the shareholder s shares at a premium over the market price. Shareholder approval is also required under the Wisconsin defensive action restrictions statute for the corporation to sell or option assets of the corporation which amount to at least 10% of the market value of the corporation, unless the corporation has at least three independent directors and a majority of the independent directors vote not to be governed by this restriction.

Indemnification; Limitation on Liability. Sections 180.0850 to 180.0859 of the WBCL require a corporation to indemnify a director or officer, to the extent that he or she has been successful on the merits or otherwise in the defense of a proceeding, which includes any threatened, pending or completed civil, criminal, administrative or investigative action, suit, arbitration or other proceeding, whether formal or informal, which involves foreign, federal, state or local law and which is brought by or in the right of the corporation or by any other person, for all

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reasonable expenses incurred in the proceeding if the director or officer was a party because he or she is a director or officer of the corporation. A corporation is obligated to indemnify a director or officer against liability incurred by the director or officer in a proceeding to which the director or officer was a party because he or she is a director or officer of the corporation, which liability includes the obligation to pay a judgment, settlement, penalty, assessment, forfeiture or fine, including any excise tax assessed with respect to an employee benefit plan, and all reasonable expenses including fees, costs, charges, disbursements, attorney fees and other expenses, unless such liability was incurred as a result of the breach or failure to perform a duty which the director or officer owes to the corporation and the breach or failure to perform constitutes: (i) a willful failure to deal fairly with the corporation or its shareholders in connection with a matter in which the director or officer has a material conflict of interest; (ii) a violation of criminal law, unless the director or officer had reasonable cause to believe that his or her conduct was lawful or no reasonable cause to believe that his or her conduct was unlawful; (iii) a transaction from which the director or officer derived an improper personal profit; or (iv) willful misconduct.

Unless otherwise provided in a corporation s articles of incorporation or by-laws, or by written agreement, the director or officer seeking indemnification is entitled to select one of the following means for determining his or her right to indemnification: (i) by majority vote of a disinterested quorum of the board of directors, or if such quorum of disinterested directors cannot be obtained, by a majority vote of a committee duly appointed by the board of directors of two or more disinterested directors; (ii) by independent legal counsel; (iii) by a panel of three arbitrators; (iv) by affirmative vote of shareholders; (v) by a court; or (vi) with respect to any additional right to indemnification, by any other method permitted in Section 180.0858 of the WBCL.

Reasonable expenses incurred by a director or officer who is a party to a proceeding may be paid or reimbursed by a corporation at such time as the director or officer furnishes to the corporation a written affirmation of his or her good faith belief that he or she has not breached or failed to perform his or her duties to the corporation and a written undertaking to repay any amounts advanced if it is determined that indemnification by the corporation is not required.

The indemnification provisions of Section 180.0850 to 180.0859 of the WBCL are not exclusive. A corporation may expand a director s or officer s rights to indemnification: (i) in its articles of incorporation or by-laws; (ii) by written agreement; (iii) by resolution of its board of directors; or (iv) by resolution that is adopted, after notice, by a majority of all of the corporation s voting shares then issued and outstanding.

As permitted by Section 180.0858 of the WBCL, we have adopted indemnification provisions in our Amended and Restated By-Laws that closely track the statutory indemnification provisions of the WBCL with certain exceptions. In particular, Section 6.1 of our Amended and Restated By-Laws, among other items, provides that (i) an individual shall be indemnified unless it is proven by a final judicial adjudication that indemnification is prohibited and (ii) payment or reimbursement of expenses, subject to certain limitations, will be mandatory rather than permissive. As permitted by Section 180.0857 of the WBCL, we have purchased directors and officers liability insurance that insures our directors and officers, among other things, against certain liabilities that may arise under the Securities Act.

Federal Law Restrictions. The Change in Bank Control Act of 1978 prohibits a person or group of persons from acquiring control of a bank holding company unless:

- the Federal Reserve Board has been given 60 days prior written notice of the proposed acquisition and
- within that time period, the Federal Reserve Board has not issued a notice disapproving the proposed acquisition or extending for up to another 30 days the period during which such a disapproval may be issued

or unless the acquisition otherwise requires Federal Reserve Board approval. An acquisition may be made before expiration of the disapproval period if the Federal Reserve Board issues written notice that it intends not to disapprove the action. It is generally assumed that the acquisition of more than 10% of a class of voting stock of a bank holding company with publicly held securities, such as us, would constitute the acquisition of control.

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In addition, any company would be required to obtain Federal Reserve Board approval before acquiring 25% or more of our outstanding voting stock. If the acquirer is a bank holding company, this approval is required before acquiring 5% of our outstanding common stock. Obtaining control over us would also require Federal Reserve Board prior approval. Control generally means:

- the ownership or control of 25% or more of a bank holding company voting securities class;
- the ability to elect a majority of the bank holding company s directors; or
- the ability otherwise to exercise a controlling influence over the bank holding company s management and policies.

Description of Senior Preferred Stock, Series B

The following is a brief description of the terms of the Senior Preferred Stock, Series B issued by us pursuant to the Letter Agreement dated November 14, 2008, and the related Securities Purchase Agreement Standard Terms (the Securities Purchase Agreement), between us and the U.S. Treasury. This summary does not purport to be complete, and is qualified in its entirety by reference to our Restated Articles of Incorporation, as amended, and our Amended and Restated By-Laws. Our Restated Articles of Incorporation, as amended, and our Amended and Restated By-Laws are incorporated by reference as exhibits to our annual report on Form 10-K for the year ended December 31, 2008.

General. Under our Restated Articles of Incorporation, as amended, we have authority to issue up to 5,000,000 shares of preferred stock, $1.00 par value per share. Of such number of shares of preferred stock, 1,715,000 shares have been designated as Senior Preferred Stock. On November 14, 2008, we issued all of the 1,715,000 shares of the Senior Preferred Stock, having a liquidation value of $1,000 per share, to the U.S. Treasury under the CPP for proceeds of $1,715,000,000. The Senior Preferred Stock does not have preemptive or subscription rights. The issued and outstanding shares of Senior Preferred Stock are validly issued, fully paid and nonassessable.

Dividends. The Senior Preferred Stock pays cumulative compounding dividends quarterly in arrears of 5% per year until the fifth anniversary of the issuance of the Senior Preferred Stock, and 9% thereafter. For as long as the Senior Preferred Stock is outstanding, no dividends may be declared or paid on shares of junior preferred stock, shares of preferred stock ranking equal to the Senior Preferred Stock, or shares of our Common Stock, nor may we repurchase or redeem any such shares, unless all accrued and unpaid dividends for all past dividend periods on the Senior Preferred Stock are fully paid. Other than under certain circumstances, the consent of the U.S. Treasury is required for any increase in the quarterly dividends per share of our common stock above $0.32 per share or for any repurchases of shares of junior preferred stock or common stock, until the earlier of the third anniversary of the date of issuance of the Senior Preferred Stock and the date the Senior Preferred Stock is redeemed in whole.