SUNGARD DATA SYSTEMS INC
Form DEF 14A
April 07, 2003
Table of Contents

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a)

of the Securities Exchange Act of 1934

Filed by the Registrant x

Filed by a Party other than the Registrant ¨

Check the appropriate box:

¨ PreliminaryProxy Statement

¨ Confidential, for Use of the Commission Only

(as permitted by Rule 14a-6(e)(2))

x Definitive Proxy Statement
¨ Definitive Additional Materials
¨ Soliciting Material Under Rule 14a-11(c) or 14a-12

SunGard Data Systems Inc.

(Name of Registrant as Specified in Its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

x No fee required.

¨ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

¨ Fee paid previously with preliminary materials:

¨ Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

(1) Amount previously paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

Table of Contents

SunGard
680 East Swedesford Road
Wayne, Pennsylvania 19087

484-582-2000 Tel

April 4, 2003

Dear Fellow Stockholder:

You are cordially invited to attend the 2003 Annual Meeting of Stockholders of SunGard Data Systems Inc., which will be held on Friday, May 9, 2003, beginning at 9:00 a.m., at the Four Seasons Hotel, One Logan Square, Philadelphia, Pennsylvania. The official notice of the meeting, together with a proxy statement and proxy card, is enclosed. Please give this information your careful attention.

Your participation in SunGard s affairs is important. To assure your representation at the meeting, whether or not you expect to be present, please vote your shares by Internet, telephone or mail as soon as possible. To vote by Internet or telephone at any time, please follow the instructions on the enclosed proxy card. To vote by mail, please mark, date and sign the proxy card and return it in the postage-paid envelope provided.

Your copy of SunGard s 2002 Annual Report is also enclosed. We appreciate your interest in SunGard.

Sincerely,

Cristóbal Conde

President and

Chief Executive Officer

WHETHER OR NOT YOU PLAN TO ATTEND THE MEETING, PLEASE VOTE YOUR SHARES BY INTERNET, TELEPHONE OR MAIL. IF YOU RECEIVE MORE THAN ONE PROXY CARD BECAUSE YOU OWN SHARES THAT ARE REGISTERED DIFFERENTLY, PLEASE VOTE ALL OF YOUR SHARES SHOWN ON ALL OF YOUR PROXY CARDS. THANK YOU.

Table of Contents

SunGard Data Systems Inc.

680 East Swedesford Road

Wayne, Pennsylvania 19087

484-582-2000

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

MAY 9, 2003

To Our Stockholders:

The 2003 Annual Meeting of Stockholders of SunGard Data Systems Inc. will be held at 9:00 a.m. local time, on Friday, May 9, 2003, at the Four Seasons Hotel, One Logan Square, Philadelphia, Pennsylvania 19103, for the following purposes:

1. To elect directors.

2. To ratify the appointment of PricewaterhouseCoopers LLP as independent auditors of SunGard for its fiscal year ending December 31, 2003.

3. To act upon other business as may properly come before the meeting.

Only holders of SunGard s common stock at the close of business on March 14, 2003 are entitled to receive notice of the meeting and to vote at the meeting.

You are cordially invited to attend the meeting in person. Whether or not you plan to attend the meeting, you are urged to vote your shares by Internet, telephone or mail. To vote by Internet or telephone at any time, please follow the instructions on the enclosed proxy card. To vote by mail, please mark, date and sign the proxy card and return it in the postage-paid envelope provided.

By Order of the Board of Directors,

Lawrence A. Gross

Senior Vice President Legal

and General Counsel

April 4, 2003

Table of Contents

TABLE OF CONTENTS

Table of Contents

SunGard Data Systems Inc.

680 East Swedesford Road

Wayne, Pennsylvania 19087

484-582-2000

PROXY STATEMENT

GENERAL INFORMATION

This proxy statement and the accompanying proxy card are being furnished to the stockholders of SunGard Data Systems Inc. (SunGard or the Company) in connection with the solicitation of proxies on behalf of the Board of Directors of SunGard for use in voting at the 2003 Annual Meeting of Stockholders to be held at the Four Seasons Hotel, One Logan Square, Philadelphia, Pennsylvania 19103, on Friday, May 9, 2003, at 9:00 a.m., or at any adjournment or postponement of the meeting. These proxy materials are first being mailed to stockholders on or about April 4, 2003.

Voting Rights and Outstanding Shares

Stockholders as of the close of business on March 14, 2003, the record date for this solicitation, are entitled to receive notice of and to vote at the 2003 Annual Meeting. On the record date, approximately 283,786,360 shares of SunGard s common stock, held by approximately 7,500 stockholders of record, were outstanding and entitled to vote. The 2003 Annual Meeting may be held only if a quorum, consisting of a majority of the outstanding shares entitled to vote, is present. All shares that are present in person or represented by proxy at the meeting will be counted in determining whether a quorum is present, no matter how the shares are voted or whether they abstain from voting or are broker non-votes. A broker non-vote occurs when a broker, bank or other nominee votes on one or more matters but not on others because the nominee does not have authority to do so. A broker who is a member of the New York Stock Exchange and who holds shares in street name for a customer but has not received voting instructions from that customer, has the authority to vote that customer s shares on certain matters, including proposals one and two in this proxy statement.

Holders of common stock are entitled to one vote per share. The election of directors will be determined by a plurality vote, with the ten nominees receiving the most for votes being elected. Votes may be cast for each nominee or withheld. Votes that are withheld will be excluded from the vote on proposal one and will have no effect except in determining whether a quorum is present. Approval of proposal two (Ratification of Selection of Independent Accountants) requires the affirmative vote of the holders of a majority of the shares present in person or represented by proxy and entitled to vote at the meeting. An abstention on proposal two, therefore, will have the same legal effect as an against vote. Broker non-votes will have no effect on either proposal.

Voting Shares By Internet, Telephone or Mail

Whether or not stockholders attend the Annual Meeting and vote in person, they should vote their shares by Internet, telephone or mail. To vote by Internet or telephone 24 hours a day, seven days a week, follow the instructions on the enclosed proxy card. To vote by mail, mark, sign and date the enclosed proxy card and return it in the postage-paid envelope provided. If shares are held through a broker, bank or other nominee, stockholders will receive separate instructions from the nominee explaining how to vote the shares. Shares held in a savings plan and shares of an acquired company that have not yet been exchanged for SunGard shares may be voted only by mail.

Voting by Proxy; Revocability of Proxies

Proxies will be voted as directed on the proxies if they are properly submitted and not revoked. Any proxy not directing to the contrary will be voted for the election of all of the named nominees as directors and for approval of proposal two. Any stockholder who votes by Internet or telephone may revoke the vote at any time before it is voted by voting again using the same procedure, in which case the later vote will be recorded and the earlier vote will be revoked. Any stockholder who submits a proxy by mail may revoke it at any time before it is voted by delivering a proxy bearing a later date or a written notice of revocation to the Secretary of SunGard at SunGard s headquarters or at the meeting.

Solicitation

SunGard will pay the cost of this solicitation, which will be made primarily by mail. Proxies also may be solicited in person, or by telephone, facsimile or similar means, by directors, officers or employees of SunGard without additional compensation. In addition, D. F. King & Co., Inc. will provide solicitation services to SunGard for a fee of approximately $5,500 plus out-of-pocket expenses. SunGard will, on request, reimburse stockholders who are brokers, banks or other nominees for their reasonable expenses in sending proxy materials and annual reports to the beneficial owners of the shares they hold of record.

PROPOSAL ONE

Election of Directors

Ten directors are to be elected at the 2003 Annual Meeting to serve for one-year terms until the 2004 Annual Meeting and until their respective successors are elected and qualified. All of the nominees currently are serving as directors of SunGard. SunGard knows of no reason why any nominee would be unable to serve as a director. Each nominee has consented to being named in this proxy statement and to serve if elected. If any nominee should for any reason become unable to serve, then all valid proxies will be voted for the election of a substitute nominee designated by the Board of Directors, or the Board may reduce the number of directors to eliminate the vacancy.

The following information about the nominees for election as SunGard directors is based, in part, upon information furnished by the nominees.

Nominee and Current Positions with SunGard	Age	Principal Occupations and Directorships of Other Public Companies
Gregory S. Bentley	47	Chief Executive Officer (since 2000), President and Chairman of the Board (since 1995) and Vice President (1991 to 1995), Bentley Systems, Incorporated, Exton, PA (engineering software company); President (1983 to

Director (since 1991) Chairperson, Audit Committee		1991), SunGard Systems International Inc., a subsidiary of SunGard since 1987.
Michael C. Brooks Director (since 1985) Chairperson, Compensation Committee Member, Executive Committee	58	General Partner (since 2000), Venrock Associates, New York, NY (venture capital firm); General Partner (1985 to 2000), J. H. Whitney & Co., Stamford, CT (venture capital firm).

Table of Contents

Nominee and Current Positions with SunGard	Age	Principal Occupations and Directorships of Other Public Companies
Cristóbal Conde Director (since 1999) President and Chief Executive Officer Member, Executive Committee	43	President (since 2000), Chief Executive Officer (since August 2002), Chief Operating Officer (1999 to August 2002) and Executive Vice President (1998 to 1999), SunGard; Chief Executive Officer, SunGard Trading Systems Group (1991 to 1998).
Ramon de Oliveira Director (since 2001) Member, Audit Committee and Nominating and Corporate Governance Committee	48	Managing Partner (since 2001), Logan Pass Partners, LLC, New York, NY (strategic advisory and investment firm); Head of Investment Management & Private Banking (1997 to 2001) and various senior executive positions (1977 to 1997), J.P. Morgan Chase & Co., New York, NY (investment banking firm); Adjunct Professor of Finance (since 2002), Columbia University and New York University.
Henry C. Duques Director (since 2001) Chairperson, Data Center Oversight Committee Member, Compensation Committee and Nominating and Corporate Governance Committee	59	Former Chairman of the Board (1992 to 2002) and Chief Executive Officer (1992 to 2001), First Data Corporation, Greenwood Village, CO (electronic commerce and payment services company). Director of CheckFree Corporation, First Data Corporation and Unisys Corporation.
Albert A. Eisenstat Director (since 1991) Member, Compensation Committee and Data Center Oversight Committee	72	Director of public companies and private investor (since 1993); various senior executive positions (1980 to 1993), Apple Computer, Inc., Cupertino, CA (computer and software company). Director of all funds in the American Century Fixed Income Funds and Business Objects, S.A.
Bernard Goldstein Director (since 1994) Chairperson, Nominating and Corporate Governance Committee Member, Compensation Committee	72	Retired; Director (1997 to 2002) and Managing Director (1979 to 1996), Broadview International LLC, Fort Lee, NJ (investment banking firm). Director of Allscripts Healthcare Solutions, Inc. and SPSS, Inc.
Janet Brutschea Haugen Director (since August 2002) Member, Audit Committee	44	Senior Vice President and Chief Financial Officer (since 2000) and Corporate Controller (1996 to 2000), Unisys Corporation, Blue Bell, PA (information technology services and solutions company). Partner (1993 to 1996), Ernst & Young LLP, Philadelphia, PA (independent accounting and professional services firm).
James L. Mann Director (since 1983)	68	Chairman of the Board (since 1987), Chief Executive Officer (1986 to August 2002), President (1986 to 2000) and Chief Operating Officer (1983 to 1985), SunGard. Director of T-Netix, Inc.

Chairman of the Board Chairperson, Executive Committee		
Malcolm I. Ruddock Director (since 1983) Member, Audit Committee and Executive Committee	60	Retired; Treasurer (1989 to 2000), Director of Finance (1988 to 1989) and Director of Acquisitions and Divestments (1979 to 1988), Sunoco, Inc., Philadelphia, PA (independent refiner and marketer of energy products).

Table of Contents

INFORMATION REGARDING THE BOARD OF DIRECTORS AND ITS COMMITTEES

Since the Company s initial public offering in 1986, the majority of SunGard s directors have been independent. The only SunGard executives who are members of the Board of Directors are the chairman of the board and the chief executive officer.

During 2002, the Board of Directors held ten meetings, the Audit Committee held eleven meetings, the Compensation Committee (and/or its Equity Award Subcommittee) held five meetings, the newly established Data Center Oversight Committee held no meetings, the Executive Committee held one meeting and the newly established Nominating and Corporate Governance Committee held one meeting. During 2002, each director attended 75% or more of the total number of meetings of the Board of Directors and Committees on which he or she served. Meeting attendance averaged 95% among all directors.

The Audit Committee assists the Board of Directors in overseeing the audit and integrity of SunGard s financial statements, the performance of SunGard s independent accountants, the adequacy and effectiveness of SunGard s accounting, auditing and financial reporting processes, including systems and controls, and SunGard s compliance with legal and regulatory requirements. The duties of the Audit Committee include the selection and appointment of SunGard s independent accountants, including evaluation of their qualifications and independence, and the oversight of SunGard s Business Conduct and Compliance Program. All members of the Audit Committee are independent within the meaning of the applicable listing standards of the New York Stock Exchange. The Board of Directors has adopted a written charter for the Audit Committee, which is reviewed annually by the Audit Committee. The current Audit Committee Charter (which was last amended on February 26, 2003) is attached as an appendix to this proxy statement.

The Compensation Committee assists the Board of Directors in establishing the compensation policies for cash and equity compensation of SunGard s executive officers, and in administering SunGard s stock option, purchase and award plans. The duties of the Compensation Committee include evaluating and approving the compensation of the chairman of the board and the chief executive officer and reviewing the chief executive officer s recommendations as to the compensation of the other executive officers. All members of the Compensation Committee are independent directors.

The Data Center Oversight Committee assists the Board of Directors in overseeing the audit and integrity of the Company s data centers and other IT infrastructure, including information systems security policies. This includes reviewing and overseeing periodic audits of the Company s data centers by regulatory authorities. All members of the Data Center Oversight Committee are independent directors.

The Executive Committee assists the Board of Directors in exercising the powers of the Board during the intervals between Board meetings, except those powers that are prohibited by law from being delegated. Two of the four members of the Executive Committee are independent directors.

The Nominating and Corporate Governance Committee assists the Board of Directors in identifying and evaluating potential candidates for director, making recommendations to the Board of Directors for director nominees and overseeing corporation governance matters. In fulfilling this responsibility, the Nominating and Corporate Governance Committee will consider recommendations received from stockholders. Stockholder recommendations must be in writing and addressed to the Chairperson of the Nominating and Corporate Governance Committee, c/o Corporate Secretary, SunGard Data Systems Inc., 680 East Swedesford Road, Wayne, Pennsylvania 19087. All members of the Nominating and Corporate Governance Committee are independent directors.

DIRECTOR COMPENSATION

Directors who are executives of SunGard do not receive additional compensation for serving on the Board of Directors or Committees. Each independent director (except as noted below) receives (1) an annual fee of $15,000, (2) meeting fees of $2,000 for each quarterly Board meeting, $1,000 for each other Board meeting and $1,000 for each Committee meeting attended, and (3) reimbursement of applicable travel and other expenses. In addition, the chairpersons of the Audit Committee and the other Committees receive additional annual fees of $5,000 and $2,000, respectively. No additional compensation is paid for service on subcommittees. Directors may elect to receive shares of SunGard common stock in lieu of cash compensation.

Under SunGard s Restricted Stock Award Plan for Outside Directors, restricted stock awards are automatically granted to outside directors those who are not, and were not during the twelve months before election to the Board, officers or employees of SunGard. Each outside director automatically receives an initial five-year award when first elected to the Board, and automatically receives additional awards upon reelection as an outside director every fifth year thereafter. The shares awarded are subject to transfer restrictions until they vest, at the rate of 20% per year, on the dates of SunGard s next five Annual Meetings after the date of grant. If an outside director dies or is permanently disabled, or if a change in control of SunGard occurs, then all remaining unvested shares immediately vest. If an outside director s directorship terminates for any other reason, then all remaining unvested shares are forfeited. Each five-year award is for a number of shares equal to the result of dividing $500,000 by the closing price of SunGard s common stock on the date of grant. At the 2003 Annual Meeting, if reelected, Mr. Bentley will receive an additional restricted stock award. Based upon the closing price of SunGard s common stock on March 14, 2003, which was $19.50, Mr. Bentley s new restricted stock award would be for 25,641 shares vesting ratably over five years.

The cash and equity compensation programs described above will not become effective for Mr. Bentley until May 2003 and for Mr. Goldstein until May 2004, which is when their current restricted stock awards fully vest. Until then, each receives (1) an annual fee of $6,000, (2) meeting fees of $2,000 for each quarterly Board meeting, $500 for each other Board meeting and $1,000 for each Committee meeting attended, and (3) reimbursement of applicable travel and other expenses.

SunGard has entered into indemnification agreements, in the form approved by the stockholders, with SunGard s directors and officers.

AGREEMENT WITH THE CHAIRMAN OF THE BOARD

As the successful culmination of a three-year succession plan, Mr. Conde was elected chief executive officer in August 2002, succeeding Mr. Mann, who continues to serve as chairman of the board of directors. At that time, Mr. Mann and SunGard entered into an agreement regarding Mr. Mann s continuing role with the Company. The major terms of the agreement are: (1) subject to the Board satisfying its fiduciary duties and other applicable legal standards, Mr. Mann will be nominated for reelection as a director and will be elected as Chairman of the Board through May 31, 2004, (2) after that date, Mr. Mann s election as Chairman of the Board will be at the sole discretion of the Board, (3) the Company will use its best efforts to retain Mr. Mann as an employee through May 31, 2011 to provide advice and services in the areas of acquisitions, long-term strategy, executive development and other subjects within his knowledge and experience, (4) Mr. Mann will continue to participate in the Company s executive compensation program until May 31, 2004 at levels determined by the

Table of Contents

Compensation Committee, (5) if Mr. Mann is reelected as Chairman of the Board in May 2004, he will receive an annual salary of $500,000 for the period from June 1, 2004 through May 31, 2005, and (6) after May 31, 2005, Mr. Mann s compensation will be as determined by the Compensation Committee.

Report of the Audit Committee

The Audit Committee has reviewed and discussed SunGard s audited consolidated financial statements for the year ended December 31, 2002 with management and with representatives of PricewaterhouseCoopers LLP, SunGard s independent accountants.

Management has the primary responsibility for the financial statements and SunGard s accounting, auditing and financial reporting processes. The Audit Committee is not providing any expert or special assurance as to SunGard s financial statements. PricewaterhouseCoopers is responsible for expressing an opinion on the conformity of SunGard s financial statements with generally accepted accounting principles in the United States. The Audit Committee is not providing any professional certification as to PricewaterhouseCoopers work product.

The Audit Committee has discussed with representatives of PricewaterhouseCoopers the matters required to be discussed by Statement on Auditing Standards No. 61 (Communication with Audit Committees). The Audit Committee has received and reviewed the written disclosures and letter from PricewaterhouseCoopers required by Independence Standards Board Standard No. 1 (Independence Discussions with Audit Committees), and has discussed the independence of PricewaterhouseCoopers with representatives of the firm.

Based on the reviews and discussions referred to above, the Audit Committee recommended to the Board of Directors that SunGard s audited consolidated financial statements for the year ended December 31, 2002 be included in SunGard s Annual Report on Form 10-K for the year ended December 31, 2002 for filing with the Securities and Exchange Commission.

Audit Committee:

Gregory S. Bentley, Chairperson
Ramon de Oliveira, Member
Janet Brutschea Haugen, Member (since 8/16/02)
Malcolm I. Ruddock, Member

BENEFICIAL OWNERSHIP OF COMMON STOCK

The following table contains certain information about the beneficial ownership of SunGard s common stock as of March 14, 2003 (the record date) by each person who is known by SunGard to beneficially own more than 5% of SunGard s common stock, by each of SunGard s directors and nominees for director, by each of SunGard s executive officers named in the Summary Compensation Table below, and by all of SunGard s directors and executive officers as a group.

Name of Beneficial Owner	Number of Shares Beneficially Owned(1)	Percent of Class(2)
Barclays Private Bank and Trust Limited(3) 10 rue d Italie, CH-1204 Geneva, Switzerland	15,175,698	5.3%
Gregory S. Bentley (director)	61,514(4)(5)	
Michael C. Brooks (director)	103,708(4)	
Cristóbal Conde (director and executive officer)	1,892,026(6)(7)	
Ramon de Oliveira (director)	21,871(4)	
Henry C. Duques (director)	18,771(4)	
Albert A. Eisenstat (director)	105,708(4)	
Bernard Goldstein (director)	126,000(4)(8)	
Lawrence A. Gross (executive officer)	266,375(6)	
Till M. Guldimann (executive officer)	1,079,551(6)	
Janet Brutschea Haugen (director)	18,685(4)	
James L. Mann (director)	1,789,076(6)	
Michael K. Muratore (executive officer)	597,346(6)	
David E. Robinson (executive officer)	474,650(6)	

Michael J. Ruane (executive officer)	398,738(6)	
Malcolm I. Ruddock (director)	37,708(4)	
Richard C. Tarbox (executive officer)	280,898(6)	
All 21 directors and executive officers as a group	8,608,996(4)(5)(6)(7)(8)	3.0%

(1) Includes shares held in the beneficial owner s name or jointly with others, or in the name of a broker, bank, nominee or trustee for the beneficial owner s account, including shares held under SunGard s Employee Stock Purchase Plan. Unless otherwise indicated in the footnotes to this table and subject to community property laws where applicable, SunGard believes that each stockholder named in this table has sole voting and investment power with respect to the shares indicated as beneficially owned.

Table of Contents

(2) Unless otherwise indicated, the beneficial ownership of any named person does not exceed one percent of the 283,786,360 shares of SunGard s common stock outstanding on March 14, 2003 (the record date), adjusted as required by rules promulgated by the Securities and Exchange Commission.

(3) Based upon a Schedule 13G filed by the beneficial owners on February 13, 2003.

(4) Includes the following restricted shares that are subject to transfer restrictions and forfeiture (see DIRECTOR COMPENSATION): Mr. Bentley 8,000; Mr. Brooks 14,166; Mr. de Oliveira 17,384; Mr. Duques 14,129; Mr. Eisenstat 14,166; Mr. Goldstein 16,000; Ms. Haugen 18,685; Mr. Ruddock 14,166; and all directors as a group 116,696.

(5) Includes 11,200 shares owned by trusts for the benefit of Mr. Bentley s children, as to which Mr. Bentley disclaims beneficial ownership.

(6) Includes the following shares which the beneficial owner has the right to acquire within 60 days after the record date by exercising stock options: Mr. Conde 1,437,624; Mr. Gross 200,898; Mr. Guldimann 393,624; Mr. Mann 1,272,500; Mr. Muratore 326,900; Mr. Robinson 344,424; Mr. Ruane 283,298; Mr. Tarbox 280,898; and all directors and executive officers as a group 5,381,898.

(7) Includes 196,513 shares owned by Mr. Conde s wife and 141,678 shares owned by an irrevocable trust for the benefit of Mr. Conde s children, as to which Mr. Conde disclaims beneficial ownership.

(8) Includes 10,000 shares owned by Mr. Goldstein s wife, as to which Mr. Goldstein disclaims beneficial ownership.

Table of Contents

EXECUTIVE COMPENSATION

Report of the Compensation Committee

SunGard s compensation policies for executive officers, as determined by the Compensation Committee, are to (1) provide competitive compensation packages to retain and attract superior executive talent, (2) link a significant portion of compensation to financial results to reward successful performance, and (3) provide long-term equity compensation to further align the interests of executive officers with those of stockholders and further reward successful performance. The principal components of SunGard s executive officer compensation program are base salary, annual cash incentive plans and long-term equity incentive awards.

Cash Compensation. The primary factor used to set base salaries and annual cash incentives for SunGard s executive officers is an analysis of competitive executive compensation based upon general business compensation surveys as well as more specific compensation surveys of companies of comparable business, size and complexity to SunGard. An independent compensation consultant, whose services are available to the Compensation Committee, assists SunGard with this analysis of competitive compensation. Although many of the companies covered by this analysis are included in the Nasdaq Computer and Data Processing Index (see Performance Graph), the Index companies are not separately analyzed for compensation purposes, because compensation data for the Index companies as a group is not readily available to SunGard.

SunGard s policy is to pay its executive officers at or somewhat above competitive compensation averages for comparable positions. Compensation levels for individual executive officers, however, may be more or less than competitive averages, depending upon a subjective assessment of individual factors such as the executive s position, experience, skills, achievements, tenure with SunGard and historical compensation levels. Generally, previously granted stock options and other equity awards are not considered in setting cash compensation levels.

The performance goals for executive officers 2002 annual cash incentive plans were set at the beginning of the year and took into account SunGard s overall financial goals for 2002. For all executive officers, the incentive payments depended upon either the rate of increase in SunGard s earnings per share over the previous year, or the budgeted operating income of the businesses that report to the officer. For two executive officers, there were additional incentive payments based upon performance goals specific to their functions.

On average, total cash compensation at targeted goals for executive officers increased by 21% in 2002, and incentive payments at targeted goals constituted 52% of total cash compensation. The primary reason for the increase in total cash compensation was the growth of the Company, resulting in its inclusion in a higher revenue bracket in the compensation surveys. Based upon actual 2002 results, all executive officers except one met or exceeded their minimum targeted goals, and some met or exceeded their maximum targeted goals.

Equity Compensation. SunGard provides equity compensation to its executive officers principally through a long-term incentive award program, under which eligible executives receive a performance accelerated stock option (PASO) each year. PASOs are long-term options under which the vesting of shares is subject both to financial performance goals and continued long-term employment. Since PASOs cannot be exercised until the shares vest, the PASO program operates both as a performance-based equity compensation program and as an executive retention program.

Each PASO has a term of about ten years, and none of the shares vest until nine and one-half years after the date of grant unless the financial performance goals are met. If the financial performance

Table of Contents

goals are partly or fully achieved, then some or all of the PASO shares vest early, after about three years. If the financial performance goals are exceeded, then the recipient earns additional cash compensation that is paid when the shares vest.

The financial performance goals are based upon calendar year measurement periods. For PASOs granted in early 2002, the financial performance period was calendar year 2002. Before 2002, PASOs had three-year financial performance periods, but these proved to be very difficult to administer. As a result, the performance period but not the vesting period was changed to one year beginning in 2002. For all PASOs (irrespective of the length of the financial performance period), accelerated vesting cannot occur unless the executive remains with SunGard for three years. For example, accelerated vesting under PASOs granted in early 2002 would not occur (if at all) until December 31, 2004.

The number of PASO shares granted to each recipient is determined on the basis of an analysis of competitive equity compensation programs, similar to the analysis described above with respect to cash compensation, and is subject to subjective adjustments based upon individual factors. The financial performance goals for each PASO are based upon the year-over-year growth, during the performance period covered by the PASO, in the earnings per share or operating income of the businesses managed by the recipient, with the growth targets for all PASOs, taken together, being consistent with SunGard s overall growth objectives. All executive officers participate in SunGard s PASO program, excluding Mr. Mann and, beginning in 2001, Mr. Conde. In addition, group chief executive officers, business unit presidents and certain other key executives of SunGard participate in the PASO program.

The Compensation Committee has the authority to approve all grants of stock options and other equity awards and administers SunGard s PASO program by approving, among other things, who will participate and the number of option shares that will be subject to each PASO. Outside the scope of the PASO program, ordinary stock options (which usually vest ratably over four years) or other equity compensation also may be awarded from time to time, at the discretion of the Compensation Committee, to executive officers and other key employees when they are hired, are promoted or join SunGard via acquisition, or under other circumstances approved by the Compensation Committee in accordance with SunGard s equity incentive plans.

In evaluating the share levels for SunGard s PASO program, ordinary options and other equity awards, the Compensation Committee takes into account SunGard s total overhang, which equals (a) the number of shares of common stock subject to outstanding stock options and awards plus the number of shares of common stock available for future stock options and awards, divided by (b) the number of total outstanding shares of common stock plus the number of shares of common stock described in clause (a), expressed as a percentage. As of December 31, 2002, the Company s total overhang was 15.4%, of which 11.9% was represented by shares under outstanding stock options and 3.5% was represented by shares available for future stock options.

Chief Executive Officer s Compensation. In August 2002, Mr. Conde was elected chief executive officer, succeeding Mr. Mann, who continues to serve as chairman of the board of directors and continues to provide services to the Company especially in the areas of acquisitions, long-term strategy, executive development and investor relations. Mr. Mann s total earned salary for 2002 was $706,000. At the beginning of 2002, Mr. Mann s annual base salary was increased to $796,000, up $59,000 or 8.0% over his 2001 base salary. Beginning in September 2002, Mr. Mann s annual base salary was reduced to $500,000 after he relinquished the chief executive officer position. Mr. Conde s

Table of Contents

total earned salary for 2002 was $631,000. At the beginning of 2002, Mr. Conde s annual base salary was increased to $597,000, up $44,000 or 8.0% over his 2001 base salary. Beginning in September 2002, Mr. Conde s annual base salary was increased to $700,000 after he was elected chief executive officer.

Mr. Mann s and Mr. Conde s 2002 cash incentives depended solely upon the rate of increase in SunGard s earnings per share. SunGard s historical policy has been to set cash incentive plans for the chief executive officer and chief operating officer such that, if SunGard s diluted earnings per share (adjusted for certain items and for differences of accounting for goodwill amortization from year to year) increase by 15%, then total cash compensation will be at approximately the 60^{th} percentile of competitive compensation levels for the respective positions, based upon SunGard s analysis. In 2002, total cash compensation at the 15% growth target was set somewhat below the 60^{th} percentile due to large increases in the compensation survey data caused primarily by SunGard s growth and resulting inclusion in a higher revenue bracket in the survey.

On this basis, the 2002 cash incentive payments at the 15% earnings-per-share growth target were set at $720,000 for the chief executive officer and $540,000 for the chief operating officer. Due to the transition in the chief executive officer position, Mr. Mann s and Mr. Conde s cash incentive plans were later reallocated so that Mr. Mann would receive two-thirds of the incentive amount for the chief executive officer position and one-third of the incentive amount for the chief operating officer position, and Mr. Conde would receive the converse. Accordingly, at 15% growth, Messrs. Mann and Conde would have received cash incentive payments of $660,000 and $600,000, respectively. SunGard s actual 2002 diluted earnings per share (adjusted for certain items and for differences of accounting for goodwill amortization from year to year) grew by 19% over comparable 2001 earnings per share, yielding incentive payments to Mr. Mann and Mr. Conde of $1,274,033 and $1,158,567, respectively.

After considering an analysis of competitive equity compensation for the chief executive officer position, as well as Mr. Conde s recent promotions and his tenure with and performance at SunGard, Mr. Conde was awarded, in August 2002, options to purchase 350,000 shares of SunGard s common stock, at an exercise price equal to the market value on the date of grant, vesting ratably over four years.

Deductibility of Certain Compensation. Section 162(m) of the Internal Revenue Code denies a deduction for certain compensation exceeding $1,000,000 paid to the chief executive officer and the other highest paid executive officers, named in the Summary Compensation Table excluding (among other things) certain performance-based compensation. The Compensation Committee has attempted to structure performance-based awards to executive officers under equity plans in a manner that satisfies Section 162(m). The Compensation Committee also intends to consider whether it is in the best interest of SunGard to structure cash incentive payments to be deductible under Section 162(m). Notwithstanding the efforts of SunGard in this area, no assurance can be given that compensation intended by SunGard to satisfy the requirements for deductibility under Section 162(m) does in fact do so.

Compensation Committee:

Michael C. Brooks, Chairperson
Henry C. Duques, Member
Albert A. Eisenstat, Member
Bernard Goldstein, Member

Table of Contents

Summary Compensation Table

The following table contains certain information about compensation earned during the last three fiscal years by each person who served as chief executive officer of SunGard during 2002 and six other executive officers who were the most highly compensated during 2002. SunGard s fiscal year is the calendar year.

		Annual Compensation			Long-Term Compensation		
					Awards(2)	Payouts(3)	
Name and Principal Position	Year	Salary ($)	Bonus ($)	Other Annual Compensation($)(1)	Securities Underlying Options/SARs(#)	Long-Term Incentive Plans($)	All Other Compensa-tion($)(4)
James L. Mann	2002	706,000	1,274,033	2,115	250,000		8,000
Chairman of the Board;	2001	737,000	429,750	2,355	200,000		6,800
Chief Executive Officer until August 2002	2000	696,000	747,333	8,171	400,000		6,800
Cristóbal Conde	2002	631,000	1,158,567	8,712	350,000		8,000
Director and President;	2001	553,000	322,263	9,104	500,000		6,800
Chief Executive Officer since August 2002	2000	500,000	463,333	3,417	609,100	2,193	6,800
Lawrence A. Gross	2002	365,000	455,100	9,936	68,750		8,000
Senior Vice President-Legal	2001	332,000	343,755	10,411	88,600		6,800
and General Counsel	2000	306,000	242,833	10,348	115,700	2,975	6,800
Till M. Guldimann	2002	365,000	455,100		68,750		8,000
Vice Chairman	2001	300,000	138,750		88,600		6,800
	2000	280,000	263,500		74,000		6,800
Michael K. Muratore	2002	442,000	2,079,788	6,000	215,125	1,158,628	8,000
Executive Vice President	2001	347,000	352,114	6,000	143,000	378,763	6,800
	2000	320,000	1,085,088	4,774	217,000	432,828	6,800
David E. Robinson	2002	399,000	513,336	4,107	200,375		8,000
Executive Vice President	2001	329,000	447,294	5,579	127,700	39,590	6,800
	2000	300,000	424,947	9,002	200,000	302,654	6,800
Michael J. Ruane	2002	365,000	455,100	8,527	68,750		8,000
Senior Vice President-Finance	2001	332,000	193,755	8,619	88,600		6,800
and Chief Financial Officer	2000	306,000	242,833	7,614	115,700	2,975	6,800
Richard C. Tarbox	2002	365,000	535,971	10,164	68,750		8,000
Senior Vice President-	2001	332,000	519,402	8,152	88,600		6,800
Corporate Development	2000	299,000	264,975	9,407	115,700	2,975	6,800

(1) Consists of amounts reimbursed in connection with the payment of taxes. The cost of perquisites is not disclosed for any executive officer named in the table because the disclosure threshold (the lower of $50,000 or 10% of salary plus bonus) was not reached.

(2) Of the 2002 options reflected in the table, 490,500 shares are PASOs and 800,000 shares are ordinary non-PASO stock options that vest ratably over four years (see Report of the Compensation Committee and Option Grant Table). Of the 2001 options reflected in the table, 625,100 shares are PASOs and 700,000 shares are ordinary non-PASO stock options that vest ratably over four or five years. Of the 2000 options reflected in the table, 787,200 shares are PASOs and 1,060,000 shares are ordinary non-PASO stock options that vest ratably over five years. Upon termination of employment, only vested stock option shares may be exercised. With respect to ordinary options, upon a change in control of SunGard, all unvested stock options vest

Table of Contents

six months later or upon an earlier involuntary termination of employment without cause. With respect to PASOs, upon a change in control of SunGard during the financial performance period, a prorated percentage of the unvested PASOs vest six months later or upon an earlier involuntary termination of employment without cause. Upon a change in control of SunGard after the end of the financial performance period, there is no acceleration of PASO shares.

(3) The 2002, 2001 and 2000 payouts are cash payments made under PASOs granted in 2000, 1999 and 1998, respectively, and were earned as the result of exceeding performance goals for the three-year performance periods of 2000 through 2002, 1999 through 2001 and 1998 through 2000, respectively.

(4) Consists of contributions by SunGard to a defined contribution retirement plan.

Option Grant Table

The following table contains, for each of SunGard s executive officers named in the Summary Compensation Table, (1) the number of shares of SunGard s common stock underlying options granted during 2002, (2) the percentage that those options represent of total options granted to employees during 2002, (3) the exercise price per share, which equals the market value on the date of grant, (4) the expiration date, and (5) the potential realizable value, assuming 5% and 10% annual rates of appreciation (compounded annually) in the market value of SunGard s common stock throughout the option term.

Name	Individual Grants				Potential Realizable Value at Assumed Annual Rates of Stock Price Appreciation for Option Term(1)	
	Number of Securities Underlying Options Granted(2)	% of Total Options Granted to Employees in Fiscal Year	Exercise or Base Price ($/SH)	Expiration Date	5%($)	10%($)
James L. Mann	250,000	2.9%	32.81	03/06/12	5,158,508	13,072,673
Cristóbal Conde	350,000	4.1%	25.32	08/21/12	5,573,264	14,123,746
Lawrence A. Gross	68,750	0.8%	32.81	03/06/12	1,418,590	3,594,985
Till M. Guldimann	68,750	0.8%	32.81	03/06/12	1,418,590	3,594,985
Michael K. Muratore	115,125	1.3%	32.81	03/06/12	2,375,493	6,019,966
	12,100	0.1%	32.81	03/01/12	249,672	632,717
	87,900	1.0%	32.81	03/06/12	1,813,731	4,596,352

David E. Robinson	100,375	1.2%	32.81	03/06/12	2,071,141	5,248,678
	100,000	1.2%	32.81	03/06/12	2,063,403	5,229,069
Michael J. Ruane	68,750	0.8%	32.81	03/06/12	1,418,590	3,594,985
Richard C. Tarbox	68,750	0.8%	32.81	03/06/12	1,418,590	3,594,985

(1) The actual value, if any, which an option holder may realize will depend upon the amount by which the actual market value on the date of exercise exceeds the exercise price and also on the option holder s continued employment through the vesting period. The actual value to be realized by the option holder may be more or less than the potential realizable values stated in this table.

Table of Contents

(2) The following option grants listed in the table are PASOs (see REPORT OF THE COMPENSATION COMMITTEE): Mr. Gross 68,750; Mr. Guldimann 68,750; Mr. Muratore 115,125; Mr. Robinson 100,375; Mr. Ruane 68,750; and Mr. Tarbox 68,750. These PASOs will not vest until September 1, 2011, except that vesting may accelerate in part or in full on December 31, 2004 to the extent that stated financial performance goals are satisfied for the one-year performance period of 2002. All other options are ordinary non-PASO options that are exercisable and vest over four years in equal annual increments beginning one year after the date of grant.

AGGREGATED OPTION EXERCISES AND YEAR-END OPTION VALUE TABLE

The following table contains, for each of SunGard s executive officers named in the Summary Compensation Table, (1) the number of shares of SunGard s common stock acquired upon the exercise of options during 2002, (2) the value realized as a result of those exercises (based upon the closing price on the date of exercise for option shares that were exercised and held, or the actual sale price for option shares that were simultaneously exercised and sold, less the option exercise price), (3) the number of shares of SunGard s common stock underlying unexercised options held on December 31, 2002, and (4) the value of in-the-money options held on December 31, 2002, based upon the last sale price on December 31, 2002, of $23.56 per share of common stock.

Name	Shares Acquired On Exercise (#)	Value Realized ($)	Number of Securities Underlying Unexercised Options at Year-End (#)		Value of Unexercised In-the-Money Options at Year-End ($)	
			Exercisable	Unexercisable	Exercisable	Unexercisable
James L. Mann			1,160,000	640,000	16,878,002	1,301,815
Cristóbal Conde	28,000	424,304	1,230,823	1,385,661	11,493,389	4,797,216
Lawrence A. Gross	49,600	751,624	190,898	279,627	1,632,131	605,239
Till M. Guldimann			393,624	239,724	7,111,494	854,649
Michael K. Muratore	72,000	1,889,546	287,900	438,125	1,713,882	277,795
David E. Robinson	648	9,159	303,424	419,651	2,546,036	271,565
	6,400	58,656				
Michael J. Ruane	24,200	590,664	262,174	280,976	2,817,203	774,617
	11,200	315,237				
Richard C. Tarbox			263,774	272,976	2,765,586	712,387

Table of Contents

Equity Compensation Plan Information

The following table contains certain information as of December 31, 2002 with respect to compensation plans under which SunGard common stock is authorized for issuance.

Plan Category	Number of Securities to be Issued upon Exercise of Outstanding Options, Warrants and Rights (a)	Weighted-Average Exercise Price of Outstanding Options, Warrants and Rights (b)	Number of Securities Remaining Available for Issuance under Equity Compensation Plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by security holders[(1)]	39,060,940	$21.81	17,702,973[(2)]
Equity compensation plans not approved by security holders			46,385[(3)]
Total	39,060,940	$21.81	17,749,358

(1) SunGard has assumed options issued by several companies acquired by SunGard. Of these assumed options, an aggregate of 992,962 shares at a weighted-average exercise price of $6.49 per share were outstanding as of December 31, 2002. These options are not included in the table.

(2) Includes 11,590,918 shares available for issuance under SunGard s Equity Incentive Plans, 60,113 shares available for issuance under SunGard s Restricted Stock Award Plan for Outside Directors and 6,051,942 shares available for issuance under SunGard s 2000 Employee Stock Purchase Plan. The number of shares available for issuance under SunGard s 1998 Equity Incentive Plan increases each January 1 by the number of option shares exercised during the previous year under all of the Company s equity plans, with a maximum annual increase of 2% of the Company s outstanding shares as of the end of the previous year. Under this provision, 1,823,163 shares became available for issuance under the 1998 Equity Incentive Plan on January 1, 2003. These additional shares are not included in the table.

(3) Reflects shares available under SunGard s plan that permits outside directors to elect to receive shares of SunGard common stock in lieu of cash compensation. Unless an outside director elects in writing to receive shares in lieu of cash compensation, all fees are paid in cash. If an outside director elects to receive shares in lieu of cash compensation, then the shares are issued on a quarterly basis based upon the closing price of SunGard s common stock on the date of each quarterly board meeting.

Table of Contents

Certain Transactions with Management

Mr. Mann, chairman of the board and former chief executive officer of SunGard, owns Hawk Flight, Inc., which operates a charter aircraft business. The services of Hawk Flight, Inc. are used by SunGard for business travel by Mr. Mann and other SunGard executives at arms-length terms approved by the disinterested members of the Board of Directors. During 2002, SunGard paid approximately $69,000 to Hawk Flight, Inc. for business travel by SunGard executives. See also Agreement with the Chairman of the Board under Proposal One.

Compensation Committee Interlocks and Insider Participation

Messrs. Brooks, Eisenstat and Goldstein have served on the Compensation Committee since 1994, and Mr. Duques has served on the Compensation Committee since 2002. No person who served as a member of SunGard s Compensation Committee during 2002 was a current or former officer or employee of SunGard. During 2002, SunGard had no compensation committee interlocks meaning that it was not the case that an executive officer of SunGard served as a director or member of the compensation committee of another entity and an executive officer of the other entity served as a director or member of the Compensation Committee of SunGard.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934, as amended, requires SunGard s directors and officers, and persons who own more than ten percent of SunGard s common stock, if any, to file reports about their beneficial ownership of SunGard s common stock and other equity securities. Based solely upon a review of the copies of these reports that are furnished to SunGard by its directors, officers and greater than ten percent stockholders during and for calendar year 2002, and based upon their written representations that they were not required to file any other reports for 2002, SunGard believes that none of its directors, officers or greater than ten percent stockholders failed to file on a timely basis any reports required by Section 16(a) during SunGard s fiscal year ended December 31, 2002.

Table of Contents

Performance Graph

The following graph shows a comparison of the five-year cumulative total return for SunGard s common stock, the S&P 500 Index and the Nasdaq Computer & Data Processing Index, assuming an investment of $100 in each on December 31, 1997. The data points used for the performance graph are listed in the chart below.

		Non-Equity Incentive Plan Awards[1]						Estimated Future Payouts Under Equity Incentive Plan Awards	All Other Stock Awards: Number of Shares of Stock or Units (#)[2]	All Other Option Awards: Number of Securities Underlying Options (#) [3]	Exercise or Base Price of Option Awards ($/Sh)	G Fa V of St an O A ($ [4]
		Threshold ($)	Target ($)	Maximum ($)	Threshold (#)	Target (#)	Maximum (#)					
Ronald A. Robinson		—	610,000	1,143,750	—	—	—	—	—	—	—	
	5/11/2015	—			—	—	—	10,000	—	—	542,400	
Geoffrey Davies		—	137,280	257,400	—	—	—	—	—	—	—	
	5/11/2015	—			—	—	—	1,000	—	—	54,240	
Jeffery A. Leonard		—	128,000	240,000	—	—	—	—	—	—	—	
	5/11/2015	—			—	—	—	2,000	—	—	108,480	
Richard H. Raborn		—	85,808	160,890	—	—	—	—	—	—	—	
	5/11/2015	—	—	—		—	—	2,000	—	—	108,540	
	5/11/2015	—			—	—	—	—	5,000	54.24	138,900	
Dan E. Malone		—	98,000	183,750	—	—	—	—	—	—	—	
	5/11/2015	—			—	—	—	1,000	—	—	54,240	

(1) Amounts shown are estimated possible payouts for fiscal 2015 under the Company's Executive Incentive Plan. These amounts are based on the individual's fiscal 2015 base salary and position. The maximum amounts shown are 200% of the objective target and 150% of the subjective target. Actual incentives received by the NEOs for fiscal 2015 are reported in the summary compensation table under the column entitled "Non-Equity Incentive Plan Compensation."

(2) Represents the number of shares of restricted stock awarded to the named executive officers under the 2009 Equity Incentive Plan.

(3) Represents the number of options to purchase shares of the Company's Common Stock granted to the named executive officers under the 2015 Incentive Stock Option Plan.

(4) The amount shown in this column represents the grant date fair value of the restricted stock and options awarded to the named executive officers. The amounts represent the value of the restricted stock and options based on the

aggregate grant date fair values of the awards determined pursuant to FASB ASC 718. See Note 1 to the Consolidated Financial Statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2015 for a discussion of the relevant assumptions used in calculating grant date fair value pursuant to FASB ASC 718. The grant date fair value for the restricted stock awards was determined in accordance with FASB ASC 718 to be $54.24 (which was the market price on the day of grant, May 11, 2015). The grant date fair value for options is based on the Black-Scholes option pricing model in which the option fair value as of the grant date (May 11, 2015) was determined to be $27.78.

OUTSTANDING EQUITY AWARDS AT 2015 FISCAL YEAR-END

The following table lists all outstanding equity awards held by our NEOs as of December 31, 2015:

	Option Awards					Stock Awards			
	Number of Securities Underlying Unexercised Options								
Name	Exercisable (#)	Unexercisable (#)	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Unearned Options (#)	Option Exercise Price ($)	Option Expiration Date	Number of Shares or Units of Stock that have Not Vested (#) (6)	Market Value of Shares or Units of Stock that have Not Vested ($) (6)	Equity Incentive Plan Awards: Number of Unearned Shares, Units, or Shares, Rights that have Not Vested (#)	Equity Incentive Plan Awards: Market Value or Payout Value of Unearned Shares, Units, or other Rights that have Not Vested ($)
Ronald A. Robinson	—	—	—	—	—	10,000	521,000	—	—
	10,000	—	—	11.45	5/11/2019	—	—	—	—
	20,000 (1)	5,000 (1)	—	26.45	5/9/2021	—	—	—	—
	10,000 (2)	15,000 (2)	—	42.70	5/6/2023	—	—	—	—
	5,000 (3)	20,000 (3)	—	53.51	5/12/2024	—	—	—	—
Geoffrey Davies	—	—	—	—	—	1,000	52,100	—	—
	—	2,000 (4)	—	32.76	5/8/2022	—	—	—	—
	600 (3)	2,400 (3)	—	53.51	5/12/2024	—	—	—	—
Jeffery A. Leonard	—	—	—	—	—	2,000	104,200	—	—
	6,000 (4)	4,000 (4)	—	32.76	5/8/2022	—	—	—	—
	800 (3)	3,200 (3)	—	53.51	5/12/2024	—	—	—	—
Richard H. Raborn	—	—	—	—	—	2,000	104,200	—	—
	—	5,000 (5)	—	54.24	5/11/2025	—	—	—	—
Dan E. Malone	—	—	—	—	—	1,000	52,100	—	—
	4,800	—	—	11.45	5/11/2019	—	—	—	—
	4,000 (1)	1,000 (1)	—	26.45	5/9/2021	—	—	—	—
	2,000 (2)	3,000 (2)	—	42.70	5/9/2023	—	—	—	—
	500 (3)	2,000 (3)	—	53.51	5/12/2024	—	—	—	—

(1) Options were awarded in 2011 then vest annually in five equal installments.
(2) Options were awarded in 2013 then vest annually in five equal installments.
(3) Options were awarded in 2014 then vest annually in five equal installments.
(4) Options were awarded in 2012 then vest annually in five equal installments.
(5) Options were awarded in 2015 then vest annually in five equal installments.
(6) Restricted stock awarded in May 2015 and vests annually in four equal installments.

OPTION EXERCISES AND STOCK VESTED IN 2015

	Option Awards		Stock Awards	
Name	Number of Shares Acquired on Exercise (#)	Value Realized Upon Exercise ($)	Number of Shares Acquired on Vesting (#)	Value Realized on Vesting ($)
Ronald A. Robinson	25,000	949,089	—	—
Geoffrey Davies	1,000	20,470	—	—
Jeffery A. Leonard	—	—	—	—
Richard H. Raborn	—	—	—	—
Dan E. Malone	—	—	—	—

PENSION BENEFITS

The following table quantifies the "deferred benefit" pension benefits expected to be paid from the SERP and the U.K. Plan.

Name	Plan Name	Number of Years Credited Service (#)	Present Value of Accumulated Benefit ($)(1)	Payments During Last Fiscal Year ($)
Ronald A. Robinson	SERP	17	1,175,181	—
Geoffrey Davies(2)	—	—	—	—
Jeffery A. Leonard(3)	SERP	4	187,509	—
Richard H. Raborn(4)	SERP	—	—	—
Dan E. Malone(3)	SERP	9	375,270	—

(1) The estimated present value of accumulated benefits under the SERP is based on a discount rate of 4.05% as of December 31, 2015. The RP-2000 Mortality Table is used for the SERP calculation projected to 2015 for the participants. Participants are assumed to retire at the latest of current age and the plan's earliest retirement date (age 65) with unreduced benefits. No pre-retirement mortality, retirement, or terminating has been assumed for the present value factors.

(2) Mr. Davies is not part of the SERP. He receives contributions from Alamo Group Europe Ltd. to his retirement plan in the United Kingdom.

(3) As of the end of the measurement period (December 31, 2015), Mr. Leonard and Mr. Malone are not yet vested in the SERP, and have no benefit payable under the SERP.

(4) Mr. Raborn's participation in the SERP was approved by the Board of Directors to become effective May 5, 2016.

U.K. Retirement Plan

In addition to the SERP, the Company operates a Group Stakeholder Pension Arrangement in the U.K. (the "U.K. Plan") in which Mr. Davies participates. Pursuant to the U.K. Plan, contributions are made by both the Company and the employee to a nominated third party private pension company. Contributions are accumulated and are invested by Mr. Davies as he chooses with the third party pension company. From a U.K.-government approved draw-down date, the fund may be converted by the employee into a mixture of tax-free lump sum and taxable regular annuity income.

Potential Payments Upon Termination or Change in Control

This section describes the benefits and payments to which each NEO would have been entitled under the Company's existing plans and arrangements if his employment had terminated or if the Company had undergone a Change in Control, in each case, on December 31, 2015. For purposes of valuing any outstanding equity awards, we have assumed a per share value of $52.10, the closing market price of the Company's common stock on December 31, 2015.

General Policies

Prior to the effective date of the SERP on January 3, 2011, the applicable NEOs were not entitled to cash severance payments upon any termination of employment or upon a Change in Control of the Company. Upon termination, the NEOs receive health and welfare benefits under COBRA that are generally available to all salaried employees and accrued vacation pay. There are no special or enhanced termination benefits under the Company's stock option plans for the NEOs as compared to non-named executive officer participants. For information with respect to potential payments under the SERP, see "SERP" below.

Termination of Employment / Changes in Control - Equity
A detailed list of the equity awards held by each NEO as of December 31, 2015 is set forth in the "Outstanding Equity Awards at 2015 Fiscal Year-End" table above. The NEOs do not hold any equity awards other than the stock options and the restricted stock awards listed in the table. Other than as provided in the following sentence, NEOs may exercise only vested options within 30 days of termination of their employments (not for cause), 30 days of their retirements, or 1 year of their deaths. If the NEO is at least 62 years of age and has at least 5 years of service with the Company, the options become fully vested and may be exercised upon termination of the NEO's employment (not for cause), retirement or death in accordance with their terms.

Stock options granted by the Company includes provisions applicable upon a Change in Control, as defined in the applicable award certificates. These options will become exercisable upon the occurrence of a Change in Control, but transfer restrictions on shares acquired upon exercise of stock options and cancellation provisions will remain in effect until the applicable transfer restriction date.

The Company's outstanding restricted stock awards provide that if an NEO ceases to be a service provider for any reason before the restricted stock awards have vested, the NEO's right to the shares of restricted stock will be cancelled. In the event of a Change in Control, as defined in the Company's 2009 Equity Incentive Plan, all restricted stock awards immediately vest, unless the award is assumed or an equitable substitution is made therefor.

The following chart shows the value of restricted stock awards and stock option awards that would have become vested or forfeited for a termination of employment as of December 31, 2015. For this purpose, restricted stock awards were valued at our closing price as of December 31, 2015 and stock options were valued as the difference between our closing price as of that date and the applicable exercise price of the stock options.

Name	Termination For Cause	Death or Disability		Change in Control	Any Other Involuntary/Voluntary Termination Without Cause	
	Forfeit($)	Vesting($)	Forfeit($)	Immediate Vesting($)	Vesting($)	Forfeit($)
Ronald A. Robinson	1,803,750	1,013,500	790,250	1,803,750	1,013,500	790,250
Geoffrey Davies	110,120	—	110,120	110,120	—	110,120
Jeffery A. Leonard	297,600	116,040	181,560	297,600	116,040	181,560
Richard H. Raborn	104,200	—	104,200	104,200	—	104,200

Dan E. Malone	422,470	316,520	105,950	422,470	316,520	105,950

25

SERP

The SERP is intended to provide a benefit from the Company upon retirement, death or disability, or a change in control of the Company. Accordingly, the SERP obligates the Company to pay to a participant a Retirement Benefit (as defined in the SERP) upon the occurrence of certain payment events to the extent a participant has a vested right thereto. A participant's right to his Retirement Benefit becomes vested in the Company's contributions upon 10 years of Credited Service (as defined in the SERP) or a Change in Control of the Company. The Retirement Benefit will be based on 20% of the final three year average salary of each participant on or after his or her Normal Retirement Age (65 years of age). In the event of the participant's death or a Change in Control, the participant's vested Retirement Benefit will be paid in a lump sum to the participant or his estate, as applicable, within 90 days after the participant's death or a Change in Control, as applicable. In the event the participant is entitled to a benefit from the SERP due to disability, retirement or other termination of employment, the benefit will be paid in monthly installments over a period of fifteen years.

The following chart shows the potential payouts under the SERP as of December 31, 2015. Mr. Davies does not participate in the SERP. He receives contributions from Alamo Group Europe Ltd. to his retirement plan in the United Kingdom. Mr. Raborn is not currently a participant in the SERP. His participation was approved by the Board to become effective in May 2016.

Name	Termination For Cause	Death or Disability [(1)]		Change in Control	Any Other Involuntary/Voluntary Termination Without Cause [(1)]	
	Forfeit($)	Vesting($)	Forfeit($)	Immediate Vesting($)	Vesting($)	Forfeit($)
Ronald A. Robinson	1,175,181	1,175,181	—	1,674,999	1,175,181	—
Jeffery A. Leonard	187,509	—	187,509	383,873	—	187,509
Dan E. Malone	375,270	—	375,270	720,292	—	375,270

(1) Death or disability and any other involuntary or voluntary termination is the present value of accumulated benefits to be paid out in monthly installments over a period of 15 years.

DIRECTOR COMPENSATION DURING 2015

The following table sets forth the aggregate compensation awarded to, earned by or paid to our non-employee directors during 2015:

Name	Fees Earned or Paid in Cash ($)[(1)]	Option Awards ($)[(2)]	Stock Awards ($)(3)	All Other Compensation ($)	Total ($)
Roderick R. Baty	65,000	—	54,240	—	119,240
Robert P. Bauer	35,250	—	39,488	—	74,738
Helen W. Cornell	70,100	—	54,240	—	124,340
Eric P. Etchart	39,750	—	39,488	—	79,238
Jerry E. Goldress	74,100	—	54,240	—	128,340
David W. Grzelak	70,100	—	54,240	—	124,340
Gary L. Martin	63,600	—	54,240	—	117,840
James B. Skaggs	72,100	—	54,240	—	126,340

(1) Non-employee directors received $3,000 for each meeting of the Board of Directors attended in person, and $1,500 for each meeting of any Committee attended in person, or $600 for each meeting of the Board of Directors or any meeting of any Committee thereof attended by telephone. The Company pays directors who are not employees of the Company a $35,000 retainer per year. The chairman of the Board receives an additional $20,000 annual retainer, the chair of the Audit Committee receives an additional $6,000 annual retainer and other committee chairs each receive an additional $4,000 annual retainer. Directors are reimbursed for reasonable expenses incurred as a result of attending meetings of the Board or the Committees. The Board of Directors also receives an annual grant of stock awards.

(2) No stock options were granted to directors in 2015. As of December 31, 2015, the aggregate deferred stock options outstanding were as follows: Messrs. Baty, Bauer and Etchart had 0 options outstanding; Ms. Cornell had 0 options outstanding; Mr. Grzelak had 15,500 options outstanding; and Mr. Martin had 4,136 options outstanding.

(3) The amounts shown in this column represent the full grant date fair value of the restricted stock awards granted in 2015 as computed in accordance with FASB ASC 718. See Note 1 to the Consolidated Financial Statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2015 for a discussion of the relevant assumptions used in calculating grant date fair value pursuant to FASB ASC 718. As of December 31, 2015, the restricted stock awards were as follows: Mr. Baty had 1,000 shares; Mr. Bauer had 752 shares; Ms. Cornell had 1,000 shares; Mr. Etchart had 752 shares; Mr. Grzelak had 1,000 shares; and Mr. Martin had 1,000 shares.

CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

The Company or one of our subsidiaries may occasionally enter into transactions with certain "related persons." Our Board has adopted a written Related Person Transactions Policy (the "Policy") governing the approval or ratification of Related Person Transactions by the Audit Committee or all of the disinterested members of the Board, if necessary.

For purposes of the Policy, a Related Person Transaction generally means any transaction outside the normal course of business and not arms-length involving an amount in excess of $120,000 cumulatively within a twelve month period in which the Company is a participant and in which a Related Person, as defined below, has a direct or indirect material interest. In addition, proposed charitable contributions, or pledges of charitable contributions in excess of $100,000 cumulatively within a twelve month period, by the Company to a charitable or non-profit organization identified on the roster of Related Persons, are also subject to prior review and approval by the Audit Committee. A Related Person means (i) an executive officer or director of the Company or a nominee for director of the Company, (ii) a beneficial owner of more than 5% of any class of voting securities of the Company, (iii) an immediate family member of any of the persons identified in clauses (i) or (ii) hereof, and (iv) any firm, corporation or other entity in which any of the foregoing persons is employed or is a general partner or principal or in a similar position or in which such person has a 5% or greater beneficial ownership interest.

Prior to entering into the Related Person Transaction, (a) the Related Person, (b) the director, executive officer, nominee or beneficial owner who is an immediate family member of the Related Person, or (c) the relevant business manager responsible for the potential Related Person Transaction shall provide notice to the General Counsel of the facts and circumstances of the proposed Related Person Transaction. The General Counsel shall advise the Chair of the Audit Committee of any Related Person Transaction of which he becomes aware.

Under the Policy, the Audit Committee shall consider each Related Person Transaction, unless the Audit Committee determines that the approval or ratification of such Related Person Transaction should be considered by all of the disinterested members of the Board of Directors.

In considering whether to approve or ratify any Related Person Transaction, the Audit Committee or the disinterested members of the Board of Directors, as the case may be, shall consider all factors that are relevant to the Related Person Transaction, including, without limitation, the following:

- the size of the transaction and the amount payable to a Related Person;
- the nature of the interest of the Related Person in the transaction;

- whether the transaction may involve a conflict of interest; and
- whether the transaction involves the provision of goods or services to the Company that are available from unaffiliated third parties and, if so, whether the transaction is on terms and made under circumstances that are at least as favorable to the Company as would be available in comparable transactions with or involving unaffiliated third parties.

There were no Related Party Transactions during the fiscal year ending December 31, 2015.

PROPOSAL 2 - APPROVAL OF AMENDMENT TO THE COMPANY'S BY-LAWS TO PROVIDE THAT ANY DIRECTOR OF THE COMPANY MAY BE REMOVED, WITH OR WITHOUT CAUSE, UPON THE AFFIRMATIVE VOTE OF THE HOLDERS OF A MAJORITY OF THE SHARES OF THE COMPANY'S STOCK.

The Board has approved and recommends for approval by the Company's stockholders an amendment to our By-Laws to provide that any director of the Company may be removed, with or without cause, upon the affirmative vote of the holders of a majority of the shares of the Company's stock then entitled to vote at an election of directors.

Article III, Section 4 of our By-Laws currently provides that any director of the Company may be removed, but only for cause, upon the affirmative vote by written ballot of the holders of two-thirds (2/3) of the combined voting power of the then outstanding shares of stock entitled to vote generally in the election of directors, given at an annual meeting or at a special meeting of the stockholders called for that purpose.

The Delaware General Corporation Law, as applicable to corporations without a classified Board of Directors (such as the Company), requires that the holders of a majority of the shares then entitled to vote at an election of directors be afforded the right to remove directors from office with or without cause. The proposed amendment to the Company's by-laws is intended to conform the Company's By-Laws to the requirements of Delaware law as applicable to the Company.

The Board has approved, and recommends for approval by the stockholders, amending and restating Article III, Section 4 of the Company's By-Laws to give effect to the changes set forth in this proposal as reflected in Annex 1 attached hereto.

The affirmative vote of at least two-thirds ($66^{2}/_{3}\%$) of the outstanding shares of the Company's common stock will be required for approval of this proposal. Abstentions will have the same effect as votes against the proposal. The amendment, if adopted by the stockholders, would become effective immediately after such approval.

THE BOARD OF DIRECTORS HAS APPROVED, AND RECOMMENDS A VOTE "FOR" THE AMENDMENT TO THE COMPANY'S BY-LAWS AS SET FORTH ABOVE WHICH IS DESIGNATED AS PROPOSAL 2 ON THE ENCLOSED PROXY.

PROPOSAL 3 - ELIMINATION OF CERTAIN SUPERMAJORITY VOTING PROVISIONS IN OUR BY-LAWS AND CERTIFICATE OF INCORPORATION WITH RESPECT TO THE ALTERATION, AMENDMENT OR REPEAL OF CERTAIN PROVISIONS OF OUR BY-LAWS.

Article IX of our By-Laws and Article SEVENTH of our Certificate of Incorporation provide that certain sections of our By-Laws may not be altered, amended or repealed without the affirmative vote of two-thirds of the voting power of the outstanding shares of common stock entitled to vote (the "Supermajority Vote Requirement"). The Board of Directors has determined that the Supermajority Vote Requirement for certain alterations, amendments or the repeal of certain provisions of the By-Laws is no longer necessary or in the best interests of its stockholders. Those sections are:

- Article III, Section 2, relating to the number, election and term of office of directors;
- Article III, Section 4, relating to the removal of directors;
- Article III, Section 5, relating to vacancies on the Board of Directors;
- Article V, Section 2, relating to the time of election or appointment of officers; and
- Article V, Section 3, relating to the salaries of elected officers.

Accordingly, the Board has approved and recommends that Alamo Group stockholders approve the amendments to Article IX of our By-Laws and Article SEVENTH of our Certificate of Incorporation. These amendments remove the Supermajority Vote Requirement with respect to the By-Law provisions specified above and also make some conforming changes to Article IX of the By-Laws and Article SEVENTH of the Certificate of Incorporation.

Attached to this proxy statement as Annex 2 are marked versions of Article IX of Alamo Group's By-Laws and Article SEVENTH of Alamo Group's Certificate of Incorporation, which reflect the proposed changes (the "Simple Majority Vote Amendments").

The affirmative vote of at least two-thirds ($66^2/_3$%) of the outstanding shares of our common stock will be required for approval of the Simple Majority Vote Amendments. Abstentions will have the same effect as votes against the proposal.

If the Simple Majority Vote Amendments are approved by our stockholders, the Board of Directors will amend our Certificate of Incorporation, as amended, and our By-Laws to reflect the Simple Majority Vote Amendments, and an amendment to our Certificate of Incorporation (reflecting the Simple Majority Vote Amendments) will be executed, acknowledged, filed and recorded in accordance with the Delaware General Corporation Law.

THE BOARD OF DIRECTORS HAS APPROVED, AND RECOMMENDS A VOTE "FOR" THE ELIMINATION OF CERTAIN SUPER MAJORITY VOTING PROVISIONS IN OUR BY LAWS AND CERTIFICATES OF INCORPORATION WHICH IS DESIGNATED AS PROPOSAL 3 ON THE ENLOSED PROXY.

PROPOSAL 4 - RATIFICATION OF APPOINTMENT OF INDEPENDENT AUDITORS

The Audit Committee of the Board of Directors desires to engage the services of KPMG LLP for the fiscal year ending December 31, 2016. The Audit Committee has appointed KPMG LLP to audit the financial statements of the Company for fiscal 2016 and report on those financial statements. Stockholders are being asked to vote FOR the ratification of the appointment. If stockholders do not ratify the appointment of KPMG LLP, the Audit Committee will reconsider its appointment.

Fees Incurred by the Company for KPMG LLP

The following table shows the fees paid or accrued by the Company for the audit and other services provided by KPMG LLP for fiscal 2015 and 2014.

	2015	2014
Audit Fees (1)	$1,618,000	$1,570,000
Audit-Related Fees (2)	102,000	118,000
Tax Fees (3)	453,000	401,000
All Other Fees (4)	—	—
Total	$2,173,000	$2,089,000

(1) Both 2015 and 2014 Audit Fees include: (i) the audit of our consolidated financial statements included in our Annual Report on Form 10-K and services attendant to, or required by, statute or regulation; (ii) reviews of the interim condensed consolidated financial statements included in our quarterly reports on Form 10-Q; (iii) comfort letters, consents and other services related to SEC and other regulatory filings; and (iv) the audit of management's reports on the effectiveness of the Company's internal control over financial reporting, as required by Section 404 of the Sarbanes-Oxley Act of 2002 (Section 404).

(2) Audit-Related Fees in 2015 include fees related to acquisitions.

(3) Tax Fees in 2015 and 2014 include tax compliance, tax planning and tax advice. Tax compliance, tax planning and tax advice services include the review of U.S. federal, state and local income tax returns and tax advice regarding R&D tax credits.

(4) Other than as described in this proxy statement, there were no other professional services rendered in 2015 or 2014.

Audit Committee's Preapproval Policy and Procedures

Our Audit Committee has adopted policies and procedures for the preapproval of audit and non-audit services for the purpose of maintaining the independence of our independent auditors. These policies and procedures are reviewed at least annually. We may not engage our independent auditors to render any audit or non-audit service unless either the service is approved in advance by the Audit Committee or the engagement to render the service is entered into pursuant to the Audit Committee's preapproval policies and procedures. On an annual basis, the Audit Committee may preapprove services that are expected to be provided to the Company by the independent auditors during the following twelve months.

The Audit Committee may also preapprove particular services on a case-by-case basis. In assessing requests for services by the independent auditors, the Audit Committee considers whether such services are consistent with the auditor's independence, whether the independent auditors are likely to provide the most effective and efficient service based upon their familiarity with the Company and whether the service could enhance the Company's ability to manage or control risk or improve audit quality.

Representatives of KPMG LLP will be present at the Annual Meeting and will be available to respond to appropriate questions concerning the fiscal year ending December 31, 2015 and make a statement should they so desire.

Vote required. This recommendation must be approved by the affirmative vote of a majority of the shares represented at the Annual Meeting and entitled to vote thereon. All proxies will be voted "FOR" the ratification of the appointment of KPMG LLP as the Company's independent auditor unless a contrary choice is indicated.

SECTION 16(a) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE

Section 16(a) of the Exchange Act requires our directors, executive officers and beneficial owners of more than 10% of Common Stock to file with the SEC reports regarding their ownership and changes in ownership of our securities. The Company believes that, through March 4, 2016, its directors, executive officers and beneficial owners of more than 10% of the Common Stock complied with all Section 16(a) filings.

In making this statement, the Company has relied upon examination of the copies of Forms 3, 4 and 5 and amendments thereto, provided to Alamo Group Inc., and the written representations of its directors, executive officers and beneficial owners of more than 10% of the Company's Common Stock.

STOCKHOLDER PROPOSALS FOR 2017 ANNUAL MEETING

Proposals from stockholders intended to be presented at the 2017 Annual Meeting, pursuant to Rule 14a-8 under the Exchange Act, must be received in writing by the Company at its principal executive offices not later than December 6, 2016. The Company's principal executive offices are located at 1627 East Walnut Street, Seguin, Texas 78155. Please direct all such proposals to the attention of the Company's Secretary.
Stockholders intending to present a proposal at the 2017 Annual Meeting, but not to include the proposal in our proxy statement or to nominate a person as a director, must comply with the requirements set forth in our Bylaws. The Bylaws require, among other things, that such proposal must be submitted in writing to the Secretary of the Company at our principal executive offices no more than 120 days and no less than 90 days prior to the anniversary of the preceding year's annual meeting. Therefore, the Company must receive notice of such a proposal or nomination for the 2017 annual meeting no earlier than January 5, 2017 and no later than February 4, 2017. The notice must contain the information required by the Bylaws, a copy of which is available upon request to our Secretary.

PROXY SOLICITATION

The cost of soliciting proxies by the Board of Directors will be borne by the Company. Proxies may be solicited through the mail and through telephonic communications or meetings with stockholders or their representatives by directors, officers and other employees of the Company who will not receive special compensation for these services.

The Company requests persons such as brokers, nominees and fiduciaries holding stock in their names for others, or holding stock for others who have the right to give voting instructions, to forward proxy material to their principals and to request authority for the execution of the proxy, and the Company will reimburse such persons for their reasonable expenses.

OTHER MATTERS

No business other than the matters set forth in this Proxy Statement is expected to come before the Annual Meeting, but should any other matters requiring a vote of stockholders arise, including a question of adjourning the Annual Meeting, the persons named in the accompanying Proxy will vote thereon according to their best judgment in the interests of the Company. If any of the nominees for office of director should withdraw or otherwise become unavailable for reasons not presently known, the persons named as proxies may vote for another person in his/her place in what they consider the best interests of the Company.

THE AUDIT COMMITTEE OF THE BOARD OF DIRECTORS RECOMMENDS A VOTE "FOR"

THE RATIFICATION OF THE APPOINTMENT OF KPMG LLP AS THE COMPANY'S INDEPENDENT AUDITORS FOR 2016, WHICH IS DESIGNATED AS PROPOSAL 4 ON THE ENCLOSED PROXY.

The Company is enclosing with this proxy a copy of the Company's Annual Report on Form 10-K including financial statements and schedules thereto filed with the SEC for the year ended December 31, 2015. Any request for exhibits should be in writing addressed to Corporate Secretary, Alamo Group Inc., 1627 East Walnut Street, Seguin, Texas 78155.

By Order of the Board of Directors

/s/ Robert H. George
Robert H. George
Secretary
March , 2016

32

ANNEX 1
PROPOSED AMENDMENT TO ALAMO GROUP INC. BYLAWS

Set forth below are proposed changes to Article III, Section 4 of the Company's Bylaws. Addition of new text is indicated by underlining and deletion of existing text is indicated by a strike-through.

ARTICLE III

Section 4. <u>Removal of Directors</u>. Any director may be removed, ~~but only for cause~~ <u>with or without cause</u>, upon the affirmative vote ~~by written ballot~~ of the holders of ~~two-thirds (2/3)~~ <u>a majority</u> of the combined voting power of the ~~then outstanding~~ shares of stock <u>then</u> entitled to vote <u>at an</u> ~~generally in the~~ election of directors~~, given at an annual meeting or at a special meeting of the stockholders called for that purpose~~.

33

ANNEX 2
PROPOSED AMENDMENT TO ALAMO GROUP INC. BYLAWS
AND CERTIFICATE OF INCORPORATION

Set forth below are proposed changes to Article IX of the Company's Bylaws and Article SEVENTH of the Company's Certificate of Incorporation, as amended. Addition of new text is indicated by underlining and deletion of existing text is indicated by a strike-through.

BYLAWS

ARTICLE IX
AMENDMENTS

These By-Laws may be altered, amended, or repealed or new By-Laws may be adopted by the stockholders or by the Board of Directors at any regular meeting of the stockholders or the Board of Directors or at any special meeting of the stockholders or the Board of Directors if notice of such alteration, amendment, repeal, or adoption of new By-Laws be contained in the notice of such special meeting, provided, however, that any such adoption, amendment or repeal of Article II, Section 12~~, Article III, Sections 2, 4, and 5, Article V, Sections 2 and 3~~ or this Article IX, or adoption of any provision inconsistent therewith, shall require the affirmative vote of two-thirds (2/3) of ~~the voting power of~~ the outstanding shares of the Common Stock of the Corporation.

CERTIFICATE OF INCORPORATION

SEVENTH: The Board of Directors shall have the power to adopt, amend or repeal the By-laws of the Corporation, provided that any such adoption, amendment or repeal of Article II, Section 12~~, Article III, Sections 2, 4, and 5, Article V, Sections 2 and 3~~ or Article IX of the By-laws, requires the <u>affirmative</u> vote of two-thirds (2/3) of the outstanding shares of the common stock of the Corporation.